(Medical Corps), United States Navy, to his former rank as a lieutenant (Medical Corps), United States Navy; to the Committee on Naval Affairs.

By Mr. LITTLE: A bill (H. R. 12741) granting an increase of pension to Eliza A. Wilson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 12742) granting an increase of pension to Sarah Harness; to the Committee on Invalid Pensions.

Also, a bill (H. R. 12743) granting a pension to Catherine Potter; to the Committee on Invalid Pensions.

By Mr. RAGON: A bill (H. R. 12744) for the relief of Owen J. Owen; to the Committee on Military Affairs.

By Mr. RAINEY: A bill (H. R. 12745) granting a pension to Luella Goings; to the Committee on Invalid Pensions.

By Mr. STRONG of Kansas: A bill (H. R. 12746) granting an increase of pension to Sarah E. Delong; to the Committee on Invalid Pensions.

Also, a bill (H. R. 12747) granting an increase of pension to Samantha B. Smith; to the Committee on Invalid Pensions.

By Mr. VESTAL: A bill (H. R. 12748) granting a pension to Clyde V. Markle; to the Committee on Pensions.

PETITIONS, ETC.

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

2402. By Mr. ROY G. FITZGERALD: Petition of 83 residents of Dayton, Ohio, and vicinity, praying for increase of pensions of veterans of the Civil War and their widows; to the Committee on Invalid Pensions.

2403. By Mr. GALLIVAN: Petition of E. G. Preston, treasurer S. S. Pierce Co., Boston, Mass., urging early and favorable consideration of House bill 7479, known as the migratory bird refuge and marsh land conservation bill; to the Committee on Agriculture.

2404. By Mr. HOOPER: Petition of Mrs. Lizzie L. Farnam and 125 other residents of Albion, Mich., in favor of legislation to increase the rates of pension allowed Civil War veterans, their widows, and dependents; to the Committee on Invalid Pensions.

2405. By Mr. KIEFNER: Petition of 72 citizens of the thirteenth district of Missouri, asking Congress to enact some measure of relief for the aged veterans and widows of the Civil War; to the Committee on Invalid Pensions.

2406. By Mr. O'CONNELL of New York: Petition of the American Engineering Council, favoring the passage of House bill 11053, for the increase of salaries for Federal judges; to the Committee on the Judiciary.

2407. By Mr. RAINEY: Petition of 76 citizens of Winchester, Ill., for increase of pensions of Civil War soldiers and their widows; to the Committee on Invalid Pensions.

2408. Also, petition of 40 citizens of Perry, Ill., in the matter of increased pensions for Civil War soldiers and their widows; to the Committee on Invalid Pensions.

2409. Also, petition of P. D. Dieffenbacher and 78 other citizens of Havana, Ill., in the matter of an increase in pensions of Civil War soldiers and their widows; to the Committee on Invalid Pensions.

2410. By Mr. VOIGT: Petition of William C. Mosher and others, of Pardeeville, Wis., favoring the Civil War veterans' pension bill; to the Committee on Invalid Pensions.

2411. By Mr. WOOD: Petition of Adolph Blakeman, Roscoe D. Chaffee, and others, of Crown Point, Ind., for the enactment of the bill granting increased rates of pension to Civil War soldiers and their widows; to the Committee on Invalid Pensions.

2412. Also, petition of Frances M. Robinson, of Medaryville, Ind., and others, for the enactment of the bill granting increased rates of pension to Civil War soldiers and their widows; to the Committee on Invalid Pensions.

SENATE

THURSDAY, *June 10, 1926*

(Legislative day of Wednesday, June 9, 1926)

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

Mr. CURTIS. 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:

Ashurst	Borah	Bruce	Caraway
Bingham	Bratton	Butler	Copeland
Blease	Broussard	Capper	Couzens
Cummins	Harris	Metcalf	Shipstead
Curtis	Harrison	Moses	Shortridge
Deneen	Heflin	Neely	Simmons
Dill	Howell	Norbeck	Smoot
Edge	Johnson	Norris	Stanfield
Edwards	Jones, N. Mex.	Oddie	Steck
Ernst	Jones, Wash.	Pepper	Stephens
Fernald	Kendrick	Phipps	Swanson
Fess	Keyes	Pine	Trammell
Frazier	King	Pittman	Tyson
George	La Follette	Ransdell	Wadsworth
Gerry	Lenroot	Reed, Pa.	Walsh
Gillett	McKellar	Robinson, Ark.	Watson
Glass	McLean	Robinson, Ind.	Weller
Goff	McMaster	Sackett	Wheeler
Gooding	McNary	Schall	Williams
Greene	Mayfield	Sheppard	Willis

The VICE PRESIDENT. Eighty Senators having answered to their names, a quorum is present.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 8815) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war.

The message also announced that the House had agreed to the amendments of the Senate Nos. 3 and 4 to the bill (H. R. 3862) to provide for the storage of the waters of the Pecos River and had disagreed to the amendments of the Senate Nos. 1 and 2 of the said bill.

The message further announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H. R. 7104. An act to quiet title and possession with respect to certain lands in Baldwin County, Ala.;

H. R. 8048. An act to provide for the leasing of public lands in Alaska for fur farming, and for other purposes;

H. R. 10467. An act authorizing the city of Boulder, Colo., to purchase certain public lands;

H. R. 10468. An act to amend chapter 137 of volume 39 of the United States Statutes at Large, Sixty-fourth Congress, first session;

H. R. 10612. An act to withdraw certain public lands from settlement and entry;

H. R. 11421. An act to provide for conveyance of certain lands in the State of Alabama for State park and game preserve purposes;

H. R. 11488. An act authorizing and directing the Secretary of the Interior to sell certain public lands to the Cabazon Water Co., issue patent therefor, and for other purposes;

H. R. 12064. An act providing for a grant of land to the county of San Juan, in the State of Washington, for recreational and public-park purposes; and

H. R. 12264. An act to facilitate and simplify the work of the National Park Service, United States Department of the Interior, and for other purposes.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills and joint resolution, and they were thereupon signed by the Vice President:

S. 2741. An act for the relief of the State of Ohio;

S. 2959. An act granting the consent of Congress to Lake Washington Corporation to construct a bridge across Lake Washington, in King County, State of Washington;

S. 3382. An act to appropriate tribal funds of the Klamath Indians to pay actual expenses of delegate to Washington, and for other purposes;

S. 3691. An act to convey to the city of Lakeland, Fla., certain Government property;

S. 3841. An act to provide for the distribution of the Supreme Court reports and amending section 227 of the Judicial Code;

S. 3884. An act authorizing expenditure of tribal funds of Indians of the Tongue River Indian Reservation, Mont., for expenses of delegates to Washington;

S. 3967. An act authorizing the construction of a bridge across the Ohio River approximately midway between the city of Owensboro, Ky., and Rockport, Ind.;

S. 3989. An act to extend the time for the construction of a bridge by the city of Minneapolis, Minn., across the Mississippi River in said city;

S. 4056. An act to amend section 98 of the Judicial Code as amended;

H. R. 7190. An act granting the consent of Congress to the Grandfield Bridge Co., a corporation, to construct, maintain, and operate a bridge across Red River and the surrounding and adjoining public lands, and for other purposes;

H. R. 9461. An act to extend the time for the construction of a bridge across the Rio Grande between Eagle Pass, Tex., and Piedras Negras, Mexico;

H. R. 10352. An act to extend the time for constructing a bridge across the Ohio River between Vanderburg County, Ind., and Henderson County, Ky.;

H. R. 11718. An act granting the consent of Congress to the Commonwealth of Pennsylvania to construct a bridge across the Allegheny River;

H. R. 11719. An act granting the consent of Congress to Kansas-Nebraska-Dakota Highway Association to construct a bridge across the Missouri River between the States of Nebraska and South Dakota; and

S. J. Res. 101. Joint resolution authorizing the Joint Committee on the Library to procure an oil portrait of the late President Warren G. Harding.

PETITIONS

Mr. WILLIS presented petitions of sundry citizens of Antwerp and Cleveland, in the State of Ohio, praying for the passage of legislation granting increased pensions to Civil War veterans and the widows of such veterans, which were referred to the Committee on Pensions.

REPORTS OF COMMITTEES

Mr. CAPPER, from the Committee on the District of Columbia, to which was referred the bill (S. 4408) to authorize the granting of leave to ex-service men and women employed in the municipal government of the District of Columbia to attend the annual convention of the American Legion in Paris, France, in 1927, reported it without amendment and submitted a report (No. 1052) thereon.

Mr. REED of Pennsylvania, from the Committee on Expenditures in the Executive Departments, to which was referred the joint resolution (S. J. Res. 110) authorizing a joint committee of both Houses to consider the purchase of the right to an unrestricted use of the Harriman Geographic Code System under patents issued, or that may be issued, and also the unrestricted use of all copyrights issued, or that may be issued, in connection with the products of the Harriman Geographic Code System for all governmental, administrative, or publication purposes for which the same may be desirable, reported it without amendment.

ENROLLED BILLS AND JOINT RESOLUTION PRESENTED

Mr. GREENE, from the Committee on Enrolled Bills, reported that on to-day that committee presented to the President of the United States the following enrolled bills and joint resolution:

S. 2741. An act for the relief of the State of Ohio;

S. 2959. An act granting the consent of Congress to Lake Washington Corporation to construct a bridge across Lake Washington, in King County, State of Washington;

S. 3382. An act to appropriate tribal funds of the Klamath Indians to pay actual expenses of delegate to Washington, and for other purposes;

S. 3691. An act to convey to the city of Lakeland, Fla., certain Government property;

S. 3841. An act to provide for the distribution of the Supreme Court Reports and amending section 227 of the Judicial Code;

S. 3884. An act authorizing expenditure of tribal funds of Indians of the Tongue River Indian Reservation, Mont., for expenses of delegates to Washington;

S. 3967. An act authorizing the construction of a bridge across the Ohio River approximately midway between the city of Owensboro, Ky., and Rockport, Ind.;

S. 3989. An act to extend the time for the construction of a bridge by the city of Minneapolis, Minn., across the Mississippi River in said city;

S. 4056. An act to amend section 98 of the Judicial Code as amended; and

S. J. Res. 101. Joint resolution authorizing the Joint Committee on the Library to procure an oil portrait of the late President Warren G. Harding.

BILLS INTRODUCED

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

By Mr. CURTIS:

A bill (S. 4430) authorizing the Department of State to deliver to Hon. WILLIAM B. MCKINLEY, United States Senator from the State of Illinois, and permitting him to accept, the decoration and diploma presented by the Government of France; to the Committee on Foreign Relations.

By Mr. BINGHAM:

A bill (S. 4431) to authorize the sale of a parcel of land in the town of Westport, Conn.; to the Committee on Military Affairs.

By Mr. CAPPER:

A bill (S. 4432) to provide for annual assessments of real estate in the District of Columbia, and for other purposes; to the Committee on the District of Columbia.

By Mr. FERNALD:

A bill (S. 4433) granting an increase of pension to Lois E. Dickey (with accompanying papers); to the Committee on Pensions.

By Mr. NEELY:

A bill (S. 4434) granting a pension to Minnie Weaver; to the Committee on Pensions.

A bill (S. 4435) for the relief of Gilbert Rice; to the Committee on Finance.

By Mr. CURTIS:

A bill (S. 4436) granting an increase of pension to Naomi Trefethen; to the Committee on Pensions.

By Mr. WADSWORTH:

A bill (S. 4437) for the relief of James V. Martin; to the Committee on Claims.

A bill (S. 4438) to prevent desecration of the flag and insignia of the United States and to provide punishment therefor; to the Committee on the Judiciary.

A bill (S. 4439) to allow and credit the accounts of Maj. John D. Gould, Quartermaster Corps, with $1,646.86, representing various shortages and suspended vouchers in his accounts as disbursing officer during the late war; to the Committee on Military Affairs.

AMENDMENT TO WORLD WAR VETERANS' ACT

Mr. ASHURST submitted an amendment intended to be proposed by him to the bill (H. R. 12175) to amend the World War veterans' act, 1924, which was ordered to lie on the table and to be printed.

HOUSE BILLS REFERRED

The following bills were severally read twice by title and referred to the Committee on Public Lands and Surveys:

H. R. 7104. An act to quiet title and possession with respect to certain lands in Baldwin County, Ala.;

H. R. 8048. An act to provide for the leasing of public lands in Alaska for fur farming, and for other purposes;

H. R. 10467. An act authorizing the city of Boulder, Colo., to purchase certain public lands;

H. R. 10468. An act to amend chapter 137 of volume 39 of the United States Statutes at Large, Sixty-fourth Congress, first session;

H. R. 10612. An act to withdraw certain public lands from settlement and entry;

H. R. 11421. An act to provide for conveyance of certain lands in the State of Alabama for State park and game preserve purposes;

H. R. 11488. An act authorizing and directing the Secretary of the Interior to sell certain public lands to the Cabazon Water Co., issue patent therefor, and for other purposes;

H. R. 12064. An act providing for a grant of land to the county of San Juan, in the State of Washington, for recreational and public-park purposes; and

H. R. 12264. An act to facilitate and simplify the work of the National Park Service, United States Department of the Interior, and for other purposes.

COOPERATIVE MARKETING

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 7893) to create a division of cooperative marketing in the Department of Agriculture; to provide for the acquisition and dissemination of information pertaining to cooperation; to promote the knowledge of cooperative principles and practices; to provide for calling advisers to counsel with the Secretary of Agriculture on cooperative activities; to authorize cooperative associations to acquire, interpret, and disseminate crop and market information; and for other purposes.

Mr. GOODING. Mr. President, the junior Senator from Ohio [Mr. FESS] in his speech yesterday and the day before cleared the atmosphere so far as farm problems are concerned. The issue is squarely drawn. We know where to find the junior Senator from Ohio and all of those who agree with him on farm legislation.

The junior Senator from Ohio said there is no difference, so far as the farmer is concerned, in the relationship that exists between agriculture, industry, and labor at the present time and that which has existed in the past. In other words,

he said there is no difference, so far as agriculture is concerned, in the situation now existing as compared with that which existed during the silver craze, as he called it, the greenback movement, and all other isms to which the farmer turned when he found himself in a serious condition. The Senator from Ohio refuses to recognize that this is a new civilization with new conditions brought about by the World War, and that through legislation the farmer of America has had forced upon him an increased cost of production of more than 100 per cent. Before the war the prosperity of industry meant the prosperity of agriculture; before the war the prosperity of agriculture meant the prosperity of industry, and in all the panics before the war agriculture, industry, and labor all went down together and all suffered alike.

We started through legislation to increase the farmers' freight rates. In 1915 we made the first increase of 5 per cent. Following the Adamson law, when we changed the basis of a day's labor upon the railroads from a 10 and 12 hour day to an 8-hour day, the Interstate Commerce Commission increased freight rates 15 per cent. On the 25th of June, 1918, Mr. McAdoo issued what is known as General Order No. 28, making a horizontal increase, with one or two exceptions, of 25 per cent. Taking 1914 as a basis of 100 per cent in freight rates, this 25 per cent increase was based on a freight rate of 120 per cent of what it was before the war, or in 1914.

Then came the Esch-Cummins Act under which the Interstate Commerce Commission authorized an increase of from 25 to 40 per cent, and 33⅓ per cent as between the different zones of railroads. This was also a horizontal increase of freight rates. No attention was paid as to how long or how short the haul or what the product would bear to carry it to market. This was an increase on an already existing increase of 50 per cent in freight rates as they were before the war. It gave us in this country, any way it can be figured, a flat increase of 100 per cent in freight rates. There has been a 10 per cent reduction in freight rates since that time by the Interstate Commerce Commission. On some commodities there has been a little more than 10 per cent reduction. So it is safe to say that the average freight rates of to-day are anywhere from 80 to 90 per cent of what they were before the war.

Since 1915 the farmers paid an increased freight bill of something over $3,000,000,000. No part of that can be passed on to the consumer. That freight bill the farmer had to meet, and that, in part, is what is the matter with the farmer. He is not able to pass freight rates on to anyone. When the merchant receives a bill of goods he marks up the freight rates he has to pay, and the farmer or anyone else who has to buy the goods pays that increase in freight rates. The merchant is able to pass it along.

Mr. President, if the Interstate Commerce Commission had not made these increases in freight rates after the Government made its increases in price of labor, every mile of railroad would have been in the hands of a receiver. There would have been no exception to that rule, for the Government, during the time of Government control of railroads and through the Esch-Cummins Act, increased the price of labor upon the railroads just 100 per cent or practically 100 per cent, and, of course, very properly, freight rates were increased accordingly.

During the war in many of the great wheat-growing States of the Nation the farmers paid $10 a day for labor. The Government fixed the price of wheat for 1917 on the basis of $2.20 per bushel. Upon investigation on the part of the Government it was found that that was only a fair price for a bushel of wheat. If it was only a fair price for a bushel of wheat for the crop of 1917, then it was not a fair price for a bushel of wheat after the Government had increased the price of labor 100 per cent and freight rates 100 per cent. It is estimated by those who have given careful consideration to the increased cost of producing a bushel of wheat that the farmer during the war and after the war, taking 1920 as an example, lost $1,500,000,000 in the production of wheat, brought about by increased cost of labor and increased freight rates. It is not strange at all that all labor organizations should have followed with strikes for an increased price of labor in industry. They inaugurated 11,400 strikes, and brought about, of course, an increased price in labor in industry in America, every part of which was passed on to the farmer and the rest of the people.

Government reports show that in 1920 the mortgage indebtedness of the farmers of the country was $3,500,000,000. To-day the mortgage indebtedness of the farmers is $12,250,000,000. It has been estimated that since the deflation of 1920—and I think the figures are reasonably conservative—the farmers of this country have lost over $30,000,000,000 in the shrinkage of farm lands and in the shrinkage of farm prices as compared with 1919. Hundreds and thousands of farmers have lost their homes through foreclosure. Fully 20 per cent of the farmers to-day are holding their farms through the leniency of creditors, not being able to meet their obligations.

Mr. President, I am unable to understand the man who can look at the condition of agriculture in America to-day and say that there is not a farm problem. I think the Senator from Ohio admitted there was a farm problem, but he also stated that it was the same farm problem that had confronted the farmer during the period of every panic which this country had ever known. The history of this country, beginning with the panic of 1816, continuing through the panic of 1834, 1835, 1836, up to 1840, the panic of the late forties, and the panic of the late fifties, the panic of 1873—about which I remember something—and the panic of 1893 shows that in every panic that has swept over this country agriculture and industry have suffered alike; there has been no exception. The panics or "hard times" which have occurred have affected all industries and been disastrous to all classes of labor. In the panic of 1893 railroads with sufficient mileage to reach twice around the earth could not meet their obligations and were forced into the hands of receivers.

Free soup houses had to be established in all the great cities to prevent death and starvation. Yet to-day we find that labor is employed at the highest wage ever known since the dawn of civilization; that industry since the beginning of the war has made the greatest gain ever known; nothing can be compared with it in all history; yet the farmers during the same time have suffered their greatest loss in the history of the country. The Senator from Ohio, however, says the relationship to-day between agriculture and other industries is the same as in all the great panics that have swept over the country.

There is now no panic; "hard times" are not upon us so far as industry and labor are concerned. I think even a schoolboy who knows anything about the economic conditions of the country knows and understands that to be true. The steel industry in 1923 went on a basis of an 8-hour day from a 12-hour day. That industry was paying $4.90 a day on an average in 1922 for a 12-hour day. In 1923 it paid $5.83 a day for an 8-hour day's work. It was forced to put on 17,600 more men to manufacture its product with an 8-hour day than it employed with a 12-hour day. In order to meet that increase in wages the steel company increased the price of steel in 1923 by 20 per cent. That increase was passed on to the farmer. Farming implements all over this country were increased in price from 10 to 20 per cent. So the farmer again was forced to meet the increased price of labor in the steel mills. On my own farm when I go out there to-day I find that I have there employed during the harvest time and haying time old men, boys, and in some cases cripples. We are not able to get the high class of labor upon the farms that we did before the World War. Although the farmer is paying from 60 to 70 per cent increase in the price of labor as compared with the price paid before the war, he is not able any more to get efficient labor. The labor I employ on my farm is not more than half efficient.

It is safe to say, Mr. President, that those who have bought farming implements have suffered by these increased prices; but I do not think we have to go to the farm to understand the condition. Congress was forced to increase the salaries of Senators and Representatives in order to enable them to meet their bare expenses; and I doubt if any Senator is able to save anything out of his increased salary.

Mr. FRAZIER. Mr. President——

The VICE PRESIDENT. Does the Senator from Idaho yield to the Senator from North Dakota?

Mr. GOODING. I yield.

Mr. FRAZIER. The Senator from Idaho is speaking about the steel industry having increased the prices of steel in order to meet the increase in wages. During the speech of the junior Senator from Ohio [Mr. FESS] on yesterday I made the statement that the farmer had very little to say about the price which he received for his products, to which the junior Senator from Ohio replied:

> He has as much to do with the price as any producer of any commodity has to do with the price of that commodity.

Mr. GOODING. Mr. President, it is well known by everybody who knows anything about the great industries to-day that practically all of them fix the price of their products. I have been told by Senators that the representatives of the lumber industry meet in this city every year and around a table discuss the cost of production and the prices that they are going to charge for certain grades of lumber, and those prices are the ones charged all over the country. The paper mills, it is said, not only agree on prices but agree on the territory they shall serve.

I thought it was so well understood that the great industries fix prices for their products that I was astonished to hear the Senator from Ohio say that the farmer fixes his prices to as great extent as do the great industries. That is not true; it is impossible. Somebody else always fixes the price of the farmer's products. The farmer has to examine the newspapers in the morning to find out the price of wheat, to find out the price of corn, and of cotton, to find out the price of cattle, and to find out the price of hogs. When he has to buy he has to pay the prices fixed by somebody else, but when he undertakes to sell any of his products he has to take his hat off to the man to whom he sells it, who fixes the farmer's price. Of course, as I have said, everyone knows that some one else fixes the price of everything the farmer has to buy. That is so well established that I was astonished to see the great Senator from Ohio rise here and hear him say that the farmer fixes his prices as much as does anyone else engaged in any industry. Unfortunately the farmer can not fix the price of anything he produces.

Mr. President, of course those in authority during the war did not intend to be unfair with the farmer, but they were unfair. A fair-price committee met here in Washington and agreed on the price for a bushel of wheat. I was told by two members of that committee, one of whom was the late Senator Ladd, of North Dakota, and the other the president of the farm organization, Mr. Barrett, that when the committee adjourned they had no idea that there was to be a maximum price fixed for a bushel of wheat; that it was their understanding that the price fixed was to be a minimum price. Both used the identical words when they read in the morning newspapers that a maximum price had been fixed for a bushel of wheat; they said they were never more surprised in all their lives.

When wheat was selling at $3.45 a bushel in Chicago, the Government drove the price down to $2.20 a bushel. During the war ours was the only Government that fixed a maximum price for a bushel of wheat; all other countries permitted their farmers to receive the full market price for the wheat which they raised, and in some countries more than twice as much was paid for a bushel of wheat, under a guaranty which was only a minimum, than was paid in this country.

In 1919 the Agricultural Department made an investigation of the cost of producing a bushel of wheat in the great wheat producing States of the Union. The department found then that the cost was $2.11 a bushel. For the crop of 1919 the farmers were only paid $2.26 a bushel for No. 1 northern wheat, which is the highest grade of wheat, while the average price of wheat in America was less than that, being only $2.11 a bushel. It cost the farmer that much to produce the wheat, and yet the average price which the farmer received was $2.11 a bushel for wheat in 1919, if you please, which was the actual cost of producing a bushel of wheat on the farm, allowing no profit to the farmer and involving a loss to him. In addition, he had to pay the hauling expenses to the elevator, the elevator charges, and freight rates to the primary market. Mr. President, no one can figure out the result in 1919 except on the basis that the farmer lost more than half a billion dollars in producing wheat in this country in 1919.

In 1922 the story was told by a banker from Minneapolis of 168 suicides among the farmers of the States of Minnesota, North and South Dakota, and Montana. Those farmers had lost their all and could not face life and begin anew to provide something for their declining years. The saddest stories that I have ever listened to in my life have been told before the Agricultural Committee in connection with the condition of agriculture, and yet there is a Senator here who says that the relationship which exists between agriculture and other industries and labor at the present time is not different from that which existed in all the great panics before the war.

I am glad to know, Mr. President, that the issue is squarely drawn and that there are Senators here who do not recognize that a farm problem exists, although both of the great political parties in their platforms have recognized the existence of a farm problem. When the farmer comes to Congress and asks for relief he is told that there is no farm problem; that the present conditions will pass away, as his difficulties in previous times have passed away, as, for instance, during the greenback movement and other movements of that kind, when he was suffering and suffering only because industry was suffering and because labor was suffering. I wish to assure the Senator from Ohio that there is a farm problem, and it is no longer the farmer's problem alone. It has become the banker's problem; it has become the problem of industry; it has become the problem of labor, because this country can not go on with a decadent agriculture. If agriculture shall go down in ruin, then it will be only a question of time until industry and labor will be equally involved.

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

Mr. GOODING. I yield to the Senator.

Mr. COPELAND. I should like to ask the Senator how any man can contend that there can be prosperity in any country, especially in our country, if the farm class is so reduced in its purchasing power that it can not carry on and buy the products of the manufacturer, of the tailor, of the milliner, and of every industry in the land.

I think the Senator is entirely right in pointing out this fact, and it seems strange to me that it has to be impressed upon city dwellers. Somehow or other the people in the great cities think they are immune to the troubles of the farmer. They can not be immune to the troubles of the farmer. They are liable to the infection, to the disturbance, to the disease which must come when the farm class no longer can purchase. So I think the Senator is entirely right when he places emphasis upon the importance of this problem, not alone to the farm class but to all classes of people in every section of our country.

Mr. GOODING. I want to thank the Senator. I am sure that no man, in the Senate or out of the Senate, can look at the conditions of our farming population with an open mind without realizing that the whole of this country sooner or later must suffer the same fate as agriculture. It is true that while agriculture has been suffering the greatest losses, industry and labor have been especially profitable, and there are good reasons for it.

From the foundation of our Government up to 1914 the balance of trade in favor of this country was $7,000,000,000. Since 1914, up to and including the first 10 months of 1926, the balance of trade in favor of this country was $23,541,422,000. With our industries all going concerns, developing efficiency, and the world at war, it is not strange that the balance of trade should keep this country in a prosperous condition; but the line is growing thinner and thinner all the time. For the first 10 months of this fiscal year the balance of trade was only a little over $200,000,000 in our favor. With Germany coming back, and with England and the other European countries fighting as they must fight for the trade of the world, and about to take their place again in the list of governments having favorable balances of trade, we are going to have a fight to hold any balance of trade at all. Unless we can bring the farmer back so that he can buy the finished products of industry, what is going to happen to the great industries? How well intelligent labor understands what it means to them. They have gone on record for this bill. There appeared before a number of Senators here at one of our luncheons a representative of labor, who pleaded that this legislation might be enacted. Representatives of labor appeared before the Agricultural Committee of the House and went on record for the Haugen bill.

This country can not exist, its prosperity can not continue, with one-half of the country paralyzed and the other half prosperous, any more than it could have existed half slave and half free.

The farmer has always been the manufacturer's best customer, but he is no longer his best customer. Farmers are leaving the farm at the rate of more than half a million a year. More than half a million acres of land are being abandoned each year. Farms the soil of which is not rich or which are run down will no longer meet the cost of operation.

Mr. President, this is a new civilization. In the last few years the greatest blessing that ever came to humanity has come in a large measure to the American people. I mean the automobile. We have in America about 85 per cent of all the automobiles in the world. Neither the laborer nor the farmer can live on the measly pittance that they had before the war. There is a new standard. My hope is that we can carry it on, and that we can maintain the present standard. If we build agriculture up to a level with industry and labor, we can carry it on; but if industry is going to keep its heel upon the neck of agriculture, the time is coming when industry will be forced down on the same level.

God pity this country if we should again have a panic! It costs so much to live that when men are thrown out of employment nowadays it is going to result in great suffering in the large cities. We will have soup houses and bread lines. I do not know anything that is a harder test of patriotism than when a laboring man comes home after hunting for a day's work and finds his little ones hanging to their mother's apron, crying for bread, and there is no bread. I tell you, Mr. President, that is a test that drives men to crime, that drives men to hate their own Government. I have seen in my own State men who have spent a lifetime

building up farms, only to be forced in their declining years to move away and abandon them and turn them over to a mortgage company.

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

Mr. GOODING. I yield to the Senator.

Mr. COPELAND. I think the Senator has touched on a very important part of this great subject when he speaks of the effect upon industry and the effect upon labor of this great problem. Of necessity, if the farmer suffers so that he is not able to employ and pay the help he needs, they gravitate to the cities. With the gravitation to the cities from the farms of great numbers of young men who ought to be engaged prosperously upon the farms, there must come such competition in labor in the cities that the very conditions named by the Senator are bound to take place; because if we have large numbers in excess of the needs of industry in the cities, then we have exactly what the Senator speaks of; we have the soup kitchen and the bread line.

I think the Senator has well stated the facts, and I am glad to give emphasis to what he has said on that particular point.

Mr. GOODING. I want to thank the Senator; and we must not forget that this is no longer a new country. The time was when the great cities could be relieved of their congested condition by men finding new homes on the public domain. Our public domain is all gone, and I know no place in America where it is safe for a farmer to take his family and move on to a homestead and try to make a living, so that there is no longer an opportunity to relieve the conditions of the great cities. People are flocking into the great cities. In 1921 something like a million and more left the farm, and that movement is going on at a rapid pace all the time.

What is going to be the consequence of all this? What I want to try to show is that the Senator from Ohio [Mr. FESS] does not understand the farm problem at all. He has no conception of it, or he could not have made the statement that there is no difference between the conditions existing as between agriculture, industry, and labor to-day and all the other panics that swept over this country. It is hard for me to believe that any Senator could have made such a statement, and it is hard for me to find language to express myself on a statement of that kind, because it is so outrageously far from the truth that I do not see how it can be defended at all.

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

Mr. GOODING. I yield.

Mr. COPELAND. Before the Senator gets away from the effect on the cities of what continued depression upon the farm would mean, I want to ask the Senator whether he ever saw a bread line.

Mr. GOODING. Yes; I have, and there is nothing more depressing and nothing more demoralizing than when men who are willing to work must beg for charity to save their little ones from starvation.

Mr. COPELAND. Did the Senator ever see what happens to people when there comes such a depression that the mothers and the children can not get enough food, and the men go skulking about the cities seeking to get a little food here and a little there? Why, Mr. President, there is not any picture that I can think of in all human history that is equal to it; and it must be avoided. A way must be found to escape it.

Mr. GOODING. It will not be avoided, Mr. President, if we continue to destroy agriculture. I saw the Coxey army pass through my State. The people fed them in every town they went through, and I saw the men tramping who were looking for a day's work, unable to find work, thousands of them; and they existed in this country by something like 3,000,000. I think in 1893 it was estimated that we had something like 3,000,000 men out of employment.

Mr. President, the greatest question that confronts every government on earth is that of finding employment for its own people. Every man who is willing to work is entitled to a day's work to earn his day's bread. God pity the country that denies him that! Take the condition in England to-day. There are something over a million and a half people out of employment there. England has been forced to adopt a dole system to take care of their unemployed that I think is demoralizing the citizenship of that great country. Men can not starve. Children must eat. Women must eat as well. Germany to-day has 2,000,000 men out of employment. Practically every country in Europe is struggling with a great problem of unemployment; and yet our country is running at full blast. How long can it go on?

Some of the great men of this country who have studied this question, even some of my friends over in Wall Street, insist that this farm problem must be met; and it will have to be met. Political parties, both the Republican and the Democratic Parties, must not forget that they can not shirk this responsibility. This is not a political question at all. It is a great economic question. The economic balance of the country was destroyed by legislation thought necessary during the war, and the problem must be met by both political parties. It is dangerous for any political party that shirks its duty in meeting it!

I want to tell you that the great principle of protection, in which I believe, is in grave danger, because "Whom the gods would destroy they first make mad." If you do not think the farmers are mad, the bankers are mad, and everybody who lives in agricultural States is mad, with the exception of those engaged in a few lines of industry, go out and interview them. Read the reports that come in here and are printed in the daily papers in Washington. See how the people feel. Is there any doubt about how the people of Iowa feel?

The great senior Senator from Iowa [Mr. CUMMINS] has represented his State ably in the Senate for years. The people had no fault to find with his service. No Senator stands higher in the esteem of the Members of the Senate and the people of his own State than the senior Senator from Iowa; and yet what happened out there? The people registered their protest, and other protests will be coming here. Do not think that the election in the great State of Illinois was fought over the World Court. Representatives from Illinois tell me that the farmer question in the farm districts entered into it more than any other problem. Both the Democratic and the Republican Parties made solemn pledges on this subject, and yet up to the present time not an honest effort has been made by either party to carry out those pledges. You have the opportunity. The bill that is now before the Senate carries out the pledge of the Democratic Party. It carries out the pledge of the Republican Party. If pledges are made only to get in on, so far as the farmer is concerned there will be a lot of new faces here in the Senate as fast as elections come around. Let us not make any mistake about it.

Let me tell the other side of the story now. The Senator from Ohio stated there was no difference between the condition of a farmer at the present time, in its relationship to industry and wealth, and the condition in 1873 and other panic years, which most of us know a good deal about.

We now boast of having half of all the gold in the world. The total wealth of America in 1914 was estimated at $200,000,000,000. The Federal Trade Commission report just out shows that in 1923 the total wealth of America was $353,000,000,000, an increase on an average of about $10,000,000,000 a year. So it is safe to say that if our wealth has been accumulating since 1923 at the same rate, the total wealth of America to-day is something like $373,000,000,000.

The total wealth of Great Britain in 1922 was estimated at $180,000,000,000. So that in 14 short years this country has accumulated almost as much wealth as England accumulated in a thousand years, almost as much wealth as has been accumulated by that wonderful country, which has developed its industries, and whose flag is seen in every port, and on which the sun never sets.

The wealth of France in 1922 was estimated at $100,000,000,000, the wealth of Italy at $30,000,000,000, and the wealth of Japan at $25,000,000,000. So we have accumulated more wealth since 1914 than the great countries of France, Italy, and Japan combined. Yet the Senator from Ohio can not see any difference between the relationship that exists between agriculture and industry and labor and that which existed at the time of the great panics, when they were all paralyzed, agriculture as well as the rest of them.

In 1914 foreign countries had invested in this country $4,500,000,000. The Department of Commerce advises me that that has all been paid off, with the exception of about a billion dollars. In 1914 American financiers had $2,000,000,000 invested in foreign countries. The latest estimate for 1925 was $10,405,000,000; $4,430,000,000 of that is guaranteed by the governments of the countries in which the money is loaned, and it is drawing a rate of interest of anywhere from 7 to 12 per cent. Five billion four hundred and seventy-five million dollars is in the securities of industries and direct investments, $800,000,000 is in bonds issued and owned by foreign corporations and sold to the American investing public, $4,100,000,000 is in direct investments in industries in foreign countries.

America has not only the greatest industries in the world, but we own some of the great industries of Europe. We have control of the meat industry of the Argentine. We are a factor in the meat industry in Australia.

Mr. President, I offer for the RECORD a list of the American investments in foreign countries which has been furnished me by the Department of Commerce.

The PRESIDENT pro tempore. Without objection it is so ordered, and the table will be printed in the RECORD:

1. Branch factories, etc.; total	$1,500,000,000
Canada	1,100,000,000
Europe	300,000,000
Latin America	50,000,000
Far East	50,000,000
2. Sugar; total	1,315,000,000
Cuba	1,250,000,000
Other Latin America	50,000,000
Philippine Islands	15,000,000
3. Mining; total	950,000,000
Mexico	350,000,000
Chile	250,000,000
Peru	100,000,000
Bolivia	75,000,000
Rest of Latin America	100,000,000
Europe	25,000,000
Africa	50,000,000
4. Oil; total	825,000,000
Mexico	500,000,000
Colombia and Venezuela	100,000,000
Peru	25,000,000
Other Latin America	25,000,000
Canada	50,000,000
Europe	75,000,000
Far East	50,000,000
5. Railroad, electric power, telephones, telegraph, cables, etc.; total	350,000,000
6. Plantation companies (banana, rubber, coconut, etc.):	
Banana (Caribbean area)	200,000,000
Rubber (Straits settlements, Dutch East Indies, Mexico, etc.)	45,000,000

Mr. GOODING. It seems to me that if there is anything lacking to show the spread between the condition of agriculture and industry, it is a statement showing the money in banks. On the 30th of June, 1914, we had $8,653,750,926.12 in national banks. In 1925 we had $19,909,669,000.

In State and commercial banks in 1914 we had $3,411,009,666.61. In 1925 we had $13,402,017,000.

In loan and trust companies in 1914 we had $4,289,095,468.29. In 1925 we had $9,465,628,000.

In stock and savings banks in 1914 we had $1,031,672,932.97. In 1925 we had $1,926,336,000.

In mutual savings banks in 1914 we had $3,915,795,392.34, and in 1925 we had $7,151,803,000.

Altogether, Mr. President, in 1914 we had in banks $21,359,842,316.35; and in 1925 we had $51,892,932,000.

We have accumulated more wealth in our banks since 1914 than all the accumulations in the existence of this Government before that time. Yet, the great Senator from Ohio stands here and tells us that there is no difference between the condition of agriculture at the present time, as far as its relationship to industry is concerned, and its condition in years of panic; that it is practically on the same basis as during the time of the panics of the past; that its ills are imaginary; and that they will cure themselves if we just let them alone; and that the farmer must work out his own destiny.

Mr. FESS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from Ohio?

Mr. GOODING. I yield.

Mr. FESS. In the year 1921 grain is listed at 112, using 100 as the basis of comparison. Fruits and vegetables are listed at 148, meats and animals at 108, butter and poultry products at 151, cotton and cottonseed at 101, unclassified at 90. All groups, 30 items included, are listed at 116. Wholesale prices of nonagricultural commodities are given at 167. The relative purchasing power of the farmer's product is given at 69.

In 1921, recognized as the period of low levels, as the Senator from Idaho and everybody will concede, and before the agricultural relief laws, especially the tariff law, became effective, the products of the farmer are placed at 116, and the products of nonagricultural commodities at 167, making a difference of 51 points against agriculture in 1921.

In 1922 the products of the farmer were listed at 124; the wholesale price of nonagricultural commodities at 168; the relative purchasing power of the farmer's products was given at 74.

In 1923 the farmer's products were given at 135. It will be noted that there is a gradual increase, an appreciation, expressed in price. Nonagricultural products were given at 171. They were going up also. The farmer's purchasing power was given at 79.

In 1924 the farmer's products reached 134. Nonagricultural products dropped back to 162. The relative purchasing power of the farmer's product was 83.

In 1925, in the last report we have, the farmers' products were placed at 147, while in 1921 the figure was 112. Nonagricultural products were listed at 165, while in 1921 they were 162. That makes a difference of 18 points only between the prices of agricultural products and the prices of nonagricultural products, while in 1921 the difference was 51.

This shows a relative gain in farm products of from 51 points to 18 points in those years. The average of all groups of the 30 items of agricultural products is about 147, while the wholesale prices of nonagricultural commodities are placed at 162.

The relative purchasing power of the farmer in 1925 was about 90 cents. Agricultural products have increased since 1921 from 116 to 147. The wholesale prices of nonagricultural commodities have decreased from 167 to 165. The purchasing power of the farmer's product has increased from 69 to 90.

I say to the Senator that I will join him in any remedy by law by which we can increase the facilities of marketing; I will go the limit with him; but if this matter is permitted to go on in its normal course, aided by what we can do in cooperative marketing, we will reduce the differential between the articles nonagricultural and those agricultural.

Mr. SIMMONS. Mr. President, the Senator from Ohio stated the purchasing power of the farmer's dollar for several periods, but he failed to give the purchasing power of the manufacturer's dollar.

Mr. FESS. I have not that.

Mr. SIMMONS. That is the very point at issue.

Mr. FESS. If the Senator from Idaho will permit me. I stated day before yesterday that the superintendent of the agricultural experiment station in Ohio gave the purchasing power of the farmer's dollar in Ohio as $1.01.

Mr. GOODING. The illustrations the Senator is using are entirely wrong, because no farmer ever buys at wholesale at all. He buys retail, and everything he buys he is forced to buy in small quantities.

Mr. FESS. The last statement I made was with reference to the wholesale price, and the others are retail.

Mr. GOODING. The Government reports, I regard as reliable, are all based on wholesale prices, and there is no question but that the increases have been entirely out of proportion to the wholesale prices, because in a large measure it is the retailer who pays the freight rate and passes it on, and the increase in freight rates has made the spread a great deal larger than it was. For instance, figures have been given as to the prices on soap and other things manufactured in Cincinnati. Then, with the increase due to the higher freight rates, the spread is entirely different from what it was before. The basis was never fair anyhow, because the farmer does not buy wholesale at all.

Mr. McMASTER. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from South Dakota?

Mr. GOODING. I yield.

Mr. McMASTER. While the comparison of the purchasing power of farm products in comparison with the purchasing power of nonagricultural products is interesting, and has a certain bearing upon the question, however, we must not overlook the great central fact underlying this situation, that according to the report of the industrial conference board at New York, the cost of production of agricultural products has been less than the wholesale prices of those agricultural products since 1883.

Mr. FESS. In accordance with that statement, every farmer would be broke.

Mr. GOODING. Most of them are broke.

Mr. McMASTER. No; they are not.

Mr. FESS. The Senator from Idaho says they are broke and the Senator from South Dakota says they are not.

Mr. GOODING. I am speaking generally.

Mr. FESS. The Senator from Idaho is logical. If what they produce costs more than they get out of it, they can not live on nothing.

Mr. GOODING. The Senator must not forget the farm mortgages. They have been running in debt year after year to carry on the farm.

Mr. FESS. That is not true of Ohio.

Mr. GOODING. I do not know about Ohio, but it is true in Indiana and it is true in Michigan.

Mr. FESS. It is true in Indiana before an election.

Mr. GOODING. No; it is true in Indiana at the present time. I do not think the Senator is fair to the Senators of

Indiana, who know the conditions of agriculture in their State.

Mr. McMASTER. If the farmers have not made any money and all would be broke, the Senator must remember, if he has studied the situation, that the problem of the real estate complex has entered into the proposition. In other words, many farmers 35 years ago acquired farms at a very small cost. They have lived on those farms for 35 years, and the result of 35 years' labor will show that they have just about paid the purchase price of the farm, which was very small; and if we compute the wages during that time it will be found that they have been receiving about 30 cents a day.

Mr. SIMMONS. Mr. President, will the Senator yield further to me?

Mr. GOODING. The Senator has been very kind. I yield to him gladly.

Mr. SIMMONS. I think the Senator from Ohio, before he puts his table in the RECORD, ought to get the purchasing power of the nonagricultural dollar and put it alongside the purchasing power of the agricultural dollar in each of the periods with which the table deals. That to my mind is the best test. Other things I think are not so significant. But it is the purchasing power of the farmer's dollar as compared with the purchasing power of the dollar which the manufacturer gets for his product that is of particular interest and significance, and while the Senator gave the purchasing power of the dollar of each class in his 1921 figures, after he left 1921 he gave only the purchasing power of the farmer's dollar, but omitted to give the purchasing power of the nonagricultural dollar.

Mr. FESS. I did not give the purchasing power of the nonagricultural product at any place.

Mr. SIMMONS. I thought the Senator did as to 1921.

Mr. FESS. No.

Mr. SIMMONS. The Senator ought to give it for each year his statement professes to cover.

Mr. FESS. I just gave the range of the prices of the two.

Mr. SIMMONS. I have in my mind an analysis of the relative purchasing power for one year, I think 1922. In 1922, as I recollect it, the purchasing power of the farmer's dollar was 71, and in the same year the purchasing power of the manufacturer's dollar was 141, or very nearly double.

Mr. FESS. I have the purchasing power of the farmer's dollar at 74 in 1922.

Mr. SIMMONS. I was thinking of 1922.

Mr. FESS. That is the year to which I referred.

Mr. SIMMONS. As I remember it, the statistics I had gave the purchasing power of the farmer's dollar for that year as 71 and the purchasing power for the nonagricultural dollar at 141, or nearly twice as much. I speak only from memory and I may be mistaken.

Mr. FESS. If the Senator from Idaho will permit me, I have not gone into that.

Mr. SIMMONS. I think the Senator's table is very defective in that respect.

Mr. FESS. I had no purpose of giving the purchasing power of the farmer's dollar except as a mere incident. I was giving the range of prices of agricultural products in contrast with nonagricultural products, and incidentally gave the purchasing power of the farmer's dollar. That feature was only because of the suggestion that had come to me from Ohio that the purchasing power of the dollar was 101. The purchasing power of any product is the trade value or exchange value which that product has or the exchange power it has in purchasing something made by some other country. For example, if the product of the farmer will buy as much of nonagricultural products as it did before, then it is normal. If it will not, it is subnormal. I have not gone into that matter, I will say to my friend from North Carolina.

Mr. GOODING. Mr. President, I want to call the attention of the Senate to the bank failures that have taken place in the country. I have taken the period from 1910 to 1920. In Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut, from 1910 to 1920 we had 14 bank failures. From 1920 to 1925 we had 24 bank failures in those States. I want to say, however, that 13 of those bank failures were in the State of Massachusetts. All went down together at about one time.

In the Eastern States, New York, New Jersey, Pennsylvania, Delaware, Maryland, and the District of Columbia, from 1910 to 1920 we had 104 bank failures and from 1920 to 1925 we had 32 bank failures.

In Virginia, West Virginia, North Carolina, South Carolina, Georgia, Florida, Alabama, Mississippi, Louisiana, Texas, Arkansas, Kentucky, and Tennessee, from 1910 to 1920 we had 224 bank failures, and from 1920 to 1925 the failures of all banks in those States were 583.

In Ohio, Indiana, Illinois, and Michigan from 1910 to 1920 there were 129 bank failures, and from 1920 to 1925 there were 92 bank failures.

In Wisconsin, Minnesota, Iowa, and Missouri, the great agricultural States, there were only 42 bank failures from 1910 to 1920, while from 1920 to 1925 they have had 435 bank failures.

In the Western States—North Dakota, South Dakota, Nebraska, Kansas, Montana, Wyoming, Colorado, New Mexico, and Oklahoma—from 1910 to 1920 they had only 73 bank failures, but for the five years from 1920 to 1925 they had 1,141 bank failures.

And yet the Senator from Ohio can not see any difference in the relationship that exists between agriculture, industry, and labor.

Mr. SIMMONS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Idaho yield to the Senator from North Carolina?

Mr. GOODING. I yield.

Mr. SIMMONS. The Senator is now giving us the number of bank failures that have occurred in agricultural States, as I understand it, during the last five years.

Mr. GOODING. Yes.

Mr. SIMMONS. I think they aggregated something like 2,470. Has the Senator the facts so he can lay them before the Senate as to the number of failures in New England or the great industrial centers of the United States within that period of time? My own impression is that those failures were negligible as compared with the number of failures that have taken place during that period in the agricultural districts.

Mr. GOODING. The average number of bank failures, with the exception of the State of Massachusetts, is very much less in the last five years than in the period between 1910 to 1920.

Mr. FESS. Less or more?

Mr. GOODING. Less bank failures during the last five years in the industrial States than there were before 1920. I will read the figures again. I do not think the Senator from North Carolina caught them.

In Maine, New Hampshire, Vermont, Massachusetts, Rhode Island, and Connecticut from 1910 to 1920 they had 14 bank failures, and from 1920 to 1925 they have had 24 bank failures, 13 of which were in Massachusetts alone. I do not know what brought about the failures in Massachusetts, but they all failed about the same time.

In New York, New Jersey, Pennsylvania, Delaware, Maryland, and the District of Columbia for the 10 years from 1910 to 1920 we had 104 bank failures, and during the last five years only 33 bank failures, State and National banks.

That proportion runs through the entire list. There were less bank failures on the average in the industrial States in the last five years than ever in the history of the country. This table shows that we have had less bank failures in agricultural States during the period from 1910 to 1920 than we had in the industrial States. The average was very much less, and yet look now where it has gone. Iowa only had one bank failure in 10 years, my State only had one national-bank failure in 10 years, and Utah had none at all.

Mr. SIMMONS. That is the very period in which the bank failures in the agricultural States have increased enormously.

Mr. GOODING. Yes.

Mr. SIMMONS. While they have not increased at all in the manufacturing districts.

Mr. GOODING. They are up to normal.

Mr. SIMMONS. It was during that period when this disparity occurred in the value of farm investments as compared with manufacturing investments.

Mr. GOODING. Exactly so. It is so clear that I wonder, oh, I wonder, how any sane man can say there is no difference in the agricultural States between the relationship existing between labor and industry at the present time, and at the time when all the panics were sweeping over the country. That is the most remarkable statement ever made on the floor of the Senate.

Mr. SIMMONS. Mr. President, if the Senator will pardon me further——

Mr. GOODING. Certainly.

Mr. SIMMONS. The Senator from Idaho stated a little while ago that if this situation continued for a few years longer the whole agricultural population of the country would be in a state of bankruptcy, or something to that effect.

Mr. GOODING. According to the mortgage indebtedness on the farms and the floating indebtedness of the farmer, he is broke now. I know from personal contact with the farmer in my own State. My State is as well off, I think better off, than a good many other agricultural States. I know the con-

dition of the farmer from personal contact with him. He can not go on and meet his obligations.

Mr. SIMMONS. The Senator from Ohio answered the statement of the Senator from Idaho by saying that if that were so, then the farmers to-day were in a state of practical bankruptcy. Mr. President, I want to say that it is true the farmers are still carrying on, but the condition of the farmer has been becoming more precarious every succeeding year. Under the present system it will continue to become more precarious every year. If we were to-day to have a liquidation on the part of the farmer, strike a balance and require him to meet the indebtedness that would be disclosed and expose his property to sale to meet that indebtedness, in my judgment, we would find that what the Senator from Idaho said is true. The farmer is to-day on the verge of bankruptcy; but his insolvency has not yet been disclosed by an actual statement of the account and the liquidation of his affairs.

Mr. BRUCE. Mr. President, will the Senator from Idaho allow me to ask a question of the Senator from North Carolina?

Mr. GOODING. Certainly.

Mr. BRUCE. Why is it that the State of North Carolina, which is almost entirely a rural State, should be such a prosperous State and should be engaging in such tremendous projects of internal improvements?

Mr. SIMMONS. The State of North Carolina is not an "almost entirely rural State." It is a great agricultural State, but it is also the greatest manufacturing State of the South. It is true that compared with the average States of the Union it is exceedingly prosperous.

Mr. BRUCE. And it is a rural State.

Mr. SIMMONS. It is a great State, in manufacturing as well as in agriculture, and in every other respect.

I come from that State; I know the condition of the farmers of that State as the Senator from Maryland does not, and I believe that a considerable proportion of them, if they were to-day required to make full settlement of their indebtedness, would be in a condition approaching bankruptcy.

Mr. BRUCE. That is true at all times to a certain extent of all elements of the American population. About 90 per cent of all the corporations that are formed for one business purpose or another either fail to make any money or go into bankruptcy; a very large percentage of all individuals who enter upon employment or enter upon a profession or enter upon a business of any sort fail to make a pecuniary success of it. Now, I should like to ask——

Mr. SIMMONS. Mr. President, may I interrupt the Senator?

Mr. BRUCE. Certainly.

Mr. SIMMONS. I want to say that cotton is perhaps the greatest agricultural product of my State.

Mr. BRUCE. Yes.

Mr. SIMMONS. As a rule, the cultivation of cotton in North Carolina is not by the owner of the land but by tenants cultivating one-horse and two-horse farms, and more rarely three-horse farms.

A three-horse farm is a good-sized farm for a tenant. If one considers the question of the success of the tenant farmers in North Carolina, who produce the cotton of the State, he will find that 8 or 9 out of every 10 of them at the end of the year have not enough money to pay their expenses of living during that year; and that they have to begin the next year by making a chattel-mortgage crop lien on the first day of January upon the crop to be produced in that year, in order to buy necessary supplies for their families and to cultivate their crops. That is the condition of these people in my State, prosperous as it is, who actually grow cotton, and I think is their condition in all the cotton States of the South. I am not speaking of the landowner; I am speaking of the man who cultivates the land upon the share plan.

Mr. BRUCE. If the tenant does not prosper, neither does the landowner prosper, especially under the share system under which the landowner operates.

Mr. SIMMONS. The landowner does not prosper. Frequently the owner of cotton farms finds that at the end of the year that he is in debt instead of having a surplus. I am not, however, dwelling particularly upon the landlord, because the condition of the landowner is better than that of the man who actually makes the crop. He frequently has other income sources. The man I am talking about here is the farmer who actually produces the cotton, and I say that 8 or 9 out of 10 of the farmers who actually produce the cotton in my State find themselves at the end of the year, when they have sold their crop, with scarcely enough money to pay the indebtedness that they have incurred in its production.

Mr. BRUCE. The Senator from North Carolina knows that the price of cotton has always been subject to violent fluctuations; the price has been up one year and down another year; but, in the long run, the average is not so bad. The Senator also knows that it is only a few years since cotton was commanding the highest price that it had ever commanded, if I am not mistaken, in my whole lifetime.

Mr. SIMMONS. Mr. President, for the past five years in my State and throughout the South the same people have been producing the cotton who produced it theretofore, and I challenge the Senator from Maryland to prove that the condition of that class of people during that time has at all improved. These growers of cotton are, I verily believe, worse off to-day than they were five years ago; and they have given those five years of their lives to producing this crop which, it is said, brings so much prosperity to the South without bettering their condition. This fact, to my mind, should conclusively show that cotton growing in the South has not been, at least during that period, profitable.

Mr. BRUCE. Yes; but what right has the cotton grower or the wheat grower or a farmer of any description when his particular industry is not prosperous to come here to Washington and attempt to load down the entire people of the United States with a subsidy for his class benefit?

Mr. SIMMONS. The cotton farmer is not attempting to do any such thing as that. What the cotton farmers and the other farmers of the United States are asking is that they shall be put upon a parity with those engaged in the other industries of the country. If we are going to stimulate the other industries by all sorts of subsidies, tariffs, trusts, and combinations, the farmer demands that the Government do whatever it can to relieve his products of the discrimination and his dollar of the disparity. It is certain that if we double the value of the nonagricultural dollar and at the same time cut in half the value of the farmer's dollar we put the farmer in a condition where he can not buy and where he can not even live in competition with other lines of business.

Mr. BRUCE. But the farmer in recent years has been given every tariff advantage for which he has asked.

Mr. SIMMONS. The Senator from Maryland knows that, so far as the tariff is concerned, the tariff duties which have been accorded to the farmer have been a mere gesture, that it was understood they would not be effective, and that they have not been effective. The Senator will not stand here and say that the duties that were placed upon farm products in the emergency tariff law, 42 cents on wheat, so much on corn, and duties of that sort, have been effective. The farmers of the country know that they have not been effective, and every man who had studied the tariff question knew at the time those duties were imposed that they would not be effective; that they were a gold brick handed to the farmers for purely political purposes by the dominant party.

Mr. BRUCE. Then the idea now is to lay another "gold brick" on top of that gold brick——

Mr. SIMMONS. No.

Mr. BRUCE. By superimposing a subsidy in connection with the exportable surplus on the tariff on agricultural products?

Mr. SIMMONS. No; the farmer is not asking to put a "gold brick" upon anybody else. He is tired of gold bricks. The farmer is merely asking that he be given a fair chance in the race of life with the people engaged in other lines of endeavor. The farmers constitute nearly one-half of the population of the United States. Under existing conditions he is discriminated against in the price he receives when he sells and in the price he pays when he buys.

Mr. BRUCE. And now the farmer is going to make everything that he buys sell higher by increasing the price of bread, which will enter, of course, into the wages of every wage earner in the land.

Mr. SIMMONS. The Senator might have said when tariff duties were imposed at the request of the manufacturers and for their benefit that they were requesting us to enable them to increase the cost of clothing and of the other necessaries of life to the remainder of the population, and he might have denounced it.

Mr. BRUCE. The Senator forgets that I never united in giving them anything.

Mr. SIMMONS. But the party in power did.

Mr. BRUCE. And I never will unite with anyone to give the manufacturers exorbitant tariff duties.

Mr. SIMMONS. But the Congress answered their appeal; the Republican Congress and President granted them this subsidy in the shape of tariff duties; and they have used this subsidy to such an extent that the prices which they receive for their products are enormously in excess of the prices which obtain in any other country on the globe; and the farmer, who has to pay these prices, must sell the fruits of his labor on the level of world prices.

Mr. GLASS. Mr. President, why does not the Senator from North Carolina take the special privileges away from the industrialists, instead of proposing here to set up a twin system of special privilege?

Mr. SIMMONS. Does the Senator think that I can repeal the Republican tariff law?

Mr. GLASS. Does the Senator think that two wrongs make a right?

Mr. SIMMONS. No; but I think that if the prices of the commodities which the farmer has to buy have been advanced, if those prices have been doubled, then we owe to the farmer a duty to extend to him some relief to put him on a parity—if we can—with the others.

Mr. GLASS. Do we not owe a duty to the millions of people who engage neither in manufacturing nor in farming? What the Senator is proposing is to rob them out of both pockets at the same time.

Mr. SIMMONS. No; the Senator is excited; I am proposing no such thing.

Mr. GLASS. No; I am not excited; but I am trying to abate the excitement of the Senator from North Carolina; I am trying to bring his mind to a state of poise, in order that he may see the inconsistency of the contention he is making here.

Mr. SIMMONS. What I am contending for is that all the producers of this country shall be put, as nearly as the Government can do it, upon the same level.

Mr. GOODING. To put them back on the same plane from which they were taken by legislation.

Mr. SIMMONS. Yes; to put them back where they once were; that is all.

Mr. GLASS. And the Senator is invoking a philosophy and policy of taxation which is in absolute contravention of everything for which he has contended heretofore.

Mr. SIMMONS. No; I am not invoking anything of the sort. I have not said I ever wanted a tariff for the farmer. The Senator knows I have not asked for it.

Mr. GLASS. But the Senator is advocating for another class the very same vicious system that is involved in a high protective tariff.

Mr. SIMMONS. No; I am doing nothing of the sort, and the Senator knows I am doing nothing of the sort. What I am asking for here is that the farmers of the country be put on a plane of equality with other producers of the country.

Mr. GOODING. Mr. President——

The PRESIDING OFFICER (Mr. BRATTON in the chair). The Senator from Idaho has the floor.

Mr. BRUCE. Mr. President, I should like to remind the Senator from North Carolina that he voted against, if I am correctly informed, all duties on the importation of agricultural products, notwithstanding the fact that he says now they were mere gestures.

Mr. SIMMONS. Of course, I voted against them because I knew they were a sham and a fraud and would be ineffective, and I would not have voted for any such duties if I had known they would have been effective, because I am opposed to a protective tariff. I voted against the duties that were imposed in favor of manufactured articles, and I voted against the duties that were imposed on farm products. I knew that if the tariff on manufactured articles was adopted it would benefit the manufacturer; but I knew that the tariff on most of these agricultural products, if adopted, would not benefit the farmer. I knew the one would be effective and the other ineffective, and the inequality and disparity which has resulted would be inevitable.

Mr. BRUCE. In other words, the Senator voted against that gesture; but now he is going to vote in favor of this gesture, as I understand.

Mr. SIMMONS. I voted against the farmers' gold-brick tariff, and I am not going to vote in favor of any tariff duties at this time. I will, however, vote to help the farmer control his surplus in the interest of a fair and living price for his product.

Mr. BRUCE. The Senator, then, prefers to give the farmer a subsidy?

Mr. GOODING. Mr. President, I can not yield any further.

The PRESIDING OFFICER. The Senator from Idaho declines to yield further.

Mr. SIMMONS. Mr. President, I hope the Senator will yield to me just for a moment.

Mr. GOODING. Very well; I yield to the Senator from North Carolina briefly.

Mr. SIMMONS. Mr. President, all I desire about this matter and all I ask for the farmers of my section is the same that I would be willing to accord to the farmers of any other section. If the farmer is producing a surplus which he can not control, as the manufacturer can control his surplus, and if that surplus sold in the world's market fixes the domestic price of his product at the world level while he must buy his necessities in a highly inflated domestic market, I am contending that the Government should do whatever it can to help him to withdraw his surplus of agricultural products from the market temporarily for the purpose of enabling him to obtain a reasonable price for that part of his products sold in the United States.

Mr. GLASS. Mr. President, right on that point——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Virginia?

Mr. GOODING. I yield.

Mr. GLASS. Right on that point, I call the attention of the Senator from North Carolina to the fact that he is not speaking for a large proportion of the farmers of North Carolina. The larger proportion of the farmers of North Carolina are not comprehended in the proposals of the bill which we are now discussing. One of the great staple crops of the Senator's State is tobacco, which now contributes more than any other staple crop indirectly to the Federal revenues of this Government, and those people are absolutely ignored in the provisions of this bill.

Another great industry of the State of North Carolina is the livestock and the dairy industry. They buy 70 per cent of their concentrates to feed to their cattle, as well as the food that they must have to live themselves, the combinations of bran and of meal and of ground oats and of such other things as go into the constitution of a balanced ration, and the dairymen have no compensatory consideration in this bill.

So that when people stand here and talk about farmers I insist upon knowing what class of farmers and how many farmers they refer to, and not confining the relief absolutely to the grain growers of the Northwest and the Middle West.

