

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. FLETCHER: A bill (H. R. 12317) granting an increase of pension to Mary E. K. Wilson; to the Committee on Invalid Pensions.

By Mr. FREEMAN: A bill (H. R. 12318) granting an increase of pension to Anastasia Corcoran; to the Committee on Invalid Pensions.

By Mr. HAWES: A bill (H. R. 12319) granting an increase of pension to Emeline Tucker; to the Committee on Invalid Pensions.

By Mr. HOGG: A bill (H. R. 12320) granting an increase of pension to Isabel Pumphrey; to the Committee on Invalid Pensions.

By Mr. HOOPER: A bill (H. R. 12321) granting an increase of pension to Ella Williams; to the Committee on Invalid Pensions.

By Mr. WILLIAM E. HULL: A bill (H. R. 12322) granting an increase of pension to Hannah B. Gibbs; to the Committee on Invalid Pensions.

By Mr. JONES: A bill (H. R. 12323) granting an increase of pension to Sarah Parker; to the Committee on Pensions.

By Mrs. KAHN: A bill (H. R. 12324) granting a pension to Helen W. Greer and minor children; to the Committee on Pensions.

By Mr. McKEOWN: A bill (H. R. 12325) for the relief of N. B. Haney and Carrie M. Haney; to the Committee on Claims.

By Mr. MILLS: A bill (H. R. 12326) for the relief of Frank Bayer; to the Committee on Claims.

By Mr. NEWTON of Missouri: A bill (H. R. 12327) for the relief of Harry E. Stevens; to the Committee on Military Affairs.

By Mr. RAINEY: A bill (H. R. 12328) granting an increase of pension to Sophronia J. Vertrees; to the Committee on Invalid Pensions.

Also, a bill (H. R. 12329) granting an increase of pension to Julia A. Angel; to the Committee on Invalid Pensions.

By Mr. REED of New York: A bill (H. R. 12330) granting an increase of pension to Marcia E. Garey; to the Committee on Invalid Pensions.

By Mr. STEPHENS: A bill (H. R. 12331) granting a pension to Charles W. Friend; to the Committee on Pensions.

By Mr. TINCHER: A bill (H. R. 12332) granting an increase of pension to Sarah J. Weidner; to the Committee on Invalid Pensions.

By Mr. WELSH: A bill (H. R. 12333) granting an increase of pension to Clara B. Coney; to the Committee on Invalid Pensions.

By Mr. WILLIAMSON: A bill (H. R. 12334) for the relief of W. Randall Spurlock; to the Committee on Claims.

By Mr. BLOOM: Joint resolution (H. J. Res. 259) admitting Johannes Tielle, a citizen of Holland, to the United States; to the Committee on Immigration and Naturalization.

PETITIONS, ETC.

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

2235. By Mr. CARTER of California: Petition of Berkeley Council, Knights of Columbus, No. 1499, indorsing Senate bill 3533, to provide for the better definition and extension of the purpose and duties of the Bureau of Education; to the Committee on Education.

2236. Also, petition of Cypress Park Improvement Association, Los Angeles, Calif., indorsing committee print bill to provide for the protection and development of the lower Colorado River Basin; to the Committee on Irrigation and Reclamation.

2237. Also, petition of the California Federation of Women's Clubs, Los Angeles district, urging the passage of House bill 10433; to the Committee on Agriculture.

2238. Also, petition of Anna Hall and 76 others, protesting against the passage of House bill 7179; to the Committee on the District of Columbia.

2239. By Mr. CHALMERS: Petition of the Wm. B. Guitteau Co., of Toledo, Ohio, urging the passage of the migratory bird bill; to the Committee on Agriculture.

2240. By Mr. CULLEN: Resolutions regarding readjustment of postal rates; to the Committee on the Post Office and Post Roads.

2241. By Mr. FULLER: Petition of the Illinois Bankers' Association, of Illinois, and others, favoring the passage of the McFadden bill; to the Committee on Banking and Currency.

2242. By Mr. GALLIVAN: Petition of the Federation of the Bird Clubs of New England, F. B. Fletcher, secretary, 50 Congress Street, room 516, Boston, Mass., recommending early and

favorable consideration of House bill 7479, known as the migratory bird refuge bill; to the Committee on Agriculture.

2243. By Mr. HOOPER: Petition of Samuel R. Nay and five other residents of Battle Creek, Mich., protesting against the passage of compulsory Sunday observance legislation for the District of Columbia; to the Committee on the District of Columbia.

2244. By Mr. O'CONNELL of New York: Petition of the natural resources production division of the Chamber of Commerce of the United States, asserting its unalterable opposition to and urging the chamber to oppose legislation directed toward Government interference in private business; to the Committee on Interstate and Foreign Commerce.

2245. Also, petition of the Merchants' Association of New York, favoring the passage of the McFadden banking bill (H. R. 2), as amended by the Senate; to the Committee on Banking and Currency.

2246. Also, petition of E. R. Squibb & Sons, opposing the passage of House bill 11254, to amend paragraph 59 of the tariff act of 1922; to the Committee on the Judiciary.

SENATE

FRIDAY, May 21, 1926

The Chaplain, Rev. J. J. Muir, D. D., offered the following prayer:

O Lord, our God, our fathers trusted in Thee and found Thee to be a very present help in time of trouble, and as Thou wert their refuge and strength we beseech of Thee to give us that confidence in Thee that we may turn toward the duties of each day with the realization that Thou wilt guide us in paths of righteousness and in the fulfillment of every pledge conferred upon us. Hear us, help us, and through the days that may yet be, may we realize constantly Thine own gracious guidance. For Jesus' sake. Amen.

The Chief Clerk proceeded to read the Journal of the proceedings of the legislative day of Monday, May 17, 1926, when, on request of Mr. CURTIS and by unanimous consent, the further reading was dispensed with and the Journal was approved.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Haltigan, one of its clerks announced that the Speaker had affixed his signature to the following enrolled bills, and they were thereupon signed by the Vice President:

S. 3115. An act to amend section 220 of the Criminal Code;

H. R. 8185. An act to amend sections 1, 5, 6, 8, and 18 of an act approved June 4, 1920, entitled "An act to provide for the allotment of lands of the Crow Tribe for the distribution of tribal funds, and for other purposes";

H. R. 9761. An act to admit to the United States, and to extend naturalization privileges to, alien veterans of the World War; and

S. 1039. An act to amend an act entitled "An act to establish a uniform system of bankruptcy throughout the United States," approved July 1, 1898, and acts amendatory thereof and supplementary thereto.

CALL OF THE ROLL

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	Ernst	King	Robinson, Ind.
Bayard	Ferris	La Follette	Sackett
Bingham	Fess	Lenroot	Schall
Elease	Frazier	McKellar	Sheppard
Porah	Gerry	McMaster	Shipstead
Bratton	Gillett	McNary	Simmons
Broussard	Glass	Mayfield	Smoot
Bruce	Goff	Metcalf	Stanfield
Cameron	Gooding	Moses	Steck
Capper	Greene	Neely	Stephens
Caraway	Hale	Norbeck	Swanson
Copeland	Harrell	Norris	Trammell
Couzens	Harris	Nye	Underwood
Cummins	Harrison	Oddie	Walsh
Curtis	Heflin	Overman	Watson
Dale	Howell	Phipps	Weller
Deneen	Johnson	Pine	Willis
Dill	Jones, N. Mex.	Ransdell	
Edge	Jones, Wash.	Reed, Pa.	
Edwards	Kendrick	Robinson, Ark.	

Mr. TRAMMELL. I desire to announce the absence of my colleague [Mr. FLETCHER], on account of illness.

Mr. BINGHAM. I was requested to announce that the following Senators are engaged at a meeting of the Committee on Military Affairs: The Senator from New York [Mr. WADS-

WORTH], the Senator from Wyoming [Mr. WARREN], the Senator from Georgia [Mr. GEORGE], and the Senator from Tennessee [Mr. TYSON].

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

POWER OF LEGISLATIVE BODIES TO PUNISH FOR CONTEMPT

Mr. WALSH. Mr. President, the power of either House of Congress to punish as for contempt and to conduct investigations has been the subject of repeated discussion in this body and before its committees. There is in the University of Pennsylvania Law Review for the month of May a very learned discussion of the subject with an historical review of its development. I regard it as of very great value. I ask unanimous consent that it may be printed in the RECORD.

The VICE PRESIDENT. Without objection, it is so ordered. The article is as follows:

POWER OF LEGISLATIVE BODIES TO PUNISH FOR CONTEMPT

[Footnotes will be found at end of article]

In 1924 the proceedings of the committee of the Senate of the United States appointed for the purpose of investigating the management of the Department of Justice by Attorney General Harry M. Daugherty were brought to a standstill by the refusal of his brother, Mally S. Daugherty, to appear before the committee and produce the books of a certain bank in Ohio of which he was president, which were believed to contain certain important information on the subject under investigation. When he was arrested by the Sergeant at Arms of the Senate for the purpose of compelling his attendance before the committee the United States District Court for the Southern District of Ohio discharged him on habeas corpus,¹ and the desired information was never obtained. The case was appealed and is still pending before the Supreme Court of the United States. This incident raised a question of great interest and importance to the country as to how far legislative bodies can go in compelling the giving of testimony and the production of books and papers by unwilling witnesses. The question is not new. It has been before the Supreme Court in four outstanding cases² and has been passed on many times by State courts. But while the courts are in agreement on many phases of the subject, other very important phases of it remain to be determined. Upon the proper determination of these matters will to an extent depend the future effectiveness of our legislatures as law-making bodies and as agencies for keeping the public informed of the operations of their Governments, State and National. It seems appropriate, therefore, that the whole subject should be examined with some degree of care in an effort to discover if possible the principles upon which legislatures and courts may safely proceed in such cases.

It will be found as the discussion proceeds that the power of legislatures to punish for contempt is closely bound up with the ancient privileges of such bodies and of their members, as it furnishes the means by which they are able to give effect to the privileges claimed. It will also be seen that the privileges of legislative bodies in this country and the means of making them effective are derived not so much from any express delegation in our constitutions, State and national, as from the laws and customs of the English House of Commons transmitted through the colonial assemblies as a well-established legal tradition and adopted into our constitutions, mainly by implication, as an integral and inherent part of the "legislative power" which the fathers conferred upon our representative assemblies. Only by arriving at a clear understanding of what those words meant to them can we determine the extent of the powers conferred.

I. ARE ENGLISH PRECEDENTS OF VALUE IN THIS COUNTRY?

At the very outset it seems necessary to answer a question that at first blush seems too obvious to call for consideration, that is, whether the precedents of the House of Commons have any persuasive value for us in this country. As our common law was inherited from England and our legislative machinery and procedure were largely modeled on the British pattern, an affirmative answer would seem to follow as a matter of course. But serious doubt was raised as to the value of such precedents by the opinion of the United States Supreme Court in the celebrated case of *Kilbourn* against *Thompson*.³ In that case the court, speaking through Mr. Justice Miller, admitted that the power of the House of Commons to imprison for contempt of its authority had been fully sustained by the courts of Westminster Hall, but contended that such precedents were of no value to us for the reason that the House of Commons was a court as well as a legislative body, and that in punishing for contempt it was exercising a judicial power that had come down from the days when the two houses sat as one body, the High Court of Parliament.⁴ In support of his thesis Justice Miller gives extracts from the opinions in several English cases, stating that the House of Commons is a court, most of which seem to be based on a statement to that effect in Coke's *Institute*,⁵ and then he draws the following conclusion:

"We are of the opinion that the right of the House of Representatives to punish the citizen for a contempt of its authority or a breach of its privileges can derive no support from the precedents and prac-

tices of the two Houses of the English Parliament, nor from the adjudged cases in which the English courts have upheld these practices."⁶

Thus, by taking the affirmative side of the much-controverted question as to whether or not the House of Commons is a court, Mr. Justice Miller disposed in summary fashion of the great mass of English parliamentary precedents and court decisions, which for the most part were unfavorable to the views expressed by him. But he is not consistent in this particular, for a little further on in his opinion he makes liberal use of English court decisions when they suit his purpose, and, in the following quotation which he reproduces from the opinion of Mr. Justice Coleridge in *Stockdale* against *Hansard*,⁷ he completely answers his own dictum that the House of Commons is a court:

"The House is not a court of law at all in the sense in which that term can alone be properly applied here. Neither originally nor by appeal can it decide a matter in litigation between two parties; it has no means of doing so; it claims no such power; powers of inquiry and accusation it has, but it decides nothing judicially, except where it itself is a party in the case of contempts."⁸

As to whether the House of Commons is in law a court is perhaps very difficult to say. The House itself has taken both sides of the proposition. Thus the English constitutional historian, Henry Hallam, calls attention to an entry on the rolls of Parliament in the time of Henry IV to the effect that the judicial powers of Parliament did not belong to the House of Commons,⁹ and Sir Thomas Erskine May, the great authority on parliamentary procedure, quotes a resolution of the Commons of 1592, to the effect that that body was a court of record.¹⁰ It seems probable that in earlier times the House of Commons did not seriously claim to be a court, but as the Commons grew stronger and especially as the conflict with the Crown came on, the House and its partisans, such as Lord Coke, put forward every claim calculated to enhance the power and prestige of that body.¹¹ This mental attitude continued for some time after the final triumph of Parliament in 1688, but, after the occasion for asserting the claims had passed, we find Lord Mansfield saying that the House of Commons was not a court,¹² and May says that "this claim, once firmly maintained, has latterly been virtually abandoned, although never distinctly renounced."¹³

Whether the House of Commons be called a court or not, is for purposes of this discussion, a matter of small moment. It is fundamentally and essentially a legislative, and not a judicial, body. The few remnants of judicial or quasi-judicial power that it may still exercise are not materially different from the judicial powers exercised formerly and to a lesser degree at the present time by American legislative bodies. Coke, in the passage referred to in the decisions quoted by Justice Miller, enumerates three such powers—(1) the power of impeachment, (2) the power to punish for contempt, and (3) the power to bring to the attention of the House of Lords delinquencies committed by members of that body.¹⁴ To this list Justice Miller, in the passages quoted above, adds a fourth, the power, jointly with the House of Lords, to pass bills of attainder. Now, it will be seen that the first and third of these powers—that is, the power, as the "general inquisitors of the realm," to prefer impeachment charges to be tried by the House of Lords, and the power to direct the attention of that body to cases of "oppression, bribery, extortion, or the like" on the part of members of the upper house—are not strictly speaking judicial in their nature, and the first is possessed and exercised by the lower house of all our legislatures, State and National. If possession of this power by the House of Commons makes it a court, then our lower chambers are also courts, and the precedents of the House of Commons would be very persuasive. If the possession of the second power enumerated by Coke, that of punishing for contempt—the very power whose exercise we are now considering—be held to make the House of Commons a court, then Mr. Justice Miller's argument comes to this: The possession of the power to punish for contempt makes the House of Commons a court, and the House of Commons can punish for contempt because it is a court." It hardly need be said that such an argument carries little weight. But Justice Miller's contention goes a step further. He says that this power "goes back to the period when the bishops, lords, knights, and burgesses met in one body." Historically this claim can not be maintained. It now seems definitely established that the first instance in which the House of Commons vindicated any power or privilege by imprisoning for contempt occurred in 1543, nearly 300 years after the commons had become a separate body.¹⁵ We will see that our colonial assemblies, to whose powers in this respect our State legislatures succeeded, exercised the power to punish for contempt practically from the time they came into existence, and the Houses of Congress had several times exercised the power within the first decade of their existence. From these facts it would seem that we can make out about as good a claim to a prescriptive right to the exercise of contempt powers as can be made out for the House of Commons.