There are other farmers in this country besides those farmers; and if we are to outrage all of the philosophical tenets of political economy, if we are to embrace the idea of tariff protection in another form, let us extend it to a larger number of farmers than is proposed by this bill in its restricted nature.

Mr. SIMMONS. Mr. President, will the Senator pardon me a minute?

The PRESIDING OFFICER. Does the Senator from Idaho further yield to the Senator from North Carolina?

Mr. GOODING. I yield

Mr. SIMMONS. The Senator from Virginia, when he spoke of the other great crop of North Carolina and of other States in the South, was alluding to tobacco. Tobacco is a great crop in my State. It is the one crop in North Carolina and in certain other Southern States that has in recent years saved the agricultural interest of that section from disaster. It is the most profitable agricultural crop that we produce in my State, relatively speaking. At any time that the tobacco interests desire to come in under this bill, if it is enacted, they will have under its express terms the right of doing so. The Senator from Idaho will bear me out in that statement.

Mr. GOODING. That is true.

Mr. SIMMONS. Why has tobacco culture been more profitable than cotton culture or the production of other crops in my State? Because during the years since the war the domestic price of tobacco has remained at a fairly good and profitable range affording a fair profit, because we do not produce a great surplus of that product. It is not sold upon the basis of the world price, but on the basis of the domestic price. Our raw tobacco is not exported to such an extent that the world price controls. The price is fixed upon the basis of the law of supply and demand in the domestic market and not the prices that obtain in the countries of Europe or anywhere else.

Mr. GLASS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho further yield to the Senator from Virginia?

Mr. GOODING. I yield to the Senator.

Mr. GLASS. Just a moment, if the Senator will permit me.

Mr. GOODING. All right.

Mr. GLASS. And yet the officials of the cooperative tobacco associations have been importuning the tobacco growers of this country for the last three years to cut down their crops, while the Senator from North Carolina says they have not produced excessive crops.

I will tell you why tobacco remains at a good price. It is because the tobacco growers at their own expense, taxing themselves, have engaged in cooperative marketing. They have not come here to Washington to seek a subsidy from the Federal Treasury.

Mr. SIMMONS. Mr. President, if the Senator from Idaho will pardon me further, both the tobacco people and the cotton people have been in the cooperative venture in recent years. The tobacco people have to some extent fallen down, and the

cotton people have been standing up pretty well. We raise more tobacco in some years than we do in other years, and when that happens there is an oversupply in the domestic market, and it affects the price in the domestic market. Next year we may make a short crop, and the price is higher. The price of tobacco in this country responds to the domestic demand, but in the case of cotton and in the case of wheat the price does not respond to the domestic demand. It responds to the price which obtains in the markets of the world for the exportable domestic surplus of those crops. That is not true in the case of tobacco, the annual production of which seldom exceeds the world's demand.

Mr. GLASS. Mr. President, I am very much astonished at the statements of the Senator from North Carolina, who comes from a tobacco-growing State. As a matter of fact, the domestic demand does not control the price. As a matter of fact, we do export tobacco in its raw state. As a matter of fact, it is a government monopoly in Europe, and their agents over here largely control the price of tobacco, and for that very reason was this cooperative marketing association formed—because the domestic demand did not control the price.

Mr. SIMMONS. Mr. President.

Mr. GOODING. I yield.

Mr. SIMMONS. The Senator from Virginia is right. We do export leaf tobacco. What I meant to say was that these exports were not sufficient to control and fix or seriously affect the domestic market price; but in my hurry I did not make my meaning clear, and I will so modify my statement in the RECORD. These foreign buyers buy at auction on our warehouse floors in competition with the domestic buyers. The rule is reversed and in this case the foreign price follows the American price.

Mr. GOODING. Mr. President, in reply to the Senator from Virginia I wish to advise him, although I am sure he is well aware of the fact, that the representatives of his industry, the dairy industry, did petition the Tariff Commission for an increase in the tariff on butter; and the President very recently increased the tariff on butter 4 cents a pound, giving the dairy industry now a protection of 12 cents a pound on butter. That was done because, by reason of the great imports that were coming into America, there was danger of the great dairy industry, in which the Senator is now interested, being destroyed.

Mr. GLASS. Yes; but there is no single provision in this bill that proposes to afford them any relief.

Mr. GOODING. The dairy industry, thank God, is prosperous, and has been, as a rule, for a number of years.

Mr. GLASS. It is not prosperous by reason of any subsidy from the Federal Treasury.

Mr. GOODING. It is the one industry in which the farmer has been able to get something out of his labor; and the great danger to the tobacco and dairy industries is that unless you can stabilize the great industries of this country so that they do pay, the farmers are going to be forced into the tobacco and the dairy industries, and those industries will be destroyed, because the farmers can not carry on and produce cotton and produce wheat at a loss.

Now, Mr. President, I want to finish my statement in regard to bank failures in the Pacific States.

Washington, Oregon, California, Idaho, Utah, Nevada, Arizona, and Alaska from 1910 to 1920 had 49 bank failures. In the five years from 1920 to 1925 they had 170 bank failures. The point I want to make clear is that in the agricultural States the failures of banks before the war were very much less on an average than they were in the industrial States. Since the war, or in the last five years, out of a total of 2,475 bank failures, practically all of them are in agricultural States, or in those parts of the States that are agricultural. The great cities on the Pacific Coast, or the great industrial cities everywhere, have had no bank failures to speak of. Most of what they have had have been because somebody has gone wrong in the bank, so I was advised by the comptroller. Out in my State I know of one county which lost practically all of its banks. It had 11 banks, and lost all of them but 1.

I have a price list here of some commodities the farmer has to buy for the farm.

This tells the story of what is the matter with the farmer—the prices he pays for farm machinery:

In 1914 the farmer in Idaho paid $3.25 a hundred for horseshoes by the keg. To-day the farmer pays $9.75.

In 1914 he paid $12 a ton for blacksmith coal. To-day he pays $31.

In 1914 he paid $8.50 for a tongue scraper that is used on the farm in Idaho and in all arid States very largely. To-day he pays $18.50.

In 1914 he paid $72.50 for a four-row beet cultivator, fully equipped. To-day he pays $150.

I shall not take time to read this list, but it goes down the entire list. It averages 100 per cent increase practically for everything he has to buy for the home and the farm; and yet with all these bank failures, with his indebtedness increasing from $3,500,000,000 in 1910 to $12,250,000,000 in 1925, with all the wonderful wealth that has been accumulated here in the industrial States and all the misery and suffering and hardships that have prevailed in agricultural States, the Senator from Ohio can not see that there is any difference in the relationship that exists between agriculture, industry, and labor to-day than that which existed during all of the great panics that have swept over the country.

The Senator from Ohio was very much alarmed—and I am glad he is in the Chamber—lest we should increase the price of bread if this bill passes.

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

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Ohio?

Mr. GOODING. I yield.

Mr. FESS. I am always in the Chamber when the Senator speaks.

Mr. GOODING. The Senator does me great honor, I can assure him.

If this bill passes, and the farmer is benefited by the full increase in the price of wheat, it would increase the price of bread one-third of a cent a pound. I do not think the bakers of this country will increase the price of a loaf of bread. The price of bread is practically the same to-day as it was when wheat was up at $2 a bushel. There is no reason why they ought to increase it. So we need not be alarmed, as far as any great hardship being worked on the consumers of the country is concerned.

The Senator was very much alarmed lest England should feed its consumers cheaper than the American consumers, and for that reason England should be given a very great advantage in the manufacturing industries. Let us see. This country this year will collect a duty on imports of $5.70 per capita. Great Britain collects a duty on imports of $14.10 per capita. England collects from sugar, coffee, and tea alone almost as much per capita as we do on all the imports that come into America. So we need not be alarmed about increasing the cost of living in America if this bill should pass.

There are two and a half times as much duty on imports per capita in England as in America. Canada collects $15.47 per capita on imports. Argentina collects $11.83 per capita. We are going to collect more money per capita this year on imports than ever before in the history of this country. The balance of trade is going to be something like $570,000,000 in our favor. I do not think we need to be very joyful about it, because it represents over $3,000,000,000 of imports coming into America, much of which we ought to be producing in America. I think we will have to shut out some foreign imports if we are going to employ our own people.

Now, I want to explain these charts, Mr. President. I am sorry there are not more Senators present from the cotton States, because it seems to me this chart tells the whole story. If this bill passes, it will stabilize the price of cotton. If the cotton growers could have had the average price of cotton for the past five years, of between 22 and 25 cents a pound, they would be in a prosperous condition. If this bill passes we will be able to stabilize production, because the cotton planter will understand that if he produces more than the world needs it will be bound to force his prices down. He will become an interested party. He will know that the speculator is not going to rob him of any increase in cotton that may come, and we will be able to organize the cotton growers and bring about a stable condition in that industry.

In 1920 cotton was 40 cents a pound. In 1921 it came down like a rocket, to 9 cents a pound. That sort of condition in any industry will destroy it completely. Nobody can meet it. The manufacturer could not live under a condition of that kind. Railroads could not exist. If this bill passes it will merely mean the bringing about of a normal condition in agriculture.

Mr. GEORGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Idaho yield to the Senator from Georgia?

Mr. GOODING. I yield.

Mr. GEORGE. I would like to ask the Senator some questions about cotton, because I am interested in that product. Very frankly, I have not been able to see how the bill will help cotton. My attitude toward the bill is entirely friendly, but I must see my way clear to vote for a measure before I can give it my support.

Mr. GOODING. Certainly.

Mr. GEORGE. The world's production of cotton, for instance, last year I believe was about twenty-three and three-fourths million bales, as I recall. Is that correct?

Mr. GOODING. That is about the figure. I have those figures, but not with me.

Mr. GEORGE. Approximately 8,000,000 bales of cotton was raised outside of the United States. I ask the Senator now, as one of the proponents of the bill, because he has discussed it very ably, and I have been interested in his discussion, whether this bill can do anything more for an American cotton producer than it will do for a cotton producer outside of America. I merely ask the question because I am unable to see that it can possibly do any more for a cotton raiser in Texas or the Carolinas or Georgia than it does for a cotton raiser in Peru, or in India, or in Egypt, or anywhere else where cotton can be grown.

Mr. GOODING. There is no doubt about that in my mind at all. That is perfectly sound.

Mr. GEORGE. There is no tariff on cotton, and there can not be, effectively.

Mr. SIMMONS. Mr. President, if the Senator will pardon me, I think undoubtedly if the bill works as its proponents think it will, it will raise the price of cotton throughout the world.

Mr. GOODING. The average price of cotton.

Mr. GEORGE. That is exactly the question I am asking. It could do no more for cotton here than it could do for the cotton producer elsewhere, assuming the same grade and staple of cotton, of course. We all recognize the difference between American cotton and other cotton. I ask these questions because I want information. So if the bill works as to cotton, undoubtedly the production of cotton will be stimulated all over the world wherever it is possible to grow it.

Mr. GOODING. I doubt if that is true. Let me tell the Senator what stimulates production in farm products. It is these skyrocket prices. Everybody plants cotton when the price goes up. That is not only true of this country, but it is true of the whole world. But if we stabilize it and get it down to a reasonable price, we can then go out among the farmers, and the farmer will become an interested party, and we can stabilize production in this country. There is no doubt about that. But we can not expect the farmer at the present time to be interested, because he does not know whether he is going to be benefited.

Mr. GEORGE. Let us assume, then, that it would not stimulate the production of cotton, would not increase the production in the United States. If we stabilize the price at a profitable figure, it seems to me it follows inevitably that we will stimulate the production of cotton in all cotton-growing countries outside of the United States.

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

Mr. GOODING. I yield.

Mr. SIMMONS. Let me suggest this to the Senator from Georgia for his consideration: Has not the production of cotton in the balance of the world been in the past and up to the present time stimulated as much as it is possible to stimulate it? Great Britain and Germany and France and all of the other textile-manufacturing countries have sought in every way in their power, especially Great Britain, to stimulate and expand the areas of cotton production in other parts of the world for their own protection. They have been ready at all times to finance any new scheme holding out any promise of increase in the production of cotton at any point in the world outside of the United States.

Mr. GEORGE. That is quite true, and in some countries its production is being increased—I think, in one country a hundred per cent per year. But I wish to state this to the Senator, and if he will examine the history of cotton production outside of the United States he will find that this is true. One thing that has brought the collapse in cotton production elsewhere has been the abnormal crop in the United States.

I am not stating that by way of argument against the bill, but I am stating it as a fact, and if we stabilize the price of cotton by this bill, the law will operate just as beneficially for the cotton producer in India or in Peru or in Egypt or in any other part of the world where cotton can be produced as it does in the United States. There is no doubt about that. If we succeed in stabilizing the price at a profitable figure, it seems to me we will increase to the maximum possibility the production of cotton in other parts of the world.

Mr. GOODING. Then the Senator's argument is that if the cotton growers are to get a fair profit on cotton production in this country, they will destroy themselves.

Mr. GEORGE. I am not making that argument.

Mr. GOODING. That is the logical conclusion the Senator must reach, that if the cotton grower gets a reasonable and fair price for his cotton it stimulates cotton production in the other parts of the world and destroys him. I do not agree with the Senator. I want to say again that it is these peak prices that drive other countries into the cotton-growing business.

Mr. GEORGE. Those higher peaks attract people into the cotton-growing business, and those lower dips drive them out of the cotton-growing business, especially if the industry is not well established.

Mr. GOODING. Take any agricultural industry. The wheat industry, for instance, was stimulated until we produced a billion and twenty-five million bushels of wheat in this country, not altogether on account of the price that was offered, but on account of a patriotic movement to grow more wheat to help win the war. But follow that all the way through the life of America. That is what the farmer always does; when prices are high in any line, he rushes into that line of industry, and that is the danger. If we can stabilize the principal products of agriculture, the smaller ones will take care of themselves and follow the larger ones. The people will have a lower cost of living, to my mind, if we pass this bill with the cooperative features in it. We will eliminate duplication and waste, and in time there will be a decrease in the cost of living instead of an increase all the time, and that is what we have to work out.

Mr. GEORGE. I am not quarrelling with the cooperative features of this bill and I wish to say now to the Senator that I am an actual and not a theoretical cotton cooperative. I am quite willing to concede, and I do concede, that under these phenomenal conditions, adverse to a fair price for cotton, in my judgment, the cooperative marketing associations have done more to stabilize the price of cotton at 65 points above a pre-war average of, say, 5 to 10 years, than any other one single influence, and without the cooperative associations during the season of 1925, and up to this time, cotton must inevitably have fallen much below the present point.

Mr. GOODING. They have done a great work, but their work is over. They are practically destroyed now. Representatives of cotton cooperatives tell me that they did hold up the price, and while they were holding up the price, those outside of the cooperative organizations sold their cotton; and cotton has been dropping until it went down to about 17 cents a pound. It started at 22 and 23 cents, and is still dropping.

Mr. GEORGE. I understand that.

Mr. GOODING. I want to tell the Senator that cooperative organizations can not exist unless they control the entire product, and that is what they will be able to do if this bill passes. It is the simplest and easiest thing in the world, when we produce 65 per cent of all the cotton in the world. The English Government is doing it on rubber, and the South American Republics are doing it on agricultural industries in those countries, where they have monopolies. The cotton grower is entitled to a fair price, and according to the Senator's line of argument—and he can not get away from it—if he takes a reasonable price, then he is to be destroyed by the foreign countries.

Mr. GEORGE. No; he might secure for himself a reasonable price. I am not being driven into advocacy of or opposition to the bill. I am trying to get information. The grower could take a reasonable price under an economic arrangement that would permit him to get it, that might not hurt him; but if there is anything in the argument that the growers in the cooperative associations have been holding the umbrella for the man outside of the association, then the proponents of this bill are about to compel America to hold the umbrella for the cotton grower outside of America.

Mr. GOODING. I am fixing so that the cotton grower may get a fair price for his cotton and take care of the increased freight rates that have been forced upon him by legislation and the increase in the cost of labor that has been forced on him by legislation.

Mr. GEORGE. I have no controversy with the Senator about that.

Mr. GOODING. This is what is going to be done: We are going to give the South an opportunity to vote to take care of cotton. Possibly the cooperative movement has not been discussed in the Southern States as much as it has been discussed in other States, and I can not give the Senator any advice, but I want to tell him that the bankers down in the South are coming into line for this bill. I am getting letters from the South for the first time since I have been in the Senate urging the passage of this bill. It is so simple and easy to take care of the cotton growers that you owe it to the South; and if you do not come to their support to-day or at this session, you will later, because when the cotton grower understands what this means he is going to make a demand for it, and he has a right to.

Mr. GEORGE. I want to get into the RECORD the facts as I understand them, and the Senator will aid me much more by giving me the facts.

Mr. GOODING. I will help the Senator all I can. I may not know them all.

Mr. GEORGE. I mean the facts the Senator does know. I want to understand from the proponents of the bill if it be a fact that all that can be accomplished by this bill for the cotton grower is the stabilization of the price of cotton.

Mr. GOODING. We produce 65 per cent of the cotton of the world. By stabilizing the price the cotton grower will be able to stabilize his price, and he will not be unreasonable. I can not discuss this bill from the viewpoint of some who have discussed it, namely, that it will not be administered properly. I can not discuss any legislation from that viewpoint.

I will expect the President to appoint men of ability to administer the law, and that they are going to be sane about it. They are not going to run the price of cotton up to such a point that it would start the production of cotton all over the world. They must not do that, and they will not do it, I am sure. I can only discuss the bill from a sane standpoint, that there is going to be reason in it, a rule of reason all the way through, and at the end we will be a bigger and better country. The country is going to be just as big and just as great as the agricultural products of the country make it.

Mr, GEORGE. I am assuming that the law will be fairly and equitably administered. I am assuming that the bureau will be a good bureau, just like any other bureau, except it will be the most powerful bureau yet set up by any government in the history of the world. I am assuming that it will be operated honestly and wisely. I am merely asking if the real possibility in the bill for cotton is not the stabilization of the price of cotton?

Mr. GOODING. I would go further than that. It means the stabilization of the price and the stabilization of production, because we have the interested party, and he will understand that he is a factor in the world's production and must not overproduce. We will be able to present the facts to him. I think we have had cotton pretty well developed, so that we can hold it down. We can not do it as it is, and I am sure we must have some reason in the production, not only of cotton but of wheat and everything else in the country.

Mr. GEORGE. I am assuming it would operate as the Senator thinks and would hold down production here——

Mr. GOODING. To some extent. If the farmer finds he is the master and can fix the price of cotton he will not destroy himself by overproduction any more than the manufacturer.

Mr. GEORGE. But wherever it is possible to grow cotton elsewhere it would not operate at all, but the grower outside of the United States would reason that this law was going to relieve him of the competitive world surplus, and it seems to me it would stimulate production elsewhere.

Mr. GOODING. Let us try it out. He can not go on under present conditions. He can not go on with things as they are. When he has a big cotton crop what happens? The South is ruined. There is no question about it. Every cotton grower is ruined. The South produced this year 2,000,000 bales more than the world needs, so that if we can do something to bring about a reasonable production and a reasonable price for it, we will accomplish great good. The Senator is a farmer, and that is my business, too. I have followed it all my life. I know what happens to the farmer. When prices are unreasonably high he is stimulated to production, and he goes into cotton and potatoes and sheep and everything else. The bill will stabilize not only cotton, but wheat and the livestock industry and everything else. I think it will be a blessing to the people.

Mr. President, while I have not concluded my remarks, I desire to yield the floor at this time.

Mr. FESS. I wish to offer an amendment, not for action now but for the information of the Senate, to be printed and laid on the table as an amendment to the bill now pending.

The PRESIDING OFFICER (Mr. BRATTON in the chair). Without objection, the amendment will be received, printed, and lie on the table.

Mr. FESS. When the parliamentary situation will permit, I shall move to strike out all after the enacting clause of the bill and to insert this amendment as a substitute.

Mr. GOODING. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is suggested. The clerk will call the roll.

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

Bingham	Bratton	Butler	Copeland
Blease	Broussard	Capper	Couzens
Borah	Bruce	Caraway	Cummins
Curtis	Heflin	Neely	Shortridge
Deneen	Howell	Norbeck	Simmons
Dill	Johnson	Norris	Smoot
Edge	Jones, N. Mex.	Oddie	Stanfield
Edwards	Jones, Wash.	Pepper	Steck
Ernst	Kendrick	Phipps	Stephens
Fernald	Keyes	Pine	Swanson
Fess	La Follette	Pittman	Trammell
Frazier	Lenroot	Ransdell	Tyson
George	McKellar	Reed, Pa.	Wadsworth
Gillett	McLean	Robinson, Ark.	Walsh
Glass	McMaster	Robinson, Ind.	Watson
Goff	McNary	Sackett	Weller
Gooding	Mayfield	Schall	Wheeler
Harris	Metcalf	Sheppard	Williams
Harrison	Moses	Shipstead	Willis

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

Mr. ROBINSON of Indiana. Mr. President, I had assumed, until the junior Senator from Ohio [Mr. FESS] spoke yesterday and again to some extent to-day, that there was no question in the mind of any Member of this body as to the fact that there is a farm problem in the United States. I had assumed that the facts were so perfectly clear, so perfectly well known to every man, woman, and child in this great land of ours with reference to the farm situation, that there could be no question in the mind of any Senator as to whether the problem existed or not. I was utterly amazed at some statements made by my good friend, formerly my teacher, the junior Senator from Ohio, but not more so in any statement he made than in that which suggested that this is a sort of passing craze, a phase of our national life that will pass over in a day or a week or a month, and that it requires no attention whatever from the American Government, basic though the industry be.

As I understood the Senator's argument, he objected to the legislation that has been proposed for three principal reasons: First, that it is bureaucratic, as alleged by him; second, that it is unconstitutional; and, third, that it is uneconomic. I think that before concluding, perhaps, I may say a word generally under each of those heads, but first I would like to make a general observation or two with reference to the whole question of policy.

In my opinion the American Government should have long ago adopted a definite farm policy, a national farm policy which, as the years went on, could have been improved and perfected. No effort was ever made in this direction that I understand to have been a definite effort. We have formulated a national policy, generally speaking, with reference to a number of the activities of our people and of the Government, but we have never drafted a national policy relating to agriculture. So that to-day we have a great problem confronting us which goes to the very root of the ultimate prosperity of the Republic. The great basic industry of America and of the world is slowly dying. Agriculture in this country is passing out of existence. Even though a third, approximately, of our population are engaged in this great basic industry, the industry itself is about to die. Statistics show that if we continue laissez faire, doing nothing for the industry, it will surely die.

And yet we have Members who will stand up here and solemnly say, "Let it die," or words to that effect. "Why," said the Senator from Ohio, "if we just have gumption enough to let this thing alone we will not need to worry; it will right itself," as if a physician were called in to prescribe for a patient who was on his deathbed and the physician should say, "Let him alone; he will probably die," and that is the only remedy in the world I can see proposed by the Senator from Ohio as any alternative to that suggested in this legislation.

This is a great national question; a great American problem confronts the people. It is not a political question, as has been so well said here and so often said. All of our people are tremendously interested, Democrats as well as Republicans, and Republicans as well as Democrats. I have been glad to see Members of the Senate working in perfect harmony regardless of party division. It speaks much for the ultimate success of what we are trying now to do. Whether we succeed now or not, success will ultimately come, because both political parties and their representatives are interested. In 1924, in its platform of principles, the Democratic Party used this language:

> To offset these policies and their disastrous results and to restore the farmer again to economic equality with other industrialists, we pledge ourselves * * *
>
> (e) To stimulate by every proper governmental activity the progress of the cooperative marketing movement and the establishment of an export marketing corporation or commission in order that the exportable surplus may not establish the price of the whole crop.

By that pronouncement the Democratic Party went on record as favoring legislation that would enable agriculture to take care effectively of the surplus production.

Mr. President, the Republican Party was scarcely less definite in what it had to say, because in 1924, in its national convention, it adopted a platform that contained this language:

In dealing with agriculture the Republican Party recognizes that we are faced with a fundamental—

"With a fundamental"—

national problem.

I invite the attention of the distinguished Senator from Ohio to that language—

that we are faced with a fundamental national problem, and that the prosperity and welfare of the Nation as a whole is dependent upon the prosperity and welfare of our agricultural population.

We recognize that agricultural activities are still struggling with adverse conditions that have brought deep distress. We pledge the party to take whatever steps are necessary to bring back a balanced condition between agriculture, industry, and labor.

And this is the final paragraph on the subject of agriculture in the Republican platform of 1924:

The Republican Party pledges itself to the development and enactment of measures which will place the agricultural interests of America on a basis of economic equality with other industry to insure its prosperity and its success.

Mr. President, language can be no stronger than that used in the official pronouncements of both parties the last time they spoke nationally.

Now I should like to suggest something with reference to the first objection made by the Senator from Ohio. He says this proposal is bureaucratic. "Why," said the Senator, "there is too much bureaucracy in it; it will never do; I am against it; it puts too much power in a Federal board composed of 12 members selected from 12 different sections of the country." Well, it happens that we have a policy in connection with other lines of endeavor that places more power in the hands of fewer persons and involves the appointment of more assistants than is contemplated in the case of the proposed farm board.

Mr. President, let me first suggest that we have a great national railroad policy which we have been developing since 1887 under the interstate commerce act. When that act was passed by Congress it was incomplete; it was imperfect; it required much amendment. From 1887 until the present time it has been amended dozens of times in order to meet new conditions as they arose. In connection with the great railroad industry we have established a national policy—and I find no fault with it. Under the law it is held that 5½ per cent is a fair and reasonable return. I am not complaining about that; I think that is all right, even up to 6 per cent, as is frequently allowed by the commission in its discretion. But the point is that if the roads earn up to that point, the commission can not deny them that much in earnings. They are entitled to that as a fair and reasonable return. But, Mr. President, the Interstate Commerce Commission is composed of 11 commissioners. It is a great bureau. I invite the attention of the Senator from Ohio to the figures. There are at the present time in this bureau 1,780 employees—and that is none too many, I take it, because the work of administration is complex and onerous and requires much help and the assistance of many people. However, the point is, it is a bureau; and probably, under the Federal farm board, if this bill shall be enacted into law, there never will be as many as 1,780 employees. Last year, in 1925, the Interstate Commerce Commission in its administrative work expended a total of $4,786,439.60. Mr. President, it is proposed in the pending bill to appropriate only $300,000 at the outside for administration by the farm board. Ultimately the work may cost more, but that is the total appropriation that is asked for. Yet the Senator from Ohio insists that he is opposed to bureaucracy, and is opposed to a bureau which asks for an authorization of $300,000 for administrative purposes, when at the same time he admits that he supports heartily—and I think he should—a bureau that expends annually over $4,000,000 and which maintains nearly 2,000 employees.

Mr. EDGE. Mr. President——

The PRESIDING OFFICER. Does the Senator from Indiana yield to the Senator from New Jersey?

Mr. ROBINSON of Indiana. I yield.

Mr. EDGE. Does not the Senator consider that the great Department of Agriculture, which spends annually very large appropriations and employs a large number of people, is somewhat devoted to the great problems of agriculture?

Mr. ROBINSON of Indiana. I will answer the Senator in this way: Of course, it will be necessary for some employees to be provided for the Federal farm board if this bill shall become a law, but I will say that much of the machinery is provided for in the way of cooperative associations all over the land, and that much of the service will be given gratis. However, this bill does not contemplate that the Federal farm board shall be able to enlist for nothing the services of the people necessary to do the work, but it does undertake to say—at any rate, it is my opinion—that there will not be any great number of employees needed, and certainly in proportion no more than are required in other bureaus of the Government where effective governmental work is being done.

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

Mr. ROBINSON of Indiana. Yes.

Mr. EDGE. I think the Senator probably misunderstood my question. I thought that he was making a comparison of the Interstate Commerce Commission, a bureau, as he calls it, having certain administrative powers under the law in regard to the regulation of the railroads and the Federal farm board, which it is proposed to create in the interest of the farmers and to promote agricultural development. I merely drew the attention of the Senator to the fact—of which, of course, he is undoubtedly aware—that Congress has not neglected entirely the farmers' interest, because a great department of the Government, with a Cabinet portfolio and ramifications in various lines, is devoted singly to that great responsibility.

Mr. ROBINSON of Indiana. Yes; I understand that is true.

Mr. EDGE. There is not any railroad portfolio in the Cabinet, and necessarily there has to be a separate bureau, so called, to carry on the work.

Mr. ROBINSON of Indiana. All that is perfectly true; but the fact remains that the Department of Agriculture, since its creation, has expended $2,000,000,000. I think for the most part it has been well expended; but it has been expended practically entirely in developing the science of agriculture and disseminating knowledge as to production, increased production, and more production, and increased production and more production, but practically none of that enormous amount of money and practically none of the efforts of that great department have been expended for the development of marketing machinery, although everyone knows—and the Senator from New Jersey knows it as well as anybody else could know it—that it makes no difference how great the production may be, bankruptcy stares the producer in the face if he can not sell his output. The big question confronting the farmer now, and particularly during the last six years, has been that of marketing at a profit, with a fair return, the products from the soil.

When it costs 72 cents to grow corn in Indiana, for instance—and the figures have been worked out by the Department of Agriculture at Purdue University—if it costs 72 cents to produce corn and only 45 cents can be obtained from the sale of the corn—it makes no difference how much corn the farmer may produce—it can not be profitable to him, and it is only a question of time until bankruptcy comes and then industrial death.

Mr. President, I may say to the Senator that I am just pointing out the proposition that the Senator from Ohio objected to too much bureaucracy. I am showing him that with great national policies that have been established in the past bureaus were essential and necessary. In the last analysis, all government must be administered by bureaus. It can be handled in no other way. So it is just a question of what the Senator means by bureaucracy. It seems to be all right for bureaus to administer certain functions of government and for certain individuals and peoples; but it is all wrong when it comes to the farming population, which represents a third of all the people in this country.

Mr. President, it was suggested by the Senator from Ohio yesterday that too much power is given. "Why," said the Senator, "these powers are indefinite." He said: "Just think of it! This Federal board may decide that the equalization fee shall be collected from the producer directly with the first sale, or it may decide that it shall be collected from the processor"—one of two places suggested in the measure itself, but in the discretion of the board. Said the Senator: "Why, that is terribly indefinite. It puts enormous powers in the hands of this board of 12."

Mr. President, let me read to you from the Interstate commerce act what powers are given it, for instance. I am quoting now from section 19a, as amended February 28, 1920, and from paragraph 10:

Powers of the commission:

And to carry out and give effect to the provisions of said acts—

Indefinite? If that is not indefinite, what could be? These are the powers, Mr. President, I repeat:

> And to carry out and give effect to the provisions of said acts or any of them, the commission is hereby authorized to employ special agents or examiners, who shall have power to administer oaths, examine witnesses, and receive evidence.

There is no power that the commission does not have; and I am not complaining of it. I am only suggesting that the Senator comes with poor grace now, when the farmer tries to save himself from destruction and asks for a bill that will give his board some power, by saying that he is against bureaucracy in any form when applied to the agricultural interests of the country.

Mr. President, that is just one of our national policies—the railroad policy, interstate commerce, the interstate commerce act amended many, many, many times.

I come now to another great national policy, another bureau. This is recent—the Federal Trade Commission. Let me see just what some of their powers are.

From section 2 of the act I quote:

> That each commissioner shall receive a salary of $10,000 a year, payable in the same manner as the salaries of the judges of the courts of the United States. The commission shall appoint a secretary, who shall receive a salary of $5,000 a year, payable in like manner, and it shall have authority to employ and fix the compensation of such attorneys—

"Employ and fix the compensation of such attorneys"—

> special experts, examiners, clerks, and other employees as it may from time to time find necessary for the proper performance of its duties and as may be from time to time appropriated for by Congress.

Here are powers, innumerable powers, given to another bureau; and yet the Senator from Ohio, so far as I understand, makes no objection to that. He is just against bureaucracy as applied to the farmers of the country; and he says the farmers of the country represent a bloc, as if there were only a few people, when as a matter of fact they are a third of our population, and all of us must ultimately live off the farm. Our food must come from the farm, our clothing from the farm, and all of us must go there for our very living and for our existence; and yet the Senator from Ohio says the farmers are a bloc and they are naturally selfish and they are naturally looking after their own selfish interests in this "little" bloc—a third of the population of America, growing food for you and me!

Mr. President, I pass on to another national policy and another bureau. I am not finding fault with these bureaus. I only mean to suggest that if these bureaus are right in other instances it would be proper to establish a bureau to save a great basic industry from destruction and death.

Here is a great industrial policy, the protective tariff policy. I am for that, of course. I think it has done wonders for America. It largely accounts for the proud position we occupy to-day; but it is a great policy that has been established for the protection of American capital and American labor; and if it is good for them, it must be made good for agriculture, because both parties—certainly my own party, the Republican Party, in its last platform—insisted on a parity between the three, agriculture, labor, and industry. This legislation, as I understand it—and I shall not attempt to argue that question; it has been so well done in the last few days by those more capable of arguing it than myself—undertakes only to make the tariff effective as applied to agriculture.

Mr. President, I pass on to the immigration act of 1924, involving a bureau in the Department of Labor for its administration, for the protection of American labor, and for the protection of our heritage, as a matter of fact, to the end that we may not admit aliens to our shores more rapidly than they can be readily assimilated into our economic system. That was a wise step in the right direction, and I am for it; but it represents a policy—and a national policy—for the protection of labor in this country.

Another national policy, Mr. President, accompanied by a bureau, is the Federal Reserve Board. How did that come about, Mr. President? Why, it was necessary to develop a national policy with reference to commerce and banking to prevent financial panics. That was the reason advanced for that legislation. We needed something that would, somehow or other, stabilize finance and banking in this country. There never was any question at any time in the midst of financial distress but that there was plenty of credit in the country, but it was concentrated largely in New York, and it was too far from the point of trouble to be sent there quickly or in time to prevent the ill and to prevent, perhaps, the panic that might come and that frequently did ensue. So the idea was to distribute the credit of the country throughout the Nation into 12 Federal districts. That was done, and when it was done a bureau was created. The bureau is functioning. I think the Federal Reserve Board has done splendid work. I think it has stabilized banking and finance in America, but it is a bureau, and it has almost autocratic powers. No one proposes to give the Federal farm board, if this legislation is enacted into law, any more power than is possessed and nowhere near as much power as is possessed by the Federal reserve system.

Mr. President, let me read from that law just one or two suggestions to show you the way in which it works out. I am quoting now from section 10 of the law:

> In selecting the five appointive members of the Federal Reserve Board not more than one of whom shall be selected from any one Federal reserve district—

There is a limitation on the place of selection—

> the President shall have due regard to a fair representation of the different commercial, industrial, and geographical divisions of the country.

I want to discuss that for a moment a little later as applying to the constitutionality of the instant proposed legislation.

On page 20 of the act as printed I quote:

> Of the five members thus appointed by the President at least two shall be persons experienced in banking or finance.

But on page 22, Mr. President, I quote again from the act itself, speaking of the powers of the Federal Reserve Board:

> To permit, or, on the affirmative vote of at least five members of the reserve board, to require Federal reserve banks to rediscount the discounted paper of other Federal reserve banks at rates of interest to be fixed by the Federal Reserve Board.

From which it appears that the Federal Reserve Board can itself set the discount rate on all rediscounts; I am not complaining, yet this is a bureau. It is bureaucratic. It is bureaucracy in government. The Senator from Ohio does not object to that bureau or to this species of bureaucracy, but his whole objection seems to be to bureaucracy as applied to the farm problem; and a Federal farm board of 12 members would develop into a great bureaucracy, according to the logic of the Senator from Ohio, that would not only ruin the industry—sovietize it, as he suggested—but ruin the Nation, and ultimately, I assume he thinks, the world—this "little" bloc, the farmer, a third of our population!

So, Mr. President, it seems to me—and I shall leave that subject at this point—that there is not much in the argument of the Senator from Ohio that this legislation is bureaucratic, that there is too much bureaucracy connected with it.

With reference now to the next point suggested by him, the unconstitutionality of the bill, I hesitate to go into that subject, since there are in this body constitutional lawyers much better able to discuss that phase of the situation than myself; but since the question has been raised by the Senator, and I am on my feet at the moment, I will mention one or two things connected with that phase of the question.

The Senator says that it will be impossible to force the President to listen to the advice of the Federal farm councils in the 12 districts that are proposed to be set up in this legislation. Mr. President, that might be true; but no one could raise the question but the President himself. No one else would be interested in the question. Now let us see whether or not it is entirely contrary to the Constitution.

In the first place, these Federal farm councils of five members are created largely by the cooperatives and those interested in farming in the several districts where the Federal land banks are located. Four of the members are elected.

The Secretary of Agriculture, who represents the Executive of the Nation and the Executive power, will appoint the fifth member.

The executive department of the Government would also have complete control of the election machinery for the election of the four members of the Federal farm council in each one of the 12 districts, and, as before stated, the Secretary of Agriculture would appoint the fifth. In other words, the Secretary of Agriculture would suggest the ways and means for choosing the four elective members. He would prescribe on his own motion and in his own manner the rules of the game. He would specify the method by which they were to be selected. So the executive department could not fairly be said to have nothing to do with the selection of the council members, who ultimately are to suggest three men, from whom one shall be named by the Chief Executive of the Nation to go on the Federal farm board from each district.

These advisory farm councils are to meet twice a year, and they are each to select three names. The three names are to be sent on to the President of the United States, and the proposed law, as at present written, provides that the President shall appoint one of the three as a member of the Federal farm board.

Is that entirely contrary to the Constitution? In the first place, the executive authority is to provide all the machinery, specify the means for the choosing of the four members, and is to appoint the fifth, in each district. Then these five, who have been selected through election methods controlled by the executive department, are to select three names, and the President can choose any one of the three. If he does, or if he does not, the question of the constitutionality can only be raised by the President of the United States, and I assume he would not raise the point.

He has been restricted in the Federal reserve act in very much the same way, because in that law it is provided that of the five appointed members of the Federal Reserve Board not more than one shall be selected from any one Federal reserve district.

The act goes on further to provide—and its constitutionality has never been question, as I understand it—that—

the President shall have due regard to a fair representation of the different commercial, industrial, and geographical divisions of the country.

In other words, it limits the President in his selection, because it provides that he—

shall have due regard to a fair representation of the different commercial, industrial, and geographical divisions of the country.

The act goes on further with still greater limitation, because on page 20 of the act this provision is written into the law:

Of the five members thus appointed by the President at least two shall be persons experienced in banking or finance.

The law might have gone further and said at least five. If it is right in principle, it would be just as valid had the law been written so that it would read, "At least five shall be persons experienced in banking or finance."

That is what this measure would do as to the farm board. It provides that 12 of the members of this board shall be experienced in agriculture, as of course they should be.

So I do not think the constitutionality of that proposal is seriously involved. If it were raised at all, it would be raised by the President, who could not very well go behind what his Secretary of Agriculture had done or provided for having done, and I have no doubt he would then, in justice to the interests of the country, appoint one of the three in each case, as provided in the bill.

Mr. President, there was another question raised with reference to the constitutionality. That had to do with the so-called equalization fee. The question was, Is the equalization fee constitutional? The question was debated here several days ago at length, and by eminent constitutional lawyers of this body. I think that if the Senator from Ohio had been present during that debate, and had followed it closely, he would have had no hesitancy in saying that the equalization fee, so called, is constitutional. It is all in the RECORD, and I hesitate to quote anything that is in the RECORD, because I know that Senators generally have read the RECORD or heard the speeches. But I think, in view of what has been said by the Senator from Ohio, I ought to mention just one or two things in this connection.

In the first place, there are two questions about the constitutionality of the so-called equalization fee. The first relates to the right of this body to initiate legislation that raises revenue, since legislation of that kind must originate in the House of Representatives.

The second question with reference to the constitutionality had to do with whether or not this controverts the fifth amendment to the Constitution, namely, does this take property without due process of law? Is it a tax, would it raise revenue, and would it result in the taking of property without due process of law, as prohibited by the Constitution of the United States?

Mr. President, with reference to the first part of this question, let me suggest to the Senator from Ohio that he read the debate on this subject appearing at pages 10488 and 10489 of the CONGRESSIONAL RECORD. I do not care to read much of what was said then. Suffice it to say that the senior Senator from Oregon [Mr. MCNARY] took part in the discussion; my good friend the senior Senator from Nebraska [Mr. NORRIS] also participated; the able Senator from Montana [Mr. WALSH] debated on the subject, and the very learned Senator from Georgia [Mr. GEORGE] also had something to say in the course of the discussion.

I think perhaps, for emphasis and that alone, I will read a remark made by the Senator from Montana in answer to a question raised by the Senator from Georgia on this very matter. The Senator from Georgia had suggested that the House refused to consider a measure which had passed the Senate known as the postal salaries bill. He had said:

There was admittedly a fee or a charge imposed for a service, nothing else. "You do not have to use the mails; but if you do use the mails, you pay a fee for the service rendered." The House refused to consider the bill on the ground that it was the province of the House to initiate such legislation.

The question asked by the Senator from Georgia, therefore, was whether or not this was not also a revenue-raising measure which the House might frown upon.

I quote now from the remarks of the Senator from Montana [Mr. WALSH] on this subject:

With reference to the question raised by the Senator from Georgia, I wish to say that the propriety of the action of the House in that regard was the subject of very earnest consideration before the Committee on Irrigation and Reclamation recently, and an exhaustive study of the subject was made by the Senator from California [Mr. JOHNSON]. He demonstrated, as I think, to the entire satisfaction of every member of that committee that the position of the House with respect to the matter is entirely untenable. He showed that it had been repeatedly determined by the Supreme Court of the United States that such a provision as that found in the postal salaries bill did not make it, as indicated by the Senator, a bill for raising revenue. It has been so repeatedly stated by the Supreme Court of the United States that the bills for raising revenue referred to in the Constitution, such as can originate only in the House of Representatives, are the ordinary bills having for their purpose only the raising of revenue.

Mr. President, it seems to me it is perfectly clear that the proposed equalization fee is a charge for service under the commerce clause of the Constitution, as was iterated and reiterated by my friend the Senator from Oregon.

Then my good friend, also, the distinguished Senator from Nebraska [Mr. NORRIS], took the same view of it, that this was not simply a question of raising revenue for running the Government; that it was a case of making a charge for service on commodities put in commerce, and that the fee was a proper service charge under the commerce clause of the Constitution.

The next question arising is, Is it confiscatory, as prohibited by the Constitution? That question was also discussed by the learned Senator from Oregon, who has taken such a great interest in this bill to relieve the farm population of the country. He mentioned one case in particular from which I am taking the liberty to quote, and I think it is basic. I think it sets at rest the question of the constitutionality of this measure. That case was decided in 1920, and the learned Chief Justice of the United States wrote the opinion of the court. I quote from that opinion just some general language which I think contains the whole thing in a nutshell.

On page 478 of volume 263 of the Reports of the United States Supreme Court appears this language of the Chief Justice with reference to the case then under discussion, the case of Dayton-Goose Creek Railway against the United States, cited by the Senator from Oregon:

It is insisted in the two cases referred to, and it is insisted here, that the power to regulate interstate commerce is limited to the fixing of reasonable rates and the prevention of those which are discriminatory, and that when these objects are attained the power of regulation is exhausted. This is too narrow a view of the commerce clause. To regulate in the sense intended is to foster, protect, and control the commerce with appropriate regard to the welfare of those who are immediately concerned as well as the public at large, and to promote its growth and insure its safety.

In that case the court held that it was perfectly proper for part of the excess earnings above 6 per cent to go to a fund for the benefit of other carriers in connection with the development of the transportation systems of the United States.

For the reasons given I think the constitutionality of this measure is thoroughly proven, and I think it will stand all the tests.

There is another question I wanted to discuss at this time—that is, the alleged uneconomical phase of the proposed measure. But I think perhaps I should not now attempt a discussion of that matter since there is a special order for this hour, and I will accordingly reserve further comment until tomorrow.

Mr. McNARY. Mr. President, I propose a unanimous-consent agreement, which I ask the clerk to read at the desk.

The VICE PRESIDENT. The clerk will read the proposed agreement.

The Chief Clerk read as follows:

Ordered, by unanimous consent, That after the hour of 12 o'clock m. on the calendar day of Tuesday, June 15, 1926, no Senator shall speak more than once or longer than 30 minutes upon the bill (H. R. 7893), the so-called cooperative marketing bill, or more than once or longer than 15 minutes upon any amendment offered thereto.

The VICE PRESIDENT. Is there objection?

Mr. CURTIS. I call the attention of the Senator from Arkansas [Mr. ROBINSON] to this matter.

Mr. ROBINSON of Arkansas. Mr. President, I have no objection to the agreement proposed. I think, however, that perhaps it would be fair to have a quorum present when the agreement is entered into. Therefore I suggest the absence of a quorum.

The VICE PRESIDENT. The hour of 3 o'clock having arrived, under the unanimous-consent agreement previously entered into, the Senate will now proceed to the consideration of executive business.

Mr. McNARY. Mr. President, I ask unanimous consent that we defer going into executive session until the Senate has had an opportunity to pass on the unanimous-consent request which I have just submitted.

Mr. HEFLIN. I think it will take only a few minutes.

Mr. ROBINSON of Arkansas. I have no objection.

Mr. GLASS. Mr. President, can we set aside or displace the other unanimous-consent agreement in this way?

Mr. ROBINSON of Arkansas. By unanimous consent we can displace a unanimous-consent agreement.

Mr. GLASS. Is it usual to do it by unanimous consent in the absence of a quorum, particularly when the other unanimous-consent agreement was entered into when there was a quorum present?

Mr. ROBINSON of Arkansas. It is not usual to change a unanimous-consent agreement, but this is a proposal to carry it over for just a few minutes, and for my part I do not care to object to it. If the Senator from Virginia desires to object, he is, of course, at liberty to do so.

Mr. McNARY. I renew my request that we defer going into executive session until the Senate has had an opportunity to pass upon the unanimous-consent agreement which I have just submitted.

The VICE PRESIDENT. Is there objection? The Chair hears none.

Mr. HEFLIN. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll to ascertain the presence of a quorum.

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

Ashurst	Fess	McMaster	Schall
Bingham	Frazier	McNary	Sheppard
Blease	George	Mayfield	Shortridge
Bratton	Gillett	Metcalf	Simmons
Broussard	Glass	Moses	Smoot
Bruce	Gooding	Neely	Stanfield
Butler	Harris	Norbeck	Steck
Capper	Harrison	Norris	Stephens
Copeland	Heflin	Oddie	Swanson
Couzens	Howell	Pepper	Tyson
Cummins	Johnson	Phipps	Wadsworth
Curtis	Jones, N. Mex.	Pine	Walsh
Deneen	Jones, Wash.	Pittman	Watson
Dill	Kendrick	Ransdell	Weller
Edge	Keyes	Reed, Pa.	Wheeler
Edwards	Lenroot	Robinson, Ark.	Williams
Ernst	McKellar	Robinson, Ind.	Willis
Fernald	McLean	Sackett	

Mr. KENDRICK. I was requested to announce that the Senator from Florida [Mr. TRAMMELL] is absent on business of the Senate.

The VICE PRESIDENT. Seventy-one Senators having answered to their names, a quorum is present.

Mr. ROBINSON of Arkansas. Mr. President, I suggest that the request for unanimous consent be read for the information of Senators who have just entered the Chamber.

The VICE PRESIDENT. The clerk will read the proposed unanimous-consent agreement.

The Chief Clerk read as follows:

Ordered, by unanimous consent, That after the hour of 12 o'clock m. on the calendar day of Tuesday, June 15, 1926, no Senator shall speak more than once or longer than 30 minutes upon the bill H. R. 7893, the so-called cooperative marketing bill, or more than once or longer than 15 minutes upon any amendment offered thereto.

Mr. EDGE. Mr. President, with his knowledge of the matter and of the amendments pending or to be offered, does the Senator from Oregon believe that the agreement would mean a vote on Tuesday or would the bill probably go over until Wednesday?

Mr. McNARY. It will allow us three full days of general debate—Friday, Saturday, and Monday—and with the limitation applying at noon on Tuesday, in my judgment, the vote would probably take place late on Wednesday or some time Thursday.

Mr. EDGE. The Senator feels reasonably confident that the vote would not come on Tuesday?

Mr. McNARY. I am certain of that.

Mr. BRUCE. Mr. President, I would like to understand more clearly the proposition. Is the bill to be taken up at that hour on Tuesday for a vote or is the limit of discussion to begin at that hour?

The VICE PRESIDENT. On Tuesday, June 15, at noon all discussion of the agricultural bill would be limited under the unanimous-consent agreement.

Mr. BRUCE. Then the limitation will apply to discussion taking place after that time?

The VICE PRESIDENT. After that time. Is there objection to the unanimous-consent agreement proposed by the Senator from Oregon? The Chair hears none, and it is so ordered. The Senate will receive a message from the House of Representatives.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its clerks, announced that the House had agreed to the reports of the committees of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the following bills:

H. R. 7906. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, etc., and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors; and

H. R. 9866. An act granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1930) to authorize the Postmaster General to readjust the terms of certain screen-wagon contracts, and for other purposes.

The message further announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 3802) to amend the act known as the "District of Columbia traffic act, 1925," approved March 3, 1925, being Public, No. 561, Sixty-eighth Congress, and for other purposes; requested a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. ZIHLMAN, Mr. UNDERHILL, and Mr. GILBERT were appointed managers on the part of the House at the conference.

EXECUTIVE SESSION

The VICE PRESIDENT. The Senate, under the unanimous-consent agreement previously entered into, will proceed to the consideration of executive business. The Sergeant at Arms will clear the galleries and close the doors.

The Senate thereupon proceeded to the consideration of executive business. After 1 hour and 25 minutes spent in executive session the doors were reopened.

BRITISH CONCESSIONS IN PANAMA

The VICE PRESIDENT laid before the Senate a communication from the Acting Secretary of War in response to Senate Resolution 240 (submitted by Mr. BORAH and agreed to June 5, 1926), which was read and ordered to lie on the table, as follows:

WAR DEPARTMENT,
Washington, D. C., June 9, 1926.

The PRESIDENT OF THE SENATE,
Washington, D. C.

SIR: In response to Senate Resolution No. 240, directing the Secretary of War to advise the Senate of all facts and circumstances relative to concessions secured by the British Government in the Republic of Panama, by direction of the President, I transmit to you the following information:

The War Department has no official cognizance relative to concessions secured by the British Government in the Republic of Panama and the extent to which the British Government has secured control over the public lands and natural resources of Panama.

The War Department has had no correspondence or communication with the Panama or British Governments relative to any concessions secured either by the British Government or by subjects of the British Government in the Republic of Panama.

Respectfully,

HANFORD MACNIDER,
Acting Secretary of War.

STORAGE OF WATERS OF THE PECOS RIVER

The VICE PRESIDENT laid before the Senate the following message from the House of Representatives, which was read:

IN THE HOUSE OF REPRESENTATIVES,
June 9, 1926.

Resolved, That the House agrees to the amendments of the Senate Nos. 3 and 4 to the bill (H. R. 3862) to provide for the storage of the waters of the Pecos River.

That the House disagrees to the amendments of the Senate Nos. 1 and 2.

Mr. SHEPPARD. I move that the Senate recede from amendments Nos. 1 and 2.

The motion was agreed to.

Mr. SHEPPARD submitted the following concurrent resolution (S. Con. Res. 20), which was considered by unanimous consent and agreed to:

Resolved by the Senate (the House of Representatives concurring), That the Clerk of the House of Representatives be, and he is hereby, authorized and directed, in the enrollment of the bill (H. R. 3862) to provide for the storage of the waters of the Pecos River to correct an error by striking out the language contained in amendment No. 3 of the Senate engrossed amendments.

RECESS

Mr. CURTIS. I move that the Senate take a recess until 12 o'clock to-morrow.

The motion was agreed to; and the Senate (at 4 o'clock and 33 minutes p. m.) took a recess until to-morrow, June 11, 1926, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate June 10 (legislative day of June 9), 1926

UNITED STATES ATTORNEY

Henry M. Holden, of Texas, to be United States attorney southern district of Texas. A reappointment, his term expiring June 13, 1926.

APPOINTMENTS, BY TRANSFER, IN THE REGULAR ARMY

SIGNAL CORPS

Capt. Gilbert Livingston Thompson, Quartermaster Corps (detailed in Signal Corps), with rank from July 1, 1920.

Second Lieut. Reginald Pond Lyman, Cavalry, with rank as prescribed in the act of June 30, 1922.

INFANTRY

Second Lieut. Thaddeus Elmer Smyth, Air Service, with rank from June 12, 1925.

PROMOTIONS IN THE REGULAR ARMY

TO BE MAJOR

Capt. William Delp Styer, Corps of Engineers, from June 2, 1926.

TO BE CAPTAIN

First Lieut. Charles Murray Rees, Infantry, from June 2, 1926.

TO BE FIRST LIEUTENANT

Second Lieut. Daniel Burnett Knight, Infantry, from June 2, 1926.

PROMOTIONS IN THE NAVY

Lieut. Commander Jules James to be a commander in the Navy from the 27th day of November, 1925.

Lieut. John F. Bates, jr., to be a lieutenant commander in the Navy from the 16th day of August, 1925.

Lieut. William Granat to be a lieutenant commander in the Navy from the 21st day of April, 1926.

Lieut. (Junior Grade) Charles G. Miller to be a lieutenant in the Navy from the 11th day of May, 1925.

Lieut. (Junior Grade) Hance C. Hamilton to be a lieutenant in the Navy from the 22d day of December, 1925.

The following-named midshipmen to be ensigns in the Navy from the 3d day of June, 1926:

Clarence G. Summers, 3d.
Morton K. Fleming, jr.

The following-named passed assistant surgeons to be surgeons in the Navy with the rank of lieutenant commander from the 4th day of June, 1925:

Robert H. Snowden.	Thomas L. Morrow.
George B. Dowling.	John W. Vann.
Charles E. Morse, jr.	William E. Crooks.
Wilbur O. Manning.	Esdras J. Lanois.

Passed Asst. Surg. George L. McClintock to be a surgeon in the Navy with the rank of lieutenant commander from the 4th day of December, 1925.

CONFIRMATIONS

Executive nominations confirmed by the Senate June 10 (legislative day of June 9), 1926

PUBLIC HEALTH SERVICE

TO BE ASSISTANT SURGEONS

Gerald T. Sprague.	Homer L. Skinner.
Kirby K. Bryant.	Clifford L. Wilmoth.
William H. Sebrell.	Charles L. Quaintance.
George G. Holdt.	Anthony P. Rubino.
Edward R. Pelikan.	John W. Scott.

TO BE SURGEONS

Ralph E. Porter.
Joseph W. Mountin.

POSTMASTERS

DELAWARE

Arthur S. Hearn, Laurel.

GEORGIA

Dallas Thompson, Fair Mount.
Ivey M. Cox, Newton.

ILLINOIS

Nancy Michael, Argo.

INDIANA

Moody I. Massena, Medora.
Martha Wise, Pleasant Lake.

KENTUCKY

John P. Vanzant, Edmonton.

MARYLAND

Robert H. Lancaster, Frostburg.

MASSACHUSETTS

Harry E. Gaylord, Hadley.
Albert W. Haley, Rowley.

NEW YORK

Albert C. Stanton, Atlanta.
George W. Steele, Brockport.
Susan G. Patterson, Delmar.
DeWitt C. Talmage, East Hampton.
Vernon E. Taylor, Lima.
Eugene E. McMurrin, Port Jefferson Station.
Joseph W. Kratoville, Riverhead.

NORTH CAROLINA

Jason W. Hyatt, Culberson.
George E. Brantley, Moorseville.

PENNSYLVANIA

Roy L. Wagner, Cressona.
Albert D. Karstetter, Loganton.
Andrew L. Coffman, Phoenixville.
Alex L. Carlier, Point Marion.
Ina H. Woodard, Shinglehouse.
Zola K. Rodkey, Spangler.
Johanna Priester, Wheatland.

HOUSE OF REPRESENTATIVES

THURSDAY, *June 10, 1926*

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Thou who art the Father of love and mercy, we would speak to Thee. In a world where the tumults surge about and oftentimes the conflicts rage, be with us, that we may with patience and calmness perform our whole duty and quit ourselves like men. We live by deeds, and not by years; in thoughts, in love, in idealism, and not by the fingers on the dial of time. May wise thinking, kindly speaking, and noble living mark our daily conduct. Oh, love never faileth, and a good deed lives after the doer is forgotten. The blessing of the Lord be with us, and may it warm and cheer all men. Amen.

The Journal of the proceedings of yesterday was read and approved.

LEAVE OF ABSENCE

Mr. YATES. Mr. Speaker, I ask unanimous consent that leave of absence for an indefinite period be granted my colleague the gentleman from Illinois [Mr. ALLEN], who has been called home by the illness of his mother.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

STANDARD PRICES FOR STANDARD GOODS

Mr. KELLY. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the bill H. R. 11, introduced by myself.

The SPEAKER. Is there objection?

There was no objection.

Mr. KELLY. Mr. Speaker, for a number of years I have had pending before Congress a measure known as the price standardization bill. During this session the Interstate and Foreign Commerce Committee has held enlightening hearings upon this bill. I believe that the facts brought out at that hearing prove the existence of a grave danger to independent business in this country through unfair trade practices in regard to standard-priced, trade-marked, identified products.

Every witness admitted the evil effects of indiscriminate slaughtering of fair prices for standard goods. I have proposed a remedy which I believe will be just and effective. It is found in H. R. 11, which I introduced at the opening of this session.

That measure is as follows:

A bill to clarify the law, to promote equality thereunder, to encourage competition in production and quality, to prevent injury to good will, and to protect trade-mark owners, distributers, and the public against injurious and uneconomic practices in the distribution of articles of standard quality under a distinguishing trade-mark, name, or brand

Be it enacted, etc., That in contracts relating to the sale or resale of an article of commerce, the genuineness of which is attested by the trade-mark or special brand of any grower, producer, manufacturer, or other trade-mark proprietor, who is in fair and open competition, actual or potential, with other growers, producers, manufacturers, or owners of similar or competing articles, which contracts are made by the owner of such articles, hereinafter referred to as the vendor, with wholesale or retail dealers, hereinafter referred to as vendees, whenever such contracts constitute transactions of commerce among the several States, or with foreign nations, or with or in any district or territory subject to the jurisdiction of the United States, it shall be lawful for such vendees to agree to sell such articles at the prices prescribed by such vendor and such agreement shall not be construed as against public policy or in restraint of trade or in violation of the act of Congress of July 2, 1890, or of any of the acts supplemental thereto: *Provided*,

(a) That any such article may be sold by the vendee at a price other than that prescribed by the vendor: (1) If such vendee shall in good faith discontinue dealing in such article, or (2) if such vendee shall cease to do business and shall propose to sell such article in the course of discontinuance of such business, or (3) if such vendee shall have become bankrupt or a receiver shall have been appointed for his business: *Provided*, That such article shall have first been offered to such vendor by such vendee or his trustee in bankruptcy or receiver at the price paid therefor by such vendee, and that such vendor after reasonable opportunity to inspect such article shall have refused or neglected to accept such offer.

(b) That any such article which shall have become damaged or deteriorated in quality may be sold by such vendee at a price other than that prescribed by such vendor: *Provided*, (1) That such article shall have been offered to the vendor either in exchange for a new article of the same kind, or at the price paid therefor by such vendee; and (2) That such vendor after reasonable opportunity to inspect such article, shall have refused or neglected to accept such offer; and (3) That such article shall be sold by such vendee only with prominent notice to the public that the price of such article has been reduced because it is damaged or deteriorated in quality, as the fact may be.

This bill embodies a fundamental principle of nation-wide interest from a business, economic, and social standpoint.

Its purpose is to legalize the contract between an independent grower or producer of a standard, identified, trade-marked product and his distributers as to the resale price.

This measure does not apply to bulk or unbranded or unidentified merchandise of any description. It is simply intended to prevent distributers who will not trust their own good will and reputation to get business from using standard articles of established worth and stable value as bait to deceive the purchasing public.

The right which is sought to be conferred in this bill—that of the manufacturer of a standard product to set the retail price on his goods—was not questioned until certain decisions of the Supreme Court.

In the early history of business in this country the manufacturers universally fixed the retail price of their goods. At first the makers sold the articles directly to the consumers. As transportation facilities improved, traveling agents sold the goods directly to the buyers in wider territory. Then the makers began selling to retail stores, to be resold at stipulated prices, a much more efficient and economical method of distribution. As commerce expanded the wholesaler entered the field as an agency of sale between the manufacturer and the retailer.

Through all this period of development the maker of the goods put his own price upon the article and maintained it to the ultimate consumer.

Then the United States Supreme Court handed down a series of decisions which affected that practice of business. However, these court decisions have never denied the right of the manufacturer to determine the retail price of his goods. They have denied the legality of certain methods of enforcing the price.

Thus we have the situation that it is legal and proper for the maker of goods to maintain a resale price if he does it through retail agencies established by himself, through the consignment system, or through right of refusal to sell in the absence of contract, express or implied.

These methods are valuable only to great corporations which can make the capital outlay needed. They are practically valueless to the small establishment which is honestly seeking to build a market upon fair price and fine quality.

It should be admitted that a system of merchandising which is good and proper for great business corporations is also good and proper for the small.

To secure this just right, giving equality to all producers and special privileges to none, there must be legislative action, such as is provided in my measure.

Mr. Speaker, I not only grant but I contend that the whole issue in the price-standardization problem is the public interest and not the interest of any special group whatever. I maintain that it is to the public interest that competing producers of identified merchandise be given power to agree with their distributers as to the resale price of such products.