The fourth judicial function, that added to Coke's list by Justice Miller, is the right formerly exercised by the commons, conjointly with the lords, of enacting bills of attainder. Lord Coke did not mention this, presumably because he did not regard it as a judicial power. It is rather the exercise of the legislative power to pass special acts, a

perverted form of legislation probably almost as common in this country in colonial and early post-Revolutionary days as it ever was in England. Our State legislatures did not hesitate to pass bills of attainder¹⁶ directed at those who sided with England in the Revolution, and at least one of these measures was sustained by the United States Supreme Court as a valid exercise of the legislative power. In the case of *Cooper v. Telfair*,¹⁷ involving such a statute passed by the State of Georgia in 1782, before the United States Constitution forbade the enactment of such laws, Mr. Justice Paterson used this significant language:

"The power of confiscation and banishment does not belong to the judicial authority; and yet it is a power that grows out of the very nature of the social compact, which must reside somewhere, and which is so inherent in the legislature that it can not be divested or transferred without an express provision of the Constitution."¹⁸

From this it will be seen that the fathers were not legislating against an imaginary danger when they provided in the Constitution that no bill of attainder could ever be passed either by the National Congress or by any State legislature.¹⁹

If this opinion is correct and the power to pass bills of attainder is essentially legislative in character, then Mr. Justice Miller's argument that the possession of this power makes the House of Commons a court whose precedents are valueless to us completely falls. Besides, the power to pass bills of attainder and bills of pains and penalties has been obsolete in England for a hundred years.²⁰ The truth is that a careful study of the legislative history of England and America will show that the privileges of representative bodies and the power to punish directly the invasion of those privileges are a part of the common inheritance of the Anglo-American peoples.

At first the House of Commons was a weak and timid body, asserting few privileges for itself and its members and depending on the King and the lord chancellor to protect them in the enjoyment of them. With the breakdown of the nobility at the end of the war of the roses, and with the growth of the cities and the commercial classes during the Tudor period, the commons grew stronger and bolder and began to claim more privileges and to assert the right to protect them by their own direct means. Every privilege they succeeded, as the people's representatives, in wresting from the King and nobility became a part of the cherished rights of Englishmen, and were as highly prized in the colonies as in the mother country. So we find the colonial assemblies setting up precisely the same privileges and vindicating them in precisely the same way, as was being done contemporaneously by the House of Commons. Just as there were excesses and brutal punishments there, so there were excesses and brutal punishments here. And so, too, with the coming of a more enlightened and humane spirit, excesses, and barbarities progressively disappear on both sides of the Atlantic, until to-day the privileges asserted by the House of Commons and the means by which they are vindicated are not appreciably different from those asserted and vindicated by our state and national legislative bodies. The contempt power is everywhere, in the English-speaking world, regarded as an inherent power, an essential auxiliary of "legislative power," and, as we will see, the nature and extent of the power was scarcely affected at all by the advent of written constitutions and the doctrine of the separation of the powers of government. It follows that no one who would understand the subject can shut his eyes to the experience and practice of the great assembly after which all our legislative bodies have been modeled.²⁰

II. ENGLISH AND AMERICAN COLONIAL PRECEDENTS²¹

A. Freedom from arrest

While the privilege of freedom from arrest only included freedom from arrest on civil process, and not for criminal offenses,²² it was extended to the servants and estates, as well as to the person, of the member, as will be seen by reference to the speaker's petition quoted above. This led to grave abuses during the century following the restoration, and hundreds of persons were haled before one house or the other and imprisoned for such crimes as arresting the servants of members, or trespassing upon their property, or bringing actions of ejectment against members or their servants or even against their tenants—that is, for any act that would necessitate the presence of the member in court as either plaintiff or defendant.²³ Finally Parliament itself saw that it had grossly perverted a very useful and valuable privilege, and, partly by statute and partly by custom, the excesses have been eliminated until now the protection is confined, as in this country, to freedom from arrest of the member only, on civil process, during the sessions of Parliament and for a reasonable period before and after the session.²⁴

In America the colonial assemblies, following the example of the mother country, claimed the same freedom for themselves, their servants, and their estates.²⁵ This claim they made good by imprisoning those who disregarded it. Thus, in 1691 the New York Assembly incarcerated a sheriff who arrested and detained a member-elect on his way to attend the sessions,²⁶ and in 1740 it imprisoned one C. Den for nearly a month for seizing a boat used by a member for attending its

sessions.²⁷ In the same year the House of Burgesses of Virginia punished as for contempt a person who assaulted a member's servant and spoke disrespectfully of the master.²⁸

B. Freedom of members from assaults, affronts, insults, libels

Probably no privilege claimed for the members has more frequently called for the exercise of the contempt powers of the houses than that which guarantees that the members shall be free from molestation during the sessions of the Parliament. Thus, in 1623, Thomas Morley was fined £1,000, sent to the pillory, and imprisoned by the House of Lords for a libel on a member of that body. In 1781 the House of Commons committed a person who sent a challenge to a member to fight a duel, and in 1809 it sent one Daniel Butler, a sheriff's officer, to Newgate prison for arresting and insulting a member.²⁹

The journals of the colonial assemblies are filled with cases of imprisonment for molesting members. For example, in 1693 the House of Burgesses of Virginia adopted the following:

"Resolved and accordingly ordered, That Mr. Thomas Rooke, for his several abuses to the members of the house in general on his bended knees acknowledge his offense, and beg the pardon of the house in such words as shall be appointed and that for the personal abuse given Mr. Kemp, a member of the house, he ask his forgiveness in particular, and that he remain in the Messenger's custody till further orders."³⁰

In 1727 the same body called before it one Edward West, charged with "affronting" a member, and he, "kneeling at the Bar, was by order of the House, reprimanded by Mr. Speaker, and upon his knees asked pardon of Mr. Andrews, and of the House." He was then discharged upon payment of costs.

In 1723 the Virginia House arrested William Hopkins for uttering "several rude and contemptuous and undecent expressions" concerning a member. Upon being ordered to apologize on bended knee, he refused. Thereupon it was ordered—

"That said Wm. Hopkins be led thro' the Town in Custody of the Messenger by the Door Keepers of this House Attended by the Constables of the Town, from the Capital Gate to the College Gate and back again with an Inscription in great Letters pind upon his Breast in the following words ("For Insolent Behavior at the Bar of the House of Burgesses when he was there as an offender and with obstinacy and Contempt disobeying their Order.") And in case he shall refuse to walk that he be Tied to a Cart and Drawn thro' the Town, And that he be afterwards committed to the public gaol in Williamsburg The Keeper whereof is hereby required to receive and there safely to keep him during the pleasure of this House."