It is a question upon which there has been much confusion and the expression of much false logic. I desire to present the fundamental facts involved in it and point out what seem to me to be compelling reasons for the passage of such a measure as H. R. 11:

I. Is the policy of making standard, identified, trade-marked articles of public benefit?

Surely it is a good thing for buyers to know makers. Only an honest product comes out in the open. The man who stakes his reputation on a product, personally guarantees it to be as represented, has a vital interest in making that article make good. Webster says that a trade-mark is a distinguishing mark, device, or symbol affixed by a manufacturer to his goods in order to identify them as his goods. The man who will not put his name behind his product, but sends it out anonymously has no interest save that of making as much money as possible, as quickly as possible. The cheat and the swindler can not operate after they are recognized. Crooked makers avoid identification for the same reason as the burglar. By encouraging the manufacturer to build up a reputation based on high quality goods the buyer is protected and benefited. On the other hand, if the identified goods are of poor quality, the buyer is protected against them.

Identification of goods saves the time of the buyer. Without it, every purchase becomes a game of chance, with marked cards in the hands of the dealer. If the customer must haggle on the price of unknown goods and finally buy at a compromise price, he is sure that he has been cheated. I have bought goods in oriental bazaars, and after paying one-fourth of the price originally asked, have found that even then I had paid twice the value of the goods. The trade-mark on a known article is of value to the purchaser, even though the article is not superior in value to unknown articles. If the buyer of an unmarked article receives splendid value and is more than satisfied, he can never be sure of future success. He can not recognize it and buy another like it. But if he purchases an identified product and likes it, he may buy the same article in New York or San Francisco and be sure of getting the same value. The trade-mark is the consumers' signboard. With it as a guide the buyer can send a child to any store and be

sure that he will receive the article he desires, of uniform quality with the one he had tested and approved.

Identification of goods makes possible investigation of every condition of manufacture. How can any consumer inspect a factory unless he knows where it is and what it produces? But when the manufacturer stamps his trade-mark, name, and address on every article he comes out in the sunshine and invites inspection. It safeguards the consumer and gives him a chance to protect himself.

It is argued that it is uneconomical to produce goods in separate and distinct containers and that it would be cheaper to the consumer if all goods were sold from bulk containers, and that it would be cheaper to the consumer if all goods were carried in bulk by distributers.

I can remember the grocery store as it was when practically all goods were sold from bulk containers. There were the insanitary sugar barrels and cracker barrels, the bins of dried fruits, the huge boxes of coffee, spices, rice, oatmeal, and other cereals. The clerks dipped into these indiscriminately, selling turpentine and tea, prunes and plug tobacco, oils and olives in bulk.

The American people protested, and a complete change was made. In those days 90 per cent of the groceries were sold from the barrel or bin. To-day 80 per cent of the groceries are packed in separate packages.

If we were to return to the old conditions, each of the 363,000 grocery stores would require another clerk, adding a vast charge to the costs of distribution, which are already too high.

It was the public demand which caused this change in marketing. The manufacturers at first opposed the change, but one or two undertook it after their representatives had compiled huge lists of people who would be willing to pay a little more if necessary in order to have separate packages. The grocer opposed it, for under the haggling system he had all the advantage.

But the grocer, after trial, accepted the idea, and it made possible economy in clerk hire, paper, bags, twine, and so forth.

The fact is that most goods must be packed in separate packages either at the factory or the retail stores. This operation can be performed more efficiently and cheaply by machinery at the point of production than by hand in the store. If every dealer were compelled to carry his goods in barrels, kegs, and boxes and pack every individual purchase, he must necessarily have more room and more clerks, and the consumer must pay the bill. It is also true that food products, especially, carried in bulk are always liable to injury from dirt, vermin, atmospheric conditions, and so forth. The package goods are safeguarded from deterioration from these causes.

Short weight is more liable to occur in goods shoveled on scales in the average store than in packages which carry in plain figures the net weight of the commodity.

But, say the objectors, the great advertising campaigns which are made to identify goods in the minds of purchasers are expensive and must be paid by the consumers. I remember the first advertising campaign in this country to fix the name of a product upon the public mind. It was made by the B. T. Babbitt Co. to identify Babbitt's soap. There were prize contests for those who could compile the largest list of words from the letters in the name. Advertising matter of all kinds was issued. The result was an increased demand and a decreased price, while other manufacturers followed in the path blazed out by this pioneer concern. Of course advertising expense and all others connected with marketing goods must be paid by the ultimate purchaser, but the fact is that this method of selling goods is less expensive than any other system. The arguments based on the cost of nation-wide advertising campaigns fail to take into consideration the fact that such cost when distributed over large output becomes insignificant when applied to a single article.

The price of a page advertisement in a certain magazine of nation-wide circulation costs about $2,500. That page goes into a million American homes at an expense of a quarter of a cent each. The sales resulting makes possible a decreased cost for each article. In a letter it would cost at least $20,000. A big market helps large production and large production lowers manufacturing cost. That lower cost enables the manufacturers to make a lower price to consumers, and when he is subject to continual competition from other manufacturers of similar products, it is to his interest to make the price as low as possible. The merchant sells his goods faster, transacting a larger business on a smaller percentage of profit.

The cost of making a trade-mark known takes but a tiny fraction of the final price. One large concern, in its cost analysis, shows that $0.018 out of every dollar paid by the purchaser goes for advertising. This is an insignificant charge for the insurance of guaranteed goods, for protection against poor quality and fraud.

Of course, there are those who regard all advertising as waste. They belong to two classes—business imbeciles and business monopolists. The fact is that trade-mark advertising has paid its cost many times over in the expense of distribution alone.

The monopolist desires a strangle hold on the public. He begrudges the money necessary to secure the approval of the people for his goods. He seeks to eliminate not advertising alone, but competition as well.

It is charged that intensified and widespread advertising of trade-marked goods can fool the public into purchasing inferior goods at excessive prices. The fact is that any firm that invests large sums of money in advertising goods which are not right in quality and price is simply making business for its competitors.

Many worthy enterprises fail from lack of advertising, but there are just as many unworthy ones that fail because of dishonest advertising. In the long run no inferior article at an excessive price can be sold through advertising or any other method. But the good article, standardized and identified, can be sold more cheaply through advertising addressed directly to the consumer than through armies of salesmen or any other marketing method.

The trade-mark is one of the great business inventions. It has been the efficient means for the advancement of honest merchandising. It has been the consistent creator of better goods at cheaper prices. It has changed the old, disgraceful motto of "Let the buyer beware" into "Let the purchaser know." It has brought back the old relationship of the maker of goods who made them with his own hands and sold them to his friends and neighbors and stood back of them. It brings the producer of a million articles face to face with each of a million customers. It makes possible the large-scale market, without which large-scale production would be impossible.

The trade-mark is an economical, efficient time saver and labor saver. It means automatic sales. It creates the demand of the consumer upon the dealers, which in turn requires orders upon the manufacturer.

This eliminated a great part of selling costs, which is of vital interest to the consumer, since the selling cost of unstandardized merchandise usually exceeds manufacturing and all other costs combined. Nor is this all. The larger output decreases all other costs, such as manufacturing costs, overhead charges, and so forth.

The American purchasing public is not made up of fools. If it were safer, cheaper, and better to buy unknown goods in bulk rather than identified, standardized goods, the buyers would have compelled the continuance of the old, haphazard plan or would force its return to-day. There is always a reason for a sweeping change in business methods, and the reason in this case is an overwhelming public demand.

The case for identified goods may be rested on the unmistakable evidence of public approval. No better argument can be advanced. The American public wants to buy goods that can be identified and compared. They want to be sure that the article they test to-day and find satisfactory may be purchased on the next occasion. They want to escape the dangers of buying anonymous, unknown goods, and they have showed their desire in every way possible. The purchasing public has settled the question as to whether it is an advantage to have access to standard, identified goods or uniform quality and at uniform price and the system has come to stay.

II. Should the maker of these named and identified articles, whose manufacture is a public benefit, have a right to protect his good will and his reputation in their manufacture?

Without protection in some way the manufacturer is put in the intolerable situation of paying penalty for the merit of his product. The better the quality and the more reasonable the price the greater incentive to cut-price dealers to use the article as a bait. The fact that the public approves the article at the standard prices is the very reason for slaughtering the price and offering a "wonderful" bargain.

When one dealer does this other dealers must follow or refuse to handle the goods. That is a direct blow at the maker of a product and he is helpless to prevent it.

Here is a huge advertisement by a chain-store combination which is driving many independent dealers out of business.

I quote:

Take Blank's soups—21 kinds known from coast to coast. In leading magazines and newspapers they are advertised at 15 cents a can—and worth it, too. Yet our price is only 12 cents a can—3 cents lower than the advertised price. So on everything else.

The combination backing this policy does not trade on its own name but on the good name of makers of standard articles who risk money on making good. Then, when the manufacturers, at the expenditure of time and energy and the use of business ability, succeed in their efforts, such concerns as these descend like vultures on their prey.

These goods are sold at a loss, and it is implied that all other goods are handled on the same basis. But only a fool believes that any store can continue doing business at a loss on all goods sold.

Such stores sell perhaps 10 per cent of their goods at bargain prices and more than recoup on the other 90 per cent. Beside the cut-price display of standard goods in one store was a table filled with candy, marked "Week-end special—70 cents, reduced from $1." The cost was 30 cents, and the price was extortionate, but masqueraded as a reduction.

In the meantime the manufacturers of known and guaranteed goods have suffered. When a 15-cent article is advertised at 12 cents, the impression is made that it is a 12-cent article. The maker can not produce it to sell at that price without lowering the quality and risking the good will he has built up.

Remember, that he is fighting to protect his good name. He has no objection to a dealer selling his goods below the standard price if all marks of identification are removed. Or the manufacturer can make the same article and stamp it with the local dealer's trade-mark and let him sell at whatever price he chooses. Disassociate the goods from the maker's name and trade-mark and he has no objection to a reduced or advanced price.

There are flour manufacturers who make a standard grade of flour and ship it to dealers, each of whom has his own brand. The maker is not concerned in the price and it is fixed solely by the dealer.

Some shoe manufacturers make the same shoes for 50 dealers, stamping the dealer's name inside. The sellers may charge 50 different prices, but the manufacturer is not injured, for his own name and good will are not at stake.

But the piratical price cutter does not use such methods. He wants to be protected in the misuse of another man's name, not in the use of his own.

I contend that when a manufacturer establishes a reputation for making a good article at a reasonable price he is the one who deserves protection, rather than the price cutter, who trades on other men's names. This is the purpose of this bill; to enable the owner of a trade-mark to protect his name and to encourage him to put on the market high-grade goods, made for service as well as sale. The more the manufacturer values and protects his good will, which is built on public confidence, the better will the purchaser be protected.

What is good will? may be asked.

Good will in modern business is property, as actual, positive, certain, and genuine as machinery and materials. It is the fruit of honest work, patient experimentation, and expenditure of money in creating a market and efficiently serving the purchasing public. It is an estate accumulated through a continuous policy of making every promise good, standing back of every product. It is a possession acquired by establishments that have held a public referendum and received a vote of approval.

Good will is the interest accruing from the rule of reciprocity—the belief that any transaction, which results in injury to one party, is immoral. It is an asset, built up from no monopoly power, but through continual competition, in a fair field and no favors. It is the cornerstone in the structure of truthful trade. It is the guaranteed link between maker and user. It is the sap of life of the tree of honest business whose roots are standardized quality and price.

Good will, once established, can defy every attack save that of the piratical price cutter. It can overcome the crafty deception of the substitutor, with his "something just as good." It can protect itself against the counterfeiter who would steal a registered trade-mark, label, or brand.

Good will is at the mercy of buccaneer bargainers, who slash standard prices and set up "misleaders" in order to deceive the public. It is slaughtered by the "kamerad" pistol in the hands of dealers who use it as a bait to catch the unwary purchaser. It is destroyed by those who defraud the public on a hundred unidentified articles, through a bargain on one, whose quality and value is known to all.

Good will must be put in the keeping of those who have earned it, not left at the mercy of business pirates. No man is permitted to steal a purse, neither should he be permitted to rob an honest business of its good name for furnishing a standard article of uniform worth at a uniform cost. No man may willfully destroy a house, neither should he be permitted to destroy the very foundations upon which rests the prosperity of every firm which sells guaranteed goods to the public.

Good will belongs to the maker of the goods; he does not sell it, but is vitally interested in preserving it after the goods are in the consumers' hands. For the best interests of every party in the transaction the user and distributer, as well as the maker, there must be legislative provision by Congress that the manufacturer of standard, identified, trade-marked goods, whose quality and price have won the good will of the public, shall have power to protect it by enforcing a standard price policy in the marketing of his product.

III. What legal rights have the independent makers of standard, trade-marked goods as to the prices at which they are sold to the consumer?

That question leads to a tangled wilderness of doubt and uncertainty where bogs and swamps and blind paths form the principal features. No judge, lawyer, or business man can to-day chart that jungle or mark out a path open to all honest business on uniform terms.

The Supreme Court and other Federal courts have handed down many decisions upon the question of price maintenance, but unfortunately they have only served to make confusion worse confounded. Out of all the complexities involved in these decisions only one thing stands out clearly, and that is that price maintenance is not illegal nor harmful when practiced by immense business organizations which can afford to maintain their own selling agencies or to directly check the selling methods of all dealers who handle their goods.

Let us consider the situation as it stands to-day. For many years it was clearly understood by American business that the makers of standard identified, branded goods, without a monopoly power, had a right to control the resale price. Through a long series of decisions in the Federal courts this right was upheld, and there was no doubt whatever that products sold under the maker's trade-mark could be controlled as to price.

Then came the Doctor Miles medical case where the Supreme Court, by a 5 to 4 decision, held that contracts between manufacturers and dealers in which the resale price was fixed were violations of the Sherman Antitrust Act and therefore invalid and unenforceable.

Mr. Justice Holmes, in a strong dissenting opinion, laid bare the fallacy that such resale-price control tends to monopoly and higher prices. He said:

> I can not believe that in the long run the public will profit by this court permitting knaves to cut reasonable prices for some ulterior purpose of their own and thus impair, if not destroy, the production and sale of articles which it is assumed to be desirable that the public should get.

The United States district court of New Jersey, in United States against United States Steel Corporation, decided June 3, 1915, summed up the justice of price maintenance in these words:

> It is a mere truism to say that the fixing and maintaining by a manufacturer of a fair price above cost is not only a right but a commercial necessity, and any other course must end in bankruptcy. Where such fair prices are raised and exacted from the purchasing public the public is prejudiced thereby. On the other hand, when that price is so unreasonably lowered as to drive others out of the business, with a view to stifling competition, not only is that wronged competitor injured but the public is prejudiced by the stifling of competition.

Place side by side with that decision the decision of the Supreme Court in the Doctor Miles case:

> A system of contracts between a manufacturer and wholesale and retail dealers by which the manufacturer attempts to control prices, thus fixing the amount which the consumer will pay, eliminates all competition and amounts to an unreasonable and therefore unlawful restraint of trade both at common law and as it affects interstate commerce under the Sherman Antitrust Act. Such contracts are therefore invalid and unenforceable.

Is it any wonder that business men flounder in a maze of uncertainty when one Federal court declares that price maintenance is essential to the conduct of honest business while another Federal court brands it as a crime?

But the skein is still more tangled. The courts of last resort in many States have sanctioned uniform resale prices, upholding agreements between manufacturers and dealers to attain that end.

The Court of Appeals of Kentucky has held that price-maintenance agreements do not violate the antitrust statutes.

The Supreme Court of the State of Washington in 1913 took exactly the opposite position from that taken by the United States Supreme Court in the Doctor Miles medical case. The

Supreme Court of California held that the maker of a brand of olive oil and the maker of a brand of chocolate had the right to make contracts for resale prices.

The Legislature of New Jersey in 1913 passed an act to prevent unfair trade practices and specifically prohibited price cutting on branded goods for ulterior purpose. Nor is that all.

The Supreme Court of the United States has legalized price fixing under certain conditions. It has declared that if the dealer pays for goods before selling them and does not have the right to return them, the manufacturer has no right to control the resale; but where the goods remain the property of the producer until they are sold, title has not passed and he may lawfully say what price the agent must receive for his product.

Of course such a consignment system is impossible to the small independent manufacturer, who can not establish an expensive selling force to place his goods in the dealers' hands and wait for his money until the goods are sold. It is an expensive, inefficient system of marketing, and wherever operated adds to the price paid by the consumer.

Andrew Carnegie once told a body of business men that if he were in a business in which it was impossible for him to tell, at least approximately, how much money he had made or lost in a given month, he would get out of that business. He said that the next best thing to making money was to know that you were not making it—and apply the remedy.

The system of placing goods in the hands of dealers subject to return simply means that the manufacturer can never prove that he is solvent and worthy of business confidence.

Then the question as to whether the manufacturer has the right to refuse to sell to price cutters has also been the subject of judicial determination. In the Great Atlantic & Pacific Tea Co. *v.* Cream of Wheat Co. (224 Fed. 566 (1915)), the manufacturer had refused to fill orders because goods were sold at less than the standard retail price.

Both the district court and the court of appeals held that the manufacturer had such a right.

Judge Lacombe for the district court said:

> We had supposed that it was elementary law that a trader could buy from whom he pleased and sell to whom he pleased and that his selection of seller and buyer was wholly his own concern. Before the Sherman Antitrust Act it was the law that a trader might reject the offer of a proposing buyer for any reason that appealed to him. Neither the Sherman Act nor any decision of the Supreme Court continuing the same, nor the Clayton Act has changed the law in this particular. We have not yet reached the stage where the selection of a trader's customers is made by the Government.

On the 29th of October, 1918, Federal Judge Wadill, of the eastern district of Virginia, in quashing the indictment secured by the Government against Colgate & Co., used the following language:

> Price cutting would almost inevitably result in reducing the defendants' business in a given community to only those engaged in that practice, and deprive it of the patronage of the great body of wholesalers and retailers in what they believed to be a fair, legitimate conduct of their business. It by no means follows that, in the end, the public would be benefited, as the price cutter could easily raise prices after the demoralization caused by his conduct had been brought about, and profit individually by so doing.

Then came the Colgate decision by the Supreme Court in June, 1920. The court upheld the right of manufacturers to refuse to sell to price cutters in these words:

> The purpose of the Sherman Act is to prohibit monopolies, contracts, and combinations which probably would unduly interfere with the free exercise of their rights by those engaged or who wish to engage in trade and commerce—in a word, to preserve the right of freedom to trade. In the absence of any purpose to create or maintain a monopoly, the act does not restrict the long recognized right of a trader to exercise his own independent discretion as to parties with whom he will deal and, of course, he may announce in advance the circumstances under which he will refuse to sell.

That decision seemed to make clear that any great manufacturing concern that could afford to sell direct to retail distributers could enforce resale prices by announcing in advance that they would sell to no dealer who cut standard prices.

But such a right is of no benefit to the smaller manufacturer, who can not maintain a great selling force to sell direct to the retailers. And it means that the large manufacturers must establish a most expensive "follow-up" organization in order to penalize price cutters by making their "refusal-to-sell" right effective. One great manufacturer has so successfully achieved price maintenance by the refusal to sell to price cutters that only one dealer cut prices during one year.

> We have accomplished it ourselves, and have no complaint to make on that score—

Said an official—

but it is an unfair, undemocratic, and uneconomical system.

But the situation is still further confused by another ruling of the Supreme Court, where even the right to refuse to sell is questioned, and if done through contract is declared illegal.

This decision was in the Shrader case, given in March, 1920. A. Shrader & Sons manufactured valves and gauges for use in connection with automobile tires, and entered into contracts with dealers to supply them with goods to be sold at a standard price, and the charging of different prices would lead to a refusal to sell.

The District Court for the Northern District of Ohio decided that the manufacturer had such a right, based on the Colgate decision.

The Supreme Court overruled the district court and said:

> The court below misapprehended the meaning and effect of the opinion and judgment in that cause. We had no intention to overrule or modify the doctrine of Dr. Miles Medical Co. against Park & Sons Co., where the effort was to destroy the dealers' independent discretion through restrictive agreements. Under the interpretation adopted by the trial court and necessarily accepted by us, the indictment failed to charge that Colgate Co. made agreements, either express or implied, which undertook to obligate vendees to observe specified resale prices; and it was treated "as alleging only recognition of the manufacturer's undoubted right to specify resale prices and refuse to deal with anyone who fails to maintain the same."
>
> It seems unnecessary to dwell upon the obvious difference between the situation presented when a manufacturer merely indicates his wishes concerning prices and declines further dealings with all who fail to observe them and one where he enters into agreements—whether express or implied from a course of dealing or other circumstances—will all customers throughout the different States which undertake to bind them to observe fixed resale prices.

The Supreme Court added another perplexing chapter in the Beechnut decision, for it added still another limitation to the right of refusal to sell.

In this case the court declared that there need be no contract, express or implied, but only a system of cooperation between dealers in order to void entirely the right to refuse to sell.

It is idle to talk about a right which can not be enforced. The producer can not know instances of price cutting unless interested dealers inform him of it. This decision makes it practically impossible to secure the necessary information upon which he may act for the protection of his good will.

The situation to-day is that no manufacturer is sure that he can refuse to sell to persons who injure his business. In spite of the fact that such right has been declared to be even above legislative action, there is an intimation in this latest decision that refusal to sell under certain cricumstances may be held as evidence that an agreement does actually exist even though there be no contract.

Digging through all those shifting sands brings us to one solid fact, that price maintenance is legal where the manufacturer establishes his own selling agencies—retail establishments and mail-order facilities—where he sells direct to the consumer.

In other words, it is legal only when exercised by immense concerns which can perform all the processes of merchandizing and dominate all local dealers.

Such a solution is manifestly unjust. If price maintenance is right for big business, it is right for small business. That every method for maintaining a one price to all policy has been declared illegal except the one method which can be used by great interests is upon its face conclusive argument for open and above board legislation by Congress, which will remove the doubts and the uncertainty and give encouragement to honest merchandising methods.

IV. Will giving the independent manufacturer of standard, trade-marked goods the right to establish uniform prices, lead to profiteering prices?

I maintain that such a policy will be the most effective defense against the profiteer.

During the World War period we witnessed a veritable orgy of profiteering, and prices were skyrocketed in a way never before known. The papers were full of instances of profits of from 500 per cent to 1,000 per cent on farm produce and other commodities. Fortunes were made through the violent fluctuations in prices on the necessaries of life.

But these profits were made on unmarked, unstandardized, unidentified merchandise. They were not made on goods which had been established on a basis of uniform price for identified goods.

A uniform price policy means a curb on the profiteering distributer. It must not be forgotten that there are dealers who take every opportunity to charge more than the standard price. When the control of the price is absolutely in the hands of the dealer he can mark up the figures, without let or hindrance. The experience of the past few years demonstrates that the public interest requires a system of price control through which the manufacturer can prevent profiteering in his product.

The maker of the goods is vitally concerned, for any excessive charge reacts against his business and his reputation. The public knows him through his trade-marks and his advertising and tends to place the blame on him. Therefore he is violently opposed to such profiteering practices, but under present conditions he is powerless.

Every reputable manufacturer of identified goods has been under this unjust handicap. They have received countless letters of protest from the buyers of their products. Not long ago I saw a letter which had been sent to one company, maker of trade-marked toilet articles. A customer wrote that he had been buying a certain article for years and had never paid more than 40 cents for it. A dealer had charged him 60 cents, and he wrote a vigorous protest to the makers. The company replied by stating that the dealer had purchased the goods at $3.25 a dozen and that the article was priced to sell at 35 cents, which allowed him a fair profit.

Sixty cents is robbery—

Wrote the company official—

and is without the slightest justification. Your letter and thousands of others like it which we receive are full proof that we have an interest in our goods after we have sold them, but as the law stands we can not protect our customers from such outrageous overcharges, as have been increasingly evident in the past several years.

The same situation confronts every maker of standard, identified goods. Their market is injured and the consumer robbed. While they make every effort to enforce the sale of their goods at a fair price, it will require the passage of this legislation to protect their own legitimate interests and the great mass of distributers as well as the general public from the extortions of these profiteering dealers.

It is important to determine whether the manufacturer himself, given this power, would fix a profiteering price on his product.

We will take it for granted that the manufacturer desires to make every dollar possible out of his business. That is what the average man is in business for, and it may be assumed as the mainspring of his action. Because of that very fact he will not fix a profiteering price.

In the first place he is an independent manufacturer, with no monopoly of his product. This measure does not apply to any monopolistic enterprise and specifically excludes such business from its scope.

The manufacturer must embark in a field of activity where the conditions are made for him rather than by him. Others know and use the same methods of producing the articles. He must pay about the same interest for capital as others, the same wages to labor, and the same rental charges.

His opportunity for making money depends, in the main, upon his own intelligence, originality, and organizing ability. He may make improvements in methods of production and cheapen the cost, and he may widen his market and increase his profits while at the same time reducing the price.

He must be enterprising and display the intelligence and courage to adopt new methods or he will be eliminated. He must organize, gain new markets, and meet consumers' desires. If he can not produce his goods as efficiently and economically as others, he must give way to those who are better equipped to meet the test.

Giving the independent manufacturer the right to maintain the resale price in no way interferes with this process of survival of the fittest to serve the public. It leaves him subject to this continual competition from all other manufacturers who are making articles in the same line. It becomes a clean-cut competition in excellence, in quality of product, and reasonable price.

The manufacturer organizes his plant and makes his product. He brands his name into it, telling the world that he is the maker and that he believes in his product, is responsible for it, and stands back of it.

He knows the exact cost of making the goods. He knows his market and the competing articles. He knows that every addition to the selling price reduces the number sold and the amount of his gross profits. He knows, too, that an excessive price is simply an invitation to a competitor to supply the demand with an article at a reasonable figure.

It has been found that a brand of soap priced at 50 cents a cake will sell to a certain degree. But twenty-five times as many will be sold if the price is 10 cents. The cost of producing the larger number will be less than half the cost per unit of the smaller.

For his own interest the manufacturer will strive to make the price as low as possible. He will fight to prevent an unfair profit to the wholesaler or retailer, for it is the final price which determines the volume of sales, and the manufacturer knows that his success depends upon the ultimate consumer. In order to keep the price down the manufacturer of an honest product, bearing its name out in the open, will limit the profits of distributers to the very lowest point possible.

That this is the actual practice may be clearly seen in the report of W. A. Hovey, officer of the National Wholesale Druggists' Association to the 1920 meeting of the organization. This line of business is the one in which a larger proportion of the business is confined to identified goods than perhaps any other in America.

Mr. Hovey pointed out that a careful investigation showed that between 1914 and 1920 there was an average increase in price of 55 per cent on all goods handled. At the same time the prices of standard trade-marked goods, on which efforts were made to establish uniform prices, showed an advance of only 16½ per cent. In other words, the prices on unidentified goods, unnamed merchandise, jumped more than 100 per cent while the standard known and identified goods were increasing 16½ per cent. Additional costs of distribution were carried by the unnamed goods, and Mr. Hovey declared that—

proprietary goods have not borne their just share of the burden of the increased cost of distribution.

One thing is certain. When a manufacturer puts his trade-mark and name on an article, he guarantees their quality and their price. He must so satisfy the public that they will prefer his product to anything of a similar nature on the market. He must hold the price to that point where the consumer feels that he is getting full value at a fair price.

That being true, the manufacturer of articles of wide distribution will do everything possible to establish the lowest price possible, consistent with quality. Then he will fight to the utmost any increase in the price. He will decrease the price whenever possible knowing that larger volume of business means larger returns to him. But an increase in price, from whatever reason, means a lessened demand and an injury to the good will of his business, from the belief in the minds of his patrons that he is not keeping faith with them and is taking advantage of their patronage to exploit them for larger profits.

These principles of competitive manufacturing have been operating since the very beginning of the system of selling standard, trade-marked, identified goods. Eleven years ago, in a speech on the floor of the House, I stated them for the first time in a congressional debate. Exception was taken by Members of the House then, but they were not successfully denied then and can not be denied now.

Up to that time there was not a single standard, trade-marked article in America on which the price had been raised. On the contrary, prices had been reduced and quality increased as competition among manufacturers increased. Several well-known breakfast foods were being sold in packages twice as large and at one-third the price of 10 years before. Makes of identified watches, at a standard price, had been improved to a surprising degree, without an additional cent added to the cost. Automobiles, standardized and sold on a price-maintained basis, had been improved in a hundred ways and sold at lower prices. In every case articles of standard, identified kind were selling at the same price or at a lower price than when they were first put upon the market. It was a compelling revelation of the fact that manufacturers of such identified goods would fight to keep prices down, never to raise them.

Then came the Great War and the chaos of war-time conditions. Materials, labor, and every factor in production went to amazing heights. There were wildly fluctuating prices, and manufacturers were face to face with a situation which was unprecedented.

It was a test of the price standardization principle under circumstances which leave no room for doubt. What was the result? In the midst of this confusion, while prices on bulk, identified goods were soaring to the sky, inflicting hardship on every consumer, the one steadying stabilizing influence; the one element of protection for the public, was the determined decree of the makers of trade-marked, standard goods that their prices must be kept at the point at which they had won public approval.

The history of prices during the war gives indisputable proof of the contention that manufacturers of identified merchandise

will make every effort to avoid increases in the price of their goods, even at a sacrifice of profit. The good will established by advertising and by giving full quality at a fair price is more valuable than any temporary profits from inflated prices. For makers of these nationally known goods to jump their prices from month to month, as was done with unidentified articles, meant commercial suicide, through the destruction of the good will created at so great a cost. That was the reason that thousands of these manufacturers of standard articles, in spite of all increases in manufacturing costs during the war, kept their prices at the level to which the public had been educated and at the same time maintained the quality of the products.

The theory on which they did this was well expressed by an official of the Oakland Chemical Co., which made identified articles. He said in 1920:

So far as our company is concerned, it has not raised the price of any of its advertised products, though the cost of production has greatly increased. Changes in the price of advertised, identified articles are accompanied by so many difficulties and create so much dissatisfaction that they are avoided as much as possible. It opens the way for discriminating against the consumer, a thing which every advertiser tries his best to prevent. One of the essentials of successful marketing an advertised product is protection for the consumer. It is to every advertiser's advantage to give the consumer every benefit possible.

The War Industries Board made a most exhaustive study of prices during the war and published 50 separate bulletins embodying the result of their investigations.

In its summary the board says:

As matters have gone in the past six years an increase of 100 per cent in price calls for less notice than failure to rise.

There was a study made of "all commodities," a term including 50 classes of goods and 1,366 different commodities.

There was an increase in 1915 of 3 per cent and an additional jump in 1916 of 23 per cent. In 1917 prices went up again 39 per cent, and in 1918, 10 per cent more. In other words, the index number of 101 in 1913 had become 194 in 1918. In the bulletin, "Prices of proprietary preparations," attention is called to the outstanding fact that—

these goods did not advance in selling price from 1913 to 1919. Only two showed any advance during the first three years of the period. The margin of profit has evidently decreased considerably since selling prices have not advanced with cost of production.

Such a situation is the more remarkable since in no lines were prices increased so tremendously as in the bulk chemicals and drugs which enter the proprietary preparations. The War Industries Board shows that bulk drugs and pharmaceuticals jumped 220 per cent during the war.

What was the reason for this unusual trend of prices? From the exact facts and certainty, with no bias toward the principle of price standardization, the War Industries Board gives the remorseless logic of that principle when it says:

It is apparent that a manufacturer could better afford to pay the increasing cost of materials and labor out of his profit margin than to increase the retail price of a popular, well-advertised article.

No competition in these lines? There is more severe competition, perhaps, than in any other line of manufacture. The articles used for the study consisted of an antiacid, antiseptic, a beverage, a cathartic, a cough remedy, a digestive aid, a disinfectant, a facial cream, a hair tonic, a headache remedy, a laxative, a liniment, a mouth wash, a prepared food, a purgative, a salve, a talcum powder, a tea, and a tonic.

The prepared food, sold at a standard price, with the maker fighting to keep the price down, lagged far behind bulk foods, with no fixed price.

It was sold in 1913 at $17.25 per dozen cases. It held that price through the first years of the Great War and during the first year of American participation. Not an advance, although food prices were increasing every month.

In 1918 the average price was $18.30, an advance of 7 per cent, the manufacturer holding it to $17.25 during half the year.

During the period what happened to the entire food group of commodities? It jumped 98 per cent, and the group of products used for food jumped 97 per cent.

These prices went higher and higher each month, and everyone handling them helped increase the price. There was no force to steady them, since they were unmarked, unnamed, and unidentified. But the maker of this standard food product which bore his own name and sold at a standardized price fought the price increases, since his own business good will was at stake. The result was that although the materials he bought advanced 97 per cent, the product he turned out advanced only 7 per cent. He chose to lose his profit rather than the confidence of his patrons.

Take the trade-marked tea which was used as illustration by the War Industries Board. Sold in bulk, unnamed, and unidentified, tea increased in price 150 per cent during the war, and Ceylon tea in 1917 sold 300 per cent higher than in 1913. But this trade-marked tea, handled and known to the public, sold at $2 a dozen packages in January, 1913, and at $2 a dozen packages in January, 1919.

During all the period of the war, when chaos prevailed and prices of unmarked goods were increasing almost daily, this standard food article did not go up a single cent. It was steady in the midst of commotion. Why? Because its maker would sacrifice anything to keep the good will of his nation-wide clientele. Is it not part of wisdom to strengthen instead of destroying such an influence in American business?

There can be no mistaking the effect of standardized prices upon the general price level. In every industry covered by the War Industries Board, where identified merchandise is a factor, the board chronicles the sure result. In its bulletin on "The prices of tobacco and tobacco products" the discovery is again announced in these words:

The tendency of the price of the finished product to lag behind leaf prices was largely due to the fear of injuring the market for well-known brands. Tobacco products have long been marketed to the consumer on the basis of brands at a price in a convenient number of cents, as a 5-cent cigar, 5-cent package, etc., so that the brand and price became closely associated in the minds of the consumers. It was only after an extensive advertising campaign on the necessity of increasing prices that any attempt to raise them was made.

The facts show that tobacco leaf, which sold at Louisville, Ky., at 16½ cents a pound in 1913, increased to 46½ cents a pound in 1918.

But plug tobacco, most of it sold under trade names, had increased 52 per cent only, between 1913 and November, 1918. While the material increased almost 200 per cent the finished product advanced less than one-third of that figure.

The most eloquent part of this official report is explanation of the steadying influence of this determination on the part of manufacturers to protect their publicly approved prices.

During 1914 the price of plug tobacco held firm at 47 cents a pound. During 1915 and 1916 it was 49 cents without the slightest change. In 1917 it increased to 65 cents, and in 1918, from the first day to the last, held at 74 cents.

There was no such tendency in leaf tobacco. In January, 1917, it was 18 cents a pound, and in December, 1917, it was 32½ cents a pound. In January, 1918, it was 29 cents, and in August it was 46½ cents. Through all this fluctuation which changed values many millions of dollars in a few days' time, the makers of standardized goods held to their price policy and made good to the consumer.

They fought increases as long as possible, and then when there was no other way told the people why it was necessary.

Is not that a business policy to be approved and encouraged instead of strangled?

These facts and figures are from the reports of the United States Government agency investigating prices during the war. The explanations given are under the compulsion of circumstances, which show the advantages to the public of the price-standardization principle.

V. Will this right of maintaining the resale price by manufacturers of trade-marked goods lead to monopoly?

I maintain that it will encourage competition and that in ruthless price cutting is found the road to monopoly.

Under the guise of competition great business organizations have ruthlessly destroyed smaller business. They went into certain localities, slashed their prices, and told the public the reduction was the result of free competition. Then when they had sent prices to a point lower than the cost of doing business and bankrupted the small dealers they brought prices up to a level which recouped all their temporary losses, while making sure the continuance of extortionate prices.

Cutthroat competition ends in monopoly. In a jungle war the strongest and most cunning must inevitably take the supreme power. Only when rules define and compel fair competition is it possible to assure the survival of the fittest to serve America.

Predatory price cutting is one of the most potent weapons for slaying competition and enthroning monopoly. Standard Oil, the Tobacco Trust, and others laid the foundations of their power in the price-cutting policy which ruined their competitors.

Arthur Stillwell in his book, Cannibals of Finance, tells of a conversation with an officer of the Standard Oil Co., who told of a former employee of the company who undertook to enter the oil business in a Southern State. This employee had

$100,000 and organized a business which brought him a good income for a time. Then the Standard Oil Co. offered him $200,000 for the business, which was refused. The official said:

I put in a system of wagons and sold oil at 1 cent a gallon less than it cost him to get it. The next year I sold at 2 cents less than it cost him to get it. He was a good fighter and met our prices. But it was useless. No one would lend him money or help him, although he tried in every way to get financial aid. We cleaned him out in a little over two years.

Price-cutting tactics applied to known and publicly approved articles deludes the public, and the result is an ever-increasing concentration of retail merchandising in the hands of these great establishments. They are to-day crushing out of existence countless small retailers by this "trust" method of doing business.

Let me quote Mr. Justice Brandeis, who gave an exhaustive study to this matter when a distinguished member of the bar. Speaking as a publicist of acknowledged authority, he said of these methods:

The process of exterminating the small, independent retailer, already hard pressed by capitalistic combinations—mail-order houses, existing chain stores, and the large department stores—would be greatly accelerated by such movement. Already the displacement of the small independent business man by the huge corporation, with its myriads of employees, its absentee ownership, and its financier control, presents a grave danger to our democracy. The social loss is great, and there is no economic gain. But the process is not an inevitable one. It is not even in accord with the natural laws of business. It is largely the result of unwise, man-made, privilege-creating law, which has stimulated existing tendencies to inequality instead of discouraging them. Shall we, under the guise of protecting competition, further foster monopoly by creating immunity for the price cutter?

Americans should be under no illusions as to the value or effect of price cutting. It has been the most potent weapon of monopoly, a means of killing the small rival to which the great trusts have resorted most frequently. It is so simple, so effective. Far-seeing organized capital secures by this means the cooperation of the short-sighted unorganized consumer, to his own undoing. Thoughtless or weak, he yields to the temptation of trifling immediate gain, and, selling his birthright for a mess of pottage, becomes himself an instrument of monopoly.

If this tendency continues, the survival of any retail business in America will depend upon misrepresentation rather than efficient service. And the great establishment, with its unlimited capital, can overshadow all competitors with its publicity expenditures and in the end secure a monopoly of retail merchandising.

These vast semimonopolistic retailing enterprises base their success on the policy of offering cut-price bargains on standard goods in order to delude the buyer into purchasing unnamed goods at extortionate prices.

If the cut-price firms were compelled to give the values they advertise, they would go into bankruptcy in six months. If they really could give the values they claim to give, they would drive every small retailer in this country out of business in that length of time.

One thing is sure. Either these institutions ought to give what they advertise or they ought to advertise what they are giving. These great institutions declare that their bargain-baiting policy is forced on them by the public. The public tempted them, and they fell. It is not true. The bargain-hunting public has been trained by this kind of business. If the dishonest system is forced on them by the public, why do they fight for the right to continue being dishonest? This bill I am advocating will help them if they really desire honest business methods. Their bitter opposition is the proof of their insincerity.

Almost all the manufacturers of nationally known standard goods refuse to sell to certain mail-order houses and cut-price stores. Still they get these standard goods by hook or by crook and beat down the price in order to lure customers into their web.

The Merchants' Trade Journal, of Des Moines, Iowa, some time ago carried an article showing this system at work. Many merchants had protested against the cut prices on Shredded Wheat in mail-order catalogues, the price quoted being lower than the merchants had to pay for the goods.

The Journal wrote direct to the company and received a reply which contained the following statement:

Mail-order houses which quote prices of our products in their catalogues are doing it to attract attention to themselves. Often in checking up a catalogue house that advertises Shredded Wheat we find that they had none in stock and had to go to a regular channel of trade, sometimes to a local grocer, and pay the retail price for same in order to fill what orders come to them through the ad in the catalogue.

The cut in the price on standard goods can be seen by the world. The extortion on unstandardized goods can be discovered only by investigation. E. L. Wildey, of Sioux City, Iowa, made such an investigation. He ordered and received a large number of articles advertised in these catalogues. He bought toweling advertised at 15 cents; regular retail price, 20 cents. Local dealers quoted him 9½ cents on the same goods.

He bought paint, shoes, and other unidentified goods, and in every case found misrepresentation as to quality and price.

It should appeal to any person of common sense as a fact that these great selling corporations can not pay millions in dividends from their cut prices on standard, nationally known goods.

The fact is that it costs the mail-order house and the big department stores more money to do business than it does the small store. Their advantages in volume buying and direct dealing are more than counterbalanced by other overhead expense.

Still the growth of these great concerns shows that they are making the public believe that they do sell goods for less than the home merchant. They pay no taxes into the city, county, or State treasuries. They employ no local people, and do not contribute to the erection of worthy institutions. They do not help to maintain good roads and to build up the community. They sap the lifeblood of the local community and give in return—nothing.

I stand for the small business man, who is of incalculable benefit to the Nation, when he asks for a square deal in business. Such men can win a moderate and just prosperity and deal fairly with their customers, competitors, and employees.

They are a part of the community in which they do business. They are taxpayers and are interested in community and national betterment.

We should grudge no man a fortune through energy and ability and fair methods which regard the welfare of fellow men. We should give praise to any business man whose business success comes as an incident to doing good and faithful work which advances the common welfare.

To-day they are put at a great disadvantage by men who use unfair methods of competition.

The result of retail monopolization throughout the country will mean the ruin of hundreds of thousands of independent merchants; the concentration of trade in vast concerns located in a few great cities; a decline in prosperity and population of the villages, towns, and small cities; and the ultimate injury of the consumers by placing them at the mercy of monopolies which will then be able to extract such profits as they please for the sale of such goods as they choose to handle. It will destroy the independent merchants of the smaller towns and build up great systems and compel the sale of inferior goods by all classes of dealers who will be forced to meet this unfair competition.

I want to make it possible for a business man of courage, independence, and ability to serve the public by standing out against would-be monopolists. The strongest laws in defense of the public are those that compel fair competition.

I desire no backward steps in progress nor turning of the hands of the clock of advancement. I want to see every business enterprise reach its correct size, which will be reached when the cost of their service is lowest.

These great department stores, mail-order houses, chain stores, and semimonopolistic enterprises say that they are more efficient than the smaller stores. They say their large purchases and the volume of business is their advantage in serving the public.

All right. I say to them to prove their statement and I will accept it.

There should be a fair and open field. Unfair competition, such as price cutting on standard products in order to raise prices on unidentified goods must be stopped. Let these great concerns do business on a fair and square basis, and then if they are able to destroy the small dealers and monopolize retail merchandising I am willing to accept the outcome. If their logic is correct, State socialism is assured and we must master monopoly by Government-fixed prices.

But they have not proved their claims. There is no great mail-order house or department store in America which can put the neighborhood store out of business under fair competition.

How are we to meet the present tendency toward monopoly? One great step is to provide that makers of identified, person-

ally guaranteed products may have the right to enforce a one-price policy and maintain the retail price.

Any clear view of the case shows that this power is exactly the opposite of monopoly; it is an incentive to fair competition.

As Justice Brandeis, when still a member of the bar, said:

> The position of the independent producer who establishes the price at which his own trade-marked article shall be sold to the consumer must not be confused with that of a combination or trust which, controlling the market, fixes the price of a staple article. The independent producer is engaged in a business open to competition. He establishes his price at his peril, the peril that if he sets it too high either the consumer will not buy or, if the article is nevertheless popular, the high profits will invite even more competition. The consumer pays the price asked, because he deems the article worth that price as compared with the cost of other competing articles. But when a trust fixes through its monopoly power the price of a staple article in common use the consumer does not pay the price voluntarily. He pays under compulsion. There being no competitor, he must pay the price fixed by the trust or be deprived of the use of the article.

I am defending the right of the independent manufacturer, producing an article into which he has put his energy, character, and money, under competitive conditions.

This independent manufacturer of goods must not only make the goods but make the market for them. If his price is too high, the public will not buy, and all his efforts will simply go to swell the business of a competitor who makes a similar article at a lower price. Under the uniform price policy competition is between the makers of goods, each striving for more business.

The confusion comes of misunderstanding as to the meaning of a maintained price. If every maker of safety razors, for instance, should come together and fix prices on these articles there would be a monopoly which should be met by all the power of the Government. But one maker of a safety razor, his own guaranteed, identified product, by fixing the price simply invites competition and furnishes every competitor with full information as to his product.

The competition engendered when rival goods have names and are guaranteed is hot competition, but it is fair and it benefits the public.

That kind of fair competition is destroyed by price cutting.

Here is a man manufacturing a standard fountain pen in competition with 50 other makers. He desires it sold at $2, the price he has learned will afford a fair profit to himself and the dealers. He spends his money and energy for years to persuade the public that his fountain pen is of full value, the best on the market at the price.

Because the public is persuaded after trial that this fountain pen is worth $2, there is an advantage in selling it for less. Along comes the price-cutting store bent on sweeping into its corporate pocket all the benefits of the manufacturer's life-time work, and cuts the price to $1.

The business of the manufacturer is demoralized and so is the business of the retailers. Carry that process on and the manufacturer and small dealers go out of business.

This maker of fountain pens can to-day stipulate that his price is $5 and that all who desire one must send to him direct. But because he stipulates that the dealer must sell the article at $2 in a wide-open field where 50 other kinds are available he is declared a violator of law and subject to penalty.

Is that not trust-busting gone mad? It is not utter folly when the antitrust policy was formulated to safeguard the small independent dealers, and predatory price cutting is the black plague which destroys them?

I maintain that it is a bad thing for this country to have its labor employed at less than a fair wage and that it is bad also to have its business conducted at less than a fair profit.

Fair play means fair trade, and the standard price for a standard article is the best protection to the public. It means that the greatest combination has no unfair advantage over the small business man and that efficiency will determine survival.

Why is monopoly an evil? Under the common law monopoly is unlawful and the decisions have been based on three evils: First, increased prices to the public; second, deterioration in quality of the commodities; and, third, because of reducing workers and merchants to idleness and beggary.

Price cutting in standard articles leads to exactly these evils. Under price maintenance the manufacturer will fight every increase of price because of its effect upon his good will. He will strive to make his goods of better quality in order to hold his patronage. His success means more workers employed and a fair profit for the dealers handling his goods.

I contend that fair competition will assure a fair price for standard goods. The purchasers know best what an article is worth to them when it is of uniform price and quality and they can compare it with other articles. They do not have to buy the one particular article, and when they do, the price must be right.

I believe in people's rule in Government and in business. I believe that the judgment of the public, fairly expressed, with full knowledge of the facts, is the one sure hope of America. That is why I am in favor of giving the makers of standard, trade-marked products the right to establish a standard-price policy.

In politics the candidate for public office has a right to a fair field and protection against fraud, not alone for his own interests, but for the public interest, which is bottomed on honest elections.

In business the maker of products in a competitive market has a right to ask protection against fraud, not mainly for his own interest, but because a square deal to him is essential to justice to the public.

When the candidate for public office wins an honest election, it is sufficient evidence that the people approve him, his character, and his record.

When the maker of an identified product secures widespread public patronage, it is sufficient evidence that his methods are satisfactory and that the price and quality of his product are right.

The law of the land prohibits unfair and fraudulent practices in elections because of the importance in securing a fair and unbiased public judgment.

The ballot-box stuffer and the piratical price cutter are public enemies. Both undertake to prevent genuine control by the people.

When the maker of a standard product, guaranteed to be as represented, establishes a reputation for furnishing it of uniform quality and at uniform price, he has had a public referendum, resulting in a vote of approval.

If, then, dealers cut the publicly approved prices, in order to lure unwary purchasers into buying other goods at excessive profits, they discredit and injure the approved product, and deceive the public.

Crooked politics is under the ban. Crooked business must go. Theft of values created by an honest maker of honest goods is not the competition which is the life of trade; it is the jungle warfare which is the death of trade.

Mr. Speaker, I believe that H. R. 11 should be favorably reported by the Interstate and Foreign Commerce Committee and enacted by this Congress because it encourages and protects the policy of producing standard, guaranteed goods, which assures uniform quality, saves the time of the buyer and makes possible higher labor and factory conditions; because it means a fair price fixed under competitive conditions with rival producers; because it recognizes the principle that the maker of the goods is best equipped to name the fair price which includes the cost of production and distribution and a fair profit for producer and distributer; because it means a lower distributing cost than through costly selling agencies and consignment systems; because it means greater and not less competition, for under it all producers and distributers will have a fair chance, no more and no less; because it will hinder the process of monopolization of retail merchandising; because it will place business on a more honest plane and will stimulate the national growth of business and enterprise.

I submit that these are reasons which should appeal to every one who desires, through better business, to advance the welfare of the American people.

SOMETHING ABOUT SAMOA

Mr. KNUTSON. Mr. Speaker, I ask unanimous consent to extend my remarks on a bill introduced by myself to provide a civil government for the island of Samoa.

The SPEAKER. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. KNUTSON. Mr. Speaker, some time ago there appeared in the Honolulu (Hawaii) Advertiser two articles, entitled "Something about Samoa," that were written by Lorrin A. Thurston, the well-known Hawaiian journalist, who has visited Samoa and made a very careful study of the situation there. For the benefit of the American people I will ask to have inserted these articles under the leave to print granted me by the House this morning.

Mr. Thurston is thoroughly familiar with conditions in our various Pacific possessions. He was born in Honolulu, educated at Oahu College, of that city, and the Columbia Law School, of New York. He has been deputy attorney general of Ha-

waii, member of the legislature, minister of the interior, member of the house of nobles, served on the annexation commission, and was later envoy extraordinary and minister plenipotentiary to Washington, later to Portugal.

I merely mention these facts to show that he is a man of standing.

His articles follow:

SOMETHING ABOUT SAMOA—POLITICALLY, SAMOA IS LIKE MAHOMET'S COFFIN, WHICH FLOATS BETWEEN HEAVEN AND EARTH—IT IS A DOORSTEP ORPHAN, WITH NO RECOGNIZED PARENTS, FOR IT HAS NEVER BEEN ANNEXED, EITHER BY TREATY, JOINT RESOLUTION OF CONGRESS, CONQUEST, OR PURCHASE—OUR SOLE TITLE TO SAMOA RESTS ON PRESIDENTIAL FIAT, DESIGNATING THE WHOLE OF SIX ISLANDS A "NAVAL STATION"—IT HAS BEEN STRIPPED OF ITS INDEPENDENCE; BUT NEITHER AMERICAN CONSTITUTION, LAWS, OR SYSTEM OF GOVERNMENT HAVE BEEN EXTENDED TO IT—ITS PEOPLE ARE NEITHER CITIZENS NOR ELIGIBLE TO CITIZENSHIP—ITS GOVERNOR, APPOINTED AT WASHINGTON, WITHOUT CHECK BY THE SAMOAN PEOPLE, IS THE MOST ABSOLUTE DESPOT ON EARTH, WITH COMPLETE POWER OVER LIFE, DEATH, AND LIBERTY OF SAMOANS AND AMERICANS IN SAMOA ALIKE, WITH NO APPEAL, AND ON OCCASION THE POWER IS EXERCISED TO THE LIMIT—SAMOA IS A BLISTER ON THE CONSCIENCE OF CONGRESS

(One of a series of articles on Samoa based on observation during a recent trip)

[Logically the following article should be preceded by others of the series, but the facts set forth are of such importance and startling character that it is felt they should be given publicity as promptly as possible. It is, therefore, published out of its logical order.—Editor the Advertiser.]

By Lorrin A. Thurston

What is the matter with Samoa?

Tell me offhand the answer to the latest cross-word puzzle, and by the same token I will give offhand an answer to the foregoing question.

I went to Samoa in December, 1925, with the sole intent of collecting shells—sea and land. I had no thought of "investigating" anything—government or otherwise. But no sooner did I arrive than there was thrust upon my attention from several responsible sources such astounding statements of fact that I felt that a decent regard for human rights and for the reputation of the American people and Government required some investigation and action.

What action? I do not know, and I have seen too many half-baked recitations of fact and too many assertions of what ought to be done in Hawaii to venture any such course with relation to Samoa.

With one exception I have presented every charge made in this article to Governor Bryan, of Samoa. I wish to here put on record my high appreciation of his frankness and integrity and the apparent universal belief and trust in him in Samoa.

The only recommendation that I have to make is that enough has been shown to warrant the demand that Congress shall investigate conditions in Samoa and take adequate and early steps to remedy the present intolerable system, or lack of system, of government in Samoa, which, so long as it exists as at present, is a reproach to and blot upon the reputation of America for justice and fair play.

SAMOA A "DOORSTEP ORPHAN"

Primarily Samoa is an orphan—a "doorstep orphan" at that—for it has neither recognized father nor mother.

In shell nomenclature Samoa is "a unique"—meaning thereby that it is the "only known one of its kind."

The United States is an "annexing country." In fact, the original United States was a very small nucleus, to which, by successive annexations, has been added the great and widespread area over which now floats the American flag.

Eleven times, besides the gathering in of Samoa, have the national boundaries been expanded by annexation of territory.

Successively, Florida, Louisiana—including the great Northwest—Texas, California, the "Gadsden Purchase" of portions of Arizona and New Mexico, Alaska, Hawaii, the Spanish Islands of the Philippines, Guam and Porto Rico, and the Virgin Islands have been added to our domain.

All known methods of annexation have been utilized. We have annexed by conquest, by treaty negotiated by the President and ratified by the Senate, by joint resolution of both Houses of Congress, by purchase. We know the annexation game and just how to play it; and we have played it squarely and fairly in all of its phases, except as to the smallest country and the most primitive people—the Samoans.

"JUST GRABBED" SAMOA

We have "just grabbed" Samoa and saved our consciences by governing it, as a rule, justly and fairly; better, in fact, than it would have been governed by its own people.

The Samoans have made all kinds of overtures to us, but to avoid the responsibility of "entangling alliances" Congress has neglected and refused to formally accept Samoan annexation or to give the Samoans a recognized government.

The only reason why we are now in Samoa at all is because once, when Congress was marking time, we happened to have a President with guts and decision enough to step in and act when action was essential to establishing our hold. It goes without saying that the name of that President was "Roosevelt."

And it happened in this way:

HOW WE GOT SAMOA

The Samoans have again and again sought a protectorate by or annexation to the United States, and again and again the proposition has been ignored or pigeonholed.

In the year 1900 Samoa was recognized by England, Germany, and the United States as an independent country. Each negotiated a commercial treaty with her. The United States received the further right to "establish a station in Pago Pago Harbor for coal and other supplies"; Germany and England receiving similar rights elsewhere in the Samoan Islands.

Meanwhile England and Germany were browsing around the Pacific, gobbling all the islands which had not already been seized by one of the great powers. England and Germany already monopolized the western islands of the group, and unless the United States took some action to give at least color of title there was danger that Eastern Samoa (now "American Samoa") would go the same road.

THE PRESIDENTIAL ORDER CONSTITUTING THE SOLE TITLE OF THE UNITED STATES IN SAMOA

Under these circumstances, Congress failing to act, President Roosevelt took the bull by the horns, and out of a clear sky, without precedent, law, or legal power or authority, issued a presidential "Executive order," whatever that may mean, to the Secretary of the Navy, declaring the whole of eastern Samoa and all of its six islands, covering a stretch of nearly 200 miles, to be a United States "naval station" and directed the Secretary to treat it as such.

This is no invention on my part. Here is the order which Roosevelt signed February 19, 1900:

"The island of Tutuila, of the Samoan group, and all other islands of the group east of longitude 171° west of Greenwich, are hereby placed under the control of the Department of the Navy for a naval station.

"The Secretary of the Navy shall take such steps as are necessary to establish the authority of the United States and to give to the islands the necessary protection."

On the same date the Secretary of the Navy issued the following order:

"The island of Tutuila, of the Samoan group, and all other islands of the group east of longitude 171° west of Greenwich, are hereby established into a naval station, to be known as the naval station, Tutuila, and to be under the command of a commandant."

The Secretary thereupon appointed a Navy boatswain in command of the station.

These two orders constitute our sole title in Samoa, a country theretofore treated as independent, evidenced by our having made a treaty with it.

Instead of simply establishing a "coaling and supply station" at Pago Pago, in accordance with our treaty with her, we grabbed the whole harbor—"the safest and best harbor in the South Seas," according to an official report of the American "Governor of Samoa"—and for good measure took the hide with the horns by including the whole island of Tutuila, on which Pago Pago is located, and five other islands, extending nearly 200 miles from Pago Pago.

To be sure, England and Germany released to the United States all their interest in "Eastern Samoa"—but they had none—no more than they had in New York and Newport News!

As I said above, the President's fiat, without act or approval of Senate or Congress, is our sole basis of political title in or to Samoa!

A later Executive order provided that the commander of the station should be designated by the Secretary of the Navy and appointed by the President, as "Governor of Samoa," and according to official statement, "his authority in civil matters (as distinguished from naval—for his authority extends to criminal matters as well) is derived therefrom."

THE ASTOUNDING FACT—GOVERNOR OF SAMOA IS AN ABSOLUTE DESPOT

And here are the astounding results which have accrued from the foregoing procedure:

The Governor of Samoa has been constituted the absolute and despotic sovereign of all American Samoa with sole power over the life, death, and liberty of every one in it—natives and American citizens alike!

This is no josh and no theory! It is actual fact, demonstrated by actual happenings, regardless of what may be claimed or said!

A SAMOAN TRIED, DENIED APPEAL, AND HANGED BY GOVERNOR OF SAMOA

For example, only two years ago last fall, the Governor of Samoa caused the trial of a Samoan for murder. The trial was by a court

of three, consisting of one naval officer, one American civilian, and one native Samoan, not one of whom had any legal training.

After a trial lasting less than a week, a verdict of guilty was rendered and the defendant sentenced to be hanged!

Defendant's attorney, who had been appointed by the governor, immediately gave notice of appeal.

"Samoan law does not provide for an appeal," said the governor. "Who are you going to appeal to?"

"To the President of the United States," replied the attorney.

"You're too late," replied the governor. "We are going to hang defendant this afternoon." And hang him they did—by the neck until he was dead.

SAMOA A DESPOTISM—IN THE MAIN A BENEVOLENT ONE

I know of no better illustration of the old saying that "the best and most efficient government on earth is a benevolent despotism, for it is in a position to act promptly, unhampered by the checks and balances of a republic—the objection being that there is no assurance that it will remain benevolent."

And that is just the point.

"There is no assurance that it will remain benevolent."

And, in fact, the Governor of Samoa has again and again broken away from the rôle of benevolence and, exercising the powers of a real despot, has harshly violated the fundamental principles which lie at the foundation of American liberty.

NOT A CRITIC OF THE NAVY

Do not think from the foregoing that I am posing as a critic of the American Navy or its administration in Samoa.

In fact, six weeks' observation of its workings and personal experience of its efficient and benevolent character—I was for a time an inmate of the efficient Navy Hospital at Pago Pago, when there was no other haven for a sick man—demonstrate that the general success of the Samoan naval administration is one of the bright particular stars in the firmament of American efficiency in colonial administration, and especially so of the Navy.

HIGH CHARACTER OF PRESENT GOVERNOR

Captain Bryan, the present governor, a retired navy captain—an Ohio man, by the way—is of the bluff, rugged character which the Navy breeds—just, to the last degree—as he sees justice.

Not in all Samoa did I see or hear of any act of injustice under Governor Bryan. In fact, the harshest critics of the present governmental system in Samoa, and of despotic acts in the past, had nothing but praise of Governor Bryan's administration and of his personal character.

The only criticism which I heard, and which I have to make, of governmental affairs in Samoa is of the system—or lack of system rather—and not of the personnel of the naval government, which, so far as I heard or observed, is one of the most efficient in the world of to-day.

WHAT THE FUSS IS ABOUT—THE WRONG—THE REMEDY

What, then, is the fuss all about?

What is wrong and what is the remedy?

The answer to these questions is what I am here endeavoring to give—premising with the statement that I went to Samoa purely to collect shells—without a thought of investigation or criticism, hostile or otherwise, and that all that I herein recite came to me unsolicited and unsought.

And this is what came to me:

1. Only two and a fraction years ago the Governor of Samoa forced the trial of and hanged a native Samoan for murder, refusing an appeal, under circumstances abhorrent to the American sense of justice.

I saw an affidavit on file that the governor admitted that the evidence at the trial was "all lies," but said that the decision was based on a statement made by the defendant to one of the judges prior to the trial, which statement was not presented at the trial and never came to the knowledge of the defendant's attorney.

The governor refused to permit an appeal of any kind and defendant was hanged on the afternoon of the day on which the sentence was pronounced, while his attorney was vainly trying to get opportunity to wireless an appeal to the President of the United States.

And this execution was of a citizen of an independent government over which the United States Congress has never extended jurisdiction and where we have no right except under the unauthorized "Executive order" of the President.

It also came to me that a full transcript of the case was sent to the President, with an able analysis, and the request made that some law be enacted under which capital punishment should not be administered in Samoa without the opportunity being given to appeal to some authority of competent jurisdiction on the mainland.

WASHINGTON SIDE-STEPS AN APPEAL FOR JUSTICE

I was shown the original of the reply of Secretary of the Navy Denby, in which the main issue was side-stepped and the sole answer given was in a paragraph of half a dozen lines, to the effect that—

"Until Congress shall act no law passed in Samoa giving a right of appeal to a court on the mainland would be of any effect."

And there we are!

At an interview with Governor Bryan, in which he asked me to cite any specific charges which I had heard against the Samoan government or system, I set forth the above statement of facts which had been presented to me.

He called in some subordinate officials to check my statement—the case had happened prior to his administration. There were some slight differences in their recollection of intermediate detail—but as to the main points there was no difference.

The principle involved is not the personality of the governor; but that any governor should, under our American system, have the power of life and death over any other person in Samoa.

One of Abraham Lincoln's tritest sayings in the old antislavery debates was, in effect that—

"There is no man living, no matter how good he is, who is good enough to own another man."

Likewise, there is no Governor of Samoa, no matter how good he is, who is good enough to have absolute unappealable power over the life and liberty of the people of Samoa or Americans resident in Samoa.

Several other despotic acts, subversive of common ordinary rights of the Samoan people and of American citizens and American principles, were brought to my attention, presented by me to Governor Bryan and the facts admitted by him. I will set them forth in the next article of this series.

Last week I gave a review of the procedure by which Eastern Samoa, now known as "American Samoa," came under control of the United States. No known method of annexing territory has been pursued. Its independence was recognized by us—evidenced by a formal treaty, under which we were given the privilege of establishing a coaling and supply station at Pago Pago Harbor.

For fear that England or Germany might "beat us to it," the President thereupon, by Executive order, "grabbed," not only the whole harbor, but the whole island on which Pago Pago is located, and five other islands as well, and designated the whole as a "naval station."

Congress has never ratified the grab, except incidentally, if appropriations for Navy purposes may be construed as incidental ratification, nor has it extended the American Constitution, laws or system of government—nor provided any government.

By further Executive order the President appoints a "governor," on nomination of the Secretary of the Navy, who thereby becomes the de facto government of "American Samoa"—a title invented by us, by the way!

This governor has supreme power with no provision provided for appeal from his decisions. He is an absolute "despot"—a "benevolent" one as a rule; but albeit, with despotic powers, which are exercised on occasion, upon Samoan and American citizens alike.

Last week I gave an instance of recent exercise of this despotic power, a Samoan having been tried for murder, convicted, appeal refused, and hanged—all within a week—and, upon presentation of the facts to the President of the United States, with the request that capital punishment should not be inflicted in Samoa, until opportunity for an appeal to some mainland court was afforded, the entire issue was side-stepped, reply being made through the Secretary of the Navy, to the effect simply, that:

"Until Congress shall act" no appeal from capital punishment to a mainland tribunal would be effective.

ANOTHER INSTANCE WHERE THE "DESPOT" FAILED TO BE "BENEVOLENT"

I cited the aphorism that "the most efficient government is a benevolent despotism, the chief objection being that there is no assurance that the despot will remain benevolent," and cited the above as an instance of failure of benevolence on the part of the Samoan *despot*. The following is another instance which came to my attention while I was in Samoa:

One of the old-time Samoa families is the Ripleys, descendants of an American named Ripley, and a Samoan chieftainess, whom he married. One member of this family, Samuel S. Ripley, is a resident of Richmond, Calif., across the bay from San Francisco, where he has a substantial business and is a leader in the American Legion. He was born in Samoa and his mother now lives there. He has property there. He was educated in California, and served creditably in the American Expeditionary Force in France. The status of the government of his native country has grated on his nerves, and he has expressed himself freely as desiring legislation by Congress clarifying such status.

SAM RIPLEY EXPELLED FROM SAMOA

Not long ago he sailed for his former home in Samoa on an Oceanic steamer. A message to the governor from San Francisco announced this fact. When Ripley landed at Pago Pago he was met by an American naval officer, representing the governor, when, in substance, the following conversation took place:

"NAVAL OFFICER. Mr. Ripley, why have you come to Samoa?

"SAM RIPLEY. Why, this is my home; my parents live here; I have property here; I have been away for some time and have come home to see how matters are going.

"NAVAL OFFICER. You have come here to make trouble. You will get aboard the steamer and continue on to Sydney. The boat leaves this afternoon, and you will go back where you came from.

"SAM RIPLEY. I did not come here to make trouble. I have a right to be here and I do not wish to go back.

"NAVAL OFFICER. My orders from the governor are to prevent you from remaining here, and the order will be carried out. I expect you to leave on this steamer."

Under the circumstances Mr. Ripley "left," and was forced to make the round trip to Sydney. Upon his return to San Francisco he entered suit for damages in the Federal court, against the Governor of Samoa, for having restrained him of his liberty. Meanwhile that governor has retired and the suit is still pending in a Chicago court. Recently, I understand, a demurrer to the pleading filed by the former governor was overruled.

And this took place under the jurisdiction of the American flag.

GOVERNOR BRYAN ON SAM RIPLEY

When, at Governor Bryan's request for charges that I had heard against the Samoan Government, I stated to him, in substance, the foregoing, as having been presented to my notice, he said to me, in substance:

"Sam Ripley can come to Samoa any time he pleases; stay where and as long as suits him and do and say anything that he wants to, and, so far as I am concerned, as long as he does not violate any of our laws, he will not be interfered with."

"Governor," I replied, in substance, "you have brought out the very point involved, in a strong light. You take a liberal view of the matter. Your predecessor took the opposite view and your successor may do likewise. It is not personality of any particular governor that is involved; but the system, under which any governor has the personal power to exclude or banish any man from Samoa."

And that is the issue; and Congress is the only power which can change the existing system in Samoa, and provide one which is more consistent with American ideals of justice and human rights.

OMNIBUS PENSION BILLS—CONFERENCE REPORTS

Mr. KNUTSON. Mr. Speaker, I call up conference report on the bill (H. R. 7906) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and so forth, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

The Clerk read the conference report.

The conference report and statement are as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 7906) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and so forth, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 2, 3, 4, 5, 10, 11, 14, 16, 18, 20, 22, 23, 24, 27.

That the House recede from its disagreement to the amendments of the Senate numbered 6, 7, 8, 9, 13, 15, 17, 19, 21, 25, 26, 28, 29, and agree to the same.

Amendment No. 12: That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment, as follows: In lieu of the language proposed to be stricken out, insert the following:

"The name of Mary A. Wray, widow of Seaburn D. Wray, late of Troop M, Fourth Regiment United States Cavalry, and pay her a pension at the rate of $12 per month."

And the Senate agree to the same.

Amendment numbered 30: That the House recede from its disagreement to the amendment of the Senate numbered 30, and agree to the same with an amendment as follows: Strike out of the Senate engrossed amendment the following items:

Page 3: "The name of George Libby, late of Company G, Seventh United States Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving."

Page 3: "The name of William F. Rogers, late of Company A, Sixth Regiment California Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving."

Page 4: "The name of Ulysses G. Jones, late of Company I, First Regiment South Dakota Infantry, and pay him a pension at the rate of $30 per month."

Page 5: "The name of Clarence J. Cure, late of Company F, Fourteenth Regiment United States Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving."

Page 5: "The name of Walter Scott Lafans, late of Company A, Thirteenth Regiment Minnesota Infantry, and pay him a pension of $18 per month in lieu of that he is now receiving."

Page 6: "The name of George E. Ryan, late of Company G, Sixth Regiment Missouri Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving."

Page 6: "The name of Sidney S. Pugh, major and surgeon, Second Alabama Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving."

Page 7: "The name of John F. Mossberg, late of Company D, Fifteenth Regiment Minnesota Infantry, and pay him a pension at the rate of $40 per month in lieu of that he is now receiving."

Page 8: "The name of William Hemphill, late of Company B, Sixth Regiment United States Infantry, and pay him a pension at the rate of $30 per month in lieu of that he is now receiving."

And the Senate agree to the same.

HAROLD KNUTSON,
J. M. ROBSION,
W. D. UPSHAW,
Managers on the part of the House.

PETER NORBECK,
BERT M. FERNALD,
B. K. WHEELER,
Managers on the part of the Senate.

STATEMENT

The managers on the part of the House on H. R. 7906 state that the Senate in passing said bill, which originally contained 124 items, struck out 27 and reduced the rate in two cases. The Senate also added to the bill 43 items.

The committee in conference went carefully over the bill and restored 15 of the House items that had been stricken out and one case at a reduced rate. Further, several items that were not restored will be taken care of by the Spanish War pension act of May 1, 1926.

Nine of the items added by the Senate were stricken out.

The bill now contains 113 House and 34 Senate items as recommended by the conferees.

HAROLD KNUTSON,
J. M. ROBSION,
W. D. UPSHAW,
Managers on the part of the House.

The conference report was agreed to.

Mr. KNUTSON. Mr. Speaker, I call up conference report on the bill (H. R. 9966) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors.

The Clerk read the conference report.

The conference report and statement are as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 9966) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendments numbered 1, 5, 12, 14, 16, 19, 20, 23, 28, 29, 34, 35, 42, 43, 53, 56, 57, 61, 63, 66, 67, 68, 72, 80, 81, 82, 83, 87, and 89.

That the House recede from its disagreement to the amendments of the Senate numbered 2, 3, 4, 6, 7, 8, 9, 10, 11, 13, 15, 17, 18, 21, 22, 24, 27, 30, 31, 32, 33, 36, 37, 38, 39, 40, 41, 45, 46, 47, 49, 50, 51, 52, 54, 55, 58, 59, 60, 62, 64, 65, 69, 70, 71, 73, 74, 75, 76, 77, 78, 79, 84, 86, and 88, and agree to the same.

Amendment numbered 25: That the House recede from its disagreement to the amendment of the Senate numbered 25, and agree to the same with an amendment as follows: In lieu of the language to be stricken out insert the following:

"The name of Harry W. Clark, late of Company L, Twenty-ninth Regiment United States Infantry, Philippine Insurrection, and pay him a pension at the rate of $20 per month in lieu of that he is now receiving."

And the Senate agree to the same.

Amendment numbered 26: That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment as follows: In lieu of the language to be stricken out insert the following:

"The name of Archie H. Wright, late of Company I, Thirty-third Regiment Michigan Infantry, war with Spain, and pay him a pension at the rate of $6 per month."

And the Senate agree to the same.

Amendment numbered 44: That the House recede from its disagreement to the amendment of the Senate numbered 44, and agree to the same with an amendment as follows: In lieu of the language to be stricken out insert the following:

"The name of Frank Siddall, late of Troop F, First Regiment United States Cavalry, Indian wars, and pay him a pension at the rate of $6 per month."

And the Senate agree to the same.

Amendment numbered 48: That the House recede from its disagreement to the amendment of the Senate numbered 48, and agree to the same with an amendment as follows: In lieu of the language to be stricken out insert the following:

"The name of Tide Owens, late unassigned recruit, Thirty-sixth Regiment United States Volunteer Infantry, war with Spain, and pay him a pension at the rate of $6 per month."

And the Senate agree to the same.

Amendment numbered 85: That the House recede from its disagreement to the amendment of the Senate numbered 85, and agree to the same with an amendment as follows: In lieu of the language to be stricken out insert the following:

"The name of Ora Horton Wyeth, widow of Marlborough C. Wyeth, late major and lieutenant colonel, Medical Corps, United States Army, and pay her a pension at the rate of $40 per month in lieu of that she is now receiving."

And the Senate agree to the same.

Amendment numbered 90: That the House recede from its disagreement to the amendment of the Senate numbered 90, and agree to the same with an amendment as follows: Strike out of the Senate engrossed amendment the following items:

Page 10: "The name of Reuben J. Reals, late of Company F, First Regiment Wyoming Volunteer Infantry, Spanish-American War, and pay him a pension at the rate of $24 per month in lieu of that he is now receiving."

Page 10: "The name of Frank D. Brown, late of Company G, Eleventh Regiment United States Infantry, and pay him a pension at the rate of $50 per month in lieu of that he is now receiving."

Page 11: "The name of Marvin Z. Leonard, late of Company D, First Regiment South Dakota Volunteer Infantry, and pay him a pension at the rate of $18 per month in lieu of that he is now receiving."

And the Senate agree to the same.

Amendment numbered 90: That the House recede from its disagreement to the amendment of the Senate numbered 90, and agree to the same with an amendment as follows: In lieu of the language proposed in the Senate engrossed amendment insert the following:

Page 11: "The name of Edgar Fire Thunder, late of Troop D, United States Regiment of Indian Scouts, and pay him a pension at the rate of $6 per month."

And the Senate agree to the same.

HAROLD KNUTSON,
J. M. ROBSION,
W. D. UPSHAW,
Managers on the part of the House.

PETER NORBECK,
BERT M. FERNALD,
B. K. WHEELER,
Managers on the part of the Senate.

STATEMENT

The managers on the part of the House on H. R. 9966 state that the Senate in passing said bill, which originally contained 222 items, struck out 76 and reduced the rate in 13 cases. The Senate also added to the bill 34 items.

The committee in conference went carefully over the bill and restored 29 of the House items that had been stricken out and in several cases restored the rates that had been reduced. Further, several items that were not restored will be taken care of by the Spanish War pension act of May 1, 1926.

Three items added by the Senate were stricken out and the rate in one reduced.

The bill now contains 175 House and 31 Senate items as recommended by the conferees.

HAROLD KNUTSON,
J. M. ROBSION,
W. D. UPSHAW,
Managers on the part of the House.

The conference report was agreed to.

CONTRACTS FOR SCREEN-WAGON SERVICE

Mr. SPROUL of Illinois. Mr. Speaker, I call up conference report on the bill (S. 1930) authorizing the Postmaster General to readjust the terms of certain screen-wagon contracts, and for other purposes.

The Clerk read the conference report.

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 1930) entitled "An act to authorize the Postmaster General to readjust the terms of certain screen-wagon contracts, and for other purposes," having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its disagreement to the amendments of the House numbered 1 and 2, and to the title of the bill, and agree to the same.

ELLIOTT W. SPROUL,
M. A. ROMJUE,
FRANK H. FOSS,
Managers on the part of the House.

GEO. H. MOSES,
PARK TRAMMELL,
Managers on the part of the Senate.

The conference report was agreed to.

AMENDMENT OF TRAFFIC ACT, DISTRICT OF COLUMBIA

Mr. ZIHLMAN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 3802) to amend the act known as the District of Columbia traffic act, 1925, approved March 3, 1925, being Public, No. 561, Sixty-eighth Congress, and for other purposes, with Senate amendments, disagree to the Senate amendments, and ask for a conference.

Mr. McKEOWN. Mr. Speaker, reserving the right to object, I would like to ask the gentleman what material amendments the Senate put on the bill?

Mr. ZIHLMAN. There are a number of amendments to the bill.

Mr. McKEOWN. What material amendments were put on?

Mr. ZIHLMAN. Well, the Senate struck out the provisions relating to hotels having taxicabs at the disposal of their guests. The other amendments are not material.

Mr. GILBERT. May I ask the gentleman what his motion is?

Mr. ZIHLMAN. I am asking unanimous consent to send the bill to conference. The gentleman from Kentucky will be one of the conferees.

Mr. McKEOWN. The amendment in relation to taxicabs was put in the bill by the House; did the Senate amend this amendment or just strike out the amendment?

Mr. ZIHLMAN. They struck out the provision relating to the use of taxicabs by hotels.

Mr. McKEOWN. I take it the gentleman will keep in mind when the bill gets to conference the sentiment as expressed by the House.

Mr. ZIHLMAN. The gentleman, as one of the conferees, expects to try as best he can to follow the sentiment of the House, but I will say to the gentleman that under existing conditions there is no authority for the director of traffic to issue licenses here in the District of Columbia, and I think it is very essential that that authority should be granted.

Mr. McKEOWN. I have no objection to the bill going to conference, but I shall be very much interested in knowing whether they are going to allow the taxicabs to entirely take the streets in this town.

The SPEAKER. Is there objection to the request of the gentleman from Maryland?

There was no objection.

The SPEAKER appointed the following conferees on the part of the House: Messrs. ZIHLMAN, UNDERHILL, and GILBERT.

MARKING THE SOLDIERS' GRAVES IN FRANCE

Mr. GIBSON. Mr. Speaker, I ask unanimous consent to address the House for five minutes in regard to marking the soldiers' graves in France.

The SPEAKER. The gentleman from Vermont asks unanimous consent to address the House for five minutes. Is there objection?

There was no objection.

Mr. GIBSON. Mr. Speaker, I desire to bring to the attention of Congress the situation in respect to the marking of the graves of our soldiers who are buried in France.

The Sixty-seventh Congress passed an act creating the American Battle Monuments Commission, and the succeeding

Congress made an appropriation to commence the work of erecting monuments on the battle fields of the late war. These monuments are to mark the individual graves as well as the scenes of conflict. The completed work should represent the regard of the Nation for its soldiers and preserve their patriotism in the memory of future generations.

If there is one quality that such memorials should have, it is that they should be of such material as to be everlasting. Permanency, therefore, in the marking of the location of the graves and in the preservation of the name and record is the first purpose that should be accomplished.

The second purpose is to fittingly express our appreciation of the service and loyalty of our soldiers, and to honor their outstanding service to the Nation.

The third purpose for the erection of these monuments is to preserve the memory of our soldiers and the record of their heroism. This involves permanency of the memorial, that it may transmit to the people of the future the spirit of America, the spirit that was with our soldiers in the greatest conflict in the world's history.

You will all agree that if we are to succesfully accomplish these purposes in the erection of our battle monuments we must use the most durable material we can find. No cheap or temporary work should be considered. [Applause.]

I have been informed that the members of the Battle Monuments Commission are favorable to the erection of markers for our soldiers constructed of Carrara marble from Italy, and that the sole consideration of the commissioners was directed to the matter of cost. I am told that Carrara marble was favored because the bid for that material was the lowest of any excepting those submitted by the manufacturers of artificial stone.

Marble is considered by sculptors to be one of the best of materials for statuary work for indoor uses. It is of fine grain and even texture and is soft enough to be easily carved. Scientists tell us that the very things that make marble so desirable for indoor uses are the things that make this marble undesirable when exposed to the weather, especially when cut into small and individual pieces and placed unprotected in a cemetery where all sides are exposed to the elements. Actual results prove the fact.

Go to Arlington Cemetery, or to any other, and you will find that marble that has been standing for 30 years or more has become discolored and in many cases cracked and disintegrated. Look at the Peace Monument, here in the shadow of this building, and you will see that the beauty of the marble has disappeared. Congress authorized a considerable appropriation for that monument, but it now hardly serves the purpose for which it was erected, because its beauty was not lasting. So it may well be doubted if marble in any form should be used for these markers.

But quite apart from these considerations, I am thoroughly opposed to the use of any foreign material for the marking of the graves of our soldiers. There surely should be something associated with American cemeteries that comes from America, the native land of those who sleep there, the land they loved and served so well in life. [Applause.]

Whatever material is used it should be durable and everlasting. The floor leader, the gentleman from Connecticut [Mr. TILSON], in an address before the House recently said:

> * * * I think that a very thorough study ought to be made of conditions in the regions where these cemeteries are situated, such as the effect of climate and the weather upon certain kinds of material. It is far more important that the work done in these cemeteries shall be done right and that the work shall be of an enduring character rather than that it is to be done immediately. * * * In connection with these monuments in Europe, it is of first importance that we get the right material and that we see to it that these cemeteries are so made and so cared for that out in the future, 25, 50, or 100 years from now, they may be something of which we shall feel proud. A delay of two or three years now, while we are determining the right kind of material to be used, will be relatively unimportant in the long run of years. * * * It would be a great mistake, in my judgment, if we went ahead now without full knowledge and put up monuments there that in 10 or 25 years would be crumbling to pieces. It is a matter to which we can afford to go forward slowly.

I have been informed that the commission can secure markers of Carrara marble at $14.90, while the American bids for granite run from $57 to $110. It is claimed that not enough money has been appropriated by Congress to permit the selection of any other material than the Carrara marble or its equivalent in price. But this fact must be borne in mind, the marble markers will need replacing in time, so it is an open question if granite markers would not be the cheaper in the end, since they would be as enduring as the hills. If Congress has not given a sufficient sum to the commission to provide for enduring markers, then Congress should appropriate a sufficient sum to insure the erection of crosses of the most enduring material obtainable.

Mr. COLE. Will the gentleman yield?

Mr. GIBSON. I will.

Mr. COLE. Is the gentleman sure that he is correct? I think the fact was brought out before the committee that the intention was to use granite.

Mr. GIBSON. I am told and I have a statement that it is the decision of the Battle Monument Commission to use Italian marble.

Mr. COLE. As I understand, in the construction of the large monuments they are going to use granite.

Mr. GIBSON. It is my understanding that they are to use Carrara marble for markers for the soldiers.

Mr. COLE. But for the large monuments they are to use granite. I think that was the purpose of the committee that reported it out, and that is the material that ought to be used.

Mr. GIBSON. There was a time when we did not stop to count the cost. There was a time when there was nothing too good for those boys who came out of the factories, the stores, and off the farms to meet in combat the men of the mightiest fighting machine in the world. There was a time when we were marshaling our billions to give them the best, when the Nation's heart went out to them in the fullness of admiration and gratitude. Now that many of them have made the supreme sacrifice, we should not quibble over the cost of the stone to mark their last resting places, and propose because it is cheaper to buy Italian marble to show the gratitude of America in enduring memorials. I do not know the views of others, but I am opposed to this plan. Have we not already done enough for Italy in the splendid present we gave in the debt settlement?

I want to see the graves of American soldiers marked with American stone.

I hope the Congress will express its opposition to the present plan and its disapproval of any attempt to honor the memory of the brave sons of America in any way except by enduring stone from their native land. [Applause.]

FAIRNESS OF THE SPEAKER—STATEMENT CONCERNING MANUEL QUEZON

Mr. MOREHEAD. Mr. Speaker, I ask unanimous consent to proceed for five minutes.

The SPEAKER. The gentleman from Nebraska asks unanimous consent to proceed for five minutes. Is there objection?

There was no objection.

Mr. MOREHEAD. Mr. Speaker and Members of the House, I realize that we are rushing to get through and quit. I am willing, and I am not going to consume much time. I have not taken much space in the CONGRESSIONAL RECORD so far. We are soon to return to our homes, some to campaign and some not to campaign; some to return and some not to return; some to visit that great city from which no traveler ever returns.

I regard this time as something like the last day of school. I want in this connection—and I am not speaking for any clique, any clan, or any party—to express my appreciation for the fair treatment we have received from the Speaker of this House. I speak as a minority Member. I have watched with a good deal of interest the convening and adjournment of continental Congresses, and it is seldom we find a Speaker who can rise to the occasion under every condition and give fair treatment to the minority Members of this House, be he a Democrat or Republican Speaker, as has the present Speaker, NICHOLAS LONGWORTH, and it is a pleasure for me to so state it. [Applause.]

I want as a Member to express my appreciation for the present Speaker's fairness under every and all conditions. [Applause.] We are always in great legislative bodies, as well as executive, disappointed to a certain extent about our accomplishments. Legislation of a constructive character and far-reaching nature always meets bitter opposition.

The great financial question was a matter of discussion and a question in this country for more than 50 years. Our present Federal bank system has made panics a thing of the past, and if not entirely successful may be traceable to the administration by its enemies. I sometimes feel that we fail to appreciate the far-reaching effect of constructive legislation.

Labor questions have been taken care of to a large extent. We needed a great constructive man to build the Panama Canal, a wonderful achievement and great success. I have been in hopes that at this session we would take up the question of a greater degree of self-government for the citizens of the Philippine Islands.

The impression is world-wide we were going to help the Philippines to solve their problems and establish their own government. We should keep faith and make our word good. If we fail we may pull the house down on our own heads. A real nonpartisan commission should be appointed to report what is best for Philippine citizens and what is best for the people of the United States; not what is best for a few speculators of this country.

I want in this connection to ask unanimous consent to print with my remarks a statement from one of my constituents who is perhaps as familiar with the condition in the Philippine Islands as any man in the United States. I refer to Dr. A. P. Fitzsimmons, one of Nebraska's most progressive and capable citizens. He served some four years as treasurer of the Philippine Islands. It is not a long statement, but gives his ideas of the conditions in the islands.

The SPEAKER. The gentleman from Nebraska asks unanimous consent to extend his remarks in the RECORD and include a statement by one of his constituents as to self-government in the Philippine Islands. Is there objection?

There was no objection.

The matter is as follows:

Who is Manuel Quezon, the so-called Filipino politico? He had not the advantages of being born and raised "under the shadow of Bunker Hill" nor near the "cradle of liberty." Far across the seas, where the great, rolling waves of the broad Pacific lap the ever verdant coast of eastern Luzon, in a small village perched upon its tropical hills, ever green with nature's luxuriant growth, only found under the balmy skies of a tropical paradise, here overlooking the broad expanse and freedom of the Pacific Ocean, was born a man of humble parentage (yea, even as humble as our beloved Lincoln), yet this man was to challenge the attention of the greatest lawmaking body of the world. This man born with no opportunities except the ones he made for himself, in his early life he had none of the advantages of the average young man of to-day.

Let us briefly follow his career. We see him in his teens as a member of the Filipino Army, where he rose to the rank of colonel before he reached the age of 21. We see him following the fortunes of that army until it was vanquished before the conquering hosts of an army which has never known defeat. We see him made captive, languishing in prison, awaiting that proclamation of amnesty which gives him his liberty after he takes the oath of allegiance, fully realizing that further resistance against our Government was of no avail, he takes the solemn oath of allegiance to the United States and begins the work of reconstruction among his war-torn people.

We see him elected to the governorship of his native Province; we now witness some of his constructive work as he rides through his Province entreating his constituents to plant coconut trees, improve their farms and villages, and build roads. This was more than 20 years ago, and to-day, if you ride through Tayabas Province and see the fine roads, the wilderness of coconut trees, the beautiful villages, the clean-looking and prosperous people, here you witness some of the magnificent constructive work of Manuel Quezon, the Filipino politico.

Let us follow his career farther, we see him after his service as governor elected to the lower house of the legislature, representing his people in the lawmaking body of the government; he becomes an active leader in this body, from which he was promoted to the position of Philippine Commissioner to Washington, D. C., where he served with distinction, assisting very materially in the framing of the Jones bill giving the Filipinos a more autonomous government. After the passage of this bill in 1916 he returned to his home in the Philippine Islands, becoming a candidate for senator in his home district; he was unanimously elected to that office, and he was a leading figure in the organization of the first Philippine Senate, being elected president of the senate, which position he still holds.

With the cooperation of Speaker Osmena of the Philippine House a very progressive legislative program was carried out the first year after the establishment of the Philippine Senate. (Since the inauguration of the present legislative system efforts have been made by a large part of the American press in the Philippine Islands to break down this cooperation between the speaker of the house and the president of the senate and create jealousy between them and especially between Speaker Osmena and President Quezon, but both Speaker Osmena and Mr. Quezon were farseeing enough to not yield to petty jealousies and have always continued in a hearty cooperation for the benefit of all their constituents.)

The war came; no one was more enthusiastic to lend all the assistance possible than Senator Quezon; by his active work with the assistance of his Filipino coworkers, Liberty-bond sales were carried out, the Philippine Islands being among the first to subscribe their quota; an army of 25,000 Filipino volunteers were organized offering their service to the American Government. The most prosperous period in the history of the Philippine Islands was from 1916, after the Jones law went into effect, until 1921. The teaching forces in the public schools were increased from 7,600 in 1914 to over 22,000 in 1921 (General Wood report); one could travel unmolested and unarmed in the remotest islands with perfect safety; a woman or child was as safe in the remotest districts as in the average American home; a spirit of cooperation was prevalent everywhere; there was a friendship between Filipinos and Americans such as never occurred before; all of this was accomplished by the active cooperation of Americans and Filipinos, the latter under the leadership of that matchless team of Filipino politicos, Manuel Quezon and Sergio Osmena.

Political parties are the foundation of our government; our congress is made up of politicians. Were it not for political parties, where would Mr. Quezon's critics of to-day be? The little quotation "A statesman is a politician who has succeeded" seems to fit the case very well. Were it not for Mr. Quezon's well-known ability, he would not be the target of all the writers who spend a short time in the Philippine Islands solving governmental problems; nor would the politicians who visit there accord him any notice. A man endowed with courage and ability attracts people to him regardless of the fact he is living in a remote part of the world, and it is highly complimentary of his value to his people to have his maligners accord him so much attention; with each thrust of their maligning lances he grows stronger, placing him just that much closer to the goal he is seeking. May a just God give him strength to continue his fight in the future as he has in the past.

Respectfully submitted by one who knows him personally and was closely associated with him for five years while he was carrying out some of the policies of the Philippine government.

A. P. FITZSIMMONS,
Ex-Treasurer Philippine Islands.

WHY THE COMMITTEE ON AGRICULTURE REPORTED OUT THREE FARM RELIEF BILLS

The SPEAKER. The Chair recognizes the gentleman from Nebraska [Mr. HOWARD]. [Applause.]

Mr. HOWARD. Mr. Speaker, I am uneasy right now. Some several weeks ago, following the defeat of the Haugen bill by the House, I asked unanimous consent for 10 minutes one morning for the purpose of discussing remedial legislation in behalf of agriculture. Everyone will remember how various obstacles have appeared in my pathway since that time until only yesterday, through the courtesy of the majority leader, was I permitted to foreclose my right to speak for 10 minutes. I am here now for that purpose.

First, I want to disabuse the mind of any colleague who ever imagined that he had a chance to act upon the Haugen bill in this House by informing him that it was never here. We had its dead body here. It was halved and hung up by the hind legs before we ever got to it. It was killed in one of those secret sessions—executive sessions, if you please—of the Agricultural Committee. How do I know anything about what happened in a secret session of that commitee?

Mr. STALKER. An exe-cu-tive session.

Mr. HOWARD. An exe-cu-tive session, the gentleman from New York corrects me, and for the time being I stand corrected. You may wonder how I come to know what happened in one of those solemnly secret sessions of the committee. Did any member of that committee betray his trust by violating the secret confidence reposed in him? No; perhaps not. I will tell you the truth about how I got the information. It was whispered to me by a little bird.

Mr. LAGUARDIA. Was that a migratory bird?

Mr. HOWARD. No; he was more or less an indigenous bird. [Laughter.]

Mr. LAGUARDIA. Why not tell us something about this bird, because we are going to legislate about them pretty soon.

Mr. HOWARD. I hesitate to give the name of the bird, because I know that men are prejudiced.

Mr. LAGUARDIA. Give us his species.

Mr. HOWARD. Men are prejudiced. I remember upon one occasion there was a beautiful child—oh, she was marvelously beautiful, and everyone loved her—who played on the streets sometimes with bad boys. She heard their bad talk and got into the habit of using that bad talk. Her parents did everything in the world to have her stop using this bad language, but they could not. Finally they resolved that they would call in the parish priest because they knew the little girl loved her spiritual father very much. The priest came, and after some time he managed to get from the little girl a promise that she would not swear any more. After she had given the promise she turned to the father and said, "Now, Father, I have given you my promise, and you have to tell me who told you that I swear." It so happened that this little girl was of my own lineage, more or less Irish, and when the priest told her that a little bird had whispered the information to him, the little Irish girl said, quick as a flash, "Yes; I bet it was one of those damned English sparrows." [Laughter.]

Mr. Speaker, the little bird of which I speak—mind you, I do not say it was an English sparrow, because it was absolutely a truthful bird. You all remember the day of the last

meeting of the Agricultural Committee. It was a beautiful spring day in May. The windows of the committee room were open, and the bird sat on the window sill. The bird told me that at all times in the Agricultural Committee there was a majority in favor of reporting out the Haugen bill as the choice of the committee. Well, why did it not come out in that way. Oh, the bird told me some more. The bird told me that at the proper time—I can not remember the names, but I can remember the descriptions—a member from Illinois I think it was rose and addressed the committee and said:

Gentlemen, we are up against a proposition. Do you not know that we have another bill here besides the Haugen bill, and do you not know that it is quite generally regarded as the administration bill, the President's first choice? Therefore, I think it would be practically a slap in the President's face if we did not report out that bill also, and so I move that the Haugen bill and the Tincher bill and the Aswell bill, that glorified trinity, be reported out together.

Quite a number of members did not want to do that, because it will be remembered that at all times in the workings of the committee, according to the most reliable reports that I can get, there was a clear majority in favor of the Haugen bill. Naturally you wonder again why the Haugen bill was not reported out alone. The gentleman who made that suggestion, and I think he comes from Indiana or Illinois—the little bird did not tell me surely, but I place him in Illinois for safety's sake—said:

Gentlemen, look out, watch your step, what are you going to do? Do you not know that we have two other bills here and that one of them is the President's first choice of all of the agricultural bills; are you going to vote out this Haugen bill and kill the Tincher bill, which is the President's choice?

That made the brethren on the committee stop and think. Then there came before the committee a wonderful soul. The bird did not explain to me just exactly what his name was, but he gave me a description of this gentleman; and if the description is true, and I think it was, he is one of my dearest friends. I am very fond of him, although sometimes he almost frightens me, though I do not think he means to. He arose, shook his mane, and told the committee that one certain bill there, known as the Tincher bill—he did not know anything about it but he had been told that it was the President's choice of the bills before the committee—should not be lightly set aside by any means. He warned them that it would be wicked to slap the President in the face by not reporting his favorite bill. And now, if any of you have wondered how it was that, having a clear majority on the Agricultural Committee in favor of the Haugen bill, that Haugen bill was not brought out as the first choice of that committee, you will understand. It was because a leonine gentleman on the committee rose, shook his mane very viciously, and told all of the younger members of the committee that they should have a care about how they were going to vote on that motion.

He admonished them to remember what happened to those fellows from Wisconsin who went contrary to the will of the White House. He admonished them to stop, look, and listen, and at last his admonishments and his pleadings—because you all know him to be of a very pleasing personality—at last they were successful, and all three bills—the Haugen bill, the Tincher bill, and the Aswell bill—were laid before us without any favorable recommendation in behalf of either.

The SPEAKER. The Chair regrets to inform the gentleman from Nebraska that his time has expired.

Mr. HOWARD. So do I regret. [Laughter and applause.]

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Craven, one of its clerks, announced that the Senate had passed bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 949. An act to reduce the rate of postage on farm products, and for other purposes.

The message also announced that the Senate had agreed to the amendments of the House of Representatives to the amendment of the Senate to the bill (H. R. 7188) granting the consent of Congress to the J. R. Buckwalter Lumber Co. to construct a bridge across Pearl River in the State of Mississippi.

The message also announced that the Senate had agreed to the amendment of the House of Representatives to the amendment of the Senate No. 3 to the bill of the following title:

H. R. 10942. An act to extend the time for commencing and completing the construction of a bridge across the White River near Augusta, Ark.

The message also announced that the Senate had insisted upon its amendment to the bill (H. R. 7) entitled "An act to amend the act entitled 'An act for the retirement of employees in the classified civil service, and for other purposes,' approved May 22, 1920, and acts amendatory thereof," disagreed to by the House of Representatives, had agreed to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had ordered Mr. COUZENS, Mr. STANFIELD, and Mr. MCKELLAR as the conferees on the part of the Senate.

ENROLLED BILLS SIGNED

Mr. CAMPBELL, from the Committee on Enrolled Bills, reported that the committee had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

H. R. 7190. An act granting the consent of Congress to the Grandfield Bridge Co., a corporation, to construct, maintain, and operate a bridge across Red River and the surrounding and adjoining public lands, and for other purposes;

H. R. 9210. An act to amend section 1 of the act of Congress of June 6, 1924, entitled "An act for the protection of the fisheries of Alaska, and for other purposes";

H. R. 9461. An act to extend the time for the construction of a bridge across the Rio Grande between Eagle Pass, Tex., and Piedras Negras, Mexico;

H. R. 10352. An act to extend the time for constructing a bridge across the Ohio River between Vanderburg County, Ind., and Henderson County, Ky.;

H. R. 11718. An act granting the consent of Congress to the Commonwealth of Pennsylvania to construct a bridge across the Allegheny River;

H. R. 11719. An act granting the consent of Congress to Kansas-Nebraska-Dakota Highway Association to construct a bridge across the Missouri River between the States of Nebraska and South Dakota;

S. 2741. An act for the relief of the State of Ohio;

S. 2959. An act granting the consent of Congress to Lake Washington Corporation to construct a bridge across Lake Washington, in King County, State of Washington;

S. 3382. An act to appropriate tribal funds of the Klamath Indians to pay actual expenses of delegates to Washington, and for other purposes;

S. 3691. An act to convey to the city of Lakeland, Fla., certain Government property;

S. 3841. An act to provide for the distribution of the Supreme Court reports and amending section 227 of the Judicial Code;

S. 3884. An act authorizing expenditure of tribal funds of Indians of the Tongue River Indian Reservation, Mont., for expenses of delegates to Washington;

S. 4056. An act to amend section 98 of the Judicial Code as amended;

S. 3967. An act authorizing the construction of a bridge across the Ohio River approximately midway between the city of Owensboro, Ky., and Rockport, Ind.;

S. 3989. An act to extend the time for the construction of a bridge by the city of Minneapolis, Minn., across the Mississippi River in said city;

S. J. Res. 101. Joint resolution authorizing the Joint Committee on the Library to procure an oil portrait of the late President Warren G. Harding;

S. J. Res. 62. Joint resolution to authorize the Secretary of Agriculture to accept membership for the United States in the Permanent Association of the International Road Congresses, and for other purposes;

S. 4094. An act to amend an act entitled "An act to incorporate the American Social Science Association", and for other purposes;

H. R. 4554. An act for the relief of Adaline White;

H. R. 12018. An act granting the consent of Congress to W. E. Buell, of Seattle, Wash., to construct a bridge across Port Washington Narrows within the city of Bremerton in the State of Washington;

S. 104. An act for the relief of the American Transportation Co.;

S. 107. An act for the relief of the Commercial Union Assurance Co. (Ltd.);

S. 453. An act for the relief of Belle H. Walker, widow of Frank H. Walker, deceased, and Frank E. Smith;

S. 466. An act for the relief of Helen M. Peck;

S. 585. An act for the relief of F. E. Romberg;

S. 2817. An act for the relief of Edgar K. Miller;

S. 2955. An act for the relief of Chaplain A. E. Stone, United States Navy;

S. 3135. An act granting consent of Congress to Eagle Pass & Piedras Negras Bridge Co. to construct, maintain, and operate a bridge across the Rio Grande at Eagle Pass, Tex.; and

S. 3195. An act granting the consent of Congress to the Highway Department of the State of Tennessee to construct a bridge across the Tennessee River on the Lee Highway at Loudon, in Loudon County, Tenn.

SENATE BILL REFERRED

Senate bill of the following title was taken from the Speaker's table and referred to its appropriate committee, as indicated below:

S. 949. An act to reduce the rate of postage on farm products, and for other purposes; to the Committee on the Post Office and Post Roads.

FEDERAL TORT CLAIMS BILL

Mr. SNELL. Mr. Speaker, I present a privileged report from the Committee on Rules.

The SPEAKER. The Clerk will report it.

The Clerk read as follows:

House Resolution 283

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of S. 1912, to provide a method for the settlement of claims arising against the Government of the United States in sums not exceeding $3,000 in any one case. That after general debate, which shall be confined to the bill and shall continue not to exceed two hours, to be equally divided and controlled by those favoring and opposing the bill, the bill shall be read for amendment under the five-minute rule. At the conclusion of the reading of the bill for amendment the committee shall arise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and the amendments thereto to final passage without intervening motion except one motion to recommit.

Mr. SNELL. Mr. Speaker, this resolution has for its purpose the consideration of the bill (S. 1912) which provides a method for the settlement of claims arising against the Government of the United States in sums not exceeding $3,000 in any one case. In my judgment this is as constructive a piece of legislation as has been presented to the House this session. [Applause.] The Members of the House are well aware of the archaic method of procedure we have at the present time for the consideration of private claims. It is only fair that an honest and legitimate claim against the Government should be paid within a reasonable time, and especially considering the fact that the Government itself is so prompt in its demand for the payment of its claims against the individual citizen. In return the Government should set a good example by promptly paying the claims against itself. It is well known to all of us that many legitimate claims, to which there is no opposition on the part of anyone, have to wait such a long time before they go through this routine and red-tape manner of settlement which we have at present, that is practically a denial of just payment to the individual claimant. Therefore any legislation that corrects this injustice and facilitates the payment of just claims is certainly a piece of constructive legislation. It comes here with the unanimous report from the Committee on Claims, a unanimous report from the Committee on Rules, and I am sure the House will also give it unanimous approval. So far as I know, there is no desire to discuss the rule, and therefore I move the previous question to final passage.

The previous question was ordered.

The resolution was agreed to.

Mr. UNDERHILL. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill S. 1912.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill S. 1912, with Mr. LEHLBACH in the chair.

The CHAIRMAN. The House is in Committee of the Whole House on the state of the Union for the consideration of the bill S. 1912, which the Clerk will report.

The Clerk read as follows:

A bill (S. 1912) to provide a method for the settlement of claims arising against the Government of the United States in sums not exceeding $3,000 in any one case.

Mr. UNDERHILL. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts? [After a pause.] The Chair hears none.

Mr. UNDERHILL. Mr. Chairman and gentlemen of the committee, there is very little to be said on this legislation that has not already been said, and there is very little in the legislation that is not familiar to the Members as a whole. I would like to take a few minutes, however, to recapitulate some of the reasons for presenting this legislation. The chairman of the Committee on Rules has briefly stated the situation as it exists to-day with reference to claims. A few weeks ago I took over an hour of time on the floor of the House to go into details, and yesterday I sent to the office of every Member of the House my remarks upon that occasion, so if any Member is not familiar with the purpose and object of the bill it is because he has not had time thus far to study such information as has been afforded. The situation has become practically impossible. It affects the membership of this House to a serious degree, for the Members are continually handicapped by reports that come from another body and are reported out without proper investigation. Then it is expected that a Representative on this side shall get through this legislation, that is practically impossible, and the onus therefore rests upon the shoulders of the Congressman, and no excuse which he can offer at home is understood by his people, because they say, "Well, this passed the Senate"—as though that were a recommendation—"why could you not get it through the House?" The bill is far-reaching in its possibilities, and it is a departure from the policy which has existed ever since the creation of the Government.

But the conditions are not such as obtain to-day. There was little or no necessity for such legislation as this 50 years ago, although even as far back as 55 years ago efforts were made by some of the then most prominent Members of the House, some of them who were related in the capacity of fatherhood to present Members of the House, in an endeavor at that time to find relief. I remember specifically Mr. LANHAM, of Texas, whose father was here at the time, and in my research I found a great deal of information of great value to me which fell at that time from the lips of Mr. LANHAM'S father. Then the father of Mr. TUCKER, of Virginia, also made efforts along this direction and accomplished a great deal of good in the passage of the Tucker bill.

Conditions, however, have grown from bad to worse, until to-day we must find some relief not only for Congress, and the Members of the House particularly, but for our citizenship. It is not right that the Government should impose upon its people, its citizens, requirements, rules, regulations, laws, and penalties which it itself does not observe. It is having a very bad effect on the minds of the people. I heard one man of prominence say not long ago that the United States Government was the meanest creditor and the meanest debtor that he knew of throughout the realms of the world. We do not want to have the people think that of this great Government of ours. We would much rather have them feel that they have justice and consideration shown them in the consideration of just and equitable claims.

I think that when the bill is reached for reading under the five-minute rule it will be better for me to explain its provisions than to take the time now.

Mr. HUDSPETH. Mr. Chairman, will the gentleman permit an interruption there?

Mr. UNDERHILL. Certainly.

Mr. HUDSPETH. As I read the bill, claims in amounts between $5,000 and $10,000 arising prior to the year 1920 would be barred altogether from going into the courts?

Mr. UNDERHILL. Yes. The reason for that is that in previous legislation of this character the committee has decided to make the legislation retroactive for five years, and five years only. However, the remedy does lie in Congress, as it has always been heretofore, and any claim which occurred previous to the retroactive feature of this bill can be brought before Congress for legislation.

Mr. HUDSPETH. Then as I understand the gentleman—and I want to get it clearly in my mind—all governmental torts arising prior to 1920 can still be considered by Congress. Is that it?

Mr. UNDERHILL. Yes. We had to have some limitation of time.

Mr. CARTER of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. UNDERHILL. Yes.

Mr. CARTER of Oklahoma. Is it the purpose of having these claims here adjudicated by the department and then come to Congress with the same status as if they were adjudicated by the courts?

Mr. UNDERHILL. I will say that in 1921 the House passed the first piece of remedial legislation, known as the Underhill small claims bill, which gave the departments jurisdiction of claims up to $1,000. This bill seeks to increase the

amount from $1,000 to $5,000, I will state for the benefit of Members.

Mr. CARTER of Oklahoma. The gentleman did not catch my question. After a claim has been adjudicated by the department, does it then come to the House with the same status as a court judgment?

Mr. UNDERHILL. Yes. When the department makes a report it makes it to the Committee on Appropriations. It has to give a résumé of the case to the Committee on Appropriations. Then the Committee on Appropriations provides an item in the deficiency bill for the payment of that claim. It keeps the control in Congress.

Mr. MOORE of Virginia. Mr. Chairman, may I ask the gentleman a question?

Mr. UNDERHILL. Yes.

Mr. MOORE of Virginia. The gentleman referred to the condition of claims in the committee. How many claims have you on the calendar now?

Mr. UNDERHILL. We have had quite generous treatment on the part of the House recently. I can not tell exactly, but there were 160 bills on the calendar before the House was able to consider one of them.

Mr. MOORE of Virginia. It would relieve the calendar to what extent?

Mr. UNDERHILL. Well, we have had 2,000 claims before the committee this year, which is more than we ever had up to this time. If every one that could possibly come within the provisions of the act could be settled outside of Congress, we would still have 700 bills on our calendar for the judgment of the committee.

Mr. MOORE of Virginia. But looking ahead at the increase of business that comes before Congress, the conditions would be hopeless unless this legislation was passed?

Mr. UNDERHILL. Absolutely hopeless.

Mr. JONES. Can the gentleman tell how many claims are pending before his committee now?

Mr. UNDERHILL. About 2,000. Of course, we have already disposed of over 200.

Mr. HUDDLESTON. Mr. Chairman, will the gentleman yield?

Mr. UNDERHILL. Yes.

Mr. HUDDLESTON. Is it not a fact that only about 750 of these claims out of 2,000 would be eligible for adjudication under this bill?

Mr. UNDERHILL. More than that.

Mr. HUDDLESTON. Would it not be possible to draw a bill which would cover all claims of propriety, so as to do away with the practice of Congress considering matters of that kind, taking up its time in passing bills which ought never to be passed because Members have influence enough to get them through, and refusing to pass bills of equal merit because they are not supported by influence? Is it not possible once for all to relieve Congress of this kind of matter?

Mr. UNDERHILL. This bill goes in that direction as far as possible at the present time.

Although the House, I think, has come to the almost unanimous conclusion as to the virtue of this legislation, there still remain some old archaic ideas in another body, and it is a serious question, unless the committee has the cooperation and active support not only in this Chamber itself, but of every Member with his Senator, we can not get this legislation. If the Members will give their support and their active help and use their influence in the other body, I do not see how it is possible that the Senate will refuse to come to the conclusion that Congress has come to a situation where it is absolutely helpless, and we should take some immediate action.

Mr. HUDDLESTON. The point I intended to suggest to the gentleman was this: Is it not possible to lay down certain rules and principles of law and equity under which all proper claims could be brought and under which all improper claims could be excluded?

Mr. UNDERHILL. I think that is a mental impossibility, as far as the gentleman from Massachusetts is concerned.

Mr. HUDDLESTON. The gentleman realizes that unless we can do that a bill passed through the House is always more or less a matter of favor?

Mr. UNDERHILL. Always.

Mr. HUDDLESTON. And always injustices will be done to claimants as well as to the public.

Mr. JOHNSON of Texas. Will the gentleman yield?

Mr. UNDERHILL. Yes.

Mr. JOHNSON of Texas. Does not the gentleman think that the provision in section 1 or section 2, I am not sure which, which provides that claims must be presented within six months, otherwise they will be barred, is too brief a period of time?

Mr. UNDERHILL. No. The chairman of the committee had in the original bill which was presented to the committee a provision that three months should be the limit, and I think 30 days was the limit in the first bill.

Mr. JOHNSON of Texas. I think that time is too short, because people would not find out their rights in that brief space of time.

Mr. UNDERHILL. But there would be nothing to prevent them from coming to Congress.

Mr. JOHNSON of Texas. May I answer the gentleman's suggestion by saying that with a new law being passed and parties not being familiar with their rights under the law, it takes a long time to find out what the effect of the law is, and it occurs to me, as a man who has had some experience in the practice of the law, that many parties will not within that period of time ascertain their rights and their claims will be arbitrarily barred. Under the law as it is at present the limit is six years, while this bill cuts the time from six years to six months. It seems to me that is entirely too brief a time.

Mr. UNDERHILL. I think the gentleman's fears are groundless. My experience on the committee has been that there is no hesitancy whatever on the part of claimants to file their claims if they are just ones. The trouble in so many of these governmental claims is that if you extend the period longer than the proposed six months, the witnesses to the accident have all gone. For instance, in the War and Navy Departments they are transferred to the Philippines or to some distant post and consequently can not be secured to appear before the court or appear before the commission. In the Post Office Department, with its constantly shifting employment from one city to another you find that the same thing occurs. So in order to protect the Government and in order that criticism may not arise that we are ignoring the rights of the parties, at the suggestion of the gentleman from Texas [Mr. Box] in the committee the time was increased from 30 days to six months, which, I think, is amply sufficient and will cover practically all of the cases. Of course, a few may get by.

Mr. WILLIAMSON. Will the gentleman yield?

Mr. UNDERHILL. Yes.

Mr. WILLIAMSON. I may state that I have listened to the gentleman's speech and read his report with a great deal of interest, but there are two matters about which I should like to get his opinion. One is this: It seems to me it would be better if the claimant would have the option, in a claim involving not to exceed $5,000, of going into the district court rather than going before the department if he saw fit. That is one point as to which I think the bill might be improved, although I may be wrong about it. Then there is another matter.

Mr. RAMSEYER. Will the gentleman yield right there?

Mr. WILLIAMSON. Yes.

Mr. RAMSEYER. Does not the gentleman think that would be to the interest of a claimant who lives at some distance from Washington?

Mr. WILLIAMSON. Yes; that is my idea. That where a claimant resided a long distance from Washington he should have the option of going before the judge of a district court rather than taking up his matter here.

Mr. UNDERHILL. May I say to the gentleman that I have to make, as I started to say, a confession? This amount of $5,000, in all probability, will not remain in the bill but will be reduced to $3,500. I have given my word that when this bill goes to conference I will agree to a reduction from $5,000 to $3,500, and all cases from $3,500 to $10,000 will then go to the district court.

Mr. WILLIAMSON. There is another matter I want to take up with the gentleman, and it is this: We have a great many cases in South Dakota, Iowa, Minnesota, and some in Wisconsin, where postmasters lost funds by reason of banks being closed, banks in which they were authorized to make their deposits.

The General Accounting Office has turned down practically all of those cases, and I want to ask the gentleman whether under this bill a party could go before the department and get an adjustment in that kind of a case.

Mr. UNDERHILL. No. The Committee on Claims has introduced this year an omnibus bill which covers every one of those claims, so that is a small matter, and we can take care of that very easily right here.

Mr. LEAVITT. Will the gentleman yield?

Mr. UNDERHILL. Yes.

Mr. LEAVITT. If this measure is enacted, what will be the situation with regard to personal injury and death claims originating before April 6, 1920?

Mr. UNDERHILL. They will all have to come to Congress.

Mr. LEAVITT. And this will automatically take care of those originating since that date?

Mr. UNDERHILL. Yes.

Mr. LEAVITT. And the others will be in the same situation they now occupy?

Mr. UNDERHILL. Yes.

Mr. LAGUARDIA. Will the gentleman yield?

Mr. UNDERHILL. Yes.

Mr. LAGUARDIA. What would happen in a case of personal injury where it has been denied by the department and a bill introduced in the House? Are the rights in such a case preserved?

Mr. UNDERHILL. If a bill goes to the department and the department refuses to consider the bill or makes an adverse report on it, about the same situation would exist as exists to-day.

Mr. LAGUARDIA. I do not think the gentleman understood my question. If a case now existing is submitted to the department and the department disclaims liability, but subsequently thereto a bill is introduced in the House, are the rights protected under this bill?

Mr. UNDERHILL. Yes.

Mr. RAMSEYER. Will the gentleman yield to me for a question?

Mr. UNDERHILL. Yes.

Mr. RAMSEYER. Looking at the first paragraph, section 1, it gives the right to present claims to the departments or to the courts based on a tort caused by the negligence or wrongful act or omission of any officer or employee of the Government acting within the scope of his office or employment, and this thought is carried throughout the amendment. It must be based on negligence or——

Mr. UNDERHILL. Or faulty equipment.

Mr. RAMSEYER. Yes; of an officer or employee of the Government.

Mr. UNDERHILL. Yes.

Mr. RAMSEYER. One question that occurs to me is this: There is nothing in this act that could be construed as giving a person a right of action, because of death or loss of property, caused by officers of the Government in enforcing the law or in suppressing insurrection or in resisting invasion.

Mr. UNDERHILL. That is exempted, if the gentleman will read further on, in specific language. On page 16 we exempt any claim for which compensation is provided by the Federal employees' compensation act; (b) any claim for injury or death incurred in line of duty by any member of the military or naval forces of the United States; and I have an amendment which I shall offer at the proper time which exempts one other class in addition to these two classes.

Mr. RAMSEYER. From what line is the gentleman reading?

Mr. UNDERHILL. I was reading from line 19 on page 16:

SEC. 208. The provisions of this title shall not apply to—

(a) Any claim for which compensation is provided by the Federal employees' compensation act—

And so forth.

(b) Any claim for injury or death incurred in line of duty by any member of the military or naval forces of the United States—

And so forth.

Then, on page 7, at the top of the page—

SEC. 8. (a) The provisions of this title shall not apply to—

(1) Any claim arising out of the loss or miscarriage or negligent transmission of letters or postal matter.

(2) Any claim arising in respect of the assessment or collection of any tax or customs duty.

(3) Any claim for which liability of the Government is recognized by the act of October 6, 1917, relating to loss or destruction or damage to personal property and effects of officers and enlisted men—

And so forth.

Mr. RAMSEYER. Here is the situation I have in mind: An officer of the Government acting in the line of duty or in the military forces acting in line of duty in establishing order or in suppressing insurrection or in resisting the enemy destroys private property.

Mr. UNDERHILL. That is taken care of now in the general law. If the military authorities destroy property, we do not have to handle that. They take care of that themselves.

Mr. RAMSEYER. There is nothing in this bill that gives persons injured in that way, either in body or in their property, a right of action against the Government?

Mr. UNDERHILL. No; it is not necessary except in so far as bodily injury is concerned, and that is taken care of in the other sections.

Mr. RAMSEYER. As I read the first section, the injury has to be caused by the wrongful acts or omission of an officer or employee? Now, in the case of an officer enforcing the law or in the case of members of the military force suppressing insurrection or resisting invasion, that would be in line of duty and would not be a wrongful act on the part of any employee or officer of the Government?

Mr. UNDERHILL. Not at all.

Mr. RAMSEYER. In other words, there is nothing in the bill here covering a situation like that?

Mr. UNDERHILL. No; we do not dare to touch upon that.

Mr. RAMSEYER. I did not think so, but I wanted to be reassured about it by getting the gentleman's opinion.

Mr. UNDERHILL. The gentleman is quite right about it.

Mr. WILLIAMSON. Will the gentleman yield further?

Mr. UNDERHILL. Yes.

Mr. WILLIAMSON. I notice in the bill the largest amount that can be allowed to anyone who suffers death through some agency of the Government is $5,000. I believe the committee has acted wisely in fixing a limitation of about that amount, but it does seem to me that some provision should be made to take care of the case where a person has been injured and has been in a hospital a long time and has incurred a lot of expenses, so that in addition to the $5,000 some recovery could be had for actual expenses incident to his sickness.

Mr. UNDERHILL. That is taken care of in the bill.

Mr. VINCENT of Michigan. Page 12, line 15.

Mr. UNDERHILL. Yes; page 12, line 15:

In the case of personal injury the injured individual shall be allowed such expenses for any medical, surgical, and hospital services and supplies (including artificial members and other prosthetic appliances) as the commission adjudges necessary—

And so forth.

Mr. WILLIAMSON. That is true if he survives, but suppose he does not finally survive?

Mr. UNDERHILL. Then he is dead.

Mr. WILLIAMSON. But the point is there is just as much reason for permitting recovery of hospital expenses in case of his death as in case he survives.

Mr. UNDERHILL. Oh, in that case, if he dies, the provision applies just the same. If he has been in the hospital and dies as a result of his injuries, he is compensated for that.

Mr. WILLIAMSON. In that case his relatives can recover his hospital expenses?

Mr. VINCENT of Michigan. Will the gentleman yield?

Mr. UNDERHILL. Yes.

Mr. VINCENT of Michigan. He gets his expenses while he is sick, and, if necessary, he gets his funeral and burial expenses not to exceed $200 in addition to that.

Mr. WILLIAMSON. In addition to the $5,000?

Mr. UNDERHILL. Yes.

Mr. LAGUARDIA. If he dies as a result of such injuries.

Mr. UNDERHILL. I just want to take one minute more to express my appreciation of the splendid cooperation I have had from the members of the committee. I have repeatedly told this House I am not a trained lawyer, that I know little of law. This bill was so complicated with legal questions, it would have been impossible for me to have brought out a comprehensive, or even a decent bill, without the assistance of members of my committee who have been trained in the law and who have given me the benefit of their wisdom and experience. Most of the members of the Committee on Claims are lawyers, and their assistance has been invaluable to me, as has the help of the clerk of the committee, who is also a trained attorney.

I want to thank the House for its patience it has exhibited to-day in listening to this rather interesting but dry subject. I hope that it will realize that the efforts I have made are twofold in their purpose—one is to relieve the Congress of the intolerable situation and Members from criticism and worse, and the other is to give justice and equity to the people of our Nation which they should have under all provisions of the law. [Applause.]

Mr. BOX. Mr. Chairman, I yield to the gentleman from Arkansas [Mr. TILLMAN].

CAPT. FIELD KINDLEY

Mr. TILLMAN. Mr. Chairman, I submit a few facts in support of H. R. 11763, introduced by me in the House some time ago.

The second American ace in the World War, Capt. Field Kindley, was born in my district, and now sleeps in a soldier's grave in one of the fairest places of earth, and where he lived before he joined the colors in 1917 for service overseas.

His uncle, Robert Kindley, was in college with me, and the family have always been close friends of mine.

This stripling, 24 years old, was one of the most skillful and daring of the airplane fighters among the Allies. He had to his credit 12 enemy planes and came out of the war uninjured. But, as described below, he met death in Texas in an airplane accident. The United States Government should honor this hero by appropriating the modest sum that I am asking to be expended for the purpose of improving the park that bears his name in the town of Gravette, where he is buried. His neighbors and friends, the women being especially active, as they usually are, acquired this park and are keeping it in condition, but the whole Nation should participate in honoring Captain Kindley by having a pecuniary as well as a sentimental interest in the recognition and maintenance of this park. This boy's record as a flying fighter was wonderful, and the press of the world lauded him for his daring. The game youngster had no previous training in airplane fighting, but rapidly developed a rare genius for this dangerous service. Among all the eagles of battles in the clouds he was excelled by none. America, England, and France decorated him for valor. [Applause.]

His grave ought to be regarded as a holy shrine, and this park named for him should be made attractive by the generous Government that he served so gallantly. I ask each of you, my colleagues, to vote for this bill and in this way lay a red rose on this brave boy's last resting place, a rose as red as the blood of this cavalier of the air. At honored rest he lies. He dreams of hurtling bombs no more, nor the swift glide, the flaming plane, the hostile clash of battling squadrons high in air, the deadly collision far above the earth, the spiteful hiss of a machine-gun bullet—none of these now thrill his martial spirit.

Fearless young eagle of war, you now repose with folded wings in the brave soil of your native land, and "glory guards with solemn round the bivouac of the dead." [Applause.]

Below I publish a clipping from a newspaper giving an account of his death at the time it occurred, and I give in detail also a short history of this remarkable military product of my State and district:

PREMIER AMERICAN WAR ACE IS KILLED—CAPT. F. E. KINDLEY MEETS HIS DEATH AT KELLY FIELD

(By Associated Press)

SAN ANTONIO, TEX., February 4, 1920.—Capt. Field E. Kindley, American ace and commander of the Ninety-fourth Aero Squadron, was killed in aerial maneuvers at Kelly Field No. 2 here Sunday. Captain Kindley's home was Gravette, Ark.

The accident occurred while a group of planes were in practice formation preparing for an exhibition scheduled in honor of General Pershing's visit here Tuesday.

Captain Kindley's machine fell when he was about 50 feet above the ground. He was crushed and burned.

Captain Kindley was one of the five Air Service officers summoned before the House subcommittee investigating the Air Service recently. He came to Kelly Field from Mitchel Field, Long Island, one month ago.

Captain Kindley was the premier American ace now in the service, having 12 German planes to his credit, against 7 to the credit of Maj. Reed M. Chambers, commander of the First Pursuit Group, stationed at Kelly Field, who ranked him.

His father is superintendent of schools in Manila, P. I., and while stationed at Mitchel Field Captain Kindley had applied for service in the Philippines and was assigned to the command of a squadron to be sent there. Later, however, the War College decided not to send a squadron to the islands.

Arkansas mourned deeply the death of Captain Kindley, American ace, buried at his home at Gravette.

By some queer whim of fate Captain Kindley came unscathed through many thrilling battles in France, where he wrote America's glory in deathless letters in the skies, only to die at San Antonio in a fall of 50 feet during a practice flight.

Hun bullets which riddled his planes in France failed to touch this daring Arkansan, and victory after victory raised him to a place of distinction among allied aviators, second only on the American list to Capt. Eddie Rickenbacker, the "ace of aces." Yet some unexplained accident, occurring but 50 feet above the ground at Kelly Field, while he was leading a practice formation brought Captain Kindley's brilliant career to an end. Such are the days of destiny with men.