This resolution brought him to terms, and he was allowed to apologize, to thank the house for the "favorable Mitigation of my Just punishment," and to promise that, "I will from this time carefully shew a decent Respect to every member of this House and do earnestly entreat their good will."³¹

In 1717, the New York Assembly arrested one George Webb, a boatman, for offering an affront to Mr. Speaker and another member. He apologized for the "great Indignity and Affront offered by him," and two days later was discharged, "paying his fees."³² The next year the assembly sent its doorkeeper to arrest one Edward Penant for accusing a member of having accepted a bribe, but he reported that Penant had left the province.³³ In 1720, Mr. Gilbert Livingston, member from the Manor of Livingston, reported that Capt. Jacobus Bruyn had said that Livingston had betrayed his country by voting supplies to the colonial government for a period of five years. For this insult Bruyn was taken into custody on June 9. As no further record is made of his case, it is presumed that he remained in custody until July 12, when the house adjourned.³⁴ In 1759, the Pennsylvania Assembly imprisoned Thomas Christie for instigating a "false, scandalous, and groundless" election contest against a member.³⁵

C. Freedom of house as a whole from insults and libels

English and colonial legislatures were always very sensitive of their honor and dignity and quick to resent any conduct that tended to bring them into contempt. As early as 1559 we find the House of Commons committing William Thrower to the custody of the sergeant for a contempt in words against the dignity of the house. In 1580, Arthur Hall, a member, was expelled, fined, and imprisoned by the house for printing "matter of infamy of sundry good particular members of the house, and of the whole state of the house in general, and also of the power and authority of the house."³⁶

The colonial assemblies, following the example of the English Parliament, struck out vigorously and often against persons insulting them or reflecting upon their dignity and power. For example, the House of Representatives of Massachusetts in 1722 expelled a member for presenting to the house a petition containing "false and reflecting expressions upon the House."³⁷ In North Carolina, the house in an address to the governor accused the chief justice, William Little, and his assistants of exacting illegal fees of office. The chief justice took exception to this and sent to the governor a petition asking for a hearing on the charges. In the opinion of the house this document con-

tained "Scandalous expressions reflecting on the Dignity of this House." It was therefore—

"Ordered, That the sergeant attending this House do immediately take Mr. William Little into his custody and him safely keep until to-morrow morning and that he then bring him before the House to Answer for his Affronting the House by sundry Reflections express in his petition now before the House."³⁸

In 1717, the New York Assembly arrested the 17 members of the grand jury for presenting an humble Representation to the governor in regard to a bill just passed by the assembly. When brought to the bar of the house and examined, they said that "they were humbly of Opinion, they might petition one Part of the Legislature, without any intention of reflecting on the other Two," whereupon they were discharged, "paying their Fees."³⁹ The details of the case of Judge William Moore and William Smith, provost of the Academy of Philadelphia, who were repeatedly arrested for presenting a document to the governor "containing many injurious charges, and slanderous aspersions against the late assembly, and highly derogatory of, and destructive to, the rights of this house, and the privileges of assembly," will be given in another place.⁴⁰

A very striking case of imprisonment for libelling the house occurred in New York just on the eve of the American Revolution, the case of Capt. Alexander McDougal, who was imprisoned a total of 81 days for publishing a "scandalous reflection on the conduct, honor, and dignity of this house." The details are given in the footnote.⁴¹

Libels and reflections upon former assemblies were resented and punished,⁴² as were also assaults on officers of the house,⁴³ and the publication of the proceedings or parts thereof without permission.⁴⁴ Other illustrations of punishment for libel and slander of the house, found in our colonial history, are given in the margin.⁴⁵

D. Control of elections of members

The right to determine election contests, formerly claimed by the House of Commons and by the colonial assemblies, was a frequent occasion for the exercise of the contempt powers of these bodies. Prior to the time of Elizabeth election contests had for the most part been settled by the chancellor. From that time until the Revolution of 1688 the House of Commons contested the field with the courts, and in 1689, in the case of Barnardiston against Soame,⁴⁶ the House of Lords held that the exclusive right of passing on the legality of election returns and of the conduct of the returning officers was in the House of Commons.

After this triumph the Commons extended the right to include all questions respecting the right of electors to vote. Then they argued that if electors were permitted to sue election judges for refusing to receive their votes there might arise a diversity of judgments between the commons and the courts to the confusion of the subject and the discredit of the house. Therefore, in 1704, in the celebrated case of "the Aylesbury men," where five voters began actions in the courts against the election officers for refusing their votes, the house held the plaintiffs guilty of contempt and sent them to Newgate prison. This was later recognized as an excess of authority, and the precedent has not been followed for 150 years.⁴⁷

In America the colonial assemblies from the beginning assumed control of questions arising in connection with the election of their members. They summoned the sheriffs before them and reprimanded and otherwise disciplined them for failure to perform their duties as returning officers.⁴⁸ In Virginia persons guilty of riotous conduct at elections⁴⁹ and persons charged with fraudulently securing signatures to a petition complaining of the election of certain members⁵⁰ were sent for in the custody of the sergeant at arms and forced to confess their wrongs, to apologize to the house, and to pay their fees. In the same colony in 1740 a member was deprived of his seat upon a showing that he had promised to pay the fines that might be assessed against voters who were unfavorable to him and who would remain away from the polls in violation of law; and a nonmember who was guilty of the same offense was forced to acknowledge his fault and apologize.⁵¹ In Pennsylvania the assembly, as the "grand inquest of the province," investigated riots at the polls and requested the governor to direct the judges of the courts to make a thorough probe of the violations of the law.⁵²

E. General Inquisitorial Powers—Unwilling Witnesses

The colonial assemblies, like the House of Commons, very early assumed, usually without question, the right to investigate the conduct of the other departments of the government and also other matters of general concern brought to their attention. These investigations were sometimes conducted by the house itself and sometimes by committees clothed with authority to send for "persons, papers, and records." For example, during the Indian war of 1722, the Massachusetts house of representatives engaged in a long-drawn-out controversy with the governor over their asserted right to call before them for examination Colonel Walton and Major Moody, the heads of the colonial forces in Maine, to determine the responsibility for the failure to carry out certain offensive operations ordered by the house at a previous session. They had no power to remove military officers, but they asserted it to be "not only their privilege but duty to demand of any officer in

the pay and service of this Government on account of his management while in the public employ."⁵³

In Pennsylvania in 1742, as has already been noted, the assembly summoned a great many witnesses for the purpose of investigating riots at an election, at the conclusion of which they requested the governor to direct the courts to go into the matter fully and punish the wrongdoers. There is nothing to indicate that the house at any time contemplated taking any other action.⁵⁴ In this Colony—and the same was true of most of the Colonies—the assembly had a standing committee to audit and settle the accounts of the treasurer and of the collectors of public revenues. This committee could sit during recesses of the house and was clothed with "full power and authority to send for persons, papers, and records by the sergeant at arms of this house, in order that all the said public accounts be fully settled and made ready to be laid before the house on the first day of their meeting in September next."⁵⁵ In 1770 the house ordered the assessors and collectors of Lancaster County to appear before the audit committee and to bring with them their books and records for the preceding 10 years.⁵⁶ In North Carolina the assembly ordered the arrest and detention of the receiver of "powder money" at "Roanoke" for his refusal, in compliance with the governor's orders, to submit his accounts to the house.⁵⁷

The foregoing are only a few of the many investigations of all manner of subjects carried on by the colonial assemblies. In all these cases they assumed, as a matter of course, that they had authority to punish as for contempt any person who refused to appear and give the information called for. Thus, in 1691, the New York Assembly having been informed that Mr. Dally, "the French minister," had received a petition signed by several inhabitants of Harlem and Westchester, he was called before the house, and having refused to answer the questions put to him was declared guilty of contempt and committed "to the custody of the sergeant at arms, and there to remain until he shall make answer, or be discharged by the house."⁵⁸ The refusal of Samuel Townsend to appear when summoned before the house to answer for writing an insulting letter to the speaker met with like treatment in 1758.⁵⁹

In this connection the case of William Moore and William Smith, which arose in Pennsylvania in 1757, is so instructive and illustrates so many of the powers under discussion that it seems worth while to state it in some detail. Complaints having been made to the house that William Moore, judge of the court of common pleas and justice of the peace, had for a long time been guilty of "fraudulent, corrupt, and wicked practices," the house examined many witnesses and sent an address to the governor asking him to remove Moore.⁶⁰ It seems to have been conceded that the governor alone had the power of removal, and there is nothing in the record to indicate that any legislation on the subject was in contemplation. When a newly elected assembly met in January, 1758, Judge Moore was arrested and charged with having presented to the governor and printed in the newspapers a document "containing many injurious charges and slanderous aspersions against the conduct of the late assembly."⁶¹ At the same time William Smith, "provost of the academy of this city," was arrested, charged with having assisted in the preparation of the paper. Among the witnesses examined touching Smith's part in the affair was Doctor Phineas Bond, who, feeling honor bound not to tell what he knew, was promptly committed to the custody of the sergeant, to be held until he should answer the questions put to him, no one being permitted to speak to him except in the presence of the sergeant.