Arkansas was justly proud of Captain Kindley's record. It was a glorious contribution to America's war record, and, considered solely as a bit of State advertising, was of incalculable value.

Captain Kindley was a typical Arkansas boy, resourceful, self-reliant, without trace of fear, yet withal modest and unassuming even to the point of shyness. Teamwork, he thought, and the unselfish cooperation of his fellows in the flying service made his record possible.

Just an Arkansas boy was Captain Kindley; an Arkansas boy who did his "bit" in war time and came back modestly and quietly, hoping to resume his ambition, expressed privately to his friends, to find some reasonably lucrative position in civil activity. His courage and his clear vision would have proved their value in peace as in war.

FURTHER FACTS CONCERNING CAPTAIN KINDLEY

Field E. Kindley was born at Pea Ridge, Ark., March 13, 1896. His mother died when he was a little more than 2 years old. The greater part of his boyhood was spent at the home of his uncle, A. E. Kindley, of Gravette, Ark.

When the United States entered the World War he volunteered his service to his country, and was soon sent to Champaign, Ill., aviation training school and then to the ground school at Urbana, Ill.

On September 16, 1917, he was ordered overseas. Soon after he landed he wrote home:

I have offered my services to my country. * * * Landed in England safe, and have learned that we are to train under the Royal Flying Corps. * * *

Captain Kindley took special training there from October 2 till March 14, 1918. At the close of this training course he wrote:

I was soon placed on my present "bus," which I am to fly in France. * * * Hoping my next letter will tell you of my first Hun, how he and I went round and round, and that I shall return to the little city of Gravette after the war, I am as ever, "The School Boy," Lieut. Field E. Kindley, United States Aviation Headquarters, 35 Eaton Place, London, England. * * *

While awaiting his commission he ferried machine guns from England to France. It was on March 29, 1918, that he received his appointment as first lieutenant. In a few days he was ordered to France base section and reported to the Sixty-fifth Squadron Royal Flying Corps for war flying. *

On July 10 he was appointed flight commander of the One hundred and forty-eighth Aero Squadron. It was about this time that he wrote:

I wonder if Gravette has woke up to the fact that we are in war. * * *

Captain Kindley took command of the One hundred and forty-first Aero Squadron Pursuit Group December 21, 1918. Up to this time he had not been relieved of command.

The British communique credited him with destroying 12 enemy aircrafts. It was during this time that he was decorated by His Majesty the King of England with the distinguished flying cross and by France with the croix de guerre and was thrice cited for bravery.

To his father, who was educational supervisor in the Philippine Islands, he wrote:

Do not worry, father, the Huns will not get me; and when the war is over I hope to have you with me. Then we will live together so happy in the dear old United States, in Arkansas. * * *

At the close of the war he was promoted to the rank of captain and was decorated with the service cross and also with the bronze oak leaf.

Returning to the United States, he discharged his squadron and was stationed at Hazelhurst Field, Long Island.

In January, 1920, Captain Kindley was transferred to Kelly Field, Tex., where he was in the accident that caused his death. The fatal accident occurred on February 1, 1920, while he was leading his squadron in aerial maneuvers in practice formation, preparatory for an exhibition, in honor of General Pershing, which was scheduled for the following day.

His body was shipped to Gravette, Ark., where it was buried. A stone marker and a little flag mark the spot and the fresh flowers show that he is not forgotten. [Applause.]

Mr. UNDERHILL. Mr. Chairman, I yield five minutes to the gentleman from Michigan [Mr. VINCENT].

Mr. VINCENT of Michigan. Mr. Chairman, I want to take a few minutes in support of what the chairman has said as to the condition of public business before the Committee on Claims. There are 2,000 bills referred to this committee, some carrying a claim of a million dollars, and running from that down to a few dollars. They have been referred to a committee of 15 Members of this House and every Member of the House knows that it is an utter mental and physical impossibility to get consideration of a greater number than 250 of these bills in any one session of Congress. What about the balance of the bills which get no consideration? Buried down among these bills

unquestionably are many meritorious cases that never get any consideration at all because it is impossible to reach them.

Mr. Chairman, it has produced a situation where the Government is treating its people in a wholly unjust manner. My own personal conviction is that the Government of the United States ought to act with a conscience, not with a sentimental conscience, perhaps, but with an ordinary business conscience toward the people who have claims against it. [Applause.] The Government ought to admit a claim if it is right and pay it. [Applause.] The trouble with it has been that it has had no organ through which its conscience could operate. If every one of the officials of the Government who knew all the facts of the claim agreed that it ought to be paid, still that claim had to run all the hazards of public business in Congress, run the chance of being considered at all, and, if considered by the committee, run all the hazards of being lost in one body or the other.

Mr. LAGUARDIA. Will the gentleman yield?

Mr. VINCENT of Michigan. Yes.

Mr. LAGUARDIA. I concur with what the gentleman says about the sentiment and business. The gentleman will agree that it is not the function of the Government in assuming the defense to take advantage of every technicality and seek to avoid liability, especially in the case of loss of life.

Mr. VINCENT of Michigan. I do not think it should, and I think the bill carefully guards against it, in view of the fact that it provides for a measure of contributory negligence. In my State any plaintiff in a civil suit who is guilty of any contributory negligence at all is defeated.

Mr. LAGUARDIA. It is the same in my State.

Mr. VINCENT of Michigan. In this bill he will not be. I think it is a fair bill. I contended that the bill ought to contain a more rigid rule. But since I have given it careful consideration I am rather glad that the committee overruled me.

Mr. LAGUARDIA. The gentleman is aware that when the rule was laid down we did not have the traffic we have to-day.

Mr. VINCENT of Michigan. Not at all.

Mr. RAMSEYER. Will the gentleman yield?

Mr. VINCENT of Michigan. Yes.

Mr. RAMSEYER. I have not given this bill careful study, but I understand that claims growing out of any damage suffered by an employee of the Government acting within the scope of his employment up to $5,000 are to be settled by the department?

Mr. VINCENT of Michigan. Yes.

Mr. RAMSEYER. If the amendment goes through, it is up to $3,500.

Mr. VINCENT of Michigan. That will then be the provision in the bill.

Mr. RAMSEYER. And then claims above $3,500 or up to $10,000 can be brought either in the Federal district court or in the Court of Claims?

Mr. VINCENT of Michigan. That is correct.

Mr. RAMSEYER. And claims amounting to over $10,000 must be brought in the Court of Claims?

Mr. VINCENT of Michigan. That is correct.

Mr. RAMSEYER. Claims for personal injury and death claims must be presented to the United States Employees Compensation Commission?

Mr. VINCENT of Michigan. That is correct.

Mr. RAMSEYER. That is a commission that is established by law?

Mr. VINCENT of Michigan. That is the commission that is now established by law and has been operating for a number of years. It takes care of the allowance of compensation for injury or death which occurs while in line of work among the employees of the Federal Government, and it is felt that that commission will have the facilities better than any other body that could be selected to operate the provisions of this law with respect to persons who are injured or killed in the manner set forth in the act.

Mr. RAMSEYER. The bill does not provide for any new bureau, commission, or tribunal?

Mr. VINCENT of Michigan. Not in the slightest. It accepts the facilities of the Government which are now existant, and what it does is to grant on the part of Congress the right to the people to come in with their claims against the Government, which grant, as the gentleman knows, is necessary before anyone can bring any sort of claim before a court against the Federal Government.

Mr. RAMSEYER. Claims now based on contracts or any Government regulation go to the Court of Claims.

Mr. VINCENT of Michigan. Because a grant to that extent has already been made by the Congress.

Mr. RAMSEYER. And what you are doing is to apply the same principles to tort cases.

Mr. VINCENT of Michigan. Yes; precisely so. So that if this bill becomes law and the machinery is created which has just been explained for the Government to operate through and settle these claims there will undoubtedly be claims outside of those that are covered in this act which would still have to come to Congress. Nobody will be barred from bringing a claim that is not covered by the provisions of this law before the Congress for its adjustment, but relieving the Congress of these numerous claims that will be taken care of in an orderly and regular fashion will permit the committees and the Congress to give fairer and better consideration and adjustment to the claims which will be left, which will have to be considered here in this body.

I yield back the remainder of my time.

Mr. BOX. Mr. Chairman and gentlemen of the House, I remember that Mr. Speaker GILLETT, in one of the last statements that he made to this House, said that the volume of business coming before the American Congress was about ten times what it could give proper attention to. Of course he had in mind detail matters, such as these claim bills and all other business which properly comes before Congress. That situation is very forcibly illustrated by the situation in the Committee on Claims and as to the bills it reports to the House. The gentleman has stated that situation to the House, but I doubt yet if the membership of the House generally appreciates the force of it. It is a matter of daily occurrence with me, in fact several times a day, that Members of the House, looking after the interests of their constituents, complain because items are not considered by the Committee on Claims. Yet that committee has missed, I think, only one meeting since we regularly started after Christmas, and that was when the House met at 11 o'clock in the morning, when our committee is usually in session. We have been at work continuously, endeavoring to permit subcommittees to make reports to the whole committee, and have continued the sessions of the whole committee until we were called to this House in nearly every instance. Those of you who feel that your business has been neglected ought to understand the situation and ought to join the committee in adopting this remedial measure. This bill is not all that I think it ought to be. It is not exactly such a bill as I would have written, though I doubt if I could have written a better one; but I have collaborated with the chairman and with the rest of the committee in helping to remedy a shameful situation. It is humiliating to have great numbers of these claims go without attention; it is often unjust.

There are a few features in the bill which I think ought to be explained a little more fully. I doubt not that the chairman will explain them as we go along. For instance, in hearings before courts a jury trial is denied. I think, if the membership of the House will consider all that is involved in that, they will agree that that is necessary.

Mr. RAMSEYER. Mr. Chairman, will the gentleman yield?

Mr. BOX. Yes.

Mr. RAMSEYER. Of course, all claims above $3,500, if the amendment goes through, can be presented to the Court of Claims. That court has been in existence since before the Civil War. Am I correct when I state that there is no jury trial in that court?

Mr. BOX. The gentleman is correct.

Mr. RAMSEYER. So that if the bill goes through in its present form, you will, in so far as you confer jurisdiction on the Federal district courts, simply make the rules applicable to the trial of cases of that kind in that court the same as they are in the Court of Claims?

Mr. BOX. Yes; and we think we are not violating any provisions of the Constitution in that we are conferring rights and giving remedies not heretofore existing, and therefore we believe that we can give them under such restrictions as we believe are sound.

Mr. RAMSEYER. These rights or remedies are not rights and remedies under the common law.

Mr. BOX. No.

Mr. RAMSEYER. Of course, under common law no claim against the Government based on either contract or tort has any standing before any existing tribunal or commission of the Government.

Mr. BOX. The gentleman is correct. Another provision in the bill limits the amount of compensation which can be paid in a death case to $5,000.

That compensation, you understand, goes to one who is not a Government employee. It is as to the maximum amount allowed in line with the policy heretofore adopted by the Committee on Claims. I note that some committees of this House

report bills granting a greater amount of compensation than that, but this committee is reporting this in line with the policy which it understands is sound and which the House has time and again approved.

Mr. DOWELL. Will the gentleman yield?

Mr. BOX. I will.

Mr. DOWELL. Does this limitation apply to cases tried before the district court?

Mr. BOX. No; compensation for death is heard by the Compensation Board.

Mr. DOWELL. But in case that goes to the district court, is it tried there?

Mr. BOX. That is, for property damage?

Mr. DOWELL. Yes. There is no limitation on the court; it finds according to the facts and the law.

Mr. BOX. The gentleman is correct.

Mr. LANHAM. Will the gentleman yield? There are one or two questions which I would like to ask the gentleman.

Mr. BOX. I will yield.

Mr. LANHAM. According to the terms of this bill, it has reference to only those cases which arise subsequent to April 6, 1920. What would be the status of claims prior to that time? Would they have the same congressional action and consideration that they have had heretofore?

Mr. BOX. They would.

Mr. LANHAM. This would not in any way operate as a bar to those claims and would not be so construed?

Mr. BOX. No. I think that is correct. This simply provides that claims of certain classes may be passed on by the departments, the courts, or the United States Employees' Compensation Commission. The holders of all claims have the same remedies they now have, the right to come before the Congress and present them as they have heretofore done.

I should say in all frankness to the gentleman and the House that we have the idea that a man who carries his claim to a department, or especially the courts or the Employees' Compensation Commission, and is there denied compensation, will find it more difficult to get a favorable action in the committee and in the House, but his legal rights remain unimpaired.

Mr. LANHAM. Now, between the sums of $5,000 and $10,000 there is concurrent jurisdiction?

Mr. BOX. Yes.

Mr. LANHAM. Between the amount of $5,000 and $10,000 the jurisdiction will be concurrent between the district court and the Court of Claims. And claims in excess of $10,000 must of necessity go to the Court of Claims?

Mr. BOX. Yes, sir.

Mr. LANHAM. What would be the thought of the committee, so far as the gentleman can speak for it, in reference to allowing claimants the option as to their forum, giving the right to go into the district court on claims in excess of $10,000 and going to the Court of Claims?

Mr. BOX. I think it is the thought of the committee that where the claims amounted to as much as $10,000 it would be better to have them go to the Court of Claims.

Mr. LANHAM. May I say one thing in that connection? It occurs to me by reason of the fact there naturally would be a multiplicity of these claims, and the Court of Claims having so many things to consider there might be delay and perhaps tardy justice in matters of this character, whereas in the several district courts the business might be handled with greater dispatch. Has the gentleman given any consideration to that feature of it?

Mr. BOX. It must be confessed that there is some force in the suggestion. However it is also true, as we are informed, that the district courts are congested very much.

Mr. LANHAM. One further question. There is no method of appeal provided in here, I see, except claims are to be returned with a statement of the facts. Now, the Appropriations Committee, I assume, under the intention of the Committee on Claims in presenting this legislation, will go carefully over the statement as to the facts, and the claims will be paid in accordance of their determination of their righteousness as presented by the Court of Claims.

Mr. BOX. The idea being that the claimant will have a right to an appropriation to satisfy his claim after he has established it in the manner determined upon. I take it that if there is anything that raises a serious doubt in the minds of the Appropriations Committee perhaps they would want to be given further consideration, and that would still be within the control of Congress.

The CHAIRMAN. The Chair desires to inform the gentleman that he has consumed 10 minutes.

Mr. BOX. I yield myself five minutes additional.

Mr. LANHAM. What appeal could the claimant have if his claim were decided adversely?

Mr. BOX. He could come to Congress. I think every claimant will have all his rights unimpaired.

Mr. LINTHICUM. Mr. Chairman, will the gentleman yield?

Mr. BOX. Yes.

Mr. LINTHICUM. What is to prevent a claimant from going to the Court of Claims? When a man states how much he claims he can always claim more than $5,000. In fact, in most cases he ought to have more than $5,000. That gives him the right, then, to go to the Court of Claims. What is to prevent the claimants in a great majority of cases from going to the Court of Claims?

Mr. BOX. I have an idea that the Court of Claims will protect itself in that connection, as every court has to do, as trial courts do, and refuse to entertain it.

Mr. LINTHICUM. Our regular courts do not refuse to entertain a claim when a suit is brought, usually for double the true amount of damages.

Mr. UNDERHILL. The bill specifically provides that all claims under $10,000 must go to the departments, not to the Court of Claims.

Mr. BOX. What the gentleman from Maryland refers to is the fictitious enlargement of claims. But wherever that question is properly raised and the proof shows that the amount has been unduly and fraudulently inflated for the purpose of conferring jurisdiction where it did not exist, the court will refuse to proceed with the trial of that case.

Mr. LINTHICUM. I want to cite a case that I know of, that of Mrs. Booth, of Baltimore, who had her eye shot out by prohibition officials. That lady asked $10,000, and the committee gave her only $1,300, which she will accept. That is a case which would go to the Court of Claims, whereas the committee allowed only $1,300.

Mr. VINCENT of Michigan. Mr. Chairman, will the gentleman yield?

Mr. BOX. Yes.

Mr. VINCENT of Michigan. Of course, that kind of a case would not come within the jurisdiction of this measure.

Mr. BOX. No. That is a personal injury claim.

Mr. DOWELL. Mr. Chairman, will the gentleman yield?

Mr. BOX. Yes.

Mr. DOWELL. I understood the gentleman to state that Congress would have control over the payment of these claims. Do I understand that when a court has passed on a claim and renders a judgment, that would be different from any other judgment?

Mr. BOX. No Congress could exercise its right through the Committee on Appropriations and the action of the House. These claims can be certified to the Committee on Appropriations with the statement of facts on which the judgments are based and the claimants paid without further action.

Mr. RAMSEYER. That is the way now with respect to judgments in the Court of Claims?

Mr. BOX. Yes.

Mr. DOWELL. Is the judgment of the district court the final adjudication?

Mr. BOX. The House still has to act upon it as to the question of payment.

Mr. DOWELL. But it has no further duty to perform than merely to furnish the money to pay the judgment.

Mr. BOX. It would be its duty to do that, as in the case of all other judgments rendered against the United States by the Court of Claims and other courts.

Mr. HERSEY. The superior court might say that the Federal court was taking jurisdiction of matters that might go to the State courts, determined on the amount involved as to jurisdiction. The rule has been laid down that if a person brings a matter to a Federal court by enlarging the amount of damages claimed, or claiming a sum fraudulently that he ought not to claim, at any time in the progress of the case the jurisdiction of the higher court may be invoked, and if it is found there is no jurisdiction it would be discarded at once.

Mr. BOX. Yes. There may be difference in the practice, but that principle is recognized in all the courts.

Mr. HUDSPETH. Mr. Chairman, will the gentleman yield?

Mr. BOX. Yes.

Mr. HUDSPETH. There are bills pending before the Claims Committee in excess of $10,000. I want to ask my colleague whether or not the committee would still exercise jurisdiction over those claims?

Mr. BOX. It will be its business to continue its functions in the regular way; and if it is developed that it is a claim that ought to be adjudicated in this way, I think it likely it will be

referred to the proper tribunal if it is found that the particular case involved can be thus adjudicated.

Mr. HUDSPETH. Then the proper tribunal would be the Court of Claims?

Mr. BOX. Yes; or a district court having concurrent jurisdiction.

Mr. HUDSPETH. Have the district courts and the Court of Claims concurrent jurisdiction in claims of $10,000?

Mr. BOX. If the bill is amended as suggested, it will be from $3,500 to $10,000.

Mr. HUDSPETH. If it is in excess of $10,000, it is confined exclusively to the Court of Claims?

Mr. BOX. Yes.

Mr. RAMSEYER. Of course the Government can not be sued without its consent. Here it is to be sued in tort cases. Has the committee endeavored to get the opinion of officials of the Department of Justice on this measure? I see in the supplemental report a letter from the Chief Justice, Mr. Taft.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. BOX. I yield myself one minute more.

Mr. RAMSEYER. Take two minutes.

Mr. BOX. No. I have other colleagues who want time. I do not want to take it all.

Mr. RAMSEYER. The Chief Justice does not commit himself, but I notice that Mr. Justice Sutherland, addressing the gentleman from New York [Mr. CELLER], says:

> Where the Government is discharging its normal governmental functions, I should think that to make it liable for the negligence or wrongful acts of any of its officers or employees would be to take a step of rather doubtful wisdom.

Mr. BOX. This committee is now reporting to the House action which has been suggested many times and which has not usually met with favor in the American Congress. The necessity for it has been intensified by the accumulation of this business and by our humiliation and sense of outrage because of a wholesale denial of justice. The Government of the United States must be equal to the situations which arise. While our fathers were very particular and lawyers are generally conservative—I think I share in that conservatism; I hesitated myself before deciding to support this measure—but after considering the arguments and not overlooking what the fathers thought about it, I believe that this House is justified in taking this action now.

Mr. RAMSEYER. The gentleman's committee concludes, then, that this step is not of doubtful wisdom?

Mr. BOX. Yes.

Mr. UNDERHILL. The gentleman recognizes that it is the business of the Department of Justice to take this stand. They could not do otherwise. But as a matter of fact almost every department has expressed its hearty approval not only to me personally and to the committee but in writing.

The CHAIRMAN. The time of the gentleman from Texas has again expired.

Mr. UNDERHILL. Mr. Chairman, I yield myself five minutes.

Mr. DOWELL. May I inquire if it is the duty of the Department of Justice to appear in these cases and defend the Government?

Mr. UNDERHILL. In each and every case.

Mr. DOWELL. It must appear as in any other case against the Government?

Mr. UNDERHILL. It must appear in every case.

Mr. WURZBACH. Will the gentleman yield?

Mr. UNDERHILL. Yes.

Mr. WURZBACH. I notice in paragraph (b), section 1, on page 4, with reference to claims of $5,000 or less, that jurisdiction is conferred upon the departments to pass upon claims. Now, is their judgment final?

Mr. UNDERHILL. Not necessarily.

Mr. WURZBACH. For instance, if a claim is made to a department and it is adverse to the claimant, is he foreclosed from other action?

Mr. UNDERHILL. No; he can come back here at any time he wants to.

Mr. BOX. Mr. Chairman, I yield 20 minutes to the gentleman from New York [Mr. CELLER].

Mr. CELLER. Mr. Chairman and gentlemen of the committee, while I am not wholly in accord with all the provisions of this bill, I believe it is a step in the right direction; and if it does not contain all that I would want in it, at least it opens the door for future Congresses to provide a more adequate and proper remedy for the individual or citizen who has been wronged by his Government.

For all time we have adopted the theory that the sovereignty can do no wrong; that the Government can do no wrong, and that theory harks back to the old English doctrine that "the king can do no wrong," and because that doctrine finds embodiment in our law great injustice has been done the citizen and resident of this country who has been wronged by the Government or by the sovereignty of the State. It is very strange, gentlemen, that that doctrine only obtains in Anglo-Saxon countries, in England and its possessions and in the United States, but that in the countries where there are monarchies and where the individual has comparatively fewer individual rights—that in those monarchial forms of government there is provided the remedies embodied in this bill. Those governments go even further and open their courts to all manner and kinds of claims where the citizen or the national feels himself aggrieved as the result of the negligence, the perverse or capricious acts on the part of any and all government employees. Therefore I say, the time is bound to come when we likewise shall put ourselves upon a par with European governments and recognize the right of the citizen to come into court, no matter what his grievance may be—in tort, in contract, or what not—and have his day in court and have his wrongs righted. If the Government is wrong, the Government should properly respond in damages, and no one should be compelled to come begging at the door of Congress and only as a matter of grace, and not as a matter of right, secure relief.

Mr. LINTHICUM. Will the gentleman yield?

Mr. CELLER. I yield to the gentleman.

Mr. LINTHICUM. I shall support the bill, and if what the gentleman says is true, that we shall have our day in court, I shall be very much pleased; but the point that annoys me is this: The distinguished Committee on Claims, made up of a number of men, looks over these claims and decides upon them, but when you come to a claim amounting to less than $3,500 it goes to a department for decision. Now, the head of the department will not do it; he will submit it to some one person and an inspector, perhaps, will decide the case.

Mr. CELLER. I agree with the trend of thought announced by my distinguished friend from Maryland. I am somewhat opposed to setting up more bureaucracies and giving the right to pass upon these questions, in tort or negligence, to any bureau, whether it is the Employees' Compensation Commission, renamed the Federal Tort Claims Commission, or any other commission. But, gentlemen, is it not a step in the right direction? Is it not better to give the harassed individual, injured, maimed, and wounded, some sort of remedy where he has no remedy now except to go through the hackneyed process of going through the Committee on Claims, and if he has no entrée to a Congressman or to a Senator he can not even get that right. The present system is barbarous.

Mr. LAGUARDIA. Will the gentleman yield?

Mr. CELLER. Yes.

Mr. LAGUARDIA. Does this commission sit as a court? You take negligence cases and tort cases, of which we have so many in our city on account of the traffic there, will it be necessary for the injured to come to Washington with his witnesses?

Mr. CELLER. I am not prepared to state he will have to do that. I think the Employees' Compensation Commission has its agents, and has its bureaus, in various sections of the country and it has methods by which it can gather evidence. It can probably take testimony by depositions, so that there may not be the obligation to travel to Washington to have the claim properly considered and adjudicated.

Now, the Government, as you all know, is daily more and more inserting itself into the affairs of men. It runs railroads, for example, as it does in Alaska, and by virtue of its widening activities is constantly coming more and more in contact with men, women, and children all over the country, and as a result there are more possibilities of injuries as the result of negligence on the part of governmental employees, and there is no reason that I can see why the Government should not be on a par with the individual. If it does a wrong, it should be responsible for the wrong just as any individual is.

Now, this bill provides, with reference to property damage, that where the sum asked for is under $5,000 the head of any department can adjudicate the claim. There is nothing new in that particular phase of the bill. We already have a Federal tort claims act, passed in 1922, which gives the right to the head of a department to adjudicate claims up to $1,000. Thus we only widen the jurisdiction by an additional $4,000.

When a claim in tort is between $5,000 and $10,000 there is given the right to go either to the Court of Claims or the district court by an appropriate amendment to the Federal

Judicial Code, but where the amount in tort is in excess of $10,000 and up to millions of dollars—the amount is not specified—there is no limit, the Court of Claims has jurisdiction. As to personal property damages, there is a limitation in the bill of $5,000, the claim to be adjudicated by the Employees' Compensation Commission.

Now, the vice of the whole proposition—and when I point out these defects in the bill or the vice or the taint of the bill, I do not want it to be assumed that I am opposed to the bill, but I simply want to point out something for future consideration—the vice of the bill is that greater value is placed upon property and contracts than upon life and limb. It seems to me quite anomalous that you place a premium upon property as against human rights. When an individual is wronged, maimed, wounded, or killed you limit him to $5,000, and yet, if there is an injury to a vessel or an injury to an automobile or an injury to property, in contract or tort, the sky is the limit, and any amount may be sued for and recovered against the Government. If there is to be any limitation as to amount, that limitation should bear more heavily against property damage rather than against personal injury damage.

Mr. JACOBSTEIN. Will the gentleman yield for a question?

Mr. CELLER. I yield to the gentleman.

Mr. JACOBSTEIN. What justification had the committee for recommending the bill realizing, surely, that that is a grave injustice?

Mr. CELLER. I can not answer for all the members of the committee. If I had my way—and I assure you that my way will be the way in subsequent Congresses—I would open the doors of the courts to any amount, to any individual, to any corporation, to any partnership, if those named have been aggrieved or if they have been damaged or injured by the Government in any respect.

I hold no brief, therefore, for the limitation of recovering in personal injury to $5,000, and for the rank discrimination of putting property damage in a higher class, but it may be that the committee is expedient. It wants to get something done, and you may remember that in the Chamber across the building they adopted a limitation of $3,000, and they had the hardest time to do that, because they were on the point of passing a bill limiting it to $2,000. The Attorney General of the United States is even opposed to $2,000 and does not want any kind of remedy open to the individual anywhere who is hurt by the perverse or arbitrary, negligent action of Government employees.

Mr. JACOBSTEIN. Will the gentleman yield for another question?

Mr. CELLER. I yield to the gentleman.

Mr. JACOBSTEIN. Would not the passage of a bill of this kind, in a way, establish a very bad precedent from a legislative point of view in that it recognizes a very archaic and unjust discrimination against human life?

Mr. CELLER. It may be so. From one angle it does recognize a very arbitrary, unnatural, and unjust discrimination; but after all we must in a way be expedient. We must get started on our way. If we can not get the whole loaf, take the half loaf or take the few crumbs that may be given us in the hope we may enlighten subsequent Congresses to better action. The inevitable goal toward which we are tending is absolute relief against the Government as against the individual.

Mr. LAGUARDIA. It at least establishes the right of action.

Mr. CELLER. Yes; where they have no such right now.

Mr. VINCENT of Michigan. Will the gentleman yield?

Mr. CELLER. Yes.

Mr. VINCENT of Michigan. It is true, is it not, that when the Congress itself in its fashion has been attempting to consider these bills we have followed the policy of limiting these personal liability matters to $5,000?

Mr. CELLER. We follow this policy in the committee, although I personally have felt it was wrong to limit to $5,000 in the case of death or where the person was wounded or maimed for life. Nevertheless it is the policy and I have subscribed to it. It is the utmost I could get. There is no use in battering one's head against a stone wall. Just as futile has it been to get Congress to recognize death claims in excess of $5,000.

Mr. JACOBSTEIN. Will the gentleman yield for another question?

Mr. CELLER. Yes.

Mr. JACOBSTEIN. If this bill becomes a law, does it mean there will be no action on these private bills in the future?

Mr. CELLER. Oh, no.

Mr. JACOBSTEIN. It does not exclude those?

Mr. CELLER. We can not bind ourselves or bind future Congresses as to what action they shall take. Claims may still be brought to the committee. It will still have plenty of work to do.

Mr. JACOBSTEIN. If through some misfortune we should accept the Senate proposition, will it not serve as a bad precedent to our private claims committee?

Mr. CELLER. I would resist to the utmost the acceptance of the Senate proposition. I, for one, would not let it set a precedent for our committee.

Mr. JACOBSTEIN. This establishes a limit.

Mr. CELLER. But not a limit beyond which we can not go. It is simply a start. I shall try on all occasions to raise the amount above $5,000—wherever and whenever I can. I am sure I can count upon your wise and enlightened help.

Mr. VINCENT of Michigan. Will the gentleman yield?

Mr. CELLER. I yield to the gentleman.

Mr. VINCENT of Michigan. As one member of the committee, I will say I will never accept the policy that reduces the amount below what we have been using.

Mr. CELLER. I have never subscribed, and I have never agreed in committee, if I may be so bold as to say so, to adopting the reduction from $5,000 to a possible $3,500 or $3,000. I think it would be grieviously wrong to do so and most unjust.

Now, gentlemen, in the short time left for me, I would like briefly to touch upon the theory we have adopted in our jurisprudence and which finds lodgment in our laws in the States and in the Federal Government, namely, that "the king can do no wrong." It is because we are trying to get away from that theory that we are offering this legislation to you this afternoon. We want suits brought against the Government in tort or contract in several tribunals.

The theory that "the king can do no wrong" may be perfectly operative, and rightly so, where there is a king, because it is a purely kingly personal prerogative. It has nothing to do with governments; it has nothing to do with sovereignties made up of millions and millions of people. The theory that "the king can do no wrong" was that the king was dispunishable. It was not that he could not personally do wrong. He had to abide by the law just like any other subject of England; but the fact that you could not punish him, the fact that he had a prerogative which made him immune from imprisonment for wrong, led to the theory, and the utterly erroneous theory, that "the king can do no wrong." All that meant was that he was not able to be punished for any wrong that he might commit. But he could commit the wrong. The prerogative went hand in hand with the one that the "King never dies."

When we became a Government and a Republic we took over the old English common law. The thoughts I am expressing now are found in Chitty on the Law of Prerogatives of the Crown, beginning at page 5, and anyone who has the time or the inclination may spend a few very happy hours in going through this book. When we became a Republic we took over the common law of England; but did we take over the idea that "the king can do no wrong"? In answer, let me read from a Supreme Court decision (101 U. S. 341), a decision rendered in 1879 in the case of Langford *v.* United States, Mr. Justice Miller delivering the opinion:

> We have no king to whom it can be applied. The President, in the exercise of the Executive functions, bears a nearer resemblance to the limited monarch of the English Government than any other branch of our Government and is the only individual to whom it could possibly have any relation. It can not apply to him, because the Constitution admits that he may do wrong, and has provided, by the proceeding of impeachment, for his trial for wrongdoing and his removal from office if found guilty. None of the eminent counsel who defended President Johnson on his impeachment trial asserted that by law he was incapable of doing wrong or that, if done, it could not, as in the case of the King, be imputed to him but must be laid to the charge of the ministers who advised him.
>
> It is to be observed that the English maxim does not declare that the Government, or those who administer it, can do no wrong, for it is a part of the principle itself that wrong may be done by the governing power, for which the ministry, for the time being, is held responsible; and the ministers personally, like our President, may be impeached, or, if the wrong amounts to a crime, they may be indicted and tried at law for the offense.
>
> We do not understand that either in reference to the Government of the United States or of the several States or of any of their officers the English maxim has an existence in this country.

The courts, however, have recognized the infusion of the English doctrine in our law and have justified the State's im-

munity from suit on the ground of public policy. (See Langford *v.* United States, supra.) Professor Burgess, from whom the writer took courses in constitutional law at Columbia University, comes to the conclusion that purely on the grounds of expediency and general public policy "the State can do no wrong." See his book on Political Science and Constitutional Law (1891), page 57. Yet the practice does not jibe with the theory, because we permit States to be sued. There are many instances where one State sues another in the Federal Supreme Court. We also permit the United States to sue a State in the United States Supreme Court. Furthermore, many States make a distinction between corporate and government functions of a city or municipality and allow the city or municipality to be sued where its employees or agents have been negligent in the discharge of purely "corporate" functions. For example, suit can be brought against New York City for the negligence or torts of the employees of the street-cleaning department, because that is deemed a corporate function. But suit can not be brought for the negligent acts of a policeman or fireman, because they discharge purely governmental functions. I admit that these distinctions are worthless and silly. Such inconsistencies, and many others which I could point out if time and space would permit, only emphasize that there is always a straining by State governments to give the right to the individual to sue, but that straining is always coupled with a fear that the State might go too far. The result has been a mass of inconsistencies in our law, inconsistencies that obtain in almost every State as well as in the Federal Government.

Prof. Edwin M. Borchard, Yale University, in his Government Liability in Tort, part 1, page 9, very aptly shows the perversity of our State courts in adhering to the worn-out maxim "The king can do no wrong," at the same time shows that the legislatures are trying to get away from the maxim:

> So strongly intrenched in the judicial mind is the principle of immunity in tort that legislative consent to suit, though granted in the broadest language, has been deemed to exclude liability for tort. Thus, under a Washington statute providing that "any person * * * having any claim against the State of Washington shall have the right to begin an action against the State in the superior court," it was held that "claim" was synonymous with "cause of action," and as there never had been any cause of action arising out of the torts of officers, the statute was construed merely to provide a remedy against the State by suit in existing causes of action, but not to create any new grounds of liability, nor waive any former defense. In New York the court of appeals has gone even further. By section 264 of the Code of Civil Procedure the court of claims has jurisdiction "to hear and determine a private claim against the State, including a claim of an executor or administrator of a decedent who left him or her surviving a husband, wife, or next of kin, for damages for a wrongful act, neglect, or default on the part of the State by which the decedent's death was caused * * * and the State hereby consents in all such claims to have its liability determined." Several courts had held that this statute expressly permitted liability for a "wrongful act, neglect, or default" of an agent or officer of the State to be charged against the State. Not so the court of appeals. While admitting that this statute conferred "jurisdiction of the broadest character," Justice McLaughlin, speaking for the court, said that though the State "must be treated as having waived its immunity against actions as to all private claims," still by waiving its immunity from action it did not thereby concede liability for the torts of its officers. "Immunity from action is one thing. Immunity from liability for the torts of its officers and agents is another." The Illinois Court of Claims act of June 25, 1917, empowers that court "to hear and determine all claims and demands, legal and equitable, ex contractu and ex delicto, which the State as a sovereign Commonwealth, should, in equity and good conscience, discharge and pay." This provision was likewise held not to enlarge the liability of the State, but "simply provides a remedy by which claims may be heard, and this court has no power to make an award in any case unless the facts show a legal or equitable claim against the State." While torts of officers have not been held to create a legal or equitable claim, the court has in a considerable number of cases recommended to the legislature an appropriation as a matter of "social justice."

It is interesting to note that the States of California and Wisconsin allow compensation for the individual up to $5,000 in the case of errors in the administration of criminal law. This is on the theory that the State, in pursuit of its public functions, should be responsible for the errors and misfeasance and malfeasance of its officers who take away the liberty of the private individual in the supposed interest of the public. It is interesting, in this connection, to note that similar statutes are in force in France, Germany, Norway, Sweden, Denmark, Austria, Spain, Portugal, and Switzerland. See Senate Document No. 974, Sixty-second Congress, third session, which contains an editorial by Dean Wigmore, of Northwestern University School of Law, and an article by Professor Borchard on "European systems of State indemnity for errors of criminal justice."

The United States has, nevertheless, allowed itself to be sued many times. We have allowed contract claims to be recovered in the Court of Claims since 1865. England for centuries has allowed what is known as the "Petition of right," but this has never been construed to cover torts. Our Court of Claims has from time to time had its jurisdiction widened to include many classes of cases. December 28, 1922, we passed a Federal tort claims act, Public Act 375, Sixty-seventh Congress, which allowed tort claims to be settled by the heads of departments up to $1,000. We have also allowed the Secretary of the Navy to settle claims for damages to private property arising from collisions with naval vessels. This act was approved December 28, 1922, and permits settlement up to $3,000. March 3, 1925, we approved the act authorizing suits against the United States in admiralty for damages caused by the salvage services rendered to public vessels belonging to the United States. Thus we have, by innumerable provisions, allowed the Government to be sued on claims pending in tort against it, to be settled and paid. The instant bill simply extends the practice.

Mr. JOHNSON of Texas. Will the gentleman yield?

Mr. CELLER. I yield.

Mr. JOHNSON of Texas. I heartily agree with what the gentleman says with reference to the doctrine that "the king can do no wrong," and I think there should be a remedy; but what is the gentleman's view about letting the executive branches of the Government be the supreme court with respect to amounts up to $5,000?

Mr. CELLER. The same question was propounded to me a moment ago, and I said that on principle I was opposed to having any bureau set up as a tribunal to pass upon the question of negligence of Government employees or contributory negligence of the claimant; but we do not afford any kind of relief now whatsoever. Except that if somebody is run down by a mail truck in your district and you are importuned you come to this House and offer a bill, and after a great many delays, not due to any action or inaction on the part of the Committee on Claims but by virtue of the thousands of bills ahead of you, you may get that claim referred to a member of the committee. Because of the multifarious duties of the member he may not be able to get to your bill; it may be months before he can make his report; it may be months before the committee can hear him; it may be months before he can get it before the House, and it may be months before the Senate can take action on it, and so an ad infinitum.

Mr. JOHNSON of Texas. Does not the gentleman think it would be wise to provide that there should be some method of review, and would not that make the department more careful?

Mr. CELLER. There is some slight review in a sense. The report by the commission must come to Congress and go back to the Appropriations Committee. In a way they can exercise an intelligent jurisdiction over the claim?

Mr. WURZBACH. Will the gentleman yield?

Mr. CELLER. Certainly.

Mr. WURZBACH. That would be so in a case where favorable action was taken on the part of the department, but assuming that the department rules adversely on a claim, what would be the situation of the claim?

Mr. CELLER. Well, in that case there is no such thing as an appellate jurisdiction. All the claimant could do would be to go to you, if he was one of your constituents, and you would go to the commission and ask for a rehearing or a retrial. Other than that, he would go to a Member of Congress and ask for the introduction of a bill for relief.

Mr. WURZBACH. On that point it is understood that if a claim of that kind is presented to the department the claimant would have the same right to present his claim to the Claims Committee.

Mr. CELLER. Yes, we could not bind any future Congress.

Mr. WURZBACH. The gentleman does not think the Claims Committee would adopt a rule where the department has passed adversely and not give consideration to such claims?

Mr. CELLER. I think it would be reasonable to suppose that the Committee on Claims would adopt some sort of a rule whereby they might not look kindly on a claim that had been turned down by the commission.

Mr. UNDERHILL. That is practically the same procedure we have now.

Mr. CELLER. It is.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. UNDERHILL. Mr. Chairman, I yield five minutes to the gentleman from South Dakota [Mr. WILLIAMSON].

Mr. WILLIAMSON. Mr. Chairman and members of the committee, I want to say at the beginning of my remarks that I believe the Committee on Claims has done an exceptionally good job in redrafting this legislation. They have covered most of the claims that come before the Committee on Claims, and in a manner which I believe will result in the fair and equitable settlement of at least 95 per cent of the claims that otherwise would have to be submitted to Congress for adjustment.

Since I have been a member of the House I have had occasion to introduce a number of bills that have gone to the Committee on Claims, and while that committee has given, I believe, as much consideration as it is possible to give claims of this kind, I still have a few claims there which I believe ought to be adjusted and which apparently the committee has not found time to investigate.

I recall one claim in which citizens in my district were interested that has been before the departments and this Congress in the neighborhood of 40 years. I was finally able to secure an adjustment of the claim in the last Congress. The appropriation, I understand, will appear in the deficiency appropriation bill about to be presented. Many of the claimants are now dead, but such an amount of money as was allowed will be paid to the heirs. Another claim from my district which was favorably acted upon at the last session of Congress and approved by the President had been before the Congress for 10 years. During that period it had passed both bodies but always failed to get consideration at the other end of the Capitol during the same Congress.

That is an illustration of what is happening to claims from all over the country. This bill will make it possible for the claimants of the kind I have had the honor to represent in these matters to go before the proper department, before the district court, or before the Court of Claims and get their claims adjusted.

This bill on the whole is admirably drawn for the purposes intended, and I hope that the House conferees will be able to get the Senate conferees to agree to the bill in substantially the form presented by the House Committee on Claims.

There is one feature of the bill which it seems to me might well be liberalized, and that is the provision in the bill discussed by the gentleman from New York [Mr. CELLER]. To set an arbitrary amount of $5,000 as the maximum amount that can be recovered in case of death occasioned by some instrumentality of the Government, seems to me illiberal. There are very few cases where a human life can be said to be worth as little as $5,000. I think the maximum amount should be at least $10,000, and that we should leave it to the courts to determine, within that limitation, what amount should be allowed under the well-recognized rules of law respecting claims of this character.

I understand that the amount that can be settled before a department will be reduced from $5,000 to $3,500. I believe this reduction will be a good thing unless the department and the district courts are given concurrent jurisdiction to settle and dispose of all claims up to and including $5,000.

The CHAIRMAN. The time of the gentleman from South Dakota has expired.

Mr. BOX. Mr. Chairman, I yield 10 minutes to the gentleman from Texas [Mr. JOHNSON].

Mr. JOHNSON of Texas. Mr. Chairman and gentlemen of the committee, I am in sympathy with legislation that has for its purpose giving the citizens of the country some tribunal in which to determine the amount of their claims against the Government. With the general purposes of the bill I therefore agree. At the time I became a candidate for Congress one of the suggestions I made was that claims against the Government ought to be determined in some judicial forum instead of by Congress, because I thought Congress was too expensive a jury to determine these matters. However, it occurs to me from my examination of this bill that there are two features that should be amended. One is that feature of the bill which gives the heads of the departments exclusive jurisdiction up to $5,000, and the amount is too large to vest such jurisdiction. I think that that power should be subject to some character of limitation whereby the action of the head of the department would be subject to review.

Mr. UNDERHILL. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Texas. Yes.

Mr. UNDERHILL. I tried to explain not only to-day, but before that I had agreed—and this was between ourselves over on this side of the Capitol—to reduce that amount from $5,000 to $3,500. Furthermore, if the claimant is not satisfied, he has the same remedy that he has to-day, to come in before the Committee on Claims.

Mr. JOHNSON of Texas. It ought to be so that he will not have to come before Congress. The gentleman means that he should come before the Committee on Claims with a private bill?

Mr. UNDERHILL. Yes.

Mr. JOHNSON of Texas. If we are going to agree to $3,500, why can we not do that now?

Mr. UNDERHILL. Let me frankly state to the gentleman that I want to use that in the committee on conference as a trading point. I am frank with the gentleman.

Mr. JOHNSON of Texas. I understand then that the gentleman in conference will agree to $3,500 instead of $5,000.

Mr. HUDSPETH. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Texas. Yes.

Mr. HUDSPETH. The gentleman says that in claims up to $5,000, if the man is turned down by the department, he can still come back to Congress, but one gentleman speaking further said he thought that the man would have a very thin chance when he came back here.

Mr. UNDERHILL. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Texas. Yes.

Mr. UNDERHILL. I have tried to impress it upon the Members that that is the practice of the committee to-day. The gentleman from Texas [Mr. HUDSPETH] himself has found some difficulty, and I think it has been almost insurmountable, in his case where the department reports adversely upon any of these claims, which is the usual practice of the committee, although it is not always guided by the report of the department.

Mr. HUDSPETH. Of course the committee takes that into consideration, but the committee should not be bound by it where it can ascertain the real facts. The Committee on War Claims, of which I am a member, is not bound by the report that comes from the department in many instances, where we get the real facts of the matter before the committee.

Mr. UNDERHILL. The committee is not bound, but I call to the gentleman's attention the fact that if we ever do report a bill in opposition to the recommendations of the departments it is objected to on the floor of the House and never receives consideration by the Members of the House.

Mr. HUDSPETH. The gentleman has an oyster bill reported out by his committee where there is an adverse report on it from the head of the department, and it is pending on this calendar.

Mr. UNDERHILL. It will not get anywhere.

Mr. HUDSPETH. It has been reported out, nevertheless, and is on the calendar.

Mr. JOHNSON of Texas. That statement should be qualified. I had a private bill passed in this session, where the Navy Department made an adverse report. It was passed and the President signed it.

Mr. UNDERHILL. I said there were exceptions.

Mr. JOHNSON of Texas. Then there is another objection which I desire to make to this bill, and it is based upon my experience as an attorney in representing litigants before I became a Member of this body. In a great many instances parties do not know their rights under the law, especially under the Federal law. I live in a town where there is no Federal court. We have no great or special interest in Federal laws or procedure. It is with difficulty sometimes that a man could find out his remedy or his rights. For instance, under this bill you limit the period of time to six months from the date of accrual of the claim within which the claim must be filed with the department under general debate. I heard the Chairman's explanation in answer to my question on that score. He said it was to protect the rights of the Government, because sometimes employees in various departments will be shifted hither and thither and it might be difficult to ascertain what the testimony would be. There are two sides to that. If we are to pass this bill, it is to protect the rights of the Government and also the rights of those individuals who may have claims against the Government. If we are to protect those rights, then a greater length of time ought to be allowed within which these claims may be filed. The period within which such claims must be filed should be not less than one year. If some one else does not offer such an amendment, I give notice that I shall offer one to that effect.

Mr. HUDSPETH. Mr. Chairman, I do not want to take up the time of my friend who is a lawyer and has practiced in the Federal courts of his State, but in reference to the concurrent jurisdiction here in a sum between $5,000 and $10,000 in a Federal court and the Court of Claims I want to ask if he can see any reason why that limitation of $10,000 should be placed there? Why should not the claimant have jurisdiction or fix it so that he can go into the Federal court at home and not have to come here and pay so much for a lawyer to represent him?

Mr. JOHNSON of Texas. I think my colleague is right, and I would favor an amendment giving jurisdiction to the district court in which the plaintiff lives rather than cause him to come to Washington to litigate. It is too expensive.

Mr. LINTHICUM. Will the gentleman yield?

Mr. JOHNSON of Texas. I will.

Mr. LINTHICUM. I notice the bill says the claim must be filed within six months after accrual?

Mr. JOHNSON of Texas. Yes.

Mr. LINTHICUM. Now, suppose a man has a claim. I have one, and it has been here for 40 years.

Mr. UNDERHILL. It does not affect that, not at all.

Mr. LINTHICUM. But the time of accrual was some 40 years ago.

Mr. UNDERHILL. It does not affect it.

Mr. LINTHICUM. Why not?

Mr. UNDERHILL. If it was for a hundred years, it would not affect it.

Mr. LINTHICUM. It says it must be filed within six months.

Mr. UNDERHILL. It says any accident accruing after the passage of this act—after the passage of this act—notice must be given within six months. It also provides that any accident that occurred in the period of five years previous to the passage of this act. This claimant must present his claim within six months after the passage of the act, but an accident accruing previous to five years can come to Congress at any time.

Mr. LINTHICUM. The gentleman knows the claim whereof I speak. What would be his rights?

Mr. UNDERHILL. Just the same as now.

Mr. LINTHICUM. Before the committee?

Mr. UNDERHILL. Absolutely.

Mr. JOHNSON of Texas. Replying to the inquiry of the gentleman from Maryland [Mr. LINTHICUM], I call his attention to this provision before the end of section 2, the last sentence therein, which reads:

> No claim that, prior to the time of the passage of this act, has been rejected or reported on adversely by any court or department or establishment authorized to hear and determine the same shall be considered under this title.

So that if that claim had been reported on adversely by any department or court this bill would absolutely preclude any consideration of it in this measure. I have an amendment which I propose to offer that would limit that section to any judicial action by any court. I do not think because some department adversely reports a claim that it should preclude the right to be heard later. When a court determines a claim it is a different matter from a ruling by some department. The bill should be amended in this regard.

Mr. LINTHICUM. I hope so. My claim has been recommended several times by the department, and I think once against it; and then it has been passed by the Senate, but never has been passed by the House.

Mr. JOHNSON of Texas. Reverting to the question which I was discussing at the time I was interrupted in reference to the six months' period within which claims must be filed, I have the law now before me, and I wanted to take time to read it, but I see I will not have that time. It provides that claims before the Court of Claims can be filed within six years. I think if that law is just—no limitation runs against the Government—certainly it should be fair with the citizen. Why change the law by reducing limitation from six years to six months? There is another provision of the bill that I think ought to be changed, and I propose to offer an amendment if some one else does not, and that is in reference to section 304:

> No period of limitation for presenting or filing the claim of any individual under 18 years of age or mentally incompetent shall run so long as such individual is without a guardian, trustee, or committee.

In Texas under 21 years is the age of minority. This is the present Federal law on that subject. It should not be changed. [Applause.]

The CHAIRMAN. The time of the gentleman has expired.

Mr. UNDERHILL. Mr. Chairman, I yield five minutes to the gentleman from New York [Mr. LAGUARDIA].

The CHAIRMAN. The gentleman from New York is recognized for five minutes.

Mr. LAGUARDIA. Mr. Chairman, I agree with the attitude taken by my colleague from New York [Mr. CELLER] and the gentleman from Texas [Mr. BOX] that this bill does not go quite far enough, but it is a great step forward. When the system of claims for the payment of damages to property or persons coming to Congress for adjustment was first introduced the Government was not engaged in many of the activities that it now necessarily must carry on. With its many activities and with changed conditions the present system is not only antiquated and obsolete but manifestly unfair.

Now, take the Post Office Department alone, for illustration. We will take my city, where the department operates hundreds of trucks through the streets all day and all night. In my district alone, which is a very small district in territory—I can walk around it, I believe, in 30 minutes—I have had three deaths from mail trucks in one year. Now, in the ordinary course of the business of the Committee on Claims it would be years before any of the bills which I have introduced in these cases could be reached in its turn. It is a very difficult thing to explain the situation to a constituent who comes to you and says, "My child was killed," as in the Valerio case, or in a case like the Duffey case, "My mother was killed," and be compelled to inform them that they can not sue the Government and must wait for Congress to give them relief. They ask, "How long will it take?" The answer is from 2 years to 40 years. There are some claims here now that are 40 years old. The provisions of this bill at least creates a better machinery to take up such claims and establishes the right of action against the Government.

Just how it will work out to have a commission pass upon these tort claims is not known at this time, but it will be an easy matter to rectify defects after the new method is in operation and observed for a short time. The bill, as I said, establishes the right of action, and that is a great improvement over the present system, and it will, I believe, eventually develop into some sort of system whereby these claims may properly and speedily be adjusted.

I want to call the attention of the committee to one thing which I believe does not meet the approval of this House. We have in New York City a homicide court. When a citizen is injured on the street, the chauffeur is arrested and brought before the court. In one of the cases that I have pending before the Claims Committee the chauffeur of the truck was held in the homicide court and indicted by the grand jury for murder, his carelessness was so criminal. In the homicide court this man was defended by a United States attorney assigned to represent the offender. It occurs to me that while it is quite proper for the Government to have its representative in that court to appear as an amicus curiæ to look into the facts, I think it is highly improper, when the carelessness of the chauffeur was so great as to amount to criminal negligence, for a representative of the Government to put up a fight for him and seek to obtain his discharge from that court. But that is what happened in the Valerio case.

Mr. O'CONNOR of New York. Mr. Chairman, will my colleague yield?

Mr. LAGUARDIA. Yes.

Mr. O'CONNOR of New York. Is not that like the cases where prohibition officials have fought in behalf of prohibition agents?

Mr. LAGUARDIA. Yes; but the riffraff and criminal element employed by the Prohibition Department creates an entirely different situation. Of course, one can not get very much exercised if a criminal prohibition agent kills a criminal bootlegger. I do not care how much they shoot each other. But I am concerned about the little children in my district, which is a congested district, who are injured or killed by United States mail trucks. We have a post-office station in that district, and these trucks go through that district under the false idea that a mail truck has the right of way. I do not know how that idea originated, but every chauffeur of a mail truck believes he enjoys special privilege and has all sorts of rights of way. Of course, there is no such thing either in the laws of the State or any other law.

In all fairness to the Post Office Department, they are not responsible in any way for the reckless driving and speeding of trucks in the city. I am sure they have not instructed drivers to disregard local laws or to jeopardize human life. Yet these men persist in driving at a high rate of speed through congested streets, and the result is that there are many persons injured and many killed. Of course, the United States Government wants to do the right thing in such cases.

The auto mail truck, high-speed machines, and congested city streets did not exist when the principle that "the King can do no wrong" was enunciated and adopted. In those days there was not much mail, there were no congested cities, there were no traffic problems, and there were no automobiles. Besides, our Government is built on the principle of justice to all, special privilege to none—even the Government itself—and where a person is injured or killed by reason of the negligence of an employee of the Government it should stand exactly in the same position toward those who suffer the loss as any private individual or corporation under the law.

I know of a case where a man was injured by an Army truck, and when he went to the Army building on Whitehall Street, New York City, to seek redress he was literally abused instead of being given the right information.

I am sure that when the commission created by this bill gets into operation we will soon see the necessity of having these negligent cases considered by the United States courts throughout the country. The judge will be able to hear witnesses for both sides and determine the claim on its real merits. I have a great deal of misgivings as to just how this commission will operate or function in getting the evidence before it. I hope that the commission will realize that the intent of Congress is to have it determine judicially the merits of these claims. The commission, in order to carry out the intent of this bill, will have to act impartially and be extremely fair in gathering evidence and in obtaining proof in cases occurring outside of the city where the person injured or the family of one who has been killed can not afford to bring their witnesses to Washington for a hearing. To be perfectly frank, the men that they send out to investigate and gather the information will have to be better men, mentally and morally, than the men now employed by the Post Office Department for that kind of work. The Post Office Department now decides cases involving personal injuries, and even death, on the investigation made by a certain class of inspectors detailed to such work. The men that I met doing this work are of such low mentality that they believe in order to curry favor and keep their assignment, which is considered a soft detail in the Post Office Service, they must seek to report as many cases unfavorable to the claimant as they possibly can. I have been present when one of these so-called inspectors examined a witness and an injured boy, and I tell you that he displayed the mentality of a 12-year-old child. He was no doubt a lazy individual who preferred not to do the regular hard work of the post-office clerk, and liked this detail of going about investigating injury cases. He put in an entirely false report on the facts, and on this man's report the solicitor decided the case. Why, not even the lowest liability insurance company employing crooks as investigators would stoop to such tactics. So it is my earnest hope that the commission will act in its judicial capacity fairly and impartially, and will sift the evidence and consider cases on the merits.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. UNDERHILL. Mr. Chairman, how much time have I?

The CHAIRMAN. The gentleman from Massachusets has 12 minutes remaining, and the gentleman from Texas [Mr. Box] has 8 minutes.

Mr. BOX. Mr. Chairman, I yield to the gentleman from Maryland [Mr. LINTHICUM] five minutes.

The CHAIRMAN. The gentleman from Maryland is recognized for five minutes.

Mr. LINTHICUM. Mr. Chairman, it is my intention to vote for this Federal tort claims bill, because I realize that there must be some relief from the intolerable condition in which Congress and the Claims Committee now finds itself.

I am informed that during the Sixty-eighth Congress 2,000 claim bills were introduced in Congress, and that even though the committee held more meetings and did more work than in any previous Congress, they were only enabled to enact into law some 250 claims, and then there were 350 tort claims presented to the House, out of which only a fraction became laws.

The Claims Committees of the House and Senate for the Sixty-eighth Congress spent $38,000 for printing. The Government costs for printing private bills, of which private claims were a considerable part, spent in the last 10 years some $500,000. The delay occasioned by the present system is so great and the effort so onerous that many persons with perfectly good claims renounce them rather than take the trouble and go to the expense of collecting.

I remember about three Congresses ago there was a claim bill passed to pay for a money order which had been drawn during the first administration of Grover Cleveland, and all these years he had been unable to collect the money because the money order had been drawn to some one who had died, and it was necessary to pass an act of Congress to pay the claim. It took 35 years to get that legislation.

What the people want is some adjudication of their claims. If after a fair trial and proper consideration they are granted or rejected, it will at least be a decision and a finality. I shall, therefore, as I said, support the bill, but upon the theory that there must be a beginning, and that perfection will come gradually as to this legislation.

I am not satisfied with the provision contained in section 1, subsection b, where it leaves to the head of each department and establishment acting on behalf of the Government to consider, ascertain, adjust, and determine the Government's liability up to $5,000, which, I understand, is to be reduced to $3,500.

This will mean the extension of bureaucratic government, in that these claims will be referred to some employee in that branch of the Government for adjudication, which results in a one-man adjudication. At the present time we have a Claims Committee that collectively and individually devotes a very considerable amount of work, effort, and consideration to be fair and just. This Claims Committee is composed of men usually of big hearts intent upon trying to do justice and satisfy the claimant. Who is to say what the employee in a department will do? I feel very much like the gentleman from New York [Mr. LAGUARDIA], who said, "There ought to be some court to decide all these cases." I go even further than he by saying that I think there ought to be some court to decide them, and that the claimant should have the right of trial by jury if he desires. I tell you, gentlemen, we are getting too far away from trial by jury, a system for which the Anglo-Saxon people fought for more than a thousand years.

Now, if the claim is between $3,500 and $10,000, then the district court and the Court of Claims have concurrent jurisdiction, and if the claim is for more than $10,000, it must be tried by the Court of Claims, so that in the final analysis all these claimants can resort to a court or court of claims and have their matters adjudicated, but the little fellow having a claim of less than $3,500, he is compelled to have his matter adjudicated by some department employee. I hope future legislation will cure this inequality.

Mr. CELLER. We do allow cases of personal injury to come before a claims commission in Federal cases. Workingmen's compensation cases all go to that commission.

Mr. LINTHICUM. I am talking about cases up to $3,500, which go to the head of a department and are decided by some inspector, I suppose, in that department.

Mr. CELLER. You mean property damages?

Mr. LINTHICUM. Yes.

Mr. CELLER. In personal-injury cases, where the person concerned is a Government employee, why not include those?

Mr. LINTHICUM. That might well be done.

Mr. BYRNS. Mr. Chairman, will the gentleman yield there?

Mr. LINTHICUM. Yes.

Mr. BYRNS. Under the present law I have had occasion to go into some of these claims, and they have now to come to the Committee on Appropriations. In some of the departments they give close deliberation to the claims, but in many of the departments they are considered by clerks. I think you open wide the doors of the Treasury by that amendment of $5,000.

Mr. LINTHICUM. The gentleman expresses my sentiments exactly. Of course, where it is a claim for compensation, that goes to the Employees' Compensation Commission. I think that would be entirely satisfactory.

I am pleased with that section of the bill which confers jurisdiction upon the Employees' Compensation Commission to consider personal injury and death claims. I think this is a very satisfactory and highly important provision, but I do not believe it ought to be limited to $5,000 in these cases. If a man is injured in his property, then the sky is the limit, but if he is injured in body, perhaps killed or his eye shot out in some prohibition raid, then there is a limitation of $5,000. This is manifestly unfair.

I wish to call the attention of this committee, and particularly the chairman of the Claims Committee, to the five last lines in section 2 of the bill, which read as follows:

> No claim that, prior to the time of the passage of this act, has been rejected or reported on adversely by any court or department or establishment authorized to hear and determine the same, shall be considered under this title.

I have a claim—and others have perhaps such claims—of a man whose father was a great friend of President Lincoln. He was appointed to prosecute those land claims in the State of California and recovered I forget how many thousand acres of land, but he was never paid one cent for his work, although he saved the Government millions of dollars. His claim is very old. It was recommended by the Department of Justice at one time. It has once been passed by the Senate, but never became a law. Under that clause of this bill, as I take it, he would probably have no opportunity to go before the committee or before any court, because some head of a department on one occasion recommended that his claim be not allowed.

Mr. UNDERHILL. The gentleman is entirely mistaken. That is not the fact.

The CHAIRMAN. The time of the gentleman from Maryland has expired.

Mr. LINTHICUM. I would like to have one additional minute in order to answer the gentleman from Massachusetts.

Mr. UNDERHILL. Mr. Chairman, I yield the gentleman one minute, and I will say to the gentleman, in answer to his statement, that that is not the fact; that it does not affect his case in any way, shape, or manner. The man has the same remedy to-morrow, if this bill becomes a law, that he has to-day. The passage of this bill will not affect the case in any way, shape, or manner.

Mr. LINTHICUM. I do not want to accuse the gentleman of being an "Indian" giver.

Mr. UNDERHILL. What did the gentleman say?

Mr. LINTHICUM. An "Indian" giver. You gave me a minute and then used it yourself.

Mr. UNDERHILL. Then I will give the gentleman another minute.

Mr. LINTHICUM. According to my reading of that clause of the bill I construe it so.

Mr. UNDERHILL. I suggest that the gentleman read it.

Mr. LINTHICUM. I did read it, and the gentleman heard it read. If the gentleman will assure me that he will make some amendment to that clause of the bill which will clear up the matter, then I certainly would be satisfied. It confuses one at present and may confuse the court.