Another witness was committed for "prevaricating in his testimony and refusing to answer."⁶² As a result of the hearing the Assembly declared Judge Moore guilty of contempt and ordered that he be confined in the "common gaol of the county of Philadelphia there to remain until he shall willingly make such a retraction of the aspersions and falsehoods contained in the said libel as this house shall approve of." At the same time the sheriff was instructed not to "obey any writ of habeas corpus or other writ whatsoever that may come to his hand for the bailing or discharging the said William Moore or otherwise discharge him from his custody on any pretense whatsoever and that this house will support him in his obedience to this order."⁶³ Smith was also held guilty and sent to jail. Through his counsel he gave notice of his intention to appeal the case to the King in council, but the house held that no appeal would lie in a contempt proceeding. From the jail he wrote a letter to the speaker insisting on his right to appeal, but the house, considering this a "further insult upon them, returned no answer thereto."⁶⁴ In April, 1758, the Assembly took a short recess and Moore and Smith were discharged on habeas corpus, in accordance with the rule that imprisonment by the House of Commons terminates with the session, but when the house met again they were rearrested and held to the end of the session in September. The matter was taken up again in the session beginning in October, 1758, and an order for their rearrest was made on February 28, 1759, but the sergeant at arms reported that Moore had absconded and Smith had sailed for England.⁶⁵

One more incident in connection with the Moore and Smith case is worthy of notice. At one stage in the hearings the house was disturbed by hand clapping, stamping, and other noises on the part of the

spectators. This was voted an insult, and many of those present were haled before the bar of the house, where, after apologizing, they were reprimanded by the speaker and ordered to pay the fees for their arrest. Those who refused to appear when summoned were arrested and also those who failed or refused to pay their fees.⁶⁹

This case, it will be observed, epitomizes to a large extent the contempt powers exercised by the colonial assemblies. Here the Pennsylvania body asserted its right to investigate a public official, although it did not claim the right to impeach or otherwise to remove him, and did not indicate any intention of legislating on the subject under investigation. It also asserted its right to punish libelous reflections upon itself and to vindicate the good name of a preceding assembly. It declared and exercised the right to punish contumacious witnesses and witnesses giving false testimony. It held that there was no right of appeal from a judgment of contempt, and that habeas corpus did not lie until after the recess or adjournment of the house. Finally it asserted its right to protect itself against disturbances from onlookers. In view of this great precedent it is not at all surprising to find the National House of Representatives in the very same city, 40 years later, punishing Randall and Whitney for offering bribes to Members, and the Senate proceeding against William Duane for publishing a libel upon it.⁶⁷

III. EARLY STATE AND NATIONAL PRECEDENTS

The foregoing survey of English and American colonial practice shows clearly that it was the generally accepted view that legislative bodies had the inherent right to protect their privileges, their dignity, and their honor by use of the power to punish for contempt. The precedents were plentiful and had continued down to the outbreak of the struggle for independence. The statesmen of the period were thoroughly familiar with these precedents and regarded the power to punish for contempt as an integral part, or auxiliary, of legislative power.

As a necessary result, when they drafted their Constitutions, State and National, and conferred the legislative power upon the bodies provided to receive it, they conferred the contempt power along with the rest. This doubtless explains the fact that most of the States, in drafting their new fundamental laws, made no mention whatever of the power to punish for contempt. Of the 11 States adopting constitutions, during the Revolution, 9 made no reference to the power to punish for contempt. Massachusetts and Maryland alone dealt directly with this subject.

The provisions incorporated in the Massachusetts constitution adopted in 1780 and continued down to the present time are especially interesting and were subsequently adopted almost without change in New Hampshire⁶⁸ and South Carolina,⁶⁹ and possibly in other States. After declaring, in Article VI, "that the house of representatives is the grand inquest of this Commonwealth, and all impeachments made by them shall be heard and tried by the senate," the constitution, in Article X, proceeds as follows:

"The house of representatives * * * shall have authority to punish by imprisonment every person, not a member, who shall be guilty of disrespect to the house, by any disorderly or contemptuous behavior in its presence; or who, in the town where the general court is sitting, and during the time of its sitting, shall threaten harm to the body or estate of any of its members, for anything said or done in the house; or who shall assault any of them therefor; or who shall assault or arrest any witness or other person ordered to attend the house, in his way in going or returning; or who shall rescue any person arrested by the order of the house."⁷⁰

The next article extended the same powers to the senate and to the governor and council, and then occurs this proviso:

"Provided, That no imprisonment on the order or warrant of the governor, council, senate, or house of representatives for either of the above-described offenses be for a term exceeding 30 days."⁷¹

In Maryland the constitution went much further, conferring upon each of the houses unlimited power to investigate all grievances and "affairs concerning the public interest," to "commit any person for any crime to the public jail, there to remain till he be discharged by due course of law," and to punish for contempt in a great variety of cases. The provisions are so interesting, as indicating the temper of the times, that they are reproduced in full in the footnote.⁷²

Like the nine State constitutions, the Constitution of the United States is silent on the subject of contempt. Each house is given power to judge of the election and qualification of its members, to make its own rules of procedure, punish its members for disorderly conduct, and, with the concurrence of two-thirds, expel a member, but nothing is said of any power to deal with outsiders who may disturb the house or obstruct its proceedings.⁷³

Such was the state of the first written constitutions on this subject.⁷⁴ Their silence on the subject is suggestive. Equally so is the fact that for three-quarters of a century no case involving the contempt power of a legislative body except Anderson against Dunn,⁷⁵ reached the higher courts, State or Federal. This absence of adjudicated cases strongly suggests that there was a general acquiescence in the exercise of this power, for there was no dearth of cases in the legislatures that might have found their way into the courts if the

persons concerned and their counsel had thought that relief could be obtained from that source. Since the constitutions and the court reports are silent we must turn to the assemblies themselves. What, then, was the practice of the new legislatures? The answer is to be found scattered through a multitude of legislative journals, usually poorly printed and unindexed, that have not yet been fully explored. However, ample evidence has been assembled to warrant the statement that the legislative bodies assumed that the contempt power so freely exercised by the colonial assemblies had been passed on to them without diminution. For example, in March, 1776, it was reported to the Continental Congress that one Isaac Melchior had treated the president of the Congress with "great rudeness" and had made "use of several disrespectful and contemptuous expressions toward him and this Congress." It was, therefore—

"Ordered, That the said Isaac Melchior attend Congress to-morrow morning at 11 o'clock to answer for his conduct."

When he appeared he denied any recollection of what he had done, "owing to the particular circumstances he happened to be under," and, apologizing to Congress and its president, he was dismissed without further punishment "in consideration of Mr. Melchior's former services."⁷⁶ A year later Mr. Gunning Bedford was declared "guilty of a high breach of the privileges of this House, in sending a challenge to one of its Members for words spoken by him in this House, in the course of debate," and he was required to "ask pardon of the House and of the Member challenged."⁷⁷

In Virginia, whose constitution made no provision for punishing for contempt, the house of delegates in 1781 appointed standing committees on religion, on privileges and elections, on courts of justice, and on trade, and clothed each of them with the power to "send for persons, papers, and records for their information." At the same session the same power was specially conferred on the committee on privileges and elections, which was ordered to investigate the opposition "in arms," on the part of some of the people of Augusta, to a law passed by the preceding legislature.⁷⁸ There is nothing in the record to show that any legislation or other affirmative action was contemplated as a result of this inquiry. During the same session the house ordered the immediate arrest of one John Hopkins, a clerk in the Treasury Department, upon a report of contemplated misconduct on his part. He was discharged the next day, and later vindicated by the committee appointed to look into the matter.⁷⁹ In 1784 one John Warden, a Scotchman, resident in Virginia, was sent for under the custody of the sergeant at arms for "uttering certain expressions derogatory to the honor and justice of the same." Warden presented a written apology to the committee, expressing his sorrow at having given unintentional affront, and the matter went no further.⁸⁰

In Pennsylvania the senate, in 1801, ordered the arrest of one Peter Getz for disturbing the proceedings of the body,⁸¹ and in 1835 several contumacious witnesses, including Joseph R. Chandler, were arrested and confined by one of the houses.⁸²

Under the first constitution of New York, which provided that the assembly should "proceed in doing business in like manner as the assemblies of the colony of New York of right formerly did,"⁸³ several cases of the exercise of the contempt power occurred. In 1796 the house punished one Killittas for charging that a committee of the house had acted corruptly. In 1810 the senate punished a man named Clarke for having challenged Senator DeWitt Clinton to a duel for words spoken by him in debate. About the same time the house punished a printer for breach of its privileges.⁸⁴ The new constitution adopted in 1821 omitted the provision above referred to and merely provided that each house should determine the rules of its own proceedings.⁸⁵ In discussing this change, the revisers of 1830 say:

"It is believed that the omission of these words in the amended constitution was not intended to deprive, and could not have the effect of depriving, the two houses of the legislature of the indispensable power of punishing for contempt."⁸⁶

Accordingly they submitted an act defining the contempt powers of the legislature and naming the privileges the breach of which might be punished by imprisonment.

In the meantime the House of Representatives of New York, operating under the new constitution, had asserted and exercised the power in the case of William J. Caldwell. In 1824 the house appointed a special committee to investigate and determine whether any corrupt means had been used in securing the charter of the Chemical Bank. What action, if any, was contemplated as a result of the investigation does not appear. Caldwell refused to appear before the committee and testify, and wrote a letter to the chairman containing reflections upon the house. Being arrested and arraigned at the bar of the house, he admitted writing the letter and refusing to testify. Thereupon the house adopted this resolution:

"Resolved, That there was no sufficient ground for his refusal to appear before the committee and testify; that he was guilty of a misdemeanor and contempt of the house; that the sergeant at arms deliver him to the keeper of the jail of the county of Albany; that he be imprisoned until further order of the house; and that the speaker issue his warrant accordingly."

After a week's imprisonment he came before the committee and testified and was then discharged.⁸⁷

Another notable case arose in New York in 1837, involving the refusal of Moses Jaques and Levi Slamm to appear and testify before a committee of the house of representatives appointed to inquire whether or not the banks of the State had been using their funds for other than legitimate banking purposes. Here again there is nothing in the record to indicate what the purpose of the investigation was or what action was contemplated by the house. The motion that these parties were guilty of contempt and that the speaker issue his warrant and bring them before the house was carried by a vote of 75 to 18. Slamm submitted and was discharged, but Jaques at first refused and was ordered imprisoned until he should agree to testify.⁸⁸

While these instances were occurring in the State legislatures the Houses of Congress of the United States had on several occasions asserted their right to punish for contempt. The first important case arose, when the new Government was less than seven years old, out of an attempt to bribe Members of the House of Representatives. In December, 1795, three Members arose in their places and stated that they had been offered financial inducements by one Robert Randall to support a proposed grant to him and his associates of a large body of western lands. Like information was given by one Member against Randall's associate, Charles Whitney. They were arrested and brought before the House, and, after a hearing, the House adopted, by a vote of 78 to 17, the following resolutions offered by Mr. Edward Livingston, of New York:

"Resolved, That it appears to this House that Robert Randall has been guilty of a contempt to, and a breach of the privileges of, this House by attempting to corrupt the integrity of its Members in the manner laid to his charge.

"Resolved, That the said Robert Randall be brought to the bar, reprimanded by the Speaker, and committed to the custody of the Sergeant at Arms until further order of this House."

After eight days of confinement under this resolution, Randall was, upon his humble petition, discharged from custody.⁸⁹

A very significant feature of this case is that there seems to have been no division of opinion among the Members present, several of whom had been members of the constitutional convention,⁹⁰ as to the power of the House to punish a non-Member for such an offense. There was much discussion as to the proper method of procedure—whether the accused should have the assistance of counsel, whether all questions should be asked by the Speaker and whether the testimony of the accusing Members of the House should be given under oath—but practically none at all on the constitutional aspects of the case. Madison, one of the drafters of the Constitution, counseled deliberation, but expressed no doubt of the authority of the House. On the whole, the conclusion seems warranted that this body of representative men gathered from all the States, thoroughly versed in the legislative practice of the time, were substantially agreed that the grant of the legislative power to Congress carried with it by implication the power to punish for contempt.⁹¹

In 1800 an interesting case arose in the Senate growing out of the publication, by William Duane, editor of the *Aurora*, of an alleged libel of the Senate and of one of its committees.

Duane was ordered to appear at the bar of the Senate and "make any proper defense for his conduct in publishing the aforesaid false, defamatory, scandalous, and malicious assertions and pretended information." He appeared and asked to be allowed counsel, which request was granted with certain restrictions as to the functions to be performed by counsel. Later he wrote to the Vice President, saying that on account of the restrictions placed on counsel, reputable lawyers to whom he had applied refused to appear in his behalf, and informing the Senate that he would not attend further, and stating that the Senate could take such further action as it should see fit. For this refusal to appear, not for printing the libel, the Senate, by a vote of 16 to 12, held him "guilty of a contempt of said order, and of this House, and that for said contempt he, the said William Duane, be taken into the custody of the Sergeant at Arms attending this House, to be kept subject to the further orders of the Senate." This occurred on March 26. There is no record that he was again arrested, but just before the Senate adjourned, on May 14, a resolution was adopted requesting the President to direct that Duane be prosecuted and punished by the courts of law.⁹²

In this case the power of the Senate to punish Duane was vigorously contested in one of the ablest debates of this period. Unfortunately, as the *Aurora* was a strongly anti-Federalist paper, partisan feeling was involved, and we can not be certain how far the views expressed and the votes cast were influenced by party considerations.⁹³ While the arguments of Jefferson's followers did not convince the majority of the Senate, as the vote on the resolution showed, they may have so influenced them that they decided to let the matter drop. Probably a more potent factor was the approaching presidential election and the state of public opinion at the time, aroused by the odious alien and sedition laws, passed two years before for punishing just such expressions of opinion as Duane was guilty of. The rumblings, of which the Kentucky and Virginia resolutions were a part, might well have

caused a determined majority to forego the full measure of redress to which they were legally entitled.