Mr. UNDERHILL. I will say to the gentleman that I made the statement, and I do not think any reading of the bill can controvert what I have stated.

Mr. LINTHICUM. Well, I suggest the gentleman read the last part of section 2 quoted by me, if he has the time to do so.

Mr. BOX. Mr. Chairman, I yield two minutes to the gentleman from New York [Mr. JACOBSTEIN].

Mr. JACOBSTEIN. Mr. Chairman, as I understand it the pending bill (S. 1912) provides a more liberalized method for the settlement of claims against the United States Government on account of property damage, personal injury, or death. As I am not a lawyer, I can not discuss the bill from a legal point of view. As a layman, however, I want to bring to your consideration one idea which is in my mind at this time with reference to this bill.

The average American citizen who reads in the paper of some property claim running into the millions against the Federal Government, and then learns that $5,000 is the maximum limit for personal injury or death, gets a distorted conception about our courts. Placing no limits on property damage and a meager, miserable limit on human life seems and is a miscarriage of justice. This unjust discrimination in favor of property and against human life is a travesty on justice.

I understand the Senate bill would limit the personal claims to $3,000. I hope the House will not agree to this and will stand by its original limit of $5,000, though I personally would like to see the maximum limit raised to $50,000 for personal injury or death.

I realize that legal institutions and legal procedure are slow in being changed. For this reason I believe the committee which has deliberated over this matter for months is to be congratulated on having the courage to initiate a departure such as is embodied in this bill. I approve of the idea whereby it will be possible for a private citizen to bring a claim against the United States Government without the Government's consent. The claim, of course, will be decided on its merits in the Court of Claims or the United States district court. I like also the idea in this bill which will make it possible for department heads to adjudicate claims not to exceed $3,500. This will obviate legal delays and legal expenses. This is working well now in cases not exceeding $1,000.

To the extent that the bill is a departure and the first step in the right direction it is worthy of our support. On the theory that a half a loaf is better than none, I shall vote for this bill, which has been recommended favorably by the Committee on Claims.

I predict, however, that the average American citizen will never be content and will never fully believe that he is getting a square deal in the American courts until human life and human rights are given the same consideration now accorded to property and property rights. [Applause.]

Mr. BOX. Mr. Chairman, I wish to call attention to what appears to be a misunderstanding with reference to the action——

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. BOX. Mr. Chairman, I thought I had one minute remaining.

Mr. UNDERHILL. Mr. Chairman, I yield the gentleman one minute.

Mr. BOX. I wish to call attention to what appears to be a misunderstanding with reference to the action of the department being binding. First, it does not apply so as to preclude relief being granted by Congress at all and, next, the recommendations which the departments have heretofore made to committees about such action as committees should take do not apply. They are not contemplated at all. Any unfavorable reports made by departments heretofore as to whether or not certain relief bills should pass is not meant and will not have the effect of barring future action under this clause of the bill.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. UNDERHILL. Mr. Chairman, I yield myself the balance of my time.

The CHAIRMAN. The gentleman from Massachusetts is recognized for nine minutes.

Mr. UNDERHILL. Mr. Chairman, I want to emphasize one or two things which I have tried to bring out before, and I trust the Members will not think my emphasis is anger, but simply a statement of the facts in the matter and the danger which you run if you attempt in any way, shape, or manner to amend the bill.

Let me say, with regard to the $3,500 limit, there are two very good reasons for that. The first reason is that the Underhill small claims bill, which was passed in 1921, has been a godsend to the poor people. They have presented their claims to the department, and claims for property damage up to $1,000 have been settled without the expense of going to court or the hiring of attorneys. My purpose in increasing this to $5,000 was solely for the purpose of protecting the poor people, who find court expenses and attorney's fees a detriment to them in the adjudication of small claims. Consequently, I believe that $5,000 should be the limit in behalf of economy and saving on the part of those who can not afford court action; but in deference to my colleague I agreed to an amendment of $3,500.

Now, with reference to the district courts, I want to say this without casting any reflection upon the district courts at all, but when a claim reaches the amount of $10,000 or over, it ought to be settled in the Court of Claims and not in the district courts, because in the district courts I am afraid, from past experiences, there are influences which possibly bring about——

Mr. CELLER. The gentleman does not mean that?

Mr. UNDERHILL. Well, I do not know whether I do or not.

Mr. CELLER. That is rather a reflection on the district courts.

Mr. UNDERHILL. I know that all of the legal fraternity are jealous of court actions; but I am a layman and I have not benefited particularly from some of the actions of the courts.

If that is not a good reason, I have a number of others that I might offer, but I think if the claim amounts to $10,000 they can easily afford to bring it here to Washington, and they do not have to hire a Washington attorney. Under present conditions claimants come to Washington and hire a Washington attorney or send an attorney here from back home and the members of the Committee on Claims do all of the work and the attorneys collect about a 50-50 fee for what he does.

With reference to prior claims, I want to emphasize still further that this does not affect a single claim against the Government prior to the retroactive features of the bill which extend back for a period of five years.

With reference to the $5,000 limitaiton regarding death claims or injury claims, the purpose of the bill is to place the ordinary citizen on the same plane, as nearly as possible, as the employees of the Government. In other words, we have to-day a law which protects the employee of the Government, and if he is injured in his employment he goes to the compensation board and the compensation board makes an award according to a table of rates which is scientific and just and equitable.

Mr. CELLER. I think the chairman is mistaken as to the limitation of employees' compensation, the board goes beyond $5,000.

Mr. UNDERHILL. I was going to go into that. There are occasions where the extent of the injuries warrants the compensation board giving relief over a long period of time, so that the compensation will amount to over $5,000; but the great majority of cases, by far the great majority of cases, do not extend over any such period, and so $5,000 will take care of 90 per cent of the claims which will come before the board.

You can not put the Government in a position with reference to the ordinary citizen different from the position which the Government occupies toward its own employees.

Now, one other word of warning, and then I am willing the bill shall be read. I want to say to you this is not an effort of only a few days or a few months, but it is an effort of over five years of study of the question, an effort which has extended into the education first and then the cooperation of the committee; the education later on and then the cooperation of a majority of the House; but we have got something else to deal with.

I will not say the opposition but the principal criticism of this bill comes from a source that I believe has more claims before the committee than any other individual source. If you want to wreck this bill entirely, you want to amend it. If you want a chance in the world, a Chinaman's chance, or the chance of a snowball in the proverbial hot place, if you want to remedy the situation, if you want to make some progress, you have got to accept the bill about as it is, because it will not be accepted by those who have the belief that "the king can do no wrong," and that the Government is supreme over everything.

That is the situation, gentlemen; it is not what I would like to do, or what you would like to have the committee do; it is what can be done, and understand this progress has been made by slow degrees. The first step in it was away back 50 years ago, when the Court of Claims was established. Almost the next step was the passing of the Tucker Act, which made the Court of Claims effective. The third step after almost 40 years was the small claims act, and with reference to the small claims act and to increasing the departments' jurisdiction up to $3,500, would it not be a good deal better for the claimant to go before the department and present his claim there without cost than to compel him to go into court and hire counsel.

If he does not get what he thinks is justice there, the door is open. He can come back to the soft-hearted Committee on Claims. Oh, I am so glad somebody has credited the Claims Committee with being soft-hearted. Most of them have said we are hard-boiled, and we have to be that. We can not discriminate between the Members. We have to have a certain line of demarcation; we have to have certain rules and regulations; we have to have a certain amount of sympathy, it is true, but more of science, if you please, in these matters.

Therefore, if you want to have another step taken along these lines, if you want to make some progress so that your bills that are left outside of the jurisdiction of this bill may be considered, and that we may give some time and attention to them, then you will pass this piece of legislation unanimously and send it over to the Senate with the recommendation of the House. [Applause.]

The CHAIRMAN. The time of the gentleman from Massachusetts has expired; all time has expired, and the Clerk will read the bill.

Mr. UNDERHILL. Mr. Chairman, I move to strike out section 1 of the Senate bill and ask unanimous consent that the House amendment be read.

Mr. RAMSEYER. Will the gentleman couple with his request that the House amendment be read by sections for amendment.

Mr. UNDERHILL. That is what I intended to do.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts that the committee amendment be read by sections for amendment?

There was no objection.

The Clerk read as follows:

TITLE I.—PROPERTY DAMAGE CLAIMS

SECTION 1. (a) Subject to the limitations of this act, the Government of the United States authorizes the payment of claims on account of damage to or loss of privately owned property, if the claim accrued after April 6, 1920, and if the damage or loss was caused by the negligence or wrongful act or omission of any officer or employee of the Government acting within the scope of his office or employment. Contributory negligence shall operate to diminish the damages recoverable in proportion to the amount of negligence attributable to the claimant.

(b) Exclusive authority is hereby conferred upon the head of each department and establishment acting on behalf of the Government to consider, ascertain, adjust, and determine any claim liability for which is recognized under this section, if the amount of the claim does not exceed $5,000. Such amount as may be found to be due to any claimant shall be certified to the Congress as a just claim for payment out of appropriations that may be made by Congress therefor, together with a brief statement of the character of each claim, the amount claimed, and the amount allowed: *Provided*, That no claim shall be considered by a department or establishment unless presented to it within six months from the date of the accrual of said claim, except that any such claim accrued after April 6, 1920, but prior to the passage of this act, may be presented within six months after the passage of this act.

Mr. DOWELL. Mr. Chairman, I move to strike out the last word, and I want to offer an amendment. In line 23, page 4, the bill provides that claims must be filed within six months. I move to strike out "six months" and insert "one year."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment by Mr. DOWELL: Page 4, line 23, strike out the words "six months" and insert in lieu thereof "one year."

Mr. DOWELL. Mr. Chairman, I want to suggest this situation. This amendment will not in any manner affect this bill or any provision in it, except the fair consideration of claims which anyone may have to submit to the department. You will observe that the persons presenting claims will not have attorneys. These may be small claims made by claimants who have received injuries of various kinds. They must present their claims without the aid of counsel. Most of them I apprehend would not be presented if this clause limiting them to six months is unchanged. The statute of limitations on nearly all claims in the courts is much longer than this. It does seem to me that when the section provides that this is exclusively within the department, or, in other words, the department may determine how much shall be paid and allows no appeal, that this time ought to be lengthened.

Mr. JOHNSON of Texas. Will the gentleman yield?

Mr. DOWELL. I will.

Mr. JOHNSON of Texas. With reference to the Court of Claims, if a suit is against the Government, it must be brought within six years of the time the claim accrued?

Mr. DOWELL. Yes. This affects no one except the rights of the claimant who may not know how to proceed.

Mr. LAGUARDIA. Is not the gentleman confusing the notice of the claim with the filing of the claim? The mere fact that he writes to the department stating his loss is sufficient to bring him within the statute.

Mr. DOWELL. That may be; but we all know that when a claimant is not advised as to his rights in the matter that he may wait longer than six months. It may be an injury for which he is clearly entitled to recover, but if he is not advised as to his rights his six months may expire before he files his claim. This limitation is beyond anything we find in the statute. It says that no claim shall be considered by the department unless it is filed within six months, and no provision is made as to how the claims are to be filed. I wish to submit that, the department having exclusive right to pass on these claims, no harm can come to the Government by giving the claimant a few months more in which to have the opportunity to file the claim.

Mr. McKEOWN. Will the gentleman yield?

Mr. DOWELL. Yes.

Mr. McKEOWN. The customary time in matters in State courts is two years, is it not?

Mr. DOWELL. Certainly. I think this time is entirely too short.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

Mr. DOWELL. May I proceed for five minutes additional?

Mr. UNDERHILL. Oh, I think everyone understands this question.

Mr. DOWELL. Very well, if the gentleman concedes it.

Mr. UNDERHILL. I do not propose to concede it, but I want to be heard as to the reason why six months is put in the bill. I have already explained to the House that the purpose—and we ought to represent the Government as well as the people—the purpose is so that the Government may secure witnesses, which may be impossible if you delay the action too long. Under the small claims act there has been no difficulty such as has been presented by the gentleman in his argument; these claims have been filed and 1,500 of them settled. This amendment is immaterial except that it makes it a little bit harder to get it by the hard-boiled element later on.

Mr. JOHNSON of Texas. Mr. Chairman, I move to strike out the last word. Would it not be proper for the gentleman's amendment to also include the "six months" on page 5, line 2? In other words, if you are going to strike out "six months" in line 23, would it not be proper to make it also "12 months" later on?

Mr. UNDERHILL. It would have to be. I hope this amendment will not prevail, but if it does, I shall offer that amendment.

Mr. JOHNSON of Texas. I hope it will prevail; I should like the gentleman to accept that amendment.

Mr. DOWELL. Mr. Chairman, I will include that amendment.

The CHAIRMAN. Without objection, the amendment will be modified as indicated. The question is on agreeing to the amendment offered by the gentleman from Iowa.

Mr. CELLER. Mr. Chairman, I offer the following as a substitute amendment.

The Clerk read as follows:

Amendment offered by Mr. CELLER: Page 4, lines 5 and 6, strike out "if the claim accrued after April 6, 1920" and insert, line 11, "remedy under this section shall not be retroactive."

The CHAIRMAN. The Chair points out that the amendment is not a substitute for the pending amendment.

Mr. CELLER. Mr. Chairman, I withdraw the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa.

The question was taken; and on a division (demanded by Mr. DOWELL) there were—ayes 37, noes 29.

So the amendment was agreed to.

Mr. BYRNS. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. BYRNS: Page 4, line 21, after the word "allowed," insert the following: "with a summary of the evidence upon which the allowance was made."

Mr. UNDERHILL. Mr. Chairman, I accept the amendment.

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. CELLER. Mr. Chairman, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment by Mr. CELLER: Page 4, lines 5 and 6, strike out "if the claim accrued after April 6, 1920" and insert, in line 11, the words "remedy under this section shall not be retroactive"; and strike out, on page 4, line 24, after the word "claims," and strike out the rest of the section.

Mr. CELLER. Mr. Chairman, in a word, this amendment provides that any remedy under this section should not be retroactive. That might sound harsh, it might sound as though one were depriving citizens of what would be their proper rights under the section, but one has to remember that we are providing here for a brand new remedy, a remedy that never existed heretofore. You put the Government at a serious disadvantage if you compel the Government to defend actions in any tribunal when it never suspected it would be called upon to defend itself at the time of the accident or the injury, where it never suspected it would have to defend the action at any subsequent time. The result will be that the Government would be disarmed in any action brought. The Government would not have its witnesses or documentary proof. I present this amendment advisedly. I have talked the substance of the bill over with a member of the Supreme Court of the United States, though I am not privileged to divulge his name. The very first thing he said to me when he read this first section was that the Government would be put at a serious disadvantage if compelled to defend actions that arose prior to the passage of the bill, and he said, therefore, that we should make it so that the bill would not in any respect be retroactive. We do not take away any rights. These people would still have a right to come before the Committee on Claims.

Mr. LAGUARDIA. Mr. Chairman, will the gentleman yield?

Mr. CELLER. Yes.

Mr. LAGUARDIA. The gentleman is a great scholar of the Constitution and of constitutional law.

Mr. CELLER. I thank the gentleman for the compliment, but I fear the Greeks bearing gifts.

Mr. LAGUARDIA. Is the gentleman aware of the fact that we have three branches of Government, and that the judicial branch of the Government is not yet the legislative.

Mr. CELLER. Oh, I think the gentleman would have a right to take advice if he can get it from no less an authority than a member of the Supreme Court of the United States. I do not mean to imply that the Supreme Court is trying to coerce action here, I only want to give gentlemen the benefit of the opinion imparted to me.

Mr. WURZBACH. And is it not also true that if this bill be enacted into law with the gentleman's amendment, the Claims Committee will have more time under it to give attention to those claims excluded by the amendment.

Mr. CELLER. I think that is correct.

Mr. UNDERHILL. Mr. Chairman, I think the gentleman's fears are entirely groundless. This section relates entirely to the Government itself. It simply follows the procedure that has been the rule of the Committee on Claims continually for at least five years. The purpose of the retroactive feature of it, or running back to 1920, is that the committee may be relieved of some 600 claims that can be legally settled at this time by the departments without taking the time of the House, of the committee, or of the Congress.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. UNDERHILL. Yes.

Mr. CELLER. Of course, the gentleman will admit that this bill is not offered for the benefit of the members of the Committee on Claims, but is submitted to afford remedies as between the Government on the one hand and the individual on the other, and we must consider primarily not the Committee on Claims, no matter what their work, but the litigants.

Mr. UNDERHILL. Mr. Chairman, this bill is for the relief of the Committee on Claims—No. 1.

This bill is for the relief of Congress—No. 2. This bill is to give justice to the people—No. 3—that is the purpose of this bill. [Applause,]

Mr. JOHNSON of Texas. Mr. Chairman, I offer an amendment as a substitute.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment by Mr. JOHNSON of Texas: Page 4, lines 5 and 6, strike out "April 6, 1920," and in lieu thereof insert "January 1, 1916."

Mr. JOHNSON of Texas. Mr. Chairman, this bill, if its purpose is, as stated by the chairman of the committee, to relieve the Committee on Claims from the consideration of claims now pending, I think that my amendment would be acceptable to the chairman of the committee.

Mr. UNDERHILL. May I say I do not think this bill should be the medium of any joke at all.

Mr. JOHNSON of Texas. I am not offering the amendment as a joke; and if my remarks are a joke, they are in response to what my friend may have intended as a joke. I ask in all seriousness if it is intended to relieve the committee of this volume of litigation why it arbitrarily fixed that date as of April 6, 1920?

Mr. UNDERHILL. Because the custom of the courts and the custom of the committee is not to exceed five years in retroactive features in any bill whatever. If the gentleman wants to wreck the bill——

Mr. JOHNSON of Texas. I do not desire to wreck the bill, and I did not offer my amendment for the purpose of wrecking the bill. I offered it in good faith, because I think this: There are claims now pending before the committee of which the gentleman is chairman that accrued prior to the date set forth in the bill, and I think that those claims ought to be entitled to as much consideration as those claims accruing at the date set forth in the bill, so I think that my amendment should be adopted.

Mr. UNDERHILL. The gentleman might as well argue that all claims since the organization of this Government should have an equal chance. We can not go back over five years in the retroactive feature. We must have a limitation as of necessity.

Mr. WURZBACH. Does not this bill go back more than five years, does it not go back six years?

Mr. UNDERHILL. Approximately five years.

The CHAIRMAN. The question is on the substitute offered by the gentleman from Texas.

The question was taken, and the substitute was rejected.

The CHAIRMAN. The question now recurs on the amendment offered by the gentleman from New York.

The question was taken, and the amendment was rejected.

Mr. LAGUARDIA. Mr. Chairman, I desire to offer an amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. LAGUARDIA: On page 4, line 23, after the word "unless," insert "notice of claim is."

Mr. LAGUARDIA. Mr. Chairman, my only purpose is to make this read "that no claim shall be considered by a department or establishment unless notice of claim is presented."

As the gentleman from Iowa has pointed out once, the department has notice of the claim that is sufficient whether it is drawn by an attorney or is formal or otherwise. Suppose a plane lights on the land of somebody and property is wrecked, or a house, and so forth, and that claimant writes

to the department what happened. That of itself should be sufficient notice.

Mr. UNDERHILL. Mr. Chairman, that contradicts the amendment offered by the gentleman from Tennessee, which has been adopted, and I want to say in connection with that these technicalities are rather overdrawn. In the minds of laymen the bill is perfectly clear, and I think in the minds of those who have its operation in hand it will be perfectly clear. Gentlemen raise these technical questions——

Mr. LAGUARDIA. Is that the intent?

Mr. UNDERHILL. Certainly.

Mr. DARROW. This intends that if the department has notice then the question is before them.

Mr. UNDERHILL. Certainly.

Mr. DARROW. It is not clear, and I wanted the gentleman to make it clear.

Mr. LAGUARDIA. Mr. Chairman, in view of the statement made by the chairman of the committee, that it is the clear intent of the House in passing upon this section, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Without objection, the amendment will be withdrawn.

There was no objection.

Mr. McKEOWN. Mr. Chairman, I move to strike out the last word.

Mr. UNDERHILL. Mr. Chairman, I move that all debate on this section and all amendments thereto close in five minutes.

The CHAIRMAN. The gentleman from Massachusetts moves that all debate on this section and all amendments thereto close in five minutes. The question is on agreeing to that motion.

The motion was agreed to.

The CHAIRMAN. The gentleman from Oklahoma is recognized for five minutes.

Mr. McKEOWN. Mr. Chairman and gentlemen of the committee, I am very heartily in favor of this legislation, and I think the committee is to be very highly commended for its efforts and work along this line. During the entire time that I have been in Congress I have felt, and have said so on several occasions, that the time of Congress ought not to be taken up with the consideration of claims of a character that can be disposed of otherwise, and that the claimants of this country were entitled to have their claims considered and paid when found to be just. I think that is one of the most important things to the people of this country, to change the attitude of the Government toward its honest and undisputed claimants. The Government ought to set an example to pay its claims when the claims are just.

But here is one thing that ought to be amended, although I am not going to offer any amendment at this time, since I understand the committee does not want to be hampered in this bill. But this is an amendment that ought to be made. This $5,000 that you fix as the amount for the heads of the departments ought to be amended to read "$3,000," so as to be in accord with the removal act of Congress, which fixes $3,000 as the amount that gives jurisdiction to a removal case from the State court to a Federal court. We ought not to be willing to fix the amount in the department for more money than we fix in the State courts that allow a case to be removed from a State court to a Federal court.

I understand that the committee is not in sympathy with this full amount of $5,000, and it ought to be fixed at $3,000.

The CHAIRMAN. The time of the gentleman from Oklahoma has expired.

Mr. O'CONNOR of Louisiana. Mr. Chairman, I have an amendment, which I send to the Clerk's desk.

The CHAIRMAN. The gentleman from Louisiana offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. O'CONNOR of Louisiana: Page 4, lines 13 and 14, strike out "head of each department and establishment acting on behalf of the Government" and insert in lieu thereof the following: "United States district court having jurisdiction, without the intervention of a jury." In lines 22 and 23 strike out "department or establishment" and insert "judge."

Mr. O'CONNOR of Louisiana. Mr. Chairman, I ask unanimous consent to discuss this proposed amendment for three minutes.

The CHAIRMAN. The Chair must state that the time has been limited.

Mr. O'CONNOR of Louisiana. I was pressing a unanimous-consent request. I thought that could be entertained by the Chair.

The CHAIRMAN. The Chair did not hear a request for unanimous consent. The question is on agreeing to the amendment offered by the gentleman from Louisiana.

Mr. UNDERHILL. Mr. Chairman, this bill is 19 pages long. We hope to get it over to the Senate. This is the only day we have for it. If we take up all the time on amendments and debate, we will not get anything.

Mr. O'CONNOR of Louisiana. You permitted the discussion of a pro forma amendment for five minutes.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Louisiana.

The question was taken; and on a division (demanded by Mr. O'CONNOR of Louisiana) there were—ayes 6, noes 47.

So the amendment was rejected.

Mr. O'CONNOR of Louisiana. It is apparent that there is no quorum present, but I will not make the point.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 2. Upon the presentation to the Secretary of the Treasury of any such claim for payment there shall be set off, in accordance with the act of March 3, 1875 (18 Stat. L. p. 481), any claim, whether liquidated or unliquidated, on the part of the United States against the claimant. Acceptance by any claimant of the amount determined under this title shall be deemed to be in full settlement of every claim on account of such damage or loss against the Government of the United States or such officer or employee. No claim that, prior to the time of the passage of this act, has been rejected or reported on adversely by any court or department or establishment authorized to hear and determine the same shall be considered under this title.

Mr. JOHNSON of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Texas offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. JOHNSON of Texas: Page 5, beginning on line 14 and ending on line 15, strike out the words "or reported on adversely." And, on page 5 beginning on line 15 and ending on line 16, strike out the words "department or establishment."

Mr. JOHNSON of Texas. Mr. Chairman, the language of the amendment, if adopted, would make the last sentence in section 2 of the bill read that "no claim that, prior to the time of the passage of this act, has been rejected by any court authorized to hear and determine the same, shall be considered under this title." In other words, it would not preclude the presentation of a claim unless it had been adjudged adversely by a court, whereas the bill as written precludes the consideration of a bill which had either been rejected by a court or reported on adversely by a department or establishment. It occurs to me that if existing claims are to be given consideration a mere adverse report by a department ought not to preclude the consideration of such a claim.

Mr. WILLIAMSON. Mr. Chairman, will the gentleman yield?

Mr. JOHNSON of Texas. Yes.

Mr. WILLIAMSON. The claimant would still be authorized to bring in a bill here and have it passed upon by the Committee on Claims.

Mr. JOHNSON of Texas. I understand that. But if we are to delegate jurisdiction to the forum here prescribed for these various claims, we ought not to curtail them by a limitation such as this. I do not think that the Committee on Claims would be disposed to give consideration to such claims after the passage of this law. I think the disposition of the committee would be to say, "Here we have given you a procedure; and if the department to which it was referred will not consider it, we will not." I think such claims should be entitled to consideration under this law even if they have been reported upon adversely by a department.

Then, again, if the bill is not amended as suggested, if one should hereafter introduce a private bill for a claim which had theretofore been rejected or adversely reported by a committee or a department of the Government, the Committee on Claims would cite this section of the bill as a legislative declaration of Congress upon that subject, and would doubtless refuse to consider the claim for that reason.

I do not think that there should be such sanctity attached to a ruling by a department of the Government that its decision should be final and conclusive. My amendment would make only decisions by the court final determinations of these claims, but if it is not adopted, then under the language of the bill a previous adverse ruling or adverse report by any department or establishment of the Government would preclude the consideration of such a claim.

While I realize the wisdom of the doctrine of res adjudicata as applied to courts, I am not in favor of extending it to determinations or adverse reports by the various departments of the Federal Government. Frequently departmental decisions

are hastily considered and often passed upon by some clerk in the department and the head of the department is in ignorance thereof. Why sanctify such a decision by saying that it shall be final, either as to claims that now exist or those that shall arise in the future. We decry bureaucracy and centralization of power in the executive branch of the Government and wax eloquent in condemnation thereof, and yet here we are not only delegating additional power, but making the decisions of these departments upon which this power is conferred the last word—the supreme court with reference to such claims.

Mr. UNDERHILL. Mr. Chairman, I move that all debate on this section be closed in 10 minutes, of which I shall have 5 minutes.

The CHAIRMAN. The gentleman from Massachusetts moves that all debate on this section be closed in 10 minutes. The question is on agreeing to that motion.

The motion was agreed to.

The CHAIRMAN. The gentleman from Louisiana [Mr. O'CONNOR] is recognized for five minutes.

Mr. O'CONNOR of Louisiana. Mr. Chairman and gentlemen of the committee, we are assured that this is a most important measure, and yet, apparently, in a most contradictory fashion, we are urged not to give it that consideration which the importance of it deserves.

The amendment I proposed a few moments ago, and which I was not permitted to discuss, in my judgment is an amendment of the highest importance. For several years past we have been protesting in every local community of the United States of America against the growing oppression of bureaucracy. All of the changes have been rung upon the seeds of tyranny that is being gradually planted and located here in the Capital of the United States, and yet this bill apparently proposes to increase the means for that tyranny, to strengthen that oppression, and to fortify the arbitrariness that lies in bureaucracy and make the citizens of the United States come to Washington, hat in hand, to plead before some unknown and obscure understrapper in a department, changed in the twinkling of an eye into a bureau tyrant by the power this bill would give him, for the justice which this proposed measure says the citizen is entitled to. My amendment proposes that he should be able to sue in the United States district court without the intervention of a jury and before a judge acquainted with the territory over which he presides, understanding the people, and stripping this bill of the bureaucratic and pernicious features that attach to it by reason of the fact that it does strengthen the hands of the bureaucrats here in Washington and compels citizens to journey all the way to the Capital of the United States to sue for that justice which should be theirs instead of being able to expeditiously and justly settle their claims at home before a judge with whom they are acquainted and who probably knows more about the case, as a result of that acquaintance, than any clerk in Washington would ever know. If we are sincere in our daily protests against the growing evils of bureaucracy, we should make them effective and adopt an amendment like the one I offer.

Mr. UNDERHILL. Mr. Chairman, I shall offer one illustration to show the error of the gentleman's argument. I am as much opposed to bureaucracy as anyone in Congress, in this House, or anywhere else, but this, if it is bureaucracy, is a benevolent bureaucracy. In my district, on the Revere Beach Parkway, a lady was driving an electric car; along came an Army truck and demolished that car; although, fortunately, it did not injure the lady who was driving the car, it did destroy $1,700 worth of property. She wrote to me about it; I referred her to the authorities in Boston and that claim was settled within seven weeks. If we had not had the small claims law on the statute books it would have been seven years before that claim could have received consideration. Now, with reference to the amendment offered by the gentleman from Texas [Mr. JOHNSON]—I have almost forgotten what it was—let me say it does not improve the bill in any way, shape, or manner.

Mr. O'CONNOR of Louisiana. Will the gentleman yield?

Mr. UNDERHILL. Yes.

Mr. O'CONNOR of Louisiana. Does not the observation made by the gentleman prove more conclusively than my poor ability would permit that bureaucracy is rife, and may it not be possible that the bureaucracy in Boston yielded to the persuasiveness of the chairman of the Committee on Claims?

Mr. UNDERHILL. Mr. Chairman, the chairman of the Committee on Claims never had a word to say to the bureau, the head of the department, or anyone. His only communication was with his constituent.

Now, may I say this, in all kindness and generosity: This bill and all of its features has been studied by the committee for five years, and I do not believe that anyone in five minutes can offer an amendment that is going to help the bill in its passage. Their purposes are all right and their theories may be all right, but it is so complicated and there are so many things to be taken into consideration that one can not attempt to change it after a few minutes' consideration. Then, again, you must not forget that the greatest body in the world has got to pass upon this bill.

Mr. McDUFFIE. Will the gentleman yield?

Mr. UNDERHILL. Yes.

Mr. McDUFFIE. The gentleman said the Committee on Claims had spent several years in studying this bill, and I was wondering whether the committee considered the question of having these various department heads report to Congress on claims which met with adverse reports. As the bill now provides, they only make reports when they approve claims while the Congress might want to know something about the claims adversely reported.

Mr. UNDERHILL. Let me say to the gentleman that it is not necessary for the departments to do that, because the claimants always take advantage of it and bring bills to Congress.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Texas [Mr. JOHNSON].

The amendment was rejected.

The Clerk read as follows:

SEC. 4. Paragraph 20 of section 24 of the Judicial Code, as amended, is amended by adding after the first subdivision thereof a new subdivision, to read as follows:

"Concurrent with the Court of Claims, of all claims liability for which is recognized under Title I of the Federal tort claims act, if the amount claimed is in excess of $5,000 but does not exceed $10,000. All suits brought and tried under the provisions of this paragraph shall be tried by the court without a jury."

Mr. HUDSPETH. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from Texas offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 6, line 6, strike out all after the figures "$5,000" in said line down to and including the figures "$10,000."

Mr. HUDSPETH. Mr. Chairman and gentlemen of the committee, under this bill all claims between $5,000 and $10,000 have concurrent jurisdiction in the Federal courts and the Court of Claims. My amendment does this: It makes it concurrent in all amounts in excess of $5,000. Now, why should not that be so? The chairman of the committee, the gentleman from Massachusetts [Mr. UNDERHILL], says there will be some undue influence used with the Federal judges; or, in other words, Federal judges will not do their duty. I want to state to the gentleman that down in the settlement from which I come we have confidence in our Federal judges whether they are Republicans or Democrats. We have many Republican judges down there, men of the same party as the gentleman from Massachusetts and, so far as I can at this moment recall, they are men absolutely without a spot or blemish upon their records and you could not influence them with all the money in the Federal Treasury.

Mr. UNDERHILL. Will the gentleman yield?

Mr. HUDSPETH. If the gentleman will name one specific instance that has come within his knowledge where they have been influenced, I yield.

Mr. UNDERHILL. Well, I will not name any.

Mr. HUDSPETH. The gentleman made the statement; and if he will name one instance, I will yield. The gentleman said he knew where they had been influenced. Now, let him name one instance where there has been any improper influence brought to bear upon a Federal judge in the United States. The gentleman ought not to make a statement of that kind here, that Federal judges can be influenced, because the statement reflects upon the character of the men upon the Federal bench in this country if he can not name a single instance.

Mr. WURZBACH and Mr. RAMSEYER rose.

Mr. WURZBACH. Has the gentleman from Texas heard of any reason at all advanced why there should be a limitation between $5,000 and $10,000, and why the amount should not be unlimited over and above $5,000? Has the gentleman heard any reason advanced at all?

Mr. HUDSPETH. No. I will state to my colleague I have not heard any reason. I heard a statement made here a few moments ago by the gentleman from Massachusetts [Mr. UNDERHILL], but it was not a reason, and it was not substantiated by a single fact.

I now yield to the gentleman from Iowa.

Mr. RAMSEYER. The Federal district courts are now limited in their jurisdiction in claims based on contract, and

I think the object of the committee is to put a somewhat similar limitation on cases sounding in tort.

Mr. HUDSPETH. Well, that may have been the idea of the committee. I will state to my friend from Iowa——

Mr. RAMSEYER. And then, of course, the Court of Claims is organized to try these claims cases, and after they get above a certain amount I think it is certainly proper that they should have charge of them.

Mr. HUDSPETH. I will ask the gentleman from Iowa why should a litigant or a claimant be forced to come here to Washington? The gentleman from Massachusetts states that he will not have to employ a Washington lawyer. Why not? When their claim gets before the Court of Claims they will need somebody to represent them. I will state to the gentleman my idea is to give the litigants a right to go into the court near his residence and to save him the expense of coming here and employing a Washington lawyer. I am not very much concerned about these Washington lawyers, especially since a statement was made by one of them concerning the Congress; but I do not think that he has any greater contempt for the Congress than the Congress has for him at the present time.

Mr. RAMSEYER. When you take down the bars and permit citizens to sue the Government, that in itself is conferring upon the citizen an extraordinary and unusual right.

Mr. HUDSPETH. But I will state to my friend that that is done up to $10,000 in the section I am seeking to amend, and I am seeking to raise the limit, and so far I have not heard any good reason for not doing that, although there may be one.

Mr. RAMSEYER. The same reason applies in the case of contracts.

Mr. VINCENT of Michigan. Will the gentleman yield?

Mr. HUDSPETH. Yes.

Mr. VINCENT of Michigan. The Congress has already conferred upon the courts jurisdiction in matters of contract with the Government, and the provision there is that in all contract cases above $10,000 there is original jurisdiction only in the Court of Claims.

Mr. HUDSPETH. Will the gentleman make his question brief, because I notice the chairman is rushed for time.

Mr. VINCENT of Michigan. If the gentleman does not care to yield——

Mr. HUDSPETH. I will answer the gentleman's question.

Mr. VINCENT of Michigan. I am not asking the gentleman a question. I was answering the gentleman's question as to why this provision is in the bill.

Mr. HUDSPETH. It has been stated here two or three times that the Government permits them to go into the courts on contracts. If they do that, why should they not permit them to do the same thing in all governmental torts against the citizen and permit them to go into the court nearest their residence.

Mr. UNDERHILL. Mr. Chairman, I move that all debate on this section and all amendments thereto close in five minutes.

The motion was agreed to.

Mr. UNDERHILL. Mr. Chairman, I will ask the gentleman from Michigan [Mr. VINCENT] to read the law upon the point raised by the gentleman from Texas and interpret it.

Mr. VINCENT of Michigan. Mr. Chairman, the present law so far as it applies now is as I have just stated it. The Congress has already conferred jurisdiction to sue in contract cases and there is exclusive jurisdiction in the Court of Claims above $10,000. The reason that was done was that in matters of that kind and of that importance, suits are not brought by poor people but are brought by people who have claims of some size, and when we are conferring this new right upon citizens the Government itself ought to have some protection. The records in these cases are all here in the departments, and the Department of Justice has a section which has as its duty the defense of the Government in actions before the Court of Claims, and if you scatter transactions of this kind all over the country it will work an injustice to the Federal Government. As I have said, in this bill we have to protect the Government as well as the citizens of the country.

Mr. HUDSPETH. Mr. Chairman, will the gentleman yield?

Mr. VINCENT of Michigan. I yield.

Mr. HUDSPETH. Does the gentleman believe that if the jurisdiction was made concurrent, as provided in the amendment, in any one instance there will be a claim allowed or a judgment rendered that should not be rendered, or one that is not just and fair to the Government and to the litigant?

Mr. VINCENT of Michigan. I do not know that such would be the case, but we have erected a Court of Claims here in Washington for the disposition of claims of this size against the Government. Why not use it? Why scatter the business all over the United States and make the Government chase the claimant wherever he happens to be, when the records in claims of this size are here?

Mr. HUDSPETH. You provide concurrent jurisdiction for claims of $5,000 to $10,000 as between the Federal courts and the Court of Claims.

Mr. VINCENT of Michigan. Yes; we do.

Mr. HUDSPETH. Why not permit claims of any size to be litigated in the same way?

Mr. VINCENT of Michigan. In these smaller claims we think, on account of the small resources usually of the claimant, we ought not to put him to any further burden than we find to be absolutely necessary.

Mr. LANHAM. The gentleman does not contend there is any difference in essence in claims amounting to less or more than $10,000?

Mr. VINCENT of Michigan. No; but we have different kinds of courts having jurisdiction based on different amounts.

Mr. LANHAM. To be sure.

Mr. VINCENT of Michigan. In the gentleman's State you have a small court, a magistrate's court, for small claims, and you have a court of larger jurisdiction and of greater power to handle larger claims.

Mr. LANHAM. But they are near the residence of litigants; and a further item to be considered is that with the multiplicity of claims that will come before the Court of Claims perhaps there might be more tardy justice than there would be in the court.

Mr. VINCENT of Michigan. Let us wait and see. If we put in all the beautiful provisions in this bill that are offered and attempt to carry this new idea of justice down to the individual neighborhoods throughout the country, when the bill gets a little further along it will reach a position in the other body where it can not become a law. We have already drawn the bill giving greater protection to the citizen than we have been led to believe we can get through both Houses of Congress.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

SEC. 5. Suit under section 24 or 145 of the Judicial Code, as amended by this act, upon a claim accruing on or after April 6, 1920, and prior to the passage of this act, shall be brought within six months after the passage of this act or within six years after the accrual of the claim.

Mr. DOWELL. Mr. Chairman, I think section 5 should be amended. I offer the following amendment:

The Clerk read as follows:

Amendment offered by Mr. DOWELL: Page 6, line 12, after the word "within," strike out "six months" and insert "one year."

The CHAIRMAN. The question is on the amendment.

The amendment was agreed to.

The Clerk read as follows:

SEC. 8. (a) The provisions of this title shall not apply to—

(1) Any claim arising out of the loss or miscarriage or negligent transmission of letters or postal matter.

(2) Any claim arising in respect of the assessment or collection of any tax or customs duty.

(3) Any claim for which liability of the Government is recognized by the act of October 6, 1917 (40 Stat. L. p. 389), relating to loss or destruction of or damage to personal property and effects of officers and enlisted men and others in the naval service or the Coast Guard; by the act of March 3, 1885 (23 Stat. L. p. 350), as amended, relating to loss, damage, or destruction in the military service of private property belonging to officers, enlisted men, and members of the Nurse Corps (female) of the Army; or by the act of March 9, 1920 (41 Stat. L. p. 525) or the act of March 3, 1925 (43 Stat. L. p. 1112), relating to claims against merchant and public vessels of the United States or of corporations the entire stock of which is owned by the United States.

(4) Any claim arising out of the conveyance, transfer, assignment, or delivery of money or other property or out of the payment to or seizure by the President or Alien Property Custodian of any money or other property, in administering the provisions of the trading with the enemy act, as amended.

(b) The act entitled "An act to provide for the settlement of claims arising against the Government of the United States in sums not exceeding $1,000 in any one case," approved December 28, 1922, is hereby repealed, except that any claim accruing prior to such repeal may be considered, ascertained, adjusted, determined, and certified in the same manner and to the same extent as if this act were not law.

(c) The provisions of any act, in so far as inconsistent with the provisions of this title, are hereby repealed to the extent of such inconsistency.

Mr. UNDERHILL. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 8, between lines 2 and 3, insert the following: "(5) Any claim arising out of the administration of the quarantine law."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

The Clerk read as follows:

SEC. 202. (a) Exclusive authority is hereby conferred upon the commission, acting on behalf of the Government, to consider, ascertain, adjust, and determine any claim liability for which is recognized under section 201, if the amount of the claim does not exceed $5,000. Such amount as may be found to be due to any claimant shall be certified to the Congress as a just claim for payment out of appropriations that may be made by Congress therefor, together with a brief statement of the character of each claim, the amount claimed, and the amount allowed: *Provided*, That no claim shall be considered by the commission unless filed within 60 days after the injury or six months after death caused by the injury, except that for reasonable cause shown the commission may allow claims for compensation for such injury to be filed any time within six months after the injury, and except that any claim accrued after April 6, 1920, but prior to the passage of this act, may be filed within six months after the passage of this act.

(b) Acceptance by any claimant of the amount determined under this title shall be deemed to be in full settlement of the claim against the Government of the United States and the officer or employee.

(c) The commission shall by regulation provide for the form and manner in which claims under this title shall be filed and prosecuted before the commission.

Mr. DOWELL. Mr. Speaker, I offer the following amendment:

The Clerk read as follows:

Amendment offered by Mr. DOWELL: Page 10, line 6, after the word "within," strike out "60 days" and insert "six months." In the same line strike out "six months" and insert "one year."

The CHAIRMAN. The question is on the amendment.

Mr. DOWELL. Mr. Chairman, I assumed that there would be no objection to this. This is in line with the amendment adopted some time ago. If this is left in the form it is, the claimant must have his claim before the commission in 60 days, and it might defeat the claim. It seems to me there should be no objection to it.

Mr. UNDERHILL. I will accept the amendment, as I want to get along with the bill.

The CHAIRMAN. The question is on the amendment.

The amendment was agreed to.

Mr. DOWELL. Mr. Chairman, I offer another amendment. line 9, strike out "six months" and insert "one year"; and in lines 11 and 12 strike out "six months" and insert "one year."

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. DOWELL: Page 10, line 9, strike out "six months" and insert "one year"; lines 11 and 12, strike out "six months" and insert "one year."

The CHAIRMAN. The question is on the amendments.

The question was taken, and the amendments were agreed to.

Mr. O'CONNELL of Rhode Island. Mr. Chairman, I move to strike out the last word. Is the purpose under Title II to provide that all claims for personal injuries, whether those of employees of the Government or of outsiders, shall be presented to the Compensation Commission?

Mr. UNDERHILL. Oh, no. The employees of the Government are already covered by the law.

Mr. O'CONNELL of Rhode Island. And the claims of those persons outside of the Government's employ shall be presented to the Compensation Commission?

Mr. UNDERHILL. Yes.

Mr. LAGUARDIA. Mr. Chairman, I offer the following amendment: On page 10, line 19, strike out the words "filed and." I do that, Mr. Chairman, to carry out the intent which the chairman of the committee stated a moment ago.

Mr. UNDERHILL. That is satisfactory.

The CHAIRMAN. The gentleman from New York offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. LAGUARDIA: Page 10, line 19, strike out the words "filed and."

The CHAIRMAN. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. McDUFFIE. Mr. Chairman, I move to strike out the last word in order to ask a question of the chairman. Does the gentleman think it is wise to clothe the commission with the authority to prescribe regulations as to how a claim shall be prosecuted? I think the word "prosecuted" should be stricken out rather than the word "filed," and in lieu of the words "filed and prosecuted" I think we should insert the word "presented."

Mr. UNDERHILL. Mr. Chairman, the purpose of the bill was to provide some way in which the commission would be authorized to present these claims. I saw no objection to "filed and prosecuted," but I am perfectly willing to have both stricken out and to accept the word "presented." In fact, I offer that as an amendment, on line 19, to strike out the word "prosecuted" and insert the words "shall be presented before the commission."

The CHAIRMAN. The gentleman from Massachusetts offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment by Mr. UNDERHILL: Page 10, line 19, strike out the word "prosecuted" and in lieu thereof insert "shall be presented."

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Massachusetts.

The amendment was agreed to.

Mr. JONES. Mr. Chairman, I move to strike out the last word. Some one has called my attention to the fact that an amendment was offered a moment ago to the bill by the chairman which apparently was adopted without discussion, to exempt from the provisions of the bill any claims arising from the administration of the quarantine law. What is the purpose of making that exemption?

Mr. UNDERHILL. For instance, Mr. Chairman, the State of Massachusetts now is cooking up a proposition to present to this Government a claim amounting to three and a half million dollars, because of the failure of the quarantine laws in that State, in so far as the admission of aliens is concerned, who have been found to be diseased or mentally incompetent. The State has been put to an expense of three and a half million dollars and expects to collect that from the Government of the United States. That is duplicated in the State of New York to the extent of $17,000,000, and it is duplicated in other States in various ways, and in order to protect the Government I have offered the amendment which has just been adopted.

Mr. JONES. That is with respect to persons. I am speaking of damage to property, which is also covered. Take damage to livestock, for instance.

Mr. UNDERHILL. It includes them all, Mr. Chairman.

Mr. JONES. Congress at this session passed a bill allowing claims for some stock required to be dipped in mercury here in the District, from which the stock died.

Mr. UNDERHILL. That is not quite the fact. The bill that was reported out from the Committee on Agriculture had not to do with cattle that were dipped, but where poison was introduced into the stable and the cattle died of poisoning.

Mr. JONES. Yes. I am familiar with the facts, but I inadvertently used the wrong term. They put this mineral substance in the stables—I think it was mercury—for the purpose of disinfection, and it killed most of the cattle and ruined the others.

Mr. UNDERHILL. It killed them all.

Mr. JONES. There are various requirements with reference to dipping in the administration of the quarantine laws in respect to cattle, and it seems to me that claimants ought not to be kicked out into the cold. They ought to have their day in court.

Mr. UNDERHILL. They are no further out in the cold under this bill than they are at the present time.

Mr. JONES. Oh, yes, they are. When a claim of that kind comes up after this they are going to say, "Oh, we passed this bill giving all of these fellows a right to be heard in the department, and why do you not go there?" and it will be difficult to get the matter before the Congress.

Mr. UNDERHILL. But this is especially exempted, and they will have to come to Congress.

Mr. JONES. It may be well to exempt personal claims arising out of the immigration law; that is an entirely different question. Many of such claims might involve damages that were purely speculative.

Mr. UNDERHILL. I do not know why I should single out the State of Massachusets and exempt the State of Texas.

Mr. JONES. I am talking about property claims. They would not be limited to the State of Texas, but would include the whole United States. Cattle are produced all over the Nation. The man who owns one class of property ought to be treated the same as the man who owns another class of prop-

erty. I think the gentleman will not be able to show me any reason why the man who owns livestock should be excluded while the man who owns some other character of property should not be.

The CHAIRMAN. The time of the gentleman from Texas has expired, and the Clerk will read.

The Clerk read as follows:

SEC. 204. (a) The compensation for personal injury shall be paid to the injured individual, except that if the individual dies before compensation has been paid the compensation shall be allowed and paid as in the case of compensation for death.

(b) Compensation for death shall be allowed and paid as follows:

(1) Compensation shall be allowed only for death caused by injury and occurring within three years after the injury, except that no compensation shall be awarded where the death takes place more than one year after the cessation of disability resulting from such injury, or (in the absence of any such disability preceding death) more than one year after the injury.

(2) The compensation shall be allowed and paid to the following beneficiaries:

(A) To the widow of widower, or if there is no widow or widower, then to the children, share and share alike. Compensation to a child shall not be allowed unless the child is unmarried and is either under 18 years of age or, having reached the age of 18, is physically or mentally incapable of self-support. Compensation for a child under 18 years of age shall be paid to the legal guardian.

(B) To any parent or grandparent who was totally or partially dependent for support upon the deceased at the time of his death, having due regard for the extent of the dependency in cases of partial dependency under this paragraph.

(3) The total compensation which may be allowed on account of any one injury, or injury and death caused thereby, shall not exceed $5,000.

(4) The right of a beneficiary to compensation for death shall not survive the death of such beneficiary.

(c) In addition to the money compensation provided under this title—

(1) In the case of personal injury, the injured individual shall be allowed such expenses for any medical, surgical, and hospital services and supplies (including artificial members and other prosthetic appliances) as the commission adjudges necessary and reasonable for care of or relief from the results of an injury, subject to such regulations as the commission may prescribe with respect to the procurement of such services and supplies.

(2) In the case of death, the personal representatives of the decedent shall be allowed such funeral and burial expenses of the decedent as the commission adjudges to be necessary and reasonable, in an amount not to exceed $200.

Mr. BEGG. Mr. Chairman, I move to strike out the last word for the purpose of asking the gentleman a question. On page 11, paragraph (A), it would seem to me that the age limit for a child to be a beneficiary under a claim ought to be 21, and I will ask the chairman if he took into consideration there might be many, many cases where a child would be between 18 and 20 years of age, and whose parent or support might be killed or injured to such an extent that that support would be cut off. Did the chairman give that any consideration?

Mr. UNDERHILL. Yes; I did; and this was one of the facts which actuated me. The United States Government in its Federal income tax only exempts a child under the age of 18. Furthermore, I read in the paper the other day where the Comptroller of the Treasury had decided that one of our consuls abroad was not entitled to the fare of his child back home because he was 21——

Mr. BEGG. Twenty-three; that he ceased to be a child after he is 21 years of age.

Mr. UNDERHILL. It is no matter materially whether it is 18 or 21, and I can see the justice of the gentleman's contention——

Mr. BEGG. Let me ask the gentleman another question. I do not want to try to mutilate the gentleman's bill, but it seems to me equitable, would the gentleman make it 21 years of age?

Mr. UNDERHILL. The chairman will not advocate or reject it, but leave it to the House to decide what limitation it wishes.

Mr. RAMSEYER. What is the limitation in the employers' liability act?

Mr. UNDERHILL. It is exactly the same limitation. This section is taken bodily from the workmen's compensation act.

Mr. RAMSEYER. Is not that a very forceful reason why it should stay at 18?

Mr. UNDERHILL. It should stay at 18.

Mr. BEGG. If that is the case, I do not think perhaps it is wise to offer an amendment, but I am going to add this: I do not think there is any defense, even if the income tax law exempts at 18 or only runs to 18 years. The child of the average man costs more from 18 to 21 than they do from 16 to 18 years, because the great majority of those children are in school, and at the most expensive time, and I personally can not see any reason in the world why this should not be 21.

Mr. O'CONNELL of Rhode Island. As to the liability law being 18, if they are employed under the Federal compensation act they would be entitled to compensation regardless of age.

Mr. NEWTON of Minnesota. If the gentleman will yield there. The employers' compensation act limiting to 18, as I understand it, applies to beneficiaries of a decedent who lost his life while employed by the Government, where there was a liability on the part of the Government, and I agree with the gentleman from Ohio it seems to me that the age of 21 should be the age here and not the age of 18.

Mr. WURZBACH. Mr. Chairman, I move to strike out the last two words. I would like to ask the chairman a question in reference to an amendment adopted a short while ago excluding cases of damage arising from violations of the quarantine laws. Was that a committee amendment which has been considered by the Claims Committee?

Mr. UNDERHILL. No; that is an amendment offered by myself.

Mr. WURZBACH. I understood the chairman of this committee has been claiming sanctity for this bill, and that it ought not to be amended in any respect because it might not pass another body.

Mr. UNDERHILL. It is for the purpose of getting it through the other body that the gentleman introduced the amendment.

The CHAIRMAN. Without objection, the pro forma amendment will be withdrawn and the Clerk will read.

The Clerk read as follows:

TITLE III.—MISCELLANEOUS

SEC. 301. When used in this act—

(a) The term "department or establishment" means any executive department or independent establishment not in the legislative or judicial branches of the Government, or any corporation acting as a governmental instrumentality or agency in which the United States owns or controls 51 per cent or more of the voting shares and securities;

(b) The term "officer or employee of the Government" means any officer or employee of any department or establishment as above defined, any member of the military or naval forces of the United States, or any other person acting on behalf of the United States in any official capacity under or by authority of any such department or establishment; and

(c) The term "acting in the scope of his office or employment," in the case of any member of the military or naval forces of the United States, means acting in line of duty and, in the case of an officer or employee of any corporation acting as a governmental instrumentality or agency, means acting in the execution of a governmental activity.

Mr. SPROUL of Kansas. Mr. Chairman, I move to strike out the last word. Mr. Chairman and gentlemen of the committee, I think the Committee of the Whole House desires to be fair in the preparation of a court bill. Certainly there is not any reason why any great industry in this country should be specially selected for prejudicial treatment. At the top of page 8 an amendment was inserted at the instance of the chairman, before whose committee there are pending a number of jurisdictional bills seeking an opportunity to present their claims against the Government for damages resulting from negligent discharge of duty by a Government agent. Now, the cattle industry is one of the big industries of the United States. It is governed and controlled and regulated by quarantine regulations of the Government, which regulations are discharged by Government employees. Whole herds and hundreds of thousands of dollars worth of cattle may be taken charge of by the Government agents and, in violation of law, negligently and carelessly dipped in arsenic solution and killed, and no right of action for damages under this amendment of the gentleman from Massachusetts can be brought in any court. Certainly we do not want to legislate against a great industry such as the cattle industry of this country. I wonder if we understand what the gentleman's amendment would do to this great industry? Why should he be prejudiced against this great industry?

Mr. WURZBACH. Will the gentleman yield?

Mr. SPROUL of Kansas. I will.

Mr. WURZBACH. Is it not a fact the gentleman from Kansas has introduced a bill in the Claims Committee, and that that committee has refused, or at least failed to give any consideration to that bill at all, covering just this kind of damage?

Mr. SPROUL of Kansas. It is; and, as I understand it, the gentleman from Texas also has bills of the same kind pending before the committee.

Mr. HUDSPETH. Mr. Chairman, will the gentleman yield?

Mr. SPROUL of Kansas. Yes.

Mr. HUDSPETH. I think the gentleman from Texas is in error. I understand they have reported out a claim for $300,000 where some oysters were disturbed by some one up in Massachusetts.

Mr. WURZBACH. It was up in New York, instead of Massachusetts.

Mr. SPROUL of Kansas. Now, gentlemen, we shall ask for a separate vote on that amendment, and when the time comes for a separate vote I hope to see every member of the committee vote this amendment out. It has no place in this bill, which is designed to enable the meting out and securing of justice to citizens of this country.

The CHAIRMAN. The time of the gentleman from Kansas has expired.

Mr. UNDERHILL. Mr. Chairman, I move that all debate on this section and all amendments thereto close in five minutes.

The CHAIRMAN. The gentleman from Massachusetts moves that all debate on this section and all amendments thereto close in five minutes. The question is on agreeing to that motion.

The motion was agreed to.

Mr. BOX. Mr. Chairman, I think the facts in relation to this matter should be thoroughly understood. The proposition has been seriously presented to this House that the Government of the United States ought to be held liable as an insurer when it undertakes to protect the people or livestock or other property by quarantine. If the principle which is sought to be invoked here is adopted, when the Government establishes a quarantine station and seeks to protect either property or people and fails in one case in a thousand, it can be held liable for that failure, although it has made benevolent effort to protect the interests of the people and spent a large amount for that purpose.

Mr. UNDERHILL. The gentleman states it could be held liable. It could not be held liable.

Mr. BOX. I mean that it would be liable under the theory that those who are urging these quarantine-damage claims are invoking, although not under the law. I am anxious about this act if it carries anything like a committal in that regard.

Mr. CARTER of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. BOX. I regret I can not yield.

Mr. CARTER of Oklahoma. I have a very important question to ask the gentleman.

Mr. BOX. I have a very important statement to make. If the Government is to be sued when a cow gets sick or dies or scatters ticks by reason of infection which the Government fails to stop, the Government is to be liable or subject to suit when the pink weevil gets over the quarantine line and the Government does not stop it; if it is liable in one case, it is liable in another. If it is liable when an infected animal gets across the line, it is also liable when a ship comes along with somebody on it who is infected and goes out and spreads the infection, causing sickness, expense, and death, and consequent damages. Suppose the Government makes one mistake out of a thousand cases, and the man infected escapes and disseminates a disease and death results; shall the Government be sued and held liable to all who are injured? The gentleman's amendment is designed to protect the Government from suits and liability in such cases as that.

The CHAIRMAN. The time of the gentleman from Texas has expired. The Clerk will read.

The Clerk read as follows:

SEC. 302. In any claim brought under this act the head of the executive department or other independent establishment or governmental instrumentality or the court shall, as a part of the determination or decision, determine and allow reasonable attorneys' fees not to exceed 15 per cent of the amount recovered, if recovery be had, to be paid out of the amount recovered to the attorneys of the claimant. Any attorney who charges, demands, receives, or collects for services rendered in connection with such claim any amount other than that allowed under this section, if recovery be had, shall upon conviction thereof be subject to a fine of not more than $2,000 or imprisonment for not more than one year, or both.

Mr. LANHAM and Mr. JONES rose.

The CHAIRMAN. The gentleman from Texas is recognized.

Mr. LANHAM. Which gentleman from Texas?

Mr. UNDERHILL. Mr. Chairman, I move that all debate on this section and all amendments thereto close in five minutes.

Mr. CARTER of Oklahoma. I make the point of order that the motion is not in order.

The CHAIRMAN. There is no point of order made against the motion.

Mr. RAMSEYER. I will make the point of order.

Mr. UNDERHILL. I will withdraw that motion.

The CHAIRMAN. The gentleman from Texas [Mr. LANHAM] is recognized.

Mr. LANHAM. Mr. Chairman, I have listened with a great deal of interest to the discussion of the amendment concerning quarantine. I think an erroneous conclusion has been drawn in one respect, and that is in the inference that all cases of quarantine are on a par.

I can readily understand, especially with reference to persons, that when one is admitted to the country who is afflicted with some contagious or infectious disease and that disease spreads and many people become afflicted with it, it is largely conjectural as to whether or not those who suffer from it could trace the origin of their malady back to the particular person who had been admitted. That would usually be entirely speculative, and I can see that in that class of claims there ought to be some very strict limitations upon recovery of damages because of the uncertain nature of the origin of the injury. But when we come to consider a case of injury to livestock, where they are dipped, a particular herd of livestock dipped in accordance with Government regulations by Government agents, and by reason of negligence there is damage to that particular herd, by reason of which some of them die and others of them are seriously injured, there is no difficulty in tracing the proximate cause of that injury; there is nothing speculative about a case of that character.

Mr. WURZBACH. Mr. Chairman, will my colleague yield?

Mr. LANHAM. Yes.

Mr. WURZBACH. Is it not a fact that with respect to the bills that I have mentioned, among them the bill mentioned by the gentleman from Kansas [Mr. SPROUL], to which the remarks of the gentleman from Texas [Mr. Box] were directed, that those bills merely provide that the claimants shall have the privilege of prosecuting their suits in the Federal court?

Mr. LANHAM. I so understand.

Mr. WURZBACH. The committee is not called upon to pass upon the justice of the claims, but the Government is merely asked to waive its sovereignty and give those parties the right to assert and prosecute their claims.

Mr. LANHAM. I understand they are merely asking an opportunity to have their day in court. It seems to me that the class of cases in which the proximate cause of injury may be determined with certainty should not be mixed up with the class of speculative cases in which the cause of the damage can not be accurately ascertained.

Mr. BEGG. Mr. Chairman, will my colleague yield?

Mr. LANHAM. Yes.

Mr. BEGG. The Government does not force this immersion of these cattle unless they are diseased, does it?

Mr. LANHAM. Oh, yes.

Mr. BEGG. They must come out of infected territory or they do not have to be dipped, do they?

Mr. JONES. There may be only a small portion of that territory infected.

Mr. LANHAM. I will say to the gentleman that frequently there is a great difference of opinion as to whether the dipping is necessary, and sometimes cattle owners submit to dipping not as a matter of their own volition but because in interstate shipments they have no option; they are told their cattle must be dipped, and sometimes those cattle are improperly dipped and die.

Mr. BEGG. The point I am trying to get at is this: Does the Government go around to all of the farmers and compel the farmers to dip their cattle, or do they simply dip them when some disease has become prevalent in the territory?

Mr. LANHAM. The gentleman evidently does not live in a cattle country.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. RAMSEYER. Mr. Chairman, I move to strike out the last two words. I want to ask the chairman a question as to the section just read, in which you are trying to limit attorneys' fees.

Mr. UNDERHILL. What section is that?

Mr. RAMSEYER. Section 302. I know the statute limits attorneys' fees in compensation cases, World War veterans' cases, and pension cases. But in those cases it is intended to protect the beneficiaries of the Government's favor against unscrupulous and designing attorneys. Now, here you limit attorneys' fees to 15 per cent, it makes no difference whether the claim is for $5,000 or $5,000,000. It seems to me that where a person has a claim in excess of $10,000 he is in a position to contract with attorneys without our trying to place ourselves over him as guardian. What reason should the committee have for limiting the fees in cases where the amounts involve tens and hundreds of thousands of dollars or even $1,000,000?

Mr. UNDERHILL. I will say to the gentleman and to the Members of the House that there have been many abuses on the part of attorneys who have represented claimants before the Committee on Claims; attorneys have collected enormous sums to the disadvantage of the claimants by pretending they have done an immense amount of work before Congress, and some have claimed to have a drag with the committee or a drag with Congress, whereas the fact has been that Members of Congress have done all the work in conjunction with the Representative from that particular district.

Mr. RAMSEYER. The gentleman is not addressing himself to my inquiry.