Passing over some less important cases we come to what was, perhaps, the greatest of the early cases involving the right of one branch of Congress to punish for contempt. This arose in the House in 1818, when Lewis Williams, a Member from North Carolina, laid before that body a letter that he had received from Capt. John Anderson containing a check for \$500 as "part pay for extra trouble" in furthering certain claims in which the writer was interested. Thereupon Mr. John Forsyth, of Georgia, moved the following resolution, which was adopted "and ordered to be entered unanimously":

"Resolved unanimously, That Mr. Speaker do issue his warrant directed to the Sergeant at Arms attending this House, commanding him to take into custody, wherever to be found, the body of John Anderson, and the same in his custody to keep, subject to the further order and direction of this House."

Before the resolution was voted upon the question was raised as to the power of the Speaker to issue a general warrant. Henry Clay, the Speaker, said that fortunately there were few occasions for the exercise of the power, but that there could be no question of the authority of the House to protect its privileges and its dignity.⁹⁴

Anderson was brought before the bar of the House and a long and instructive debate took place, at the conclusion of which a resolution to discharge Anderson from custody was indefinitely postponed by the decisive vote of 117 to 42, and the House held him guilty of contempt and ordered him reprimanded by the Speaker.⁹⁵ In this decisive fashion the House, after exhaustive debate, definitely settled the question, so far as it could do so, that it had by necessary implication, wholly independently of any constitutional provision, the power to protect itself and to carry on its functions without obstruction or interference from without. In this position it was fully sustained by the Supreme Court in the suit for damages for false imprisonment brought by Anderson against Dunn, the Sergeant at Arms,⁹⁶ which will be discussed in another connection.

The House of Representatives in the early days was several times called upon to vindicate the right of the Members to be free from assault for words spoken in debate. In 1809 one I. A. Coles was held guilty of a breach of the privileges of the House for assaulting a Member in the Capitol Building after the House had adjourned, although it appeared that the occasion of the attack was not in any way connected with the business of the House.⁹⁷ In 1828 Russel Jarvis was charged, in a message from the President, with having assaulted John Adams, the President's private secretary, while he was in the Capitol Building, and in the act of retiring from the House, to which he had just delivered a message from the President. The House held Jarvis guilty of violating the privilege of the House and meriting the censure of that body.⁹⁸ But the great case involving the right of the House to punish an assault on a Member came in 1832, when Samuel Houston, formerly Governor of Tennessee, and later President of the Republic of Texas, was held guilty of contempt and was reprimanded for an assault on William Stanbury, a Member of the House from Ohio, for words spoken by Stanbury in debate. Houston was a warm personal friend of President Jackson, and the discussion out of which the provocation grew was aimed at the conduct of the President's Secretary of War. As a result the affair from the beginning, like the Duane case, took on a partisan aspect, so that much that was said in the long and vehement debate loses the force that it would otherwise be entitled to. The significant thing about the case is that those who favored the vindication of the privileges of the House were able to carry through their purpose in the face of the opposition of the dominant party and of the indomitable Jackson.

The facts of the case are briefly as follows: On April 14, 1832, the Speaker laid before the House a communication from Stanbury, in which he stated that on the previous evening he had been waylaid on the street near his boarding house and "knocked down by a bludgeon, and severely bruised and wounded by Samuel Houston." Immediately upon the conclusion of the reading of the communication Joseph Vance, of Ohio, offered a resolution directing the Speaker to issue his warrant for the arrest of Houston. This passed by a vote of 106 yeas to 65 nays. Houston was brought before the House, allowed counsel in the person of Francis S. Key, denied bail on the strength of the precedents of the House of Commons, and brought to trial before the whole House. The trial occupied the time of the House for almost a month. After the testimony was all in, many days were devoted to debate, at the conclusion of which the following resolutions were separately voted on and adopted, the first by a vote of 100 to 88 and the second by a vote of 96 to 84:

"Resolved, That Samuel Houston has been guilty of contempt and a violation of the privileges of this House.

"Resolved, That Samuel Houston be brought to the bar of the House on Monday next at 12 o'clock and be there reprimanded by the Speaker for the contempt and violation of the privileges of the House of which he has been guilty, and that he then be discharged from the custody of the Sergeant at Arms."⁹⁹

The power to compel testimony from unwilling witnesses, which, as we have seen, was frequently exercised in colonial days, and was exer-

cised by the New York Legislature in the cases of W. J. Caldwell and of Jaques and Slamm, in 1824 and in 1837, was also made use of by the National House of Representatives during the first half of the last century. The first case was in 1812, when Nathaniel Rounsavell was committed for refusing to give testimony before a committee of the House appointed to "inquire whether there has been any, and if any, what, violation of the secrecy imposed by this House" in regard to a proposed embargo that had been discussed in a secret session of the House. After remaining in custody a day he indicated his willingness to testify and was discharged.¹⁰⁰ The second case occurred in 1837, when Reuben M. Whitney was arrested and held for some days while preparing for trial on a charge of refusing to testify before a special committee of the House appointed to investigate matters pertaining to the executive departments.¹⁰¹

From the foregoing review of the cases it is now quite apparent that the changes attendant upon the separation from England and the establishment of State and National Governments under written constitutions resulted in no abandonment on the part of the legislatures of the right so freely, and sometimes, it must be said, so harshly used during the colonial period, of punishing directly and without the intervention of courts or the authority of statutes those who obstructed their proceedings or reflected upon their integrity. In this survey of early State and national precedents we have seen the power exercised (1) by the Continental Congress, a voluntary body which had assumed the powers of a national legislature, but which as yet had no written constitution behind it; (2) by State legislative bodies, especially in Virginia and New York, where the constitutions did not confer the power, but were wholly silent on the subject; and (3) by the Houses of Congress, although the power was not expressly conferred in the Constitution, but was asserted as a necessary means of self-defense inherent in all legislative bodies.

C. S. POTTS.

CAMBRIDGE, MASS.

¹ Ex parte Daugherty, 299 Fed. 620 (D. C. 1924). When in January, 1926, relator in this case was called before a Federal grand jury in New York investigating alleged misconduct of the Alien Property Custodian, he stated that he had given the same records involved in the Senate's inquiry to his brother, former Attorney General Harry M. Daugherty, who "wanted to look over certain matters—mostly politics—and see where he stood," and that they had been burned.—Boston Herald, Jan. 23, 1926, p. 14, c. 2. See also editorial in the same paper, Jan. 29, 1926, p. 14, c. 3. See also the New Republic, Mar. 31, 1926, pp. 164-167.

² Anderson v. Dunn, 6 Wheat. 204 (U. S. 1827); Kilbourn v. Thompson, 103 U. S. 168 (1880); In re Chapman, 166 U. S. 661 (1897); Marshall v. Gordon, 243 U. S. 521 (1917).

³ See note 2, supra.

⁴ Justice Miller states his position as follows:

"While there is in the adjudged cases in the English courts little agreement of opinion as to the extent of this power and the liability of its exercise to be inquired into by the courts, there is no difference of opinion as to its origin. This goes back to the period when the bishops, the lords, and the knights and burgesses met in one body and were, when so assembled, called the High Court of Parliament. * * * Upon the separation of the Lords and Commons into two separate bodies, holding their sessions in different chambers, and hence called the House of Lords and the House of Commons, the judicial function of reviewing by appeal the decisions of the courts of Westminster Hall passed to the House of Lords, where it has been exercised without dispute ever since. To the Commons was left the power of impeachment, and perhaps others of a judicial character, and jointly they exercised, until a very recent period, the power of passing bills of attainder for treason and other high crimes which are in their nature punishment for crime declared judicially by the High Court of Parliament of the Kingdom of England. It is upon this idea that the Houses of Parliament were each courts of judicature originally, which, though divested by usage, and by statute probably, of many of their judicial functions, have yet retained so much of that power as enables them, like any other court, to punish for contempt of these privileges and authority that the power rests." (103 U. S. 184.)