Mr. UNDERHILL. So it has been suggested to the committee time and time again that we limit the attorneys' fees.

Mr. RAMSEYER. As to small claims and weak claimants I have no quarrel with the committee. They ought to be protected by law, but where the litigants have claims that get up into the tens and hundreds of thousands of dollars why put the same guardianship over claimants of that kind that you put over small claimants who are not in a position to protect themselves?

Mr. UNDERHILL. Well, I will recite for the gentleman's information an incident of last session, where this House in its generosity gave to a certain claimant a large sum of money. The man was injured by the Government and if he had no legal claim he had a moral claim and the House in its generosity gave him something over $100,000, and the attorneys in the case, who had never shown their faces before the committee, and of whom I had never heard, collected an enormous fee.

Mr. RAMSEYER. That is beside the question. I am referring to claims that go into court and represent hundreds of thousands of dollars, even $1,000,000. Now, the gentleman does not mean to tell me that a man who has a property claim of $1,000,000 against the Government needs the guardianship of Congress to tell him what kind of a contract to make with his attorneys. That is the ridiculous part of it.

Mr. LAGUARDIA. But a poor claimant, having a small claim of $3,500, certainly needs this protection.

Mr. RAMSEYER. There is no question about that; and he ought to be protected. Probably the attorney ought not to have as much as 15 per cent in a case of that kind.

Mr. LAGUARDIA. Such a claimant ought to be protected because there will be ambulance chasers going after these cases.

Mr. BEEDY. Will the gentleman yield to me?

Mr. RAMSEYER. Yes.

Mr. BEEDY. I think the gentleman has raised a very important point, and I have followed the discussion. It seems to me it is a point on which, perhaps, the gentlemen do not get together. There is no question about the fact that there has been abuse in certain of the matters brought before the committee, but now we are proposing to pass a law to put these claims into court and, therefore, the reason for the limitation of attorneys' fees falls.

Mr. RAMSEYER. Exactly.

The CHAIRMAN. The time of the gentleman from Iowa has expired.

Mr. HASTINGS. Mr. Chairman, I move to strike out the last word. I want to ask the chairman of the committee if he does not think that a fee of 15 per cent is too small on an extremely small claim. Suppose there is a claim for $25? Fifteen per cent would be about $3.75, or, say there is a claim for $50; 15 per cent would be $7.50.

Mr. UNDERHILL. Let me say that in a case of that kind I think the attorney, out of the kindness of his heart, ought to give his services. I give mine.

Mr. HASTINGS. This section only refers to those claims that are adjudicated by a department.

Mr. UNDERHILL. No; it refers to all claims. I beg the gentleman's pardon. I did not understand the gentleman. If he will read section 302 he will find this language:

In any claim brought under this act the head of the executive department or other independent establishment or governmental instrumentality——

Mr. HASTINGS. And in line 9 you have the words "or the court."

Mr. UNDERHILL. Or the court; yes.

Mr. HASTINGS. Suppose a man has a small claim of $50. Do you suppose you are going to get an attorney to bring that claim before a court for 15 per cent, which would be $7.50? In other words, it means that after all, none of these small claims can be taken into court and tried there.

Mr. UNDERHILL. Let me say this to the gentleman: That the provisions of the bill do not oblige a man to bring a case of $50 or $500 or $1,000 or $3,500 before a court. If it is a personal injury, he does not have to bring it before the court. If it is a property damage claim, he only brings it to the court in case it exceeds in amount $3,500. Consequently, the damages awarded would not be $50 or $500.

Mr. RAMSEYER. Mr. Chairman, I move to amend the section by striking out in line 9, page 18, the words "or the court."

The CHAIRMAN. The gentleman from Iowa offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. RAMSEYER: Page 18, line 9, after the word "instrumentality," strike out the words "or the court."

Mr. RAMSEYER. Mr. Chairman, in respect of cases brought before the court, either the Federal district court or the Court of Claims, we have no law now regulating attorneys' fees. If a claimant goes into court with a case of sufficient size so that he needs an attorney, he is usually capable and has the power to protect himself as against his attorney. He does not need a guardian. Under this bill all personal-injury cases and all death claims will go to the Employees' Compensation Commission and do not go to the court. So all those persons who specially need protection are protected because the limitation of 15 per cent applies to them. But a person who has a claim in court of $10,000 and upward does not need Congress to tell him what to pay his attorney.

Mr. UNDERHILL. Mr. Chairman, I will accept the amendment of the gentleman from Iowa.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa.

The amendment was agreed to.

The Clerk began the reading of section 303.

Mr. UNDERHILL. Mr. Chairman, I had an amendment to offer but in the confusion here I did not have a chance to get the floor. I therefore ask unanimous consent to return to section 301, on page 17, for the purpose of offering an amendment.

The CHAIRMAN. The gentleman from Massachusetts asks unanimous consent to return to section 301 of the bill for the purpose of offering an amendment. Is there objection?

Mr. HUDSPETH. I object, Mr. Chairman.

Mr. UNDERHILL. Will the gentleman withhold his objection for a moment?

Mr. HUDSPETH. Yes; I withhold it.

Mr. UNDERHILL. Mr. Chairman, the amendment I wanted to offer was to lines 16, 17, and 18, exempting from the provisions of this bill the Panama Railroad Co., which now can be sued in any amount without the restrictions imposed by this bill.

Mr. HUDSPETH. I think it ought to come under the provisions of the bill, and I object.

The CHAIRMAN. Objection is heard. The Clerk will read.

The Clerk read as follows:

SEC. 303. Section 173 of the Judicial Code is amended to read as follows:

"SEC. 173. No claim shall be allowed by the accounting officers or the head of any executive department or other independent establishment or governmental instrumentality, or by any court of the United States, or by the Congress to any person where such claimant or those under whom he claims shall willfully, knowingly, and with intent to defraud the United States have claimed more than was justly due in respect of such claim or presented any false evidence to Congress or to any department, establishment, instrumentality, or court in support thereof."

Mr. CROWTHER. Mr. Chairman, I move to strike out the last word.

I do not want to delay the passage of this bill, but I notice on page 7 that some claims in which some of my constituents are interested are shut out by the limitation against—

any claim arising in respect of the assessment or collection of any tax or customs duty.

I have no doubt that all the committees of the House have their troubles, and I presume the Committee on Claims has its full share, but I noticed a little while ago the humorous suggestion made by the chairman of the committee that there was a

degree of science used; that not only sympathy but science was used in the adjudication of the claims that came before them.

Mr. McKEOWN. Will the gentleman yield for a question?

Mr. CROWTHER. Yes.

Mr. McKEOWN. Does this act preclude a man who has been overcharged by a mistake from recovering from the Treasury?

Mr. CROWTHER. Apparently, according to this section, although, of course, it leaves such bills with the Committee on Claims.

Mr. UNDERHILL. Oh, no; if the gentleman will yield, if there is any overpayment and the man takes advantage of the law which exists to-day, he gets his money back without any trouble.

Mr. McKEOWN. Will the gentleman yield further?

Mr. CROWTHER. If the gentleman will not interrupt me further, I would like to make this statement: There was one concern that was assessed by the customs officers a duty on wool on skins, after the emergency tariff bill was passed, 15 cents a pound, or a total of $4,500 on these imported skins. The United States Court of Customs Appeals has since declared that that duty was illegally assessed, and logically it is illegally held by the Treasury Department.

Of course, these bills are referred to the department by the Committee on Claims. I had them before the Committee on Claims for several years when the Hon. Mr. Edmonds was chairman, and I also had a bill at that time where a little constituent about 5 years old was run over by a post-office truck, but I have been unable to get even that deserving claim given any consideration.

Now, the Treasury Department holds that because the importers on paying the tax did not protest within the 30 days as required by the law, they are estopped from adjudicating the case, and that this $4,500 must stay in the Treasury. It is pretty hard to explain to your constituents at home that, although the United States Court of Customs Appeals has declared the money never should have been collected, and it still remains in the United States Treasury because one of their agents did not comply with the 30-day requirement of protest, that they can not get these sums refunded. The committee was very courteous to me, under the guiding hand of the new chairman and the gentleman from Texas [Mr. Box], the gentleman from New Mexico [Mr. MORROW], and the gentleman from Wisconsin [Mr. BECK]. They gave me a hearing, and my constituents appeared and stated their case. They were filled up with science and sympathy, but, of course, my bills are still in the pigeonhole.

Mr. Chairman, I present a letter from the A. J. Baker Co., of Johnstown, N. Y., which is self-explanatory:

JOHNSTOWN, N. Y., *February 12, 1926.*

Hon. FRANK CROWTHER,

House of Representatives, Washington, D. C.

MY DEAR CONGRESSMAN: Your letter of the 10th instant is at hand, for which I thank you.

In answer let me impress upon you that my contention is that we have not had our day in court as stated by the Treasury Department, and my further contention is that if I am given an opportunity to appear before the committee, at such time as you can obtain a hearing for me, that I can convince them of the reasonableness of our claim, which briefly is that there was no intention on the part of Congress when the tariff bill was passed to make dutiable the wool on skins, but subsequently the customs department insisted upon duties being paid on this wool on skins which we and others had to pay in order to get our skins.

Please note this point, namely, that thereafter the Federal Government itself decided that the wool on these skins was not dutiable and was not intended to be dutiable by Congress when the bill was considered and finally passed, so it resolves itself into a case of the Government having collected from us illegally moneys which the Government still holds and the question of protest, in my opinion, has no bearing upon the proposition.

If you will refer to the brief that I sent you, you will see that I have covered this fully and I think it should be to the entire satisfaction of the committee.

If the question of protest is the important thing, then the only way of being sure of getting back duties that may be illegally assessed and collected by the Government would be to protest in each case.

We have a right to assume that when a tax is levied and paid that it is legal, and failure to protest does not in any way make such tax legal. I think you will get my point and I insist that it is correct.

I want the first opportunity that you can get for me to appear before the committee and be introduced by you and be given the opportunity to present our claim and support it by brief of which you have a copy that I sent you some time ago.

I appreciate your efforts and will ask for your cooperation and support in my effort to obtain refund of the moneys illegally collected and held by the Federal Government.

Yours very truly,

A. J. BAKER.

Mr. Chairman, the above is one of three claims for refund of duties illegally assessed by the customs authorities. The Treasury Department bases its refusal to refund these duties on the fact that they were not paid under protest. This fact may possibly be construed to relieve them of the adjudication of this matter in their regular mode of procedure; but my point is this: Has the claimant no other recourse in law? Simply because the Treasury Department is automatically estopped in the refund because of no protest being filed, what right have they to recommend to the Claims Committee that such relief be not allowed? The Government should transact its business in a manner that wins the admiration and respect of its citizens, and I am disappointed at the attitude taken by the Treasury Department in these several cases. I trust that at the next session we may have a favorable report on these bills by the Claims Committee and thus be enabled to bring them before the House. The Treasury of the United States should not be enriched with funds that have, according to the decision of its own courts, been illegally collected.

The suggestion made during the discussion that this illegally collected duty had been passed on in added costs to the ultimate consumer has no foundation in fact. The three business concerns requesting the refund, Messrs. Richard Evans & Sons, A. J. Baker Co., and Jones & Naudin, are beyond criticism as to their integrity and business standing. Not one of them wants a dollar from Uncle Sam that does not rightfully belong to them. I trust that we may have speedy action on these measures at the next session.

The Clerk read as follows:

SEC. 304. No period of limitation for presenting or filing the claim of any individual under 18 years of age or mentally incompetent shall run so long as such individual is without a guardian, trustee, or committee.

Mr. UNDERHILL. Mr. Chairman, I move to strike out the last word. It is quite evident that a motion will be made to strike out the amendment adopted by the House pertaining to quarantine regulations. While I have the opportunity I want to explain a little more fully the situation as it exists. To-day any of these supposed damages may be presented in the usual way for adjudication. Let me call to your attention the fact that it is impossible for the United States Government to guarantee its efforts to protect the people of this country by all measures of quarantine.

I have an item copied from a San Antonio paper saying:

Smugglers bring ticks into Texas. Smugglers are playing havoc in sections of Texas adjacent to the border which have been cleaned of cattle-fever ticks, the chairman of the Texas State Livestock Sanitary Board said to-day. Several counties have been reinfested by tick-covered horses used by the smugglers to bring liquor across from Mexico, undoing work that required considerable time and much money on the part of the State and stockmen.

The gentleman from Texas [Mr. LANHAM], for whom I have the highest regard, said that the source of this infection could be readily traced.

Mr. LANHAM. If the gentleman will yield, I said that it could not be readily traced in cases of that character but could be definitely traced where the cattle were dipped and died in consequence.

Mr. UNDERHILL. So in the infected districts the cattle are dipped and then shipped to noninfected districts. They go out in box cars, are fed on the road, and there are a number of chances where they may be reinfected by the tick, and when they arrive at the destination it is not generally ascertained that they are infected, but later on the ravages of the tick begin to make their appearance and some of the cattle die.

Now, if the Government is going to guarantee the shipment of cattle after being dipped, the Government has got to guarantee against the importation of the fruit-fly pest in California; and if it does, you will have to pay damages for the whole citrus crop of California.

If the Government guarantees that the infection will not spread by proper medical supervision at the port of entry, you have got to pay to the State of Massachusetts three million and a half dollars because of the infection that has spread through the failure of quarantine. If you are going to guarantee that the Government must make everything good, you bring in the boll weevil; and wherever the Government fails to protect the people the Government becomes liable. So it is absolutely im-

possible for the Government in its efforts to protect the people to guarantee and underwrite and insure that that protection will be efficient 100 per cent. Those who have suffered because of the activity of the Government for their protection must take the consequences.

Now, I will submit to the gentleman from Texas a proposition. They say their people are obliged to submit to the dipping of cattle; that the Government takes the cattle from them. I will ask if they will introduce and support a bill that after 1926 the Government, through the Bureau of Animal Industry, shall cease absolutely to dip the cattle and let them dip them themselves and take the responsibility. No one of them will take that responsibility.

Mr. CARTER of Oklahoma. Mr. Chairman, the gentleman from Massachusetts talks about the Government guaranteeing an insurance subject. The proposal offered by bills for damages to cattle by dipping by the Government does not involve insurance or a guarantee or anything else.

The situation is this: They ship the cattle to market, and when they reach a certain point the cattle had to be dipped. They were taken vi et armis without their consent and dipped and some of them were killed. Now, if there is no liability on the Government, I can not understand——

Mr. LANHAM. Is not the interstate commerce provided for under the act of 1884 creating the Bureau of Animal Industry?

Mr. CARTER of Oklahoma. Yes. Now, my friend from Texas undertakes to compare these bills with the fact that boll weevil crosses the line and infects cotton. That case is not on all fours with this and there is no similarity between the two. Here is a case where they take a man's cattle away from him and dip them without his consent and over his protest. They kill his cattle, and then he can not recover any damages.

Mr. WURZBACH rose.

Mr. CARTER of Oklahoma. No; I can not yield. My friend from Texas [Mr. Box] referred to the oyster bill. The principle is already established, indirectly, reported by my friend from Massachusetts [Mr. UNDERHILL], and I have no doubt supported by my friend from Texas with reference to the disturbance of the slumber of some oysters on the Atlantic coast. These oysters were slumbering there peacefully, and it is claimed by the claimants that a Government dredge engaged in dredging the channel came along and disturbed the peace and quietness of these oysters, and, therefore, that they ought to be compensated. The gentleman from Massachusetts is sending that case to the Court of Claims; but that case is on the Atlantic coast and the other cases are in Texas and Oklahoma.

Mr. BEEDY. And I say to the gentleman from Oklahoma that that case has not yet gotten into the Court of Claims.

Mr. CARTER of Oklahoma. I understand; but it is reported and on the calendar. Let me show a little further, in respect to this case, just what the Secretary of War said about it. He says:

> No dredging was performed over the lots where the Andrew Radel Oyster Co. (Inc.) claim that they had planted oysters until they notified this office that all their oysters had been removed. Therefore, in view of the above facts and the decision cited in paragraph 8 above, the claim of the Andrew Radel Oyster Co. (Inc.), embodied in H. R. 8059, Sixty-eighth Congress, first session, dated March 19, 1924, is in my opinion unjust and should be denied.

And yet that claim is brought in here establishing the very thing which my friend from Texas [Mr. Box] said ought not to be established, to wit, that when the Government is doing a gratuitous work for some one and injures another, perhaps not interested in that work, that person has not the right to demand and recover damages. The principle is already established in the report on your own bill.

Mr. BOX. Mr. Chairman, I have very definite convictions about this proposition, and I hope the House will understand what it involves. Claims of this class have been before the committee ever since I have been a member of it, and the gentleman from Massachusetts, the chairman of this committee, has been wrestling with them, I know, for some years. The fundamental question is whether or not the Government of the United States should be held liable for damages caused by infections which get over the line. Gentlemen shake their heads. They say these claims have not been considered. The gentleman from Texas, Mr. Box, and the gentleman from Massachusetts, Mr. UNDERHILL, among others on that committee, have considered them much more than a lot of these gentlemen have as I judge from their talk. Members of the Claims Committee know more about them, if the knowledge of these critics is to be judged by their remarks. There are cases where cattle have been killed by a defective mixture, a poisonous mixture, but that is not the question which is really involved here.

Mr. JONES. But will not the amendment cover that?

Mr. BOX. It is not the purpose to do it, and the very few cattle that have been killed that way are as nothing compared to even one claim for $388,000 from the State of Texas, involving the friends of a lot of my constituents, whom I am as anxious to please as anybody else, if not some of my constituents themselves.

I do not know them by name. I know there is one claim for $388,000, and the claim is that the tick lived through the quarantine and the dipping and inspection process, and therefore the cattle and everything else that was damaged must be compensated for. You are not ready to have the Government waive its sovereignty and be sued on all such claims.

Mr. WURZBACH. Mr. Chairman, will the gentleman yield?

Mr. BOX. Yes.

Mr. WURZBACH. The gentleman from Texas is bound to admit that before the Government could be made to pay any of these damages the claimant would have to establish negligence on the part of Government agents and that the damage is the proximate result.

Mr. BOX. I do not yield further. There are certain things that governments undertake to do in their sovereign capacity, and they are bound, of course, to use their best diligence and to do that well, but there are many things that governments undertake to do which they do not do perfectly. They sometimes prosecute innocent people for crime. That is wrong and is a great mistake, but the Government can not be held liable in cases like that, and so with this whole group of quarantine questions. The Government of the United States is spending hundreds of thousands of dollars to protect the cotton fields of my constituents and of the constituents of my Texas colleagues. Sometimes the Government does fail to protect them to the extent of 100 per cent. It sometimes fails. I do not want to have to come back here and present claims for many millions on such accounts, because it is not sound or right. I do not want the people of the United States to think that when they suffer damages by reason of imperfections of these quarantine measures they have a right to demand that their representatives in Congress shall try to make the United States Government—in other words, the taxpayers—pay the loss. That should not be done.

Mr. JONES. Mr. Chairman and gentlemen of the committee, it seems peculiar that the members of the Committee on Claims should be talking about this provision, if the amendment of the gentleman from Massachusetts is eliminated, amounting to a guaranty on the part of the Government against any loss by virtue of the quarantine provision. Anybody who thinks for a moment must know that is not true. It would simply give these people who are damaged in their property rights by virtue of some action under the quarantine law the right to a day in court just like any other man.

Mr. UNDERHILL. Will the gentleman yield? They have no right in court to-day.

Mr. JONES. Yes; but under the terms of this bill we are giving the owners of other kinds of property the right to go into court and have their claims adjudicated. But you exclude those who have claims by virtue of some wrongful use of the quarantine provisions. The trouble with the gentleman's amendment is that it includes all claims of certain classes and excludes all claims of another class. The trouble is that it includes bad claims and good claims. In its inclusion it includes the good and bad alike, and in its exclusion it excludes the good and bad alike.

If the Government of the United States makes certain requirements of a man who has property—maybe all his life's savings are invested in these cattle—and he dips them according to specifications of a Government agent, and that agent puts twice as much arsenic in the solution as is required and the cattle are injured and his life's savings are destroyed, should he not have redress? We do not ask that the Government guarantee him against loss of that character, but we simply ask, by the elimination of the Underhill amendment, that he be given the privilege, just like any other property claimant, when he comes to court to make a showing and make proof of the fact that through the negligence of a Government agent his property has been destroyed. That would make him prove his case and establish the liability. In other words, you give him a right to his day in court. That is one of the most highly prized rights of the English-speaking race. All we are asking is that these people have the right to go into court and make proof. We are not asking for the elimination of the quarantine laws. We are not asking for speculative damages. They would have you believe that some tick might crawl across

where he did not belong and be there overlooked and some speculative damages accrue. As a matter of fact, they would have to prove that the result of the damage came from the negligence, and if the dipping which is necessary is done in a negligent manner and property is destroyed, it seems to me that comes within the scope of the very kind of claims carried on page 4.

This is not a plea for special privileges but for equality of rights. It is a request that the same privileges be extended one class that is being extended other classes of property owners. They all are citizens of the same Government and live under the same flag. Should they be discriminated against?

Mr. JOHNSON of Texas. Mr. Chairman, I have an amendment to this section.

The CHAIRMAN. The gentleman from Texas offers an amendment, which the Clerk will report.

The Clerk read as follows:

Page 19, section 304, strike out the section and in lieu thereof insert the following:

"SEC. 304. The claims of persons under the age of 21 years, first accrued during minority, and all idiots, lunatics, insane persons, and persons beyond the seas at the time the claim accrued, entitled to the claim, shall not be barred if the same be filed with the head of the department, or if suit thereon be brought within one year after the disability has ceased."

Mr. JOHNSON of Texas. Mr. Chairman, section 304 of the bill, as it is now written, reads:

SEC. 304. No period of limitation for presenting or filing the claim of any individual under 18 years of age or mentally incompetent shall run so long as such individual is without a guardian, trustee, or committee

It will be observed that my amendment would provide that limitation, instead of running against persons under 18 years of age, as written in the bill, would not begin to run until such persons had attained the age of 21 years, and claims would not be barred until one year after persons had attained the age of 21 years.

The language of the amendment as written by me, which I propose to substitute for the section now contained in the bill, is the verbiage of the present law relative to this subject concerning claims brought against the Government with this exception: In the present law the limitation period against minors and persons of unsound mind does not expire until three years after such disability ceases to exist, but my amendment makes such period one year, to conform to the other features of this bill.

I think the gentleman from Ohio [Mr. BEGG] and others who have spoken upon this subject are right that the limitation should not begin to run against minors until they are 21 years of age. That is the present Federal law upon this subject and is also the law of many other States.

My amendment has this additional virtue—that it definitely fixes the time when suit must be brought after minority or disability ceases, whereas the bill, as written, is indefinite upon that subject.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from Texas.

The amendment was agreed to.

Mr. McDUFFIE. Mr. Chairman, I move to strike out the last word in order to ask the chairman of the committee a question with reference to the amendment adopted at his suggestion. The hour is late, and I do not wish to detain you, but is it the intention of the committee or the chairman to preclude those engaged in the cattle industry from having the benefits of this legislation along with people engaged in other industries?

Mr. UNDERHILL. I tried to explain to the House the purposes of this bill.

Mr. McDUFFIE. Are you not afraid by your language used in the amendment you will exclude the cattle industry from receiving the benefits of this bill and deny to those engaged in that industry the privileges accorded under this legislation; that is, the right to have their day in court and have their claims settled as other claims will be settled under the bill?

Mr. UNDERHILL. I do not exclude the cattle industry any more than I exclude the fruit industry or the cotton industry. I do not exclude it any more than I exclude smallpox or the hoof-and-mouth disease. I do not exclude the cattle industry any more than I exclude all of the difficulties which the Government is trying to eradicate so that the people may be happy and contented.

Mr. McDUFFIE. I understand there are several bills now pending here for claims growing out of quarantine regulations. I do not know whether they are meritorious or not. That fact will be ascertained when the cases are submitted to a proper tribunal. I do not think those people engaged in the cattle business should be excluded from the privilege of going into court and receiving the benefits of this very meritorious legislation that the gentleman from Massachusetts is responsible for.

Mr. UNDERHILL. The gentleman knows that they have no right at the present time, does he not?

Mr. McDUFFIE. Nobody else has, for that matter, but, if you are to give others the benefits of this legislation, why not give it to those engaged in that class of industry?

Mr. WURZBACH. Mr. Chairman, will the gentleman yield?

Mr. McDUFFIE. Yes.

Mr. WURZBACH. The chairman of the committee admitted that this was not a committee amendment, and was not considered by the committee, but it was his personal amendment.

Mr. McDUFFIE. The chairman of the committee is asking for what he believes is just and right to the people of this country, and we should commend him for it. But I think he is making a mistake in urging that his amendment remain in the bill.

Mr. UNDERHILL. The chairman explained the danger to the Government if the provisions were not carried in the bill, and explained the various ramifications all around the amendment.

Mr. McDUFFIE. But the gentleman is assuming that we are guaranteeing something. He says if the fly comes over from California, or the beetle comes from the Windward Islands, the Government is liable, and guarantees all damages. That is not the case. They must establish their cases, of course, before the Government liability arises. I hope the gentleman will let his amendment, excluding all claims arising under the quarantine laws, go out of the bill when we come to its final passage. Let these people have their day in court.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 305. This act may be cited as the "Federal tort claims act."

The CHAIRMAN. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The CHAIRMAN. Without objection, sections 3, 4, and 5 of the bill will be eliminated.

There was no objection.

Mr. UNDERHILL. Mr. Chairman, I move that the committee do now rise and report the bill back to the House with the amendment, with the recommendation that the amendment be agreed to and that the bill as amended do pass.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. LEHLBACH, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee having under consideration the bill (S. 1912) to provide a method for the settlement of claims arising against the Government of the United States in sums not exceeding $3,000 in any one case, had directed him to report the same back to the House with an amendment, with the recommendation that the amendment be agreed to and that the bill as amended do pass.

HOWARD UNIVERSITY

Mr. RAMSEYER. Mr. Speaker, I present a privileged report from the Committee on Rules.

The SPEAKER. The Clerk will report it.

The Clerk read as follows:

Mr. RAMSEYER, from the Committee on Rules, submitted the following report to accompany H. Res. 143, providing for the consideration of the bill (H. R. 8466) to amend section 8 of an act entitled "An act to incorporate Howard University, in the District of Columbia," approved March 2, 1867.

The SPEAKER. Referred to the House Calendar and ordered printed.

AMENDMENT OF THE PURE FOOD LAW

Mr. RAMSEYER. Mr. Speaker, I present another privileged report from the Committee on Rules.

The SPEAKER. The Clerk will report it.

The Clerk read as follows:

Mr. RAMSEYER, from the Committee on Rules, submitted the following report to accompany H. Res. 291, providing for the consideration of the bill (S. 481) to amend section 8 of an act entitled "An act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes," approved June 30, 1906, amended August 23, 1912, March 3, 1913, and July 24, 1919.

The SPEAKER. Referred to the House Calendar and ordered printed.

FEDERAL TORT CLAIMS BILL

Mr. UNDERHILL. Mr. Speaker, I move the previous question.

Mr. JONES. Mr. Speaker, is it in order to offer an amendment to the amendment?

The SPEAKER. It is not.

Mr. JONES. Is it in order to offer a motion to recommit?

The SPEAKER. It is one amendment.

Mr. JONES. Under unanimous consent, this amendment was read under the five-minute rule as an original bill. It seems to me under those circumstances a separate vote should be permitted.

The SPEAKER. The Chair does not think that under the rule a separate vote can be demanded when the bill is one amendment and has simply been perfected in the committee. The Chair thinks the vote must be on the amendment.

Mr. JONES. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. JONES. Would it be in order to include in a motion to recommit the elimination of that amendment?

The SPEAKER. The Chair thinks the situation would be the same.

Mr. JONES. The House having voted to adopt the amendment?

The SPEAKER. There is but one amendment before the House which has been perfected in committee, and it would not be in order to vote on any amendment separately.

Mr. JONES. Would not a motion to recommit be in order to vary that amendment and report back a part of the amendment, or report back the elimination of a part of the amendment?

The SPEAKER. The Chair thinks not.

Mr. SNELL. The gentleman can make a motion to recommit, but he can not recommit something which the House has just adopted.

Mr. JONES. But it is in order to make a straight motion to recommit.

The SPEAKER. The Chair will rule on that when the occasion arises. The question is on the amendment as perfected by the committee.

The amendment was agreed to.

The bill was ordered to be read a third time, and was read the third time.

Mr. JONES. Mr. Speaker, I move to recommit the bill to the Committee on Claims.

The SPEAKER. The gentleman from Texas moves to recommit the bill to the Committee on Claims.

The motion was rejected.

The SPEAKER. The question is on the passage of the bill.

The bill was passed.

The SPEAKER. Without objection, the title will be amended.

There was no objection.

On motion of Mr. UNDERHILL, a motion to reconsider the vote whereby the bill was passed was laid on the table.

A similar House bill was laid on the table.

PERMISSION TO ADDRESS THE HOUSE

Mr. RUBEY. Mr. Speaker, I ask unanimous consent that on to-morrow morning, immediately after the reading of the Journal and the disposition of other business on the Speaker's desk, I may be given 30 minutes in which to address the House. I will say frankly I want to talk about the history of agriculture during the present session.

The SPEAKER. The gentleman from Missouri asks unanimous consent that to-morrow, immediately after the reading of the Journal and the disposition of business on the Speaker's table, he may be permitted to address the House for 30 minutes. Is there objection?

Mr. SNELL. Mr. Speaker, I understood we were to take up the Private Calendar to-morrow. The Private Calendar is a long calendar and a great many Members desire to continue it to-morrow. If the gentleman could come in on some other day, I think it would be more convenient, although I do not like to object at this time.

Mr. RUBEY. I have been trying to find some method of getting in and was hoping we would have general debate of some kind, but we will not have general debate until the latter part of the month.

Mr. SNELL. I think the gentleman could get in next week; and, as I have said, a great many of the Members are interested in the Private Calendar and want to go on with it.

Mr. RUBEY. Mr. Speaker, I will change my request to Tuesday morning.

The SPEAKER. The gentleman from Missouri asks unanimous consent that on next Tuesday, immediately after the reading of the Journal and the disposition of business on the Speaker's desk, he may be permitted to address the House for 30 minutes. Is there objection?

There was no objection.

Mr. KNUTSON. Mr. Speaker, I ask unanimous consent to address the House on Tuesday morning for 10 minutes.

Mr. UNDERHILL. On what subject?

Mr. KNUTSON. On the subject of the material to be used in grave markers on the battle fields of France.

The SPEAKER. The gentleman from Minnesota asks unanimous consent that at the conclusion of the remarks of the gentleman from Missouri [Mr. RUBEY], on Tuesday next, he may be permitted to address the House for 10 minutes. Is there objection?

There was no objection.

ENCOURAGEMENT AND DEVELOPMENT OF AVIATION

Mr. McSWAIN. Mr. Speaker, I ask unanimous consent to extend my own remarks in the RECORD in regard to the bill (H. R. 12471) relating to the manner of procurement of aircraft for use of the Army.

The SPEAKER. Is there objection?

There was no objection.

Mr. McSWAIN. Mr. Speaker, in a very few days the House will be called upon to consider one of the most important matters to come before this Congress and a question surpassed in importance only by such matters as tax reduction, departmental reorganization, and farm relief. The Committee on Rules has reported favorably rules to bring up for special consideration at an early date H. R. 12471, introduced by myself, relating to the procurement of aircraft for the use of the Army, and H. R. 12472, introduced by Mr. VINSON of Georgia, and relating to the procurement of aircraft for the Navy. These bills are identical with the exception of the interchangeable use of the words "War Department" and "Navy Department."

In order that Members of the House may be preparing for the consideration of this most important matter, I am taking this means of calling it to their attention and of extending my remarks and thus presenting some of the considerations that have moved the Committees on Military Affairs and Naval Affairs to bring in these two bills. With the introduction of an entirely new method of warfare, such as the airplane and the airship, the building up of an entirely new industry was necessitated, and as these departments of national defense have been and are still practically the only, and certainly the largest, customer of the aircraft industry, it has been deemed necessary to advise the change of the laws regulating the procurement of governmental supplies in many very important respects. The airplane is a highly technical machine, resting on scientific principles not generally understood and involving a high degree of engineering skill for the designing and production. The art of aviation may be yet in its infancy, and it has been confidently stated by those in positions to know that as great, if not greater, progress will be made in the next five years in the development of aviation as has been made in the last five years. Other nations are pushing the development by many artificial stimulations, both by subsidies to the buyer of aircraft and to the manufacturer and by subsidies for the carriage of passengers and parcels.

Under existing law the departments have found difficulty in keeping abreast with other nations in that they have been compelled to advertise for bids according to existing stipulations and specifications and then to buy aircraft from the lowest cash bidder. It is contended that the result has been twofold: First, to retard progress in the development of the art, and, second, to compel the Government to take machines that have proven unsatisfactory and, in some cases, dangerous and even destructive to the lives of the pilots and passengers. At any rate, both departments have stated frankly that they have been compelled to resort to something like an artful and technical evasion of the existing law by stipulating that under certain conditions certain classes of machines are proprietary articles that can be furnished by only one concern and that in such case advertisement and competition would be useless. They have based their action upon an old decision of the Attorney General.

It will be remembered that the special committee of the House, commonly called the Lampert committee, and the President's Aircraft Board, commonly called the Morrow Board, both positively and definitely recommended that the existing law requiring advertisement for bids and for purchase from the lowest cash bidder be abrogated in the purchase of aircraft. I have resisted the effort to enact law to this effect with all

the energy at my command. I felt that the broad and unconditional repeal of this statute in this respect would open wide the doors to the waste of public funds, not to mention the possibility of corrupt collusion, and would not advance the knowledge and science of aeronautics and would not build up a reliable aircraft industry, but would probably build up an aircraft monopoly by showing favoritism to two or three large aircraft-manufacturing concerns. These matters have been debated before the Committee on Military Affairs for several months, and the committee was nearly equally divided on the question. I admitted that there is something wrong with aviation in the Army and the Navy, but I have denied that the cause of ill conditions is the law relating to procurement. At the beginning of the discussion I felt that there never could me any middle ground and that the law as it stands should not be modified in any respect. As the hearings have progressed and common counsels have been exchanged I have been convinced that something can and should be done to change existing law for the purpose of encouraging the development of aviation and the building up of the aircraft industry. Of course, other things should be done also, as the procurement law is not the sole cause of the stagnation in aviation. The adoption by the House and the Senate of the bill to carry out a five-year program in both the Army and the Navy was one step in the right direction, and it is believed that when these bills come out of conference they will be improved in some respects.

But the art and science of aeronautics will not be advanced by eliminating advertisement and publicity and by abolishing competition. On the contrary publicity, the light of public information, must be increased, and competition, the whetting of one mind against another, must be intensified. Therefore subcommittees from the Committees on Military Affairs and Naval Affairs have met and after several weeks of almost daily hearings and conferences, have agreed upon H. R. 12471 and H. R. 12472. These bills are built around a certain well-defined principle, and that principle is that competition and publicity should be increased from the designing of aircraft up until the production of aircraft in large quantities. Publicity and competition are made necessary and are protected by penal provisions, with criminal consequences. Inventors and designers are encouraged and are assured that if they develop any design that promotes the art and is useful to the Government, they will be compensated either at figures to which they agree after negotiations, or that may be fixed either by a board, or may be fixed by a court. We have opened the doors of the court to all persons that claim that the Government is using or shall use any design originated by such designer for which payment has not been made. We believe that the Government should treat all of its citizens justly, and should not escape the payment of fair and reasonable compensation by pleading immunity from suit in court. We believe that the district court is the proper place and that such inventors and designers should not be restricted to the Court of Claims. We believe that any competitor that has a reasonable ground for believing that unfairness has been practiced, or that fraud entered into any award of a prize, or of a contract, then such competitor should have the right to thrash this question out either by arbitration or in court. Objection has been made to these provisions of the bill on the ground that they make possible a great deal of annoyance and some expense due to the natural jealousy and envy of an unsuccessful competitor. But I believe that a realization that the Government not only is fair but can be haled into court and required to show that it is fair will have a most wholesome effect.

It will inspire confidence among inventors and designers. It will thus encourage many such inventors and designers to put labor and time on aviation, and thus contribute something to its development. In other words, the bills that will come up for consideration, instead of shutting off the light, instead of authorizing the negotiations to buy aircraft without advertisement and without public notice of any sort and virtually in secret, these bills provide to increase publicity and to insure that all who may be interested shall know that the Government is in the aircraft market, and is willing to pay a fair and reasonable price for any useful ideas and plans, and is willing to pay for aircraft itself such price as is necessary to insure high quality, great performance, and reasonable safety.

In order to show the state of mind in which I approach this question, let me extract from the hearings before the joint committee a statement while Mr. C. M. Keys, president of the Curtiss Airplane Co., was on the witness stand:

Mr. MCSWAIN. Now let me conclude very briefly, because most of these questions are necessarily argumentative, and I could not expect to get an affirmative answer from my distinguished friend. Let me make myself plain for the record, and for the benefit of these gentlemen who are here and who may not be in possession of my whole position in regard to this matter.

I insist that the only way to develop this industry, as to develop any industry, is not by governmental action but by private enterprise, and that in order to do that the maximum of initiative must be evoked in some way, and I believe that the history of civilization will show that only the sharp clash of competition will bring about genuine and permanent progress. Therefore, I believe that this statute is founded in sound economic philosophy as well as prudent business consideration, and for that reason I feel rather positive in my position about it.

I have undertaken to offer a sort of alternative proposition, because I believe that a trouble in the minds of all these gentlemen is this:

We realize the aircraft industry needs to be expanded, and we realize that the Army service and the Navy service need regenerating, and there has been some regenerating movement started. It has not gone as far as it wanted, or as far as it ought to go, but it has started all right; and yet here is the reason that everybody—a great many people, at least—have been caught by this suggestion. This suggestion to eliminate competitive bidding was made by somebody; and I am rather disposed to think that so many of our people are anxious to make hasty progress they took the first thought suggested.

I believe if we would just think around this thing a little bit we can work out ways to arouse enterprise and genius.

For instance, you lay a great deal of stress on these designing staffs. I would like to know what designing staff Wilbur and Orville Wright had before they flew down here, on the Kittyhawk, in December, 1902. Their designing staff was right on the inside of their inventive brains; and I want to have some brains in America other than those in your staff, other than those in the staffs of these other 12 concerns working on this proposition, because my idea is that the salaried men in your force are very much like salaried men on the Government force. You say the Government men here will never develop any original designs or inventions, because they are on salary. It seems to me that the men on your forces will never develop much of original ideas, because they are on salary; and you who have got your money at stake, or some young man who wants to make a name for himself or wants to win a prize of $50,000 or $100,000, will turn his brain over and over and over, and he will not pay any attention to the eight-hour law, and he will do some original thinking and work out some solution of the questions the aircraft industry is contending with.

I extract the following portion from the report of the Committee on Military Affairs approving and recommending the adoption of H. R. 12471 as a fair and comprehensive statement of the purposes and objects of the bill:

DEVELOPMENT OF AVIATION AND ARMY AERONAUTICS

This bill has three great underlying objects that the committee believes will be accomplished by its enactment into law. It is believed that these three objects may be fairly considered to be in harmony with the settled and underlying principles of American political and economic life. These objects are as follows:

I. To encourage and promote the progress and development of the art of aviation as an art, so that the United States may keep abreast, if not in advance, of other nations in this most important new art.

II. To insure for the use of our military forces the most efficient and safe aircraft possible in the present state of the art, or the best possible at any given time in the future.

III. To encourage the expansion of the aircraft industry, so that a large number of different and distinct aircraft manufacturers may have fair and equal opportunities to obtain Government contracts for the purpose of building such aircraft, and thus to prevent the building up of an aircraft monopoly or a trust agreement among aircraft manufacturers.

How are these three fundamental purposes or objects to be accomplished by the bill?

I. PROGRESS OF AVIATION

First. The art of aviation itself will be encouraged by throwing wide open the doors of competition to all the designers and inventors of the country, even to all those with but limited financial strength, whereby it is hoped and believed that a large number of such designers and inventors will be encouraged to devote their time and thought and talents to making improvements in aircraft. Wide publicity of such contemplated competition and preparation of detailed specifications and publication as to the features or characteristics desired to be improved and expressed, all in percentage figures, so as to insure fairness and equality of opportunity among all competitors in such design competition, unless fraud should creep into the case.

Of course, fraud will in all cases defeat the highest and noblest purposes and plans; but it is believed that the temptation to commit fraud is removed by the terms of this bill, by reason of the presence in the bill of the following provisions:

(a) Under section 4 any losing competitor is permitted to make a reasonable showing to the Secretary that error or mistake was made

in the award, and the Secretary is authorized to order the appointment of a board of arbitrators to pass upon the question of mistake or error. While the bill does not expressly provide that the decision of the board of arbitration shall legally control and bind the action of the Secretary, even if the board should report that a mistake was made, yet it must be assumed that under ordinary circumstances the Secretary will respect and heed the findings of such board. Where the responsibility is placed upon the Secretary for obtaining the best possible aircraft, not only as to performance but also as to safety, then the discretionary power must rest in the Secretary to buy such aircraft and to select such designs as shall appear to him best suited for the purposes intended.

(b) Further, it is believed that fraud will be discouraged by the provisions of section 11 of the bill, which authorizes a suit by the losing competitor against the winner for punitive damages on the ground of such fraud as the winner may have been a party to. While this remedy is not corrective and does not upset any contract that may have been entered into as a result of competition, and does not stay the progress of building or constructing aircraft, yet it undoubtedly will have a restraining influence upon such persons as may be tempted to practice fraud.

(c) Fraud is further discouraged by the provision of section 12 which imposes criminal penalties for any conspiracy to prevent full and free competition in the procurement of new designs.

Second. The bill further insures that our Nation will keep abreast of other nations by empowering the Secretary, under section 7 of the bill, to purchase in foreign countries or in the United States a limited number of aircraft for experimental purposes. This is necessary, because we would hardly expect foreigners to enter the design competition contemplated by section 1. This means of procuring models or designs will enable us to have the best that any other nations may have.

Third. Under section 5 any inventor or designer may have his action in court for compensation for the use of his designs or patented inventions that may be used by the Government without previous compensation to such designer or inventor. This is but a fair provision in order to insure to each such inventor or designer the fruits of his intellectual labors. It is in harmony with the spirit of the Constitution of the United States, which provides for the encouragement of inventors and writers by securing to them for limited periods the exclusive use of their respective writings and discoveries.

Fourth. Further, section 14 provides for the creation of a board on patents and designs, and any person may submit to this board designs, whether patented or unpatented, and the board may determine whether or not such designs have value; and if so, what their value is; and may offer to the owner of such design a sum of money not exceeding $75,000; and if such design right be thus acquired, aircraft may be built in quantity for the use of the Government in accordance with other provisions of the bill, and especially in accordance with sections 6 and 16.

II. SUITABLE AND SAFE AIRCRAFT

The next great object and fundamental principle of the bill is to insure safe and efficient aircraft for the use of the Government in peace and war. How is this object accomplished? It will be observed that the winner in any design competition is to have a right to enter into contract for the purpose of building or constructing the contemplated number of aircraft, provided that such winner is able and equipped to carry out such contract to the best interest of the Government. Here, also, discretion must rest somewhere, and in this case that discretion necessarily rests with the Secretary. In all such cases that discretion is to be controlled by the considerations of performance, by ability to accomplish desired results—i. e., by endurance, by range, by speed, etc. These are to be the primary questions, and not price alone. If the designs have been acquired by the purchase of the designs themselves under section 1, or as the result of experimentation on aircraft purchased under section 7, or by the purchase of design rights under section 14, the contract may then be let by the Secretary to the lowest responsible bidder, but to insure that the work shall be done at a reasonable cost and at the same time be efficiently and scientifically done, the bill gives the Government the power to keep an inspector in the plant where the aircraft is being manufactured and to audit the books of the manufacturer as to cost.

III. THE AIRCRAFT INDUSTRY

In order to obviate the necessity of the Government's entering the business of building aircraft for military purposes, it is desirable—in fact necessary, as the only other alternative—that there should be an adequate aircraft industry in existence. Your committee holds that an adequate aircraft industry does not mean one or two or three very large manufacturing concerns who may get contracts and thus constitute an aircraft monopoly. On the contrary, an adequate aircraft industry means a sufficiently large number of concerns engaged in the designing and building of aircraft as to insure genuine and substantial competition, and thus to insure not only reasonable prices but to insure proper workmanship and reasonable progress in the art. It is believed by the committee that the effect of the operation of the provisions of this bill, through a period of years, will be to encourage the expansion of such adequate aircraft industry.

How will this result be accomplished?

(a) By giving to all promoters and inventors of aircraft a fair and square deal to receive compensation for their designs and to receive reasonable and fair compensation for their expenditures in the construction of aircraft.

(b) By preventing monopoly or trusts in defiance of full competition, by penalizing criminally any conspiracy among bidders to prevent competition.

(c) By providing that only citizens of the United States and corporations owned and controlled by citizens of the United States and having manufacturing plants on continental United States may be awarded any contracts for the construction of aircraft.

(d) By requiring that the Secretary shall make annual reports to Congress, giving such details as the names and addresses of all persons or concerns in every competition, and of all persons that have been awarded contracts and the prices paid under such contracts, and the reasons that prompted the Secretary in awarding each and every such contract. It is believed that this provision will discourage favoritism. It will give a printed record to be published to the world of the acts and doings of the department for each year. Naturally, if this report should show that one or two or three firms have been receiving all the contracts, then that will lead to an inquiry and to an investigation, and the department naturally would seek to avoid criticism and escape an investigation by distributing contracts among just as large a number of manufacturers as may be shown to be competent to carry out the contract in a workmanlike manner and at a reasonable price.

SECTION 13

It may be argued by some that section 13 is out of harmony with the general purpose and fundamental principles of the bill as above outlined. There have been many conflicting views, and all members of the committee have sought in good faith so to reconcile their views as to make possible some legislation to encourage and promote the art of aviation and thus further to provide for the national defense. We respectfully submit that there are certain limiting and safeguarding provisions that would apply to the operation of section 13 and outweigh such objections that have been advanced. These are:

(a) The designs must have been previously reduced to actual practice (of course, at the designer's expense).

(b) This practical demonstration must show that such designs are suitable for the purpose intended.

(c) It must further appear that the purchase of aircraft according to such designs is in the best interest of the Government.

(d) Further, any contract to construct aircraft according to such designs must be at reasonable prices and must be subject to all the other provisions of this bill and of existing law not repealed by this bill, such as sections 6 and 16.

We believe the department will make a sincere effort to develop the art of aviation by employing the provisions of section 1 of the bill in ordinary peace times. But situations may arise where the powers contained in section 13 may be advantageous to the Government. If the power ever be abused Congress has a simple remedy by repeal.

As a further exposition of the bill, I append the correspondence between myself and the Hon. Henry Woodhouse, president of the Aerial League of America:

AERIAL LEAGUE OF AMERICA,
June 9, 1926.

Hon. J. J. McSWAIN,
House of Representatives,
Washington, D. C.

DEAR CONGRESSMAN McSWAIN: 1. Permit me to commend your bill (H. R. 11950) introduced May 6, 1926. It is needed to reestablish the line of demarcation between right and wrong in the award of Government aircraft contracts, which, as appears from the congressional investigations, has been nonexistent ever since 1917, when the Aircraft Board and the Manufacturers Aircraft Association obliterated it for self-serving purposes.

2. Had such legislation been enacted in 1917, when the question of necessary aircraft patents was first debated in Congress, the people of the United States would have been saved from paying taxes on over $500,000,000 that was paid from the United States Treasury for the ostensive purpose of building the air services, but from which, in fact, the Nation did not receive benefits.

3. Such legislation would have been a bar to and prevented the establishing of that cross-licensing scheme by a few manufacturers calling themselves the Manufacturers Aircraft Association, which the Thomas committee of the Senate in July, 1918, correctly characterized as being—

"vicious and designed to reap large profits by taking advantage of the necessities of the Government."

4. The United States would to-day have an Air Service superior to that of any two other nations in the world if such legislation had been enacted when the Thomas committee made that report.

The officials and Members of Congress felt sure that the wide publicity that attended the exposure of the evils would end the evil. But it did not. Getting millions without giving value bred a vicious monopoly, which can properly be described by these lines of Dryden:

"Mouths without hands, maintained at vast expense,
In peace a charge, in war a weak defense."

5. Unless this legislation is enacted, the $85,000,000 aircraft appropriation may go the way of the past appropriations, and the taxpayers will be paying taxes on this new expenditure without having any better aircraft than were had from the $450,000,000 spent since the signing of the armistice, or the billion dollars spent prior.

6. The taxpayer has been right all along in his objections against the squandering of hundreds of millions of dollars of public funds without results and the killing of hundreds of brave aviators through the purchase by the Air Service of worthless aircraft. But notwithstanding that the press and public and Members of Congress have been right in their protests, it has been a case of—

"Right forever on the scaffold,
Wrong forever on the throne."

Your bill provides the legislation required to reestablish the line of demarcation between right and wrong in the awarding of aircraft contracts and deserves the unanimous support of the Congress.

Very sincerely yours,

HENRY WOODHOUSE,
President of the Aerial League of America.

JUNE 10, 1926.

Mr. HENRY WOODHOUSE,
President Aerial League of America,
280 Madison Avenue, New York, N. Y.

MY DEAR MR. WOODHOUSE: I am very pleased indeed to receive your letter in commendation of H. R. 11950 introduced by me in the House on May 6. Naturally, a Member is much gratified to find that his views are approved by anyone and especially so when the approval comes from one having experience and holding the responsibility that you do.

I am sending you a copy of H. R. 12471 introduced in the House by me on May 27. You will observe that it is a development from and an outgrowth of H. R. 11950. I also send you a copy of report No. 1395, which explains in part the purposes and principles of H. R. 12471.

But if you could have been present during the hearings on this question since January 1, you could appreciate the tremendous opposition that I have met and largely overcome by force of irresistible argument, not due to any particular power of mine, but due to the irrefutable facts of the case. You recall that the Lampert Committee of the House and the President's Aircraft Board, headed by the Hon. Dwight W. Morrow, recommended the abolition of those provisions of the statute requiring advertisement and competitive bidding before letting a contract. A bill to this effect was introduced by Representative VINSON of Georgia, being H. R. 11249, which I also send you.

If you will read the hearings that were had before the Military Affairs Committee of the House and later before a joint committee of 10 members, 5 from the House Committee on Military Affairs and 5 from the House Committee on Naval Affairs, you will see the pressure brought to bear by the War Department and the Navy Department to obtain legislation carrying into effect the recommendations of the Morrow Board. Of course, H. R. 12471 is not in all respects just as I would like to have it, because it represents the compromises and mutual concessions made after weeks of daily deliberations in the joint committee above mentioned. But I do believe that this bill contains principles and sufficiently directs their administration to bring about a great forward movement in the art of aviation and thus strengthen the national defense and incidentally to distribute Government contracts to build aircraft and thus to build up the aircraft industry as a whole, though perhaps not enriching the two or three aircraft manufacturers by enabling them to reap great profits as a result of the abrogation of the statutes requiring advertisements and competition.

You will observe that H. R. 12471 provides for the widest possible publicity and competition in quality and merit. Publicity is what the aircraft industry needs. The agitation for the last year has contributed incalculably to the advancement of the art of aviation and the aircraft industry. The more people that think and feel on a subject, the more that subject may be finally understood; and in America both business and government must follow, not lead, sentiment. The bill provides for publicity of a nation-wide character of every competition for the procurement of new designs. It provides publicity for the announcement of the award. It provides publicity for the correction of mistakes. It provides publicity and courthouse publicity for the trial of all charges of fraud and for the prosecution of persons charged with conspiracy to prevent full and free competition and to prevent the inspection and auditing of books. It provides publicity in requiring the Secretary of War or Navy to file with Congress annually an itemized report of all aircraft purchased, the amount paid, the name of the manufacturer, and the reason for awarding such contract. There can hardly be any dark-room methods under this bill for any considerable length of time. If section 13 should be abused, it can be repealed or amended. I would never have consented to this section, except at the suggestion of General Patrick, whose judgment and character I greatly respect. It will not be abused by the War Department so long as he is Chief of the Air Service. At any rate, I have been persuaded to give it a trial; and if the departments virtually ignore section 1 of the bill and function, as they could legally, under sections 7 and 13, then I would be the first man to rise either to repeal or amend, so as to bring about the result which all of us so devoutly desire, to wit, a fair and even chance among all aircraft designers and builders to obtain a fair part of Government business. You will realize that all government is finally a compromise between ideals and aims. Even the Constitution of the United States is a conspicuous example of the compromise, even among inspired and patriotic men.

I respectfully invite your attention to the debates that will be held on the floor of the House when H. R. 12471 and 12472 will be under discussion, which will probably be early next week.

If you are ever in Washington I would be pleased to have you call at my office, that we may discuss matters relating to the promotion of the art of aviation.

With very kind personal regards, I am

Yours very truly,

ELECTION CONTEST OF CLARK AGAINST EDWARDS

Mr. VINCENT of Michigan, chairman of the Committee on Elections No. 2, submitted a privileged report on the election contest of Clark against Edwards, which was referred to the House Calendar and ordered printed.

ELECTION CONTEST OF BAILEY AGAINST WALTERS

Mr. VINCENT of Michigan, chairman of the Committee on Elections No. 2, submitted a privileged report on the election contest of Bailey against Walters, which was referred to the to the House Calendar and ordered printed.

Mr. VINCENT of Michigan. Mr. Speaker, I desire to announce that on Tuesday next after the conclusion of the addresses for which unanimous consent has just been given, I will call up these two cases for consideration by the House.

Mr. HASTINGS. Are they unanimous reports?

Mr. VINCENT of Michigan. They are both unanimous reports.

LEAVE OF ABSENCE

By unanimous consent leave of absence was granted to—

Mr. DOUGLASS, for 10 days, on account of important business.

Mr. PARKS (at the request of Mr. DRIVER), indefinitely, on account of sickness in family.

PERMISSION TO ADDRESS THE HOUSE

Mr. RAYBURN. Mr. Speaker, if I may have the attention of the gentleman from Michigan [Mr. VINCENT], I came into the Hall a moment ago intending to ask unanimous consent that on Tuesday I may have 30 minutes to address the House. I now ask that after the gentleman from Missouri [Mr. RUBEY] and the gentleman from Minnesota [Mr. KNUTSON] have their 30 minutes and 10 minutes, respectively, I may have 30 minutes in which to address the House on some aspects of transportation.

Mr. SNELL. Mr. Speaker, reserving the right to object, we have talked about giving the Naval Affairs Committee and the Committee on Military Affairs an opportunity on Tuesday to bring up some bills in regard to the aircraft procurement board. If we are going to have a large amount of additional work, it might be well for us to meet at 11 o'clock on Tuesday morning.

Mr. RAYBURN. If I could have the 30 minutes on Wednesday, it would suit me just as well.

Mr. SNELL. Perhaps we could meet at 11 o'clock on Tuesday morning.

Mr. LEAVITT. Mr. Speaker, reserving the right to object, Wednesday is Calendar Wednesday——

Mr. RAYBURN. I have not changed my request and asked for permission on that day. My unanimous-consent request is still pending for Tuesday.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

ADDRESS OF HON. CHARLES E. WINTER, OF WYOMING

Mr. LEATHERWOOD. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by inserting therein a speech delivered over the radio last evening by the gentleman from Wyoming [Mr. WINTER].

The SPEAKER. Is there objection?

There was no objection.

Mr. LEATHERWOOD. Mr. Speaker, under the leave to extend my remarks in the RECORD I include the following address delivered over the radio by my colleague, the gentleman from Wyoming [Mr. WINTER]:

REASONS FOR CONTINUING REPUBLICAN ADMINISTRATION

Mr. WINTER. The Republican Party faces the opposition in the coming campaign with a national record on which we can confidently stand and fight. No more eloquent and convincing argument can be made than to state the fact that the building record of the United States was in 1924, $4,000,000,000; in 1925, $5,000,000,000; and the building rate thus far in 1926, $6,000,000,000. Nothing can overcome that overwhelming proof of progress and prosperity under the present administration.

A few years ago foreign nations owed the United States over $11,000,000,000, which they received as loans. Eminent statesmen of both parties were hopeless of repayment. Others advocated writing off the entire amount. To-day, under the guidance of President Coolidge, those debts, if the French and Yugoslavian settlements are also ratified, have been funded for the repayment of $11,522,354,000 principal and $10,621,183,993 interest, a total of $22,143,539,993, all to be paid in stipulated, gradually rising annual amounts.

We shall receive each year upon these debts and interest an average sum of $357,155,870 over a period of 62 years. These debtor nations could not pay more. We recouped the maximum amount possible. These settlements were ratified by a nonpartisan vote, but they were made under a Republican administration. Our party was responsible. It discharged that responsibility.

On the 2d day of June, 1924, President Coolidge signed a new revenue bill, reducing the amount of taxes to be collected from the American people annually $450,000,000. In a sense it was a nonpartisan measure in that everybody was for tax reduction, but in a large part it was made possible by Republican business methods and rigid economy in the national expenditures. It was done in a Republican administration. The Republican Party had imposed upon it the obligation. It fulfilled that obligation.

Under the wise provisions of that revenue law, by the stimulation of industry in the United States under Republican policies, by great revenue income from taxable imports under the tariff law, by the prosperity of the building industry, manufacturing industry, transportation, and labor and by the economy of a Republican Congress supporting a Republican President and the Budget, on the 26th day of February, 1926, another new revenue law was signed by the same hand, further reducing the taxes of the people $387,000,000 annually. This was a nonpartisan bill. Nevertheless it was done under this Republican administration. It was made possible by more Republican system and economy. The Republican Party was answerable to the people. It answered. It performed its great task. It is possible that there may be another reduction in national taxes in 1927 or 1928.

While these tremendous reductions in taxes were being made, yet since 1921, when our party came into power in all the branches of the Government, our national debt has been reduced from $24,000,000,000 to $20,000,000,000. We have paid off, during the very period of reduction of taxes, $4,000,000,000 of our country's indebtedness and incidentally thereby reduced the annual interest charge $170,000,000.

This record has been made, notwithstanding the expenditure of approximately $500,000,000 annually for our disabled war veterans. In the estimate for the next tax reduction measure, which I have suggested, there is taken into consideration the additional expenditure of $18,500,000 yearly, being increase of pension for the veterans of the Spanish-American War, a long-delayed act of justice for which it was my happy privilege to vote. These various measures constitute financial governmental achievements of the first magnitude. They present achievements never before approached in the history of nations.

The Republican Party has always stood firmly in support of the Constitution and of law and order. It has never been the party of nullification. Republicans can take no lesser position than to stand for the supremacy of law. There can be no compromise on that proposition. It is the constitutional right of every citizen or organization to advocate the repeal or modification of a law or of a constitutional amendment. That is the constitutional method which no one can deny or criticize, although they may oppose. But while so exercising that right it is the plain duty of all not only to not violate the organic and enforcement laws, not only to refrain from encouragement of law violation, an evil which spreads to serious depths by example, but to support the constituted authorities and agencies of our State and National Government. The failure of a State to exercise its right and duty in the enforcement of all constitutional provisions and laws is State nullification. The same failure in an individual is individual nullification. Nullification is utterly at variance with and inconceivable in our form of government. A Civil War determined that forever. Referendums to determine whether a State shall instruct its Representatives at Washington to work and vote for the repeal of a constitutional amendment or the modification of a law are constitutional, but referendums to determine whether a State shall enforce an existing provision or law are not constitutional, but are subversive of government. Let us uphold the law and the party in power which is striving to enforce it.

Under the great protective tariff policy for which the Republican Party has consistently stood against all attack we have attained a height of total annual imports of $4,227,995,000, half of which had to pay a tariff duty, and yet no foreign market has been closed to us, neither have our exports been reduced. Our exports amount to the annual sum of $4,909,396,000. Coincident with that and explanatory of the source of the purchasing power which made such imports possible, factories have been busy and labor has received a wage under conditions of health and safety surpassing that of any peace-time era.

We have thus maintained an American standard—a standard unapproached by the industries and wage earners of any nation of earth. While the tariff is resulting in these beneficent effects it is at the same time pouring into the national Treasury to help pay expenses and reduce the national debt, the sum of $585,000,000 annually. Yet the enemies of the tariff are asking the people in this campaign to defeat the protective tariff party and place them in power with the avowed purpose of destroying the protective structure. Let us hope that the lessons of the past have not been forgotten and that the American people will never again be deceived into trying out even a low tariff, to say nothing of tariff for revenue only to which many democratic leaders still adhere. It is our business to see to it in this campaign that the people are not deceived by the renewed democratic attack on the tariff.

Our party has sought since March, 1921, when we regained complete control of the National Government, and even prior to that time when we had control of Congress only, the Executive being democratic, to improve conditions for the farmer by various acts of legislation. Immediately on coming into power in March, 1921, an emergency tariff bill was passed and signed including duties on nearly all agricultural products and letting in free of duty all implements and other articles used upon the farm. Then that tariff law was made permanent as the Fordney-McCumber tariff law. The cooperative marketing act was passed, the war finance corporation was revived and authorized to make loans on livestock to the amount of several hundred million dollars, the intermediate credit banks were created, a bill prohibiting gambling in grain futures was passed, an act regulating the packers was put in force. It has been the constant object of republicanism to gradually lift agriculture by every sound means to the level of and parity with industry and labor, rather than drag them down in the false hope of benefiting the farmer. The home domestic market for the products of the producer has been raised to and kept at 100 per cent. The tariff unquestionably maintains that market for the American farmer.

Lest we forget, I recall to your attention the fact that on the 4th day of March, 1921, when the Democratic administration ceased and Republican policies were resumed, there were 4,000,000 idle men in the United States seeking employment and unable to find it. One of the very first movements inaugurated by President Harding and Secretary Hoover was an unemployment conference. These 4,000,000 idle men were gradually but surely put to work at the highest wages ever known in any other country or in this country, except in the war period, until all were employed. They are so employed to-day. The American market constitutes 80 to 90 per cent of the whole world market and is the greatest market on earth. This has been and is secure by reason of the high purchasing power of the wage earner made possible by the prosperity of all kinds of industry. It should also be remembered that agriculture was plunged into the depths in the fall of 1920 and was prostrate in March, 1921, at which date the Republican Party came back into complete power. The farmer's misfortunes came upon him during the Democratic Underwood tariff act. As always heretofore the hope of agriculture is in the Republican Party.

Whether there be further legislation or not, two great forces are bound to work favorably for a better price for farm products; one is the decreasing number of those engaged in raising agricultural products. This shifting from farm to city, from agrarian to urban industrial occupation, is certain to lessen the total production and bring higher prices, despite the greater producing capacity of the individual farmer by education, labor-saving machinery, science, and intensive methods. The other is the fact that the natural increase in our population, which is 1,500,000 annually and 500,000 more from all other sources, means a greater demand. Thus the law of supply and demand, combined with orderly marketing made possible under cooperative associations, will gradually and inevitably improve the condition of agriculture.

I believe the constant tendency from now on will be for higher prices to the producer for food products. We are becoming less an agricultural Nation and more a manufacturing or industrial Nation. The day is near when we will need all of our agricultural resources in full activity to supply our own population with food. In all of these things there is a solid and substantial encouragement for agriculture and the livestock industry.

This means that now and from now on the great policy of reclamation inaugurated by Theodore Roosevelt, a Republican President, authorized by a Republican Congress in 1902, should go forward. It has created $600,000,000 of wealth and made an annual market of $500,000,000 for the manufacturer and for products not grown in that re-

gion. In five years we will have 12,000,000 more people in this country. It takes five years to build and settle these great Government enterprises. Hence they should proceed.

Much of the efficiency of the present administration is due to the wise and able management of Andrew G. Mellon, Secretary of the Treasury; NICHOLAS LONGWORTH, Speaker of the House; JOHN Q. TILSON, Republican floor leader; and MARTIN MADDEN, chairman of the great Committee on Appropriations.

While regarding no man as infallible and not claiming or expecting perfection, the American people continue to have confidence in Calvin Coolidge. Belief in his ability, integrity, and unalterable purpose to serve all the people of the Nation is unshaken. They have been justified in their confidence that his great desire is to serve his country. They rest content with the expectation that his ingrained qualities of true Americanism, patriotic zeal, common sense, economy, moral and religious stamina, and appreciation of and devotion to the spiritual values in individual and national life will carry the Nation to a still greater and more prosperous experience than it has yet known.

We review again the long history of successful administration of the Nation's affairs by the Republican Party with gratification and pride. We remember its illustrious list of leaders as the highest types of true American statesmen. The lives of our great chieftians illumine the pages of history with increasing light. We take renewed inspiration from the splendid record of mighty achievements that tells the story of the Republican Party from the days of the immortal Lincoln to the day of Calvin Coolidge, and we press forward with unswerving faith and loyalty.

We enter this campaign in calm confidence that the great majority of our people indorse and will continue to support Republican principles, a Republican President, and a Republican Congress.

AMENDING THE PANAMA CANAL ACT

Mr. TILSON. Mr. Speaker, the gentleman from Illinois [Mr. DENISON] has a bill in regard to the amendment of certain laws with reference to the Panama Canal Zone. There is a rule pending for the consideration of this bill, and it was to be called up to-day. As I understand, there is no opposition to the bill. On account of the illness of his mother, the gentleman from Illinois wishes to leave the city, and he would like to have the bill considered to-night. If I am correctly informed, and there is no substantial opposition, I ask unanimous consent that the House proceed now as in Committee of the Whole to the consideration of the bill.

Mr. BEGG. Without the rule?

Mr. TILSON. Without the rule.

The SPEAKER. The gentleman from Connecticut asks unanimous consent that the bill H. R. 12316 may be now considered in the House as in Committee of the Whole. Is there objection?

There was no objection.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That subdivision (c) of section 8 of the Panama Canal act, as amended, is amended to read as follows:

"(c) The judge of the district court shall provide for the selection, summoning, and serving of jurors from among the citizens of the United States subject to jury duty, to serve in the division of the district in which such jurors reside. Any citizen of the United States who is employed by the Panama Canal or Panama Railroad Co. within the Canal Zone, and who resides in a residence owned by the Panama Canal or Panama Railroad Co. in territory contiguous to the Canal Zone shall, for the purposes of this subdivision, be deemed to reside in the division nearest his place of residence. A jury shall be had, on the demand of either party, in any criminal case or civil case at law originating in said court. The compensation of jurors shall be prescribed by order of the President."

SEC. 2. Subdivision (g) of section 8 of the Panama Canal Act, as amended, is amended to read as follows:

"(g) The district judge, the district attorney, and the marshal shall be appointed by the President, as heretofore, by and with the advice and consent of the Senate, for terms of four years each, and until their successors are appointed and qualified. Each shall reside within the Canal Zone during his term of office, and shall be allowed 60 days' leave of absence each year, with pay, under such regulations as the President may from time to time prescribe."

Mr. HOWARD. Mr. Speaker, before we go further I would like to ask the chairman of the committee if this bill and provisions in it are satisfactory to the employees' association in the Canal Zone?

Mr. DENISON. They are; I have conferred with the representative of the employees. It is satisfactory to them, and also it is satisfactory to the Governor of the Canal Zone and all parties interested, so far as I know.

Mr. O'CONNOR of Louisiana. I would like to ask the gentleman if this bill changes in any material way the laws respecting marriage and divorce on the Zone?

Mr. DENISON. It changes them in some respects.

Mr. O'CONNOR of Louisiana. I do not want to interpose any objection, but it looks to me as if the marriage and divorce laws, which are the basis of domestic life in all the civilized world, ought to receive a little more consideration than we are showing in this procedure. The bill contains 22 pages and is being expeditiously hurried through when it concerns matters of vital importance.

Mr. DENISON. Let me say to the gentleman that this only changes the procedure as to divorces.

Mr. O'CONNOR of Louisiana. You are altering the marriage laws of many people alien to us in this expeditious way, and I can do nothing more than to utter a protest against what I think is the hurried action on matters of vital importance to many people of the zone.

Mr. TILSON. Will the gentleman yield?

Mr. O'CONNOR of Louisiana. Yes.

Mr. TILSON. The gentleman realizes that this is a matter that has been gone over by a very strong committee of the House, composed of Members sitting on both sides of the aisle. They have given it the best of their attention and consideration, so it is not going through without the consideration of the Members of the House.

Mr. O'CONNOR of Louisiana. I realize that it has to that extent been considered by gentlemen for whom I have the highest respect. But the gentleman from Illinois has admitted that this bill does change the laws in respect to marriage and divorce. I hope there are a few left in the country that consider marriage and divorce as affecting most vitally the very foundations of this Republic and of all civilized countries. It looks to me now that in a matter of this great importance it ought to receive the solemn and serious consideration, without the hurry and expedition that evidently characterizes the consideration of this measure.

Mr. LEHLBACH. I understood the gentleman from Illinois to say that this did not change the law in respect to marriage and divorce, but only a change in the procedure.

Mr. O'CONNOR of Louisiana. My question was simply, Does it alter the marriage and divorce laws of the Canal Zone, and the gentleman from Illinois said it did.

Mr. LEHLBACH. He said it altered the procedure.

Mr. O'CONNOR of Louisiana. I will propound the question to the gentleman again. Do the provisions of this act change the marriage and divorce laws of the Panama Canal Zone?

Mr. DENISON. It does. The laws with reference to divorce—the procedure is changed where they have found that there ought to be some changes. I will say to my friend that this bill has received the most careful consideration and study for months and years. It is recommended by the Governor of the Canal Zone, by the local officials of the Canal Zone, by the Secretary of War, and has been very carefully prepared. I am sure when my friend reads it carefully he will have no objection to it.

Mr. O'CONNOR of Louisiana. If the gentleman is satisfied that we can interfere with the customs relating to marriage and divorce prevailing in the Canal Zone with justice, I yield.

Mr. THATCHER. Let me ask the gentleman from Illinois, Do not the provisions of the bill better safeguard the conditions in the zone as to marriage and divorce?

Mr. DENISON. Yes.

Mr. O'CONNOR of Louisiana. Oh, yes; it is the custom of every dominant race to consider itself all important and self-sufficient, and the customs of the alien race have to yield to their sovereignty. But that is the law of life, and I do not suppose I can change it. I recognize that the House is a recognitory body and that its main function, generally speaking, is to give sanction and approval to committee findings. Notwithstanding the correctness of this observation, if I were not assured that the committee which reported out this bill had given it exhaustive consideration, in view of its provisions affecting marriage and divorce, the distribution of property, damage suits for general injury, and so forth, I would feel constrained to do that which I will not do; that is, oppose the passage of the bill.

The Clerk read as follows:

(f) In no case shall recovery under this section exceed the sum of $10,000.

Mr. McKEOWN. Mr. Chairman, I move to strike out the last word. I want to make inquiry about the $10,000 limitation on the recovery on account of death by wrongful act.

Mr. DENISON. That provision follows the law of the District of Columbia and the majority of the State laws.

Mr. McKEOWN. I am not in sympathy with that at all.

Mr. DENISON. The members of the committee had varying views in respect to it. Some wanted to fix it at $5,000, and

some wanted more. The committee finally agreed on $10,000, and that is what the Governor of the Canal Zone recommends.

Mr. McKEOWN. I just want to express myself as not being in sympathy with the limitation of that amount in the case of wrongful death, because the circumstances would warrant a much larger sum, as is illustrated in the State of New York, where as high as $80,000 was recovered.

The Clerk read as follows:

SETTLEMENT OF ESTATES

SEC. 23. Hereafter, in the Canal Zone, the settlement of the estate of a deceased person shall not be delayed because any heir, next of kin, devisee, legatee, or person entitled thereto, or to any part thereof, is unknown or can not be found. In any such case the court shall, in the decree of distribution, fix the interest of such heir, next of kin, devisee, legatee, or person in such estate, direct the conversion of such interest into money, and direct that the money representing the interest of such person be paid to the administrator of estates of the Canal Zone, to be held by such administrator as a special fund, distinct and apart from all other funds. Such fund, or any part thereof, shall be disbursed by such administrator thereafter only by order of the court, either to the person entitled thereto, on presentation of claim and satisfactory proof to the court, or to the collector of the satisfactory proof to the court, or to the collector of the Panama Canal pursuant to a proceeding under section 19.

With the following committee amendment:

Page 22, strike out all of line 5.

The SPEAKER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. DENISON. Mr. Speaker, I ask unanimous consent to insert in the RECORD at this point the report of the committee, which gives rather a complete and full explanation of the different provisions of the bill.

The SPEAKER. The gentleman from Illinois asks unanimous consent to extend his remarks in the manner indicated. Is there objection?

There was no objection.

The report of the committee is as follows:

[House Report No. 1208, Sixty-ninth Congress, first session]

AMEND THE PANAMA CANAL ACT

Mr. DENISON, from the Committee on Interstate and Foreign Commerce, submitted the following report [to accompany H. R. 12316]:

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (H. R. 12316) to amend the Panama Canal act and other laws applicable to the Canal Zone, and for other purposes, having considered the same, report thereon the following amendments, and recommend that the bill as amended pass.

Amend the bill as follows:

1. Strike out the last "1" in the word "marshal" in line 11, page 2.

2. Strike out all of line 5 on page 22.

This bill carries remedial legislation that has been urgently recommended by the Governor of the Panama Canal and the Secretary of War for several years. By direction of the Committee on Interstate and Foreign Commerce the new bill (H. R. 12316) was filed so as to include the amendments of the committee to the earlier bill (H. R. 11891).

SECTION 1

Section 1 amends subdivision (c) of section 8 of the Panama Canal act as amended by the act of September 21, 1922. That act provides that the judge of the district court shall provide for the selection of jurors from among the citizens of the United States, subject to jury duty, to serve in the division of the district in which such jurors reside. It happens that a very considerable number of United States citizens, employed by the Panama Canal and the Panama Railroad Co., reside just outside of the Canal Zone in territory adjacent to the zone, in houses provided by the Panama Canal and the Panama Railroad Co. Under the prevailing practice in the district court of the Canal Zone, the names of these citizens are placed on the jury list and by common consent of the members of the bar the question of their residence is rarely raised; but that question does arise occasionally, and if their qualification is questioned they must be disqualified. Many of these citizens residing just outside of the Canal Zone are among the best jury material available, and it is desired by the district judge and the members of the local bar and the Governor of the Canal Zone that the law should be so amended that they will be legally qualified jurors. It is therefore provided in this bill that any citizen of the United States who is employed by the Panama Canal or Panama Railroad Co. within the Canal Zone and who resides in a residence owned by the Panama Canal or Panama Railroad Co. in territory contiguous to the Canal Zone, shall be deemed to reside in the district nearest his place of residence.

Subdivision (c) of section 8 of the Panama Canal act as amended by the act of September 21, 1922, also provides that a jury shall be had in any civil or criminal case on demand of either party. Doubt has arisen and the question has been raised in the district court of the Canal Zone as to the intent and meaning of the term "civil case" as thus used, it being claimed by some that the term "civil case" includes cases in equity as well as cases in law, and that, therefore, either party has a right to demand a jury trial in equity cases as well as cases at law. To remove such doubt, this bill provides that a jury shall be had, on the demand of either party, in any criminal case or "civil case at law."

SECTION 2

Section 2 amends subdivision (g) of section 8 of the Panama Canal act as amended by the act of September 21, 1922. Under that act the judge of the district court, the district attorney, and the marshal are allowed six weeks' leave of absence each year with pay, under regulations prescribed by the President. This bill amends that act by providing that they shall be allowed 60 days' leave of absence each year with pay. All other officers and employees of the Panama Canal are, under existing law, allowed 60 days' leave of absence with pay. The Governor of the Canal Zone and the Secretary of War recommend that the same privilege be extended to the judge, the district attorney, and the marshal, and section 2 amends the law so as to carry out that recommendation.

SECTION 3

This section amends section 15 of the act of September 21, 1922, relating to service of process in divorce cases and changes existing law particularly with reference to nonresidence service by publication. Under existing law, when the defendant is not personally served in the Canal Zone and certain specified conditions are shown by an affidavit filed with the clerk, the clerk of the district court is authorized to proceed and take various actions to secure nonresidence service by publication. This bill changes the existing procedure by taking from the clerk that power and provides that the facts necessary to justify nonresidence service shall be presented to the court by affidavits and that the court shall order service by publication when the necessary jurisdictional facts are made to appear to the satisfaction of the court and when an examination of the petition shows that grounds for divorce are properly alleged. It is contended that a clerk of the court is ordinarily not a lawyer, and he ought not to be required or permitted to pass upon the legality and sufficiency of the proceedings in actions of this kind up to the time when service by publication is ordered; that that should more properly be a function of the judge; that if the judge rather than the clerk passes upon the legality and sufficiency of the preliminary jurisdictional proceedings, any errors therein would be detected and the expense and delay of securing service by publication would be avoided and the error corrected. These changes have been recommended by the district judge and the members of the bar of the Canal Zone, and it is believed by the committee that the law should be amended in that particular as provided in the bill.

Under existing law service by publication in divorce cases could be had where the husband and wife had had their "legal domicile" in the Canal Zone. The question has been raised in the court of the Canal Zone as to the meaning of the term "legal domicile," and it is claimed that the citizens who reside in the Canal Zone and work for the Government do not in the technical sense have a "legal domicile" there. This bill, therefore, amends the existing law by providing that the husband and the wife must have "resided together" in the Canal Zone, rather than they must have had their "legal domicile" there.

Under existing law, if there is no newspaper published in the Canal Zone, the summons to secure nonresidence service must be published in the nearest reliable newspaper with a general circulation published in the Republic of Panama, and printed in English or having an English section or edition. It was contemplated that that language would apply to the Star and Herald, a reliable newspaper published in the city of Panama with an English section; but it developed that there were two newspapers published in the Republic of Panama among the colored population thereof that were actually nearer to the Canal Zone than was the Star and Herald, which has a more general circulation among the white inhabitants, and that under existing law the judge had no discretion, but was required to make publication in those newspapers. This bill gives the judge discretion in selecting the newspaper in which the publication for nonresidence service should be made, and provides that he should designate a newspaper printed and published in the Canal Zone and of general circulation therein, or a newspaper printed in English or having an English section or edition and published in the Republic of Panama, which in the opinion of the judge would be most likely to give notice to the defendant.

Under existing law there is no provision for securing personal service in divorce cases on defendants who reside or have gone outside of the Canal Zone. Service in such cases can only be had by publication. This bill provides for personal service by the delivery of a copy of the summons and a copy of the divorce petition to the defendant in person and making necessary proof of such service under oath. The legal effect of such nonresidence personal service, however, is the same as service by publication.

SECTION 4

This section amends subdivision (a) of section 16 of the act of September 21, 1922, relating to the appearance and answer of the defendant in divorce cases. The effect of the change made in the law is merely to provide for the time when the defendant shall appear and answer the petition for divorce. Under existing law the cause stands for trial after the summons has been served upon the defendant at least 10 days if he is found in the Canal Zone, or in case of service by publication the cause stands for trial 90 days after the first publication, or 30 days after the first publication if the defendant resides in the Republic of Panama. This bill provides that the summons shall require the defendant to appear and answer within a specified time, according to whether the service is personal or by publication, and whether the defendant resides in the Canal Zone or the Republic of Panama, or outside the Canal Zone and the Republic of Panama. In other words, the law is changed so as to require the defendant to appear and answer within a definite time, rather than to require that the cause stand for trial by a definite time. This is in substance the only change the pending bill makes in section 16 of the act of September 21, 1922, except that the provisions of that section have been somewhat rearranged and stated in better legislative form.

SECTION 5

This section amends section 21 of the act of September 21, 1922; it rewrites the existing law in respect to remarriage after divorce. Section 21 of the act of September 21, 1922, prohibits remarriage within one year after the date of the decree of divorce or within two years thereafter if the cause for divorce was adultery. The trend in public opinion upon that subject seems to be against penal statutes prohibiting remarriage within specified time after decrees of divorce are granted. Such prohibitions have not been found effective or satisfactory in many of the States. It is believed that public morals will be protected by not allowing immediate remarriages after decrees of divorce are granted; and that the most effective method of securing that result is to provide for the entry of an interlocutory order for divorce in lieu of a final decree, allowing the right to appeal from the interlocutory order. So this bill repeals the act of 1922 prohibiting remarriage within a year after the decree of divorce, and provides for the entry by the court of an interlocutory order in lieu of a decree of divorce, and allows the right of appeal from the interlocutory order. After the expiration of six months from the date of the interlocutory order the decree for divorce is made final and effective upon application by the petitioner within 30 days thereafter or by order of the court upon its own motion.

SECTION 6

This section provides legislation that has been recommended by the Governor of the Canal Zone and the Secretary of War for several years. It was provided for in a separate bill (H. R. 7015) introduced in the Sixty-eighth Congress by Chairman Winslow and favorably reported by the committee on March 25, 1924. It failed to become a law because it could not be reached on the calendar. On December 18, 1923, Secretary Weeks forwarded to the Speaker of the House of Representatives a request that this legislation be enacted. It provides that the Governor of the Canal Zone may authorize the purchase of supplies for the use of the Panama Canal in the open market and without advertising if the amount involved in any one purchase does not exceed $500. Under existing law the Governor of the Canal Zone is not permitted to make any purchases for the use of the Panama Canal except by advertising for bids and the lowest bid must be accepted. The following memorandum, submitted to the Secretary of War by direction of the Governor of the Panama Canal on December 17, 1923, shows very clearly the importance and the need for this legislation:

THE PANAMA CANAL,
WASHINGTON OFFICE,
Washington, December 17, 1923.

Memorandum for the Secretary of War:

Herewith is transmitted a draft of a bill embodying legislation which the Panama Canal requests that you will present to Congress for enactment. The draft speaks for itself, and it is necessary for this office to explain only the need and purpose of the canal in requesting this legislation.

Authority to purchase to a limited amount in open market without advertising has been given to many of the executive departments. It is equally desirable and necessary to efficient and economic administration of the Panama Canal that it also shall have a properly limited authorization for open-market purchases. The proposed bill fixes the maximum limit for open-market purchase by the canal at $500 for any single purchase. The War Department and the Navy Department each has statutory authority to purchase in open market in amounts not over $500. (See acts of June 12, 1906, 34 Stat. 258, and March 2, 1907, 34 Stat. 1193.)

Because of its isolation from sources of supply and its facilities for storage, and to reduce as far as practicable the overhead expense of making its purchases, the Panama Canal avoids small purchases. Authority for open-market purchases of less than $500 would be of little, if any, practical value to the canal. The limit of $500 is placed tentatively in the draft of the proposed bill because that amount is the maximum for such purchases now allowed to any department. A limit of $1,000 has been requested by the canal authorities, and it is thought that that amount is more nearly commensurate with the conditions and requirements of canal purchases.

The need of the Panama Canal for statutory authority to make open-market purchases of proprietary articles arises in the following classes of purchases:

It sometimes happens that the Panama Canal finds it necessary to replace unserviceable units of machinery or equipment in general use on the Isthmus. It is desirable and in the interests of the Government that the units purchased shall be of the same type as other like units in general use. This general standardization of equipment permits of interchange of parts or of spares, facilitates repairs, and guards against failure of service incident to breakdown of equipment. It is true in general that, if it were a question of original installation of general equipment, some other make or makes of machines or equipment might be equally suitable and serviceable, but the economy and convenience of having a standardized equipment more than offsets the possible advantage of competitive bidding on the one or more units to be purchased. An example of this class of purchases is found in replacing unserviceable marine motors by those of the type in general use on launches of the canal. The question whether such motors might be purchased without securing competitive bids from other manufacturers was submitted to the Comptroller General for decision. His decision is to the effect that such purchases may be made upon specifications prepared in such detail as to exclude all articles or pieces of equipment on which the spare parts of other like equipment in use on the Isthmus can not be used. (1 Comp. Gen. 689.)

In general the parts and spares of the different makes of marine motors have not been so standardized as to admit of interchange of parts and spares. If it is known in advance that only one type or make of motor will be acceptable to the canal, advertising for competitive bids from other makers or dealers in other motors is a useless expense, is misleading and irritating to bidders on other motors, and hampers this office with complaints of favoritism that are unfounded but which must be met and answered. It is the desire of this office to secure the benefit of competitive bidding in all cases where such bidding will be effective; but if one type or make of machine only is adapted to general use on the Isthmus, it is better that the canal have statutory authority to purchase that particular machine than that it resort to the expedient of so framing its specifications as to exclude any and all other types or makes of machines.

Another class of proprietry purchases in which authority to make open-market purchases would be useful to the Panama Canal includes articles such, for example, as enamels and varnishes, which the canal has so far been unable to obtain on specifications insuring their value under actual service conditions. Experience has shown that products which according to tests and analyses should give satisfactory results under service conditions do not in fact give such results, whereas some other product is found to meet the requirements of service conditions. Whether or not this is due to climatic conditions affecting the one and not the other, or because of some difference in process of manufacture, the fact remains that the one product stands up under service conditions and the other does not. It is economy and good business to buy the product of known value, at least until it can be established that another and cheaper product will give equally good results.

If the special statutory authority requested is granted, its use will be carefully guarded and confined to cases where it is clearly to the advantage of the Government to use it. The provision that all proprietary purchases shall be reported each year is a sufficient safeguard against unnecessary and indiscriminate open-market purchases.

By direction of the Governor of the Panama Canal.

A. L. FLINT, *Chief of Office.*

SECTION 7

This section is identical with H. R. 6816 filed in the Sixty-eighth Congress by Chairman Winslow. That bill was carefully considered by the committee and reported to the House on March 22, 1924, Report No. 348. The following memorandum submitted to the chairman of the committee by Secretary Weeks shows the reasons that are urged for this legislation:

WAR DEPARTMENT,
Washington, January 29, 1924.

Hon. SAMUEL E. WINSLOW,
Chairman Committee on Interstate and Foreign Commerce,
House of Representatives, Washington, D. C.

MY DEAR MR. CHAIRMAN: It has been the practice of the Panama Canal since its establishment under the act of August 24, 1912, to employ retired warrant officers and enlisted men of the Army and Navy and to pay them the compensation of their respective positions under the Panama Canal without deduction of their retired pay and without reference to the amount of either the compensation or the retired pay.

It was formerly understood by the Panama Canal that the provision in section 2 of the act of July 31, 1894 (28 Stat. 205), to the effect

that no person holding an office with annual salary or compensation amounting to $2,500 shall be appointed to or hold any other office to which compensation is attached, unless specially authorized by law, does not apply to receipt of retired pay by warrant officers or enlisted men concurrently with receipt of the compensation of any civilian position to which they may be appointed or which they may hold.

It also was understood that the provision in section 4 of the act of August 24, 1912 (37 Stat. 561), to the effect that if a person appointed or employed by the Panama Canal shall be a person in the military or naval service of the United States, the amount of official salary paid to such person shall be deducted from the salary or compensation to be paid by the Panama Canal, does not apply to retired warrant officers or enlisted men.

There being some doubt, however, as to the scope and application of this latter statute, the question whether retired enlisted men of the Army or Navy may be employed by the Panama Canal without deduction from their Panama Canal salary of the retired pay received by them was submitted to the former Comptroller of the Treasury for decision. The comptroller held that retired pay of enlisted men is not "official salary" within the meaning of the act of August 24, 1912, requiring the deduction of such salary from the salary or compensation paid by the Panama Canal. (26 Comp. Gen. 209.) His decision was taken as good and sufficient authority for the employment and payment of retired enlisted men by the Panama Canal without deduction of their retired pay from their canal salary and without regard to the amount of either the retired pay or the salary.

Subsequently the Comptroller General decided that retired enlisted men of the Army or Navy hold office with compensation attached within the meaning of section 2 of the act of July 31, 1894, hereinbefore referred to, and that such retired enlisted men are prohibited, except as specifically provided by that section, from holding any other office under the Government if either the retired pay or the salary of the office or compensation amounts to $2,500 per annum. (1 Comp. Gen. 571,700.)

This latter decision unsettled the compensation status of retired enlisted men employed by the Panama Canal and raised the question whether they may be employed and paid by the Panama Canal and, if so, upon what terms and conditions. The question was submitted to the Comptroller General for decision, and he decided that retired enlisted men of the Army or Navy are persons in the military or naval service within the meaning of the act of August 24, 1912, and that their employment by the Panama Canal at compensation in excess of $2,500 per annum is not prohibited by the act of July 31, 1894, but that their compensation from the canal is subject to deduction of their retired pay, as provided by the act of 1912. (3 Comp. Gen. 164.)

Under these decisions the Panama Canal is authorized to employ and pay retired enlisted men regardless of the amount of either the canal salary or the retired pay received by them, but must deduct the retired pay from the salary in any and all cases.

The Panama Canal has found it desirable and profitable to employ retired warrant officers and enlisted men. Their military or naval training makes their services very valuable in certain lines of canal work. Any policy which tends to prevent or curtail their employment by the Panama Canal is distinctly detrimental to the canal service and unfair to these men.

It has been understood by the Panama Canal that retired pay of warrant officers and enlisted men is not properly to be considered as salary or compensation within the prohibitory statutes dealing with double compensation, but that it is in the nature of gratuity given in recognition of past services. However, there has now been an authoritative construction of existing law which negatives that view and which must be accepted as determinative of the matter.

In view of the construction which has been given to existing law, the Panama Canal feels that there should be enacted statutory authority for continuance of its past policy and practice of employing retired enlisted men and paying them their respective salaries without deduction of the retired pay from the salary.

The retired warrant officers and retired enlisted men employed by the Panama Canal are capable and efficient. They are qualified to render valuable service in private employment, where their retired pay would be income additional to their salaries. The Panama Canal can not expect to retain their services in competition with outside employment if their retired pay must be deducted from the salaries paid to them by the canal, for in many cases the additional amount paid by the Panama Canal would be very small, not enough to warrant their accepting employment under the canal.

It is thought also that the Panama Canal should have an unquestionable right to employ and pay warrant officers and enlisted men of the Army or Navy Reserve Corps without deduction from their respective salaries of any training pay which may be received by them.

In view of the foregoing I desire to recommend that legislation be enacted by Congress permitting the employment of the classes of men referred to without deduction of their retired or reserve pay from their canal salaries. There is inclosed a draft of a bill which, if enacted into law, would accomplish this purpose. This bill was drafted by the district attorney for the Canal Zone, who is the legal adviser to the Governor of the Panama Canal, and meets with the latter's approval.

Sincerely yours,

JOHN W. WEEKS, *Secretary of War.*

It may be said that there is now an additional reason why this legislation is desirable. The act approved May 31, 1924 (43 Stat. L. p. 245), provides as follows:

"That section 2 of the legislative, executive, and judicial appropriation act, approved July 31, 1894, is amended by adding at the end thereof a new sentence to read as follows:

"'Retired enlisted men of the Army, Navy, Marine Corps, or Coast Guard, retired for any cause, and retired officers of the Army, Navy, Marine Corps, or Coast Guard who have been retired for injuries or incapacity incurred in line of duty shall not, within the meaning of this section, be construed to hold or to have held an office during such retirement.'"

Yet, notwithstanding the clear and specific provisions of that act, the Comptroller General, in a decision rendered to the Governor of the Panama Canal on December 3, 1924, held that the Panama Canal act still requires the Panama Canal to deduct from compensation paid to retired enlisted men employed by it the amount of any retired pay received by them. Under this ruling the Panama Canal appears to be the only branch of the Government service that is now not authorized to employ and pay retired enlisted men without deducting from their civil salaries the amount of their retired pay. This seems to the committee an unjust discrimination which should be corrected and will be corrected by this section of the bill.

SECTION 8

This section provides for the survival of actions for death resulting from negligence in the Canal Zone's jurisdiction.

Generally speaking, there are two classes of employees residing in the Canal Zone—employees of the Panama Canal engaged in the maintenance and operation of the canal and employees of the Panama Railroad Co., a New York corporation operating the Panama Railroad, all the stock of which belongs to the Government.

The Federal employers' liability act, approved April 22, 1908 (35 Stat. L. p. 65, ch. 149), gives a right of action to the personal representatives of employees of common carriers engaged in interstate commerce where such employee's death results from the negligence of his employer; and by section 2 of that act its provisions are made applicable to the employees of the Panama Railroad Co. Therefore if an employee of the Panama Railroad Co. is killed while in the performance of his duties and as the result of negligence of the railroad company, there is a survival of the cause of action in such cases to his personal representatives for the benefit of his widow and children and next of kin.

The Federal employees' compensation act, approved September 7, 1916 (39 Stat. L. p. 742), provides for compensation to all employees of the Government for injuries received in the course of their employment, and where death ensues compensation is provided for the surviving widow or husband and children and dependent next of kin; and by sections 40, 41, and 42 of that act its provisions are made applicable to employees of the Panama Canal and of the Panama Railroad Co.

But death sometimes occurs in the Canal Zone due to the wrongful act, neglect, or default of another where the relation of the master and servant or employer and employee does not obtain. As an illustration, cases arise where people are killed while traveling as passengers on the Panama Railroad Co., or while crossing the tracks of the railroad company, or under various other circumstances where the relation of employer and employee does not exist.

In the recent case of the Panama Railroad Co. *v.* Rock, 266 U. S. 209, the Supreme Court held that in such cases an action for wrongful death does not survive under the general Canal Zone law. By proclamation of President Roosevelt made in 1904 when the Canal Zone was taken over, the general law of the land to which the inhabitants thereof were accustomed was put into effect in the Canal Zone until such time as the same should be modified by Congress or in such other manner as Congress should provide. The law of the land to which the inhabitants of the Canal Zone were accustomed was the general law of the Republic of Colombia, which, it seems, was taken from the laws of Chile, and which in turn was taken from the laws of Spain; and the Supreme Court held that under that law the right of action does not survive. Section 8 of the bill provides for the survival of action in such cases and proposes to bring the law of the Canal Zone into harmony with the law of continental United States. It is based largely on the law of the District of Columbia, and provides that the right of action shall be in the name of the personal representatives of the deceased and the suit must be brought within one year after the death. It limits the right of recovery to $10,000, and provides for the distribution of the damages recovered in accordance with the laws of the Canal Zone. Paragraph (g) provides that it shall not be construed as authorizing a suit against the United States nor as modifying or repealing any other act. It is

not intended by this act to repeal or modify any of the provisions of the employer's liability act, or of the Federal employees' compensation act, or of any other act that gives a right of action for wrongful death in the Canal Zone. Nor is it intended by this act to give under any circumstances two rights of action for death due to the wrongful act, neglect, or default of another. This act is merely intended to provide for the survival of a right of action for death due to the wrongful act, neglect, or default of another in cases where there is now no such survival of action under the existing law of the Canal Zone.

SECTIONS 9 TO 17

The sections provide a marriage code for the Canal Zone. The existing law regulating marriage in the Canal Zone is contained in the Civil Code of the Republic of Panama, which was taken from the laws of the Republic of Colombia and continued in force by Executive order of the President on May 9, 1904, and in subsequent Executive orders of May 31, 1907, and July 3, 1914. These provisions of the bill are taken largely from the law of the marriage code of the State of California, which are thought to be better adapted to the conditions in the Canal Zone than perhaps are the laws of many of the other States. It has been very carefully prepared by collaboration with the district judge and the district attorney of the Canal Zone, and the committee believes it will provide a marriage code that will correct many of the uncertain and obsolete provisions of the existing marriage law of the Canal Zone and will suit the conditions existing there. Under the civil marriage code now in force in the Canal Zone it is lawful for a man to marry by proxy, and ministers from any part of the world can perform the marriage ceremony on the Canal Zone. There are other similar provisions which are not in harmony with the laws of the United States, and it is believed that an entirely new marriage law in harmony with the customs and ideals of this country should be enacted for the Canal Zone.

SECTIONS 18 TO 22

These sections rewrite the existing law of the Canal Zone in respect to the escheat of property. Under an Executive order in force in the Canal Zone (Code of Civil Procedure, secs. 779–781), when a person dies intestate, owning property and leaving no one entitled to the same, the collector of revenues of the Panama Canal may file a petition for the escheat of such property; if the court finds in favor of the petitioner it enters a decree that the estate shall escheat. The proceeds of the estate are paid to the Canal Zone for the use of the public schools of the zone. That, of course, is not a proper escheat law, and the procedure for the escheating of property is not in harmony with the escheat laws of the continental United States. This bill provides for the escheat of property to the United States instead of to the schools of the Canal Zone. It provides that the petition for the escheating of property shall be filed by the district attorney for the Canal Zone instead of by the collector of revenues. A person claiming an interest in the property must file claim for the same within 8 years from the date of the decree for escheat instead of within 10 years, as is provided under existing law. The committee believes that this bill makes more suitable provisions with respect to escheat proceedings, the claim of any person entitled to the escheated property, the investment of funds held by the collector of the Panama Canal, and the disposition of money claimed or finally escheated. The bill also gives the right of appeal in cases involving more than $1,000, which is not provided for under existing law. All real estate in the Canal Zone belongs to the Government. There is no privately owned real estate there. But occasionally persons living and working there die intestate having considerable money or other personal property and leaving no known heirs. It is believed that this legislation providing improved procedure and better law for the disposition of such property ought to be enacted into law.

SECTION 23

This section amends the law governing the settlement of estates in the Canal Zone.

Under an Executive order of the President in force in the Canal Zone (Code of Civil Procedure, sec. 778), if a person who is entitled to a share in the estate of a deceased person is absent and unheard of for 10 years, either before or after the death of the deceased person, the court may, two years after the deceased person's death, order the absent person's share to be distributed among his heirs; or if there are none, to the other heirs of the deceased person; but if the absent heir subsequently appears, he may recover the property to which he was entitled.

This bill provides that upon the death of a person in the Canal Zone settlement of his estate shall not be delayed because any person entitled to a part thereof is unknown or can not be found. It further provides that the interest of such unknown or absent heir may be determined and the proceeds from the sale thereof may be deposited with the administrator of estates of the Canal Zone, to be held by him and paid out by him only by order of the court either to the person entitled thereto or pursuant to a proper escheat proceeding.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

On motion of Mr. DENISON, a motion to reconsider the vote by which the bill was passed was laid on the table.

By unanimous consent, House Resolution 289 was laid on the table.

CONSIDERATION OF BILLS ON THE PRIVATE CALENDAR

Mr. TILSON. Mr. Speaker, I ask unanimous consent that to-morrow in the consideration of bills on the Private Calendar they be considered in the House as in Committee of the Whole; that the call begin at the first bill on the calendar; and that only those bills not objected to by three or more Members shall be considered. It is my intention to use the plan of the Consent Calendar for public bills as a model for the consideration of bills on the Private Calendar. A number of bills have been once objected to on previous calls of the Private Calendar. When we consider the Private Calendar to-morrow, if we might use the same plan which has worked fairly well in respect to public bills, I think it would facilitate matters very much. In other words, it would then take three objections to stop the consideration of a bill, instead of one, as has been the case heretofore when we have considered bills unobjected to on the Private Calendar under a unanimous-consent agreement.

Mr. McKEOWN. In other words, if a bill has only one Member objecting to it and there is not enough merit in the objection to have three Members object to it, the bill ought to be considered.

Mr. TILSON. Members of the House know that there is a very large Private Calendar, and my desire is to have as many bills as possible receive consideration by the House.

Mr. RAYBURN. Is this to apply to bills that have not yet been objected to?

Mr. TILSON. When the end of those bills which have been objected to heretofore is reached, possibly then a different rule ought to apply; but in the consideration of bills on the calendar that have been objected to by one person I seek to get unanimous consent that it shall require the objection of at least three Members to prevent their consideration.

Mr. RAYBURN. And as to bills on the Private Calendar that have not been called it would require only one objection or would require three?

Mr. TILSON. I think we shall probably not get as far as that to-morrow anyway.

Mr. Speaker, I shall restate my request. I ask unanimous consent that to-morrow bills on the Private Calendar be considered in the House as in Committee of the Whole, beginning at the beginning of the calendar, and that only those bills that are not objected to by three or more Members shall be considered.

Mr. OLDFIELD. It seems to me that that part of the request is superfluous, because if three Members object you can not consider the bill anyway.

Mr. TILSON. To-morrow is a day on which the Private Calendar is in order, and it does not require unanimous consent to take it up; but in order to facilitate the consideration of bills and not waste the day on highly controversial cases, I have asked that only those bills objected to by less than three Members shall be considered.

Mr. REED of Arkansas. What is the object of beginning at the beginning of the calendar? Why not begin where we left off?

Mr. TILSON. These bills to which one objection only has been made have been waiting for a long time, and I think that they should have another chance.

Mr. TEMPLE. Will the gentleman yield?

The SPEAKER. The Chair desires to say there are three pages of bills before the star, and the gentleman from Connecticut asks unanimous consent that in regard to those bills only such of them will be considered as are not objected to by at least three Members.

Mr. TILSON. Correct.

The SPEAKER. And that thereafter the ordinary rule will apply.

Mr. TILSON. After the point referred to by the Chair as being indicated by a star is reached a single objection will suffice. I modify my request to this extent.

The SPEAKER. Is there objection?

Mr. BLACK of Texas. Reserving the right to object, and I am not going to object, but really in a sense this is hardly fair to those bills on the calendar which have not received a chance to be called, and I hope we can have another day to take up those bills so as to give them a chance.

Mr. TILSON. I hope so, and I shall make every reasonable effort to do so.

Mr. BLACK of Texas. Or some evening if necessary. Perhaps we can proceed next week.

The SPEAKER. Is there objection?

Mr. TEMPLE. Mr. Speaker, reserving the right to object, the same idea struck me as probably slowing up the consideration of private bills rather than speeding it up, because if a bill is objected to by two Members there is going to be debate, and if it is objected to by two and not by three and be called up for consideration, then there will be debate, which would be followed by a slowing up of consideration of the calendar.

Mr. TILSON. It will not slow up consideration anything like as much as taking up the calendar under the rules of the House, where there might be general debate on each bill.

Mr. TEMPLE. If consideration is limited to those bills not objected to and dispose of the private bills——

Mr. TILSON. There are a number of bills which have been objected to for one reason and another, and some of these may have had the objection withdrawn after further consideration. It seems only fair that those bills which have been a long time on the calendar should have another chance before going on with bills which have been only recently reported.

Mr. TEMPLE. I shall not object.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

ENROLLED BILLS PRESENTED TO THE PRESIDENT FOR HIS APPROVAL

Mr. CAMPBELL, from the Committee on Enrolled Bills, reported that this day they had presented to the President of the United States for his approval the following bills:

H. R. 7190. An act granting the consent of Congress to the Grandfield Bridge Co., a corporation, to construct, maintain, and operate a bridge across Red River and the surrounding and adjoining public lands, and for other purposes;

H. R. 9461. An act to extend the time for the construction of a bridge across the Rio Grande between Eagle Pass, Tex., and Piedras Negras, Mexico;

H. R. 10352. An act to extend the time for constructing a bridge across the Ohio River between Vanderburg County, Ind., and Henderson County, Ky.;

H. R. 11718. An act granting the consent of Congress to the Commonwealth of Pennsylvania to construct a bridge across the Allegheny River; and

H. R. 11719. An act granting the consent of Congress to Kansas-Nebraska-Dakota Highway Association to construct a bridge across the Missouri River between the States of Nebraska and South Dakota.

ADJOURNMENT FROM FRIDAY TO TUESDAY

Mr. TILSON. Mr. Speaker, I ask unanimous consent that when the House adjourns to-morrow it adjourn to meet on Tuesday next.

The SPEAKER. The gentleman from Connecticut asks unanimous consent that when the House adjourns to-morrow it adjourn to meet on Tuesday next. Is there objection? [After a pause.] The Chair hears none.

ADJOURNMENT

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

The motion was agreed to; accordingly (at 5 o'clock and 32 minutes p. m.) the House adjourned until to-morrow, Friday, June 11, 1926, at 12 o'clock noon.

COMMITTEE HEARINGS

Mr. TILSON submitted the following tentative list of committee hearings scheduled for June 11, 1926, as reported to the floor leader by clerks of the several committees:

COMMITTEE ON APPROPRIATIONS

(10.30 a. m.)

Second deficiency bill.

COMMITTEE ON INTERSTATE AND FOREIGN COMMERCE

(10 a. m.)

To promote the unification of carriers engaged in interstate commerce (H. R. 11212).

SPECIAL JOINT COMMITTEE

(10.30 a. m.)

To investigate Northern Pacific land grants.

COMMITTEE ON AGRICULTURE

(10 a. m.)

To amend the packers and stockyards act, 1921 (H. R. 11384).

COMMITTEE ON THE MERCHANT MARINE AND FISHERIES

(10.30 a. m.)

To create a sixth great district to include all the collection districts on the Great Lakes, their connecting and tributary waters, as far east as the Raquette River, N. Y. (S. 4171).

EXECUTIVE COMMUNICATIONS, ETC.

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

562. A letter from the Acting Secretary of War, transmitting a report from the Chief of Engineers on preliminary examination and survey of Hackensack River, N. J. (H. Doc. No. 429); to the Committee on Rivers and Harbors and ordered to be printed, with illustrations.

563. A letter from the Acting Secretary of War, transmitting a report from the Chief of Engineers on preliminary examination of Yukon River near Fort Yukon, Alaska; to the Committee on Rivers and Harbors.

564. A letter from the Acting Secretary of War, transmitting a report from the Chief of Engineers on preliminary examination of Snake River, Idaho and Washington, with a view to its canalization to Shoshone Falls; to the Committee on Rivers and Harbors.

565. A letter from the Acting Secretary of War, transmitting a report from the Chief of Engineers on preliminary examination of Grays River, Wash.; to the Committee on Rivers and Harbors.

566. A letter from the Acting Secretary of War, transmitting a report from the Chief of Engineers on preliminary examination of Charlotte Harbor (Rochester Harbor), N. Y.; to the Committee on Rivers and Harbors.

567. A letter from the Acting Secretary of War, transmitting a report from the Chief of Engineers on preliminary examination of the Mississippi River, La.; to the Committee on Rivers and Harbors.

568. A letter from the Secretary of the Navy, transmitting a proposed draft of a bill to authorize expenditures on the U. S. S. *S-48* for the repairs and alterations in excess of the statutory limit; to the Committee on Naval Affairs.

569. A communication from the President of the United States, transmitting a supplemental estimate of appropriation for the War Department for the fiscal year ending June 30, 1926, to remain available until June 30, 1927, for roads, walks, wharves, and drainage, $9,184 (H. Doc. No. 430); to the Committee on Appropriations and ordered to be printed.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. MORROW: Committee on Indian Affairs. S. 2826. An act for the construction of an irrigation dam on Walker River, Nev.; with amendment (Rept. No. 1437). Referred to the Committee of the Whole House on the state of the Union.

Mr. BUTLER: Committee on Naval Affairs. H. R. 12535. A bill to regulate the distribution and promotion of commissioned officers of the line of the Navy, and for other purposes; without amendment (Rept. No. 1438). Referred to the Committee of the Whole House on the state of the Union.

Mr. FURLOW: Committee on Military Affairs. H. J. Res. 272. A joint resolution providing for the return of funds belonging to World War National Guard organizations that are not reconstituted; with amendment (Rept. No. 1439). Referred to the Committee of the Whole House on the state of the Union.

Mr. RAMSEYER: Committee on Rules. H. Res. 291. A resolution providing for the consideration of S. 481, an act to amend section 8 of an act entitled "An act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes," approved June 30, 1906, amended August 23, 1912, March 3, 1913, and July 24, 1919; without amendment (Rept. No. 1444). Referred to the House Calendar.

Mr. RAMSEYER: Committee on Rules. H. Res. 143. A resolution providing for the consideration of the bill (H. R. 8466) to amend section 8 of an act entitled "An act to incorporate the Howard University in the District of Columbia," approved March 2, 1867; with amendment (Rept. No. 1445). Referred to the House Calendar.

Mr. GRAHAM: Committee on the Judiciary. H. R. 12216. A bill to amend section 2 of the legislative, executive, and judicial appropriation act approved July 31, 1894, as amended by the act of May 31, 1924; without amendment (Rept. No. 1446). Referred to the House Calendar.

Mr. GRAHAM: Committee on the Judiciary. H. R. 12215. A bill to amend and strengthen the national prohibition act and the act of November 23, 1921, supplemental thereto, and for other purposes; with amendment (Rept. No. 1447). Referred to the Committee of the Whole House on the state of the Union.

Mr. VINCENT of Michigan: Committee on Elections No. 2. A report in the contested election case of Don H. Clark against Charles G. Edwards, first Georgia. (Rept. No. 1449.) Referred to the House Calendar.

Mr. VINCENT of Michigan: Committee on Elections No. 2. A report in the contested election case of Warren W. Bailey against Anderson H. Walters, twentieth Pennsylvania. (Rept. No. 1450.) Referred to the House Calendar.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. SPEAKS: Committee on Military Affairs. H. R. 2530. A bill for the relief of George W. McNeil; with amendment (Rept. No. 1432). Referred to the Committee of the Whole House.

Mr. VINSON of Georgia: Committee on Naval Affairs. S. 1023. An act authorizing the President to appoint Cecil Clinton Adell, formerly an ensign, United States Navy, to his former rank as ensign, United States Navy; without amendment (Rept. No. 1433). Referred to the Committee of the Whole House.

Mr. VINSON of Georgia: Committee on Naval Affairs. S. 1885. An act for the relief of James C. Minon; without amendment (Rept. No. 1434). Referred to the Committee of the Whole House.

Mr. MAGEE of Pennsylvania: Committee on Naval Affairs. H. R. 8852. A bill for the relief of Thomas Maley; without amendment (Rept. No. 1435). Referred to the Committee of the Whole House.

Mr. BUTLER: Committee on Naval Affairs. H. R. 11188. A bill to amend the naval record of John M. Reber; without amendment (Rept. No. 1436). Referred to the Committee of the Whole House.

Mr. WOLVERTON: Committee on War Claims. H. R. 9919. A bill for the relief of Stanton & Jones; with amendment (Rept. No. 1440). Referred to the Committee of the Whole House.

Mr. WOLVERTON: Committee on War Claims. H. R. 12308. A bill for the relief of Charles Caudwell; without amendment (Rept. No. 1441). Referred to the Committee of the Whole House.

Mr. WOLVERTON: Committee on War Claims. H. R. 12309. A bill for the relief of the Bell Telephone Co. of Philadelphia, Pa., and the Illinois Bell Telephone Co.; without amendment (Rept. No. 1442). Referred to the Committee of the Whole House.

Mr. WOLVERTON: Committee on War Claims. S. 970. An act for the relief of Th. Michaelsen; without amendment (Rept. No. 1443). Referred to the Committee of the Whole House.

ADVERSE REPORTS

Under clause 2 of Rule XIII,

Mr. GRAHAM: Committee on the Judiciary. H. J. Res. 265. A joint resolution to place under the civil service act the personnel of the Treasury Department authorized by section 38 of the national prohibition act, and to prohibit the enrollment of State, county, and city officials; adverse (Rept. No. 1448). Laid on the table.

PUBLIC BILLS AND RESOLUTIONS

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

By Mr. MORROW: A bill (H. R. 12749) granting the consent of Congress to compacts or agreements between the States of New Mexico and Oklahoma with respect to the division and apportionment of the waters of the Cimarron River and all other streams in which such States are jointly interested; to the Committee on Irrigation and Reclamation.

Also, a bill (H. R. 12750) granting the consent of Congress to compacts or agreements between the States of New Mexico and Texas with respect to the division and apportionment of the waters of the Rio Grande, Pecos, and Canadian or Red Rivers and all other streams in which such States are jointly interested; to the Committee on Irrigation and Reclamation.

Also, a bill (H. R. 12751) granting the consent of Congress to compacts or agreements between the States of New Mexico and Colorado with respect to the division and apportionment of the waters of the Rio Grande, San Juan, and Las Animas Rivers and all other streams in which such States are jointly interested; to the Committee on Irrigation and Reclamation.

Also, a bill (H. R. 12752) granting the consent of Congress to compacts or agreements between the States of New Mexico and Arizona with respect to the division and apportionment of the waters of the Gila and San Francisco Rivers and all other streams in which such States are jointly interested; to the Committee on Irrigation and Reclamation.

By Mr. GRAHAM: A bill (H. R. 12753) to provide punishment for killing or assaulting Federal officers; to the Committee on the Judiciary.

Also, resolution (H. Res. 292) for the immediate consideration of H. R. 12215; to the Committee on Rules.

Also, resolution (H. Res. 293) for the immediate consideration of H. R. 12216; 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. ABERNETHY: A bill (H. R. 12754) granting a pension to Rebecca Dennis; to the Committee on Invalid Pensions.

By Mr. BELL: A bill (H. R. 12755) granting a pension to California C. Anderson; to the Committee on Pensions.

By Mr. DARROW: A bill (H. R. 12756) granting an increase of pension to Catherine A. Pearce; to the Committee on Invalid Pensions.

By Mr. ESTERLY: A bill (H. R. 12757) granting an increase of pension to Hannah A. Brittain; to the Committee on Invalid Pensions.

Also, a bill (H. R. 12758) granting an increase of pension to Katharine Flaig; to the Committee on Invalid Pensions.

By Mr. W. T. FITZGERALD: A bill (H. R. 12759) to reimburse William H. Hoover; to the Committee on Claims.

By Mr. GASQUE: A bill (H. R. 12760) for the relief of W. A. Frink; to the Committee on Claims.

By Mr. GIBSON: A bill (H. R. 12761) granting a pension to Ervin G. Farrar; to the Committee on Invalid Pensions.

By Mr. JENKINS: A bill (H. R. 12762) granting a pension to Frank Woods; to the Committee on Pensions.

By Mr. LITTLE: A bill (H. R. 12763) granting an increase of pension to Clara E. Hanson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 12764) granting an increase of pension to Anna Perkins; to the Committee on Invalid Pensions.

Also, a bill (H. R. 12765) granting an increase of pension to Elizabeth A. Blazer; to the Committee on Invalid Pensions.

By Mr. MAGEE of Pennsylvania: A bill (H. R. 12766) to authorize the return of certain lands to John H. Abel; to the Committee on Naval Affairs.

By Mr. MILLIGAN: A bill (H. R. 12767) granting an increase of pension to Minty E. Spears; to the Committee on Invalid Pensions.

By Mr. PARKS: A bill (H. R. 12768) to provide for a survey of the Red River, Ark., with a view to the prevention and control of its floods; to the Committee on Flood Control.

By Mr. PORTER: A bill (H. R. 12769) for the relief of Robert R. Bradford, William Roderick Dorsey, and other officers of the Foreign Service of the United States, who while serving abroad, suffered by theft, robbery, embezzlement, or bank failure losses of official funds; to the Committee on Foreign Affairs.

By Mr. QUAYLE: A bill (H. R. 12770) granting a pension to Bessie Nickens; to the Committee on Invalid Pensions.

By Mr. SWARTZ: A bill (H. R. 12771) granting an increase of pension to Annetta D. McCahan; to the Committee on Invalid Pensions.

By Mr. CAMPBELL: Resolution (H. Res. 290) providing for an assistant clerk to the Committee on Enrolled Bills; to the Committee on Accounts.

PETITIONS, ETC.

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

2413. By Mr. AYRES: Three petitions from the citizens of Chetopa, Belle Plaine, and Canton, Kans., respectively, petitioning the passage of House bill 4023, a bill to increase pensions for veterans of the Civil War and their widows; to the Committee on Invalid Pensions.

2414. By Mr. CHALMERS: Petition of Toledo citizens, urging that immediate steps be taken to bring to a vote the Civil War pension bill; to the Committee on Invalid Pensions.

2415. By Mr. GLYNN: Petition of 141 citizens of Winsted, Conn., urging that a vote be taken on the Civil War pension bill presented by Hon. JAMES P. GLYNN; to the Committee on Invalid Pensions.

2416. By Mr. JENKINS: Three petitions signed by 47 voters of Meigs County, Ohio, and 23 voters of Racine, Ohio, urging that immediate steps be taken to bring to a vote the Civil War pension bill, in order that relief may be accorded to needy and suffering veterans and the widows of the Civil War; to the Committee on Invalid Pensions.

2417. By Mr. JOHNSON of Illinois: Petition of voters of Jo Daviess County, State of Illinois; Mrs. Mary M. Bates, of Stockton; and 116 other signers, in favor of the passage of legislation increasing the pensions of Civil War veterans and their widows; to the Committee on Invalid Pensions.

2418. By Mr. KETCHAM: Petition of citizens of Hastings, urging that the Civil War pension increase bill be favorably acted upon; to the Committee on Invalid Pensions.

2419. By Mr. KINDRED: Petition of the Long Island Federation of Women's Clubs to the Congress of the United States, urging the passage of the migratory bird refuge and marshland conservation bill; to the Committee on Agriculture.

2420. Also, petition of Elmhurst Post, No. 298, American Legion, to the United States Congress, requesting a congressional investigation of the rules and regulations of the United States Steamboat Inspection Service following the recent disaster of the excursion steamer *Washington Irving* on the Hudson River, which indicates that excursion boats are not properly designed and equipped to afford reasonable safety, etc.; to the Committee on Interstate and Foreign Commerce.

2421. By Mr. MacGREGOR: Petition of citizens of Buffalo, N. Y., calling for passage of bill providing an increase in pensions for Civil War veterans and their widows; to the Committee on Invalid Pensions.

2422. By Mr. MORIN: Petition of citizens of Pittsburgh, Pa., in favor of legislation granting increase of pensions to Civil War veterans and their widows; to the Committee on Invalid Pensions.

2423. By Mr. NEWTON of Minnesota: Petition signed by sundry citizens of Minneapolis, Minn., urging the immediate passage of the Civil War pension bill; to the Committee on Invalid Pensions.

2424. By Mr. O'CONNELL of New York: Petition of J. E. Edgerton, president National Association of Manufacturers, of New York City, favoring the passage of House bill 11053, providing increased salaries for Federal judges; to the Committee on the Judiciary.

2425. Also, petition of the Forty-second Convention, Long Island Federation of Women's Clubs, favoring the passage of Senate bill 2607 and House bill 7479, the migratory bird refuge and marshland conservation bill; to the Committee on Agriculture.

2426. Also, petition of Clinton H. Scovell, of Boston, Mass., favoring the Graham Federal workmen's compensation bill (H. R. 9498); to the Committee on the Judiciary.

SENATE

FRIDAY, *June 11, 1926*

(Legislative day of Wednesday, June 9, 1926)

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

Mr. CURTIS. 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:

Ashurst	Frazier	McKellar	Shipstead
Bayard	George	McLean	Shortridge
Bingham	Gerry	McMaster	Simmons
Blease	Gillett	McNary	Smoot
Borah	Glass	Mayfield	Stanfield
Bratton	Goff	Metcalf	Steck
Broussard	Gooding	Moses	Stephens
Bruce	Greene	Neely	Swanson
Butler	Hale	Norbeck	Trammell
Capper	Harreld	Norris	Tyson
Caraway	Harris	Oddie	Underwood
Copeland	Harrison	Pepper	Wadsworth
Couzens	Heflin	Phipps	Walsh
Cummins	Howell	Pine	Warren
Curtis	Johnson	Pittman	Watson
Deneen	Jones, N. Mex.	Ransdell	Weller
Dill	Jones, Wash.	Reed, Pa.	Wheeler
Edge	Kendrick	Robinson, Ark.	Williams
Edwards	Keyes	Robinson, Ind.	Willis
Ernst	King	Sackett	
Fernald	La Follette	Schall	
Fess	Lenroot	Sheppard	

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

LIEUT. COMMANDER RICHARD E. BYRD, UNITED STATES NAVY, AND OTHERS

The VICE PRESIDENT. In accordance with the provisions of House Concurrent Resolution 32 the Chair appoints the senior Senator from Virginia [Mr. SWANSON], the junior Senator from Nevada [Mr. ODDIE], the junior Senator from Virginia [Mr. GLASS], the junior Senator from New Hampshire [Mr. KEYES], and the senior Senator from Montana [Mr. WALSH] as the members of the committee on the part of the Senate to represent Congress in the reception of Lieut. Commander Richard E. Byrd and party on their return to the United States.

REPORT OF THE BOY SCOUTS OF AMERICA

The VICE PRESIDENT laid before the Senate, pursuant to law, the annual report of the Boy Scouts of America, which was referred to the Committee on Education and Labor.

PROPOSED COAL LEGISLATION

Mr. COPELAND. Mr. President, I ask that an editorial from this morning's New York World may be read at the desk.

The VICE PRESIDENT. Without objection, the clerk will read as requested.

The Chief Clerk read as follows:

[From the New York World, Friday, June 11, 1926]

WHO IS BLOCKING COAL LEGISLATION?

Further evidence of a determined effort to prevent coal legislation at this session of Congress is to be found in the action of the Senate this week in sidetracking Senator COPELAND'S bill and giving the right of way to a measure establishing the legal status of the Foreign Service of the Department of Commerce. The latter bill is not of an emergency character; it does not in any way affect the functions of the Department of Commerce, but merely prevents appropriations for the Foreign Service of this department from being thrown out by a Member of Congress on the point of order that this division is not named in the law creating the department.

Yet there is a reason for giving this measure the right of way over coal legislation. Many Senators will insist that all appointments to the Foreign Service of the Department of Commerce shall be made with the advice and consent of the Senate. This points to prolonged discussion, and the more debate the better the chance of shelving the coal bill.

President Coolidge has refrained from exerting any direct influence to obtain coal legislation and has confined his efforts to the expression on two occasions of a hope that Congress would take some action. The bill before Congress was introduced by a Democratic Senator. Originally it embodied the recommendations of the Coal Commission, but several important features have been eliminated by the Committee on Education and Labor, which wrangled for two months before agreeing to report the measure.

This committee reported the bill on May 6, when Congress was supposed to be about to adjourn. Subsequent developments have held Congress in session, but obstacles are continually being thrown in the way of consideration of the coal bill. Powerful influences are blocking constructive action, and the country would like to know who is behind the scenes pulling the strings.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Haltigan, one of its clerks, announced that the House had passed without amendment the following bills and concurrent resolution of the Senate:

S. 1341. An act for the relief of John Plumlee, administrator of the estate of G. W. Plumlee, deceased;

S. 2098. An act for the relief of M. Barde & Sons (Inc.), Portland, Oreg.;

S. 2158. An act for the relief of certain disbursing officers of the office of Superintendent State, War, and Navy Department Buildings;

S. 2215. An act for the relief of James E. Simpson;

S. 2552. An act to authorize the Secretary of the Interior to dispose by sale of certain public land in the State of Kansas;

S. 3015. An act for the relief of William J. Murphy;

S. 3019. An act to reimburse certain fire-insurance companies the amounts paid by them for property destroyed by fire in suppressing bubonic plague in the Territory of Hawaii in the years 1899 and 1900;

S. 3715. An act for the relief of the Harrisburg Real Estate Co., of Harrisburg, Pa.; and

S. Con. Res. 20. Concurrent resolution to correct an error in the enrollment of the bill (H. R. 3862) to provide for the storage of the waters of the Pecos River.

The message also announced that the House had passed the bill (S. 1912) to provide a method for the settlement of claims