⁵ Thus from the case of *Burdett v. Abbott* (14 East 1 (1811)), is taken the following quotation from the opinion by Mr. Justice Bailey: "In an early authority upon the subject, in *Lord Coke* (4 Inst. 23), it is expressly laid down that the House of Commons has not only a legislative character and authority but it is also a court of judicature, and there are instances put there in which the power of committing to prison for contempts has been exercised by the House of Commons, and this, too, in cases of libel." (103 U. S. 184.)

⁶ 103 U. S. 189.

⁷ 9 Ad. & E. 1 (1838).

⁸ 103 U. S. 198.

⁹ Hallam, *Constitutional History of England*, 5th ed. 207.

¹⁰ May, *Law, Privileges, Proceedings, and Usage of Parliament*, 13th ed. (1924), 101.

¹¹ It must be remembered that Coke's Institutes were written in the midst of the fiercest internal struggle that England ever experienced. Soon after the work came from the hands of the printer, the remnant of the revolutionary House of Commons resolved itself into a high court of justice and sent Charles I to the block. Statements made by Coke pertaining to matters involved in the struggle must be accepted with great caution. Thus Prof. E. C. Corwin, in commenting on Coke's attempt to find warrant in *Magna Charta* for the right which he was seeking to establish that the subject could only be proceeded against by the King upon presentment by a grand jury, has this to say:

"It must not be thought that in writing thus Coke is recording the facts of history. Rather, to quote a recent authority on *Magna Charta*, he was but 'following his vicious method of assuming the existence in *Magna Charta* of a warrant for every legal principle established in his own day,' a method which has enabled him to mislead utterly 'several generations of commentators.' Among those thus misled are the three great commentators on American constitutional law, Kent, Story, and Cooley—willing dupes no doubt, yet dupes none the less." ("The Doc-

trine of Due Process Before the Civil War," 24 Harv. L. Rev. 366, 368 (1910), citing, for the subquotations, *McKeechle, Magna Charta*, 447.) Dean Roscoe Pound, in commenting on this phase of Coke's work, says:

"Coke's purpose was to prove his case in the contests between courts and Crown in which he was a chief actor. Recent historians who have reexamined the material in writing histories of the King's Council, the Star Chamber, and the High Commission, assert that he grossly perverted the texts. Very likely he did, for he was a partisan and an advocate. * * * Coke's problem was what they [the provisions of *Magna Charta*] must be made to mean if justice was to be done in accordance with them and by means of them in seventeenth-century England. The fiction of interpretation enabled him and his contemporaries to believe that the two things were the same." (Interpretations of Legal History, 132.)

To the same effect is the following from Prof. Redlich:

"Anyone who closely follows the party strife of the sixteenth and seventeenth centuries under the leadership of the learned jurists of those times will have little difficulty in seeing that their constitutional arguments, at times bordering on the fantastic, were mere cloaks for the political claims to power made by the majority of the House of Commons, and by sections of the nation which it represented." (Joseph Redlich, *Procedure of the House of Commons* [Transl. by A. Ernest Steinhal], Vol. I, p. 25, note, quoted and commented on by Prof. McIlwain in his *High Court of Parliament*, pp. 230-1, note.)

¹² Jones v. Randall (1 Cowp. 17 (1774); May, op. cit. 101.)

¹³ May, op. cit. 101. For an elaborate discussion of the question as to whether the House of Commons is a court, see McIlwain, *High Court of Parliament* (C. III, pp. 109-246).

It is of interest to note that our legislative bodies in this country have sometimes been referred to as courts. Thus in *Coffin v. Coffin* (4 Mass. 1, 34 (1808)), we find this language: "I consider the House of Representatives not only as an integral branch of the legislature, and as an essential part of the two Houses in convention, but also as a court having final and exclusive cognizance of all matters within its jurisdiction, for the purposes for which it was vested with jurisdiction." The contempt power is also fully recognized in this case. The Legislature of Massachusetts is still officially known as the "general court."

¹⁴ 4 Coke, Inst., 23-24.

¹⁵ In discussing this first use of the contempt power, Hallam says: "The commons sent their sergeant with his mace to demand the release of Ferrers, a burgess, who had been arrested on his way to the house; the jailers and sheriffs of London having not only refused compliance but ill-treated the sergeant, they compelled them * * * and even the plaintiff who had sued the writ against Ferrers, to appear at the bar of the house, and committed them to prison. The King, in the presence of the judges, confirmed in the strongest manner this assertion of privilege by the commons. It was, however, so far, at least, as our knowledge extends, a very important novelty in constitutional practice; not a trace occurring in any former instance on record, either of a party being delivered from arrest at the demand of the sergeant or of anyone being committed to prison by the sole authority of the House of Commons." (Hallam, *The Constitutional History of England*, pp. 157-158.)

See also May, *The Law, Privileges, Proceedings, and Usage of Parliament*, 13th ed., pp. 112-113. May adds the interesting detail that before ordering the arrest of the sheriffs, the House of Commons laid the case before the House of Lords, "who, judging the contempt to be very great, referred the punishment thereof to the order of the Commons' house."

¹⁶ Thompson, "Anti-Loyalist legislation during the American Revolution" (3 Ill. L. Rev. 81, 147); Pound, "Justice according to law" (14 Col. L. Rev. 1, 2, 8 (1914)). In this article Dean Pound calls attention to numerous instances of the exercise of judicial power by American legislatures, such as granting divorces or creating special rules for particular cases or for particular individuals, or affording special relief in individual cases, or granting new trials after final judgment, or exercising jurisdiction in insolvency. The Legislature of Rhode Island exercised appellate jurisdiction until 1857, and the New York Senate continued to act as a court of appeals until the adoption of the constitution of 1840.

¹⁷ 4 Dall. 14 (U. S. 1800).

¹⁸ 4 Dall. 19. Almost identical language was used by Mr. Justice Cushing in his brief concurring opinion.

¹⁹ Constitution, Article I, secs. 9 and 10.

²⁰ Dean Pound says that "the abortive bill of pains and penalties brought against Queen Caroline is probably the last of its kind" (14 Cal. L. Rev. 3 (1914)). That was the year 1820. IX Dictionary of National Biography, 152.

²¹ The extent to which the colonial assemblies modeled themselves on the pattern of the House of Commons is strikingly illustrated in the faithfulness with which they copied the ancient ceremony observed at the opening of a session of Parliament. From a very early day, it is believed, and certainly from the time of Henry VIII, when regular journals began to be kept, it has been customary, upon the assembling of Parliament, for the House in a body to wait upon the King sitting in the House of Lords, and present their newly elected speaker for the King's approval. The choice having been approved, the speaker—

"In the name, and on behalf of the commons, lays claim by humble petition to their ancient and undoubted rights and privileges; particularly that their persons, their estates, and their servants may be free from arrest and all molestation; that they may enjoy liberty of speech in all their debates; may have access to his Majesty's royal person whenever occasion shall require; and that all their proceedings may receive from his Majesty the most favorable construction."

To this address the lord chancellor, as the presiding officer, replies that—

"His Majesty most readily confirms all the rights and privileges which have ever been granted to or conferred upon the commons by his Majesty or any of his royal predecessors." (May, 70.)

In the same way the colonial assemblies demanded a renewal of their ancient privileges. For example, in 1734, the Assembly of Pennsylvania in a body waited on the governor, sitting with his council, and after he had approved the speaker chosen, that official "in the name and behalf of the house" petitioned—

"That the members of this house, during the time of their sitting in assembly, may enjoy freedom of speech in all their propositions and debates; and that their persons and estates may be free from arrest and molestation; that himself (as speaker), as often as the business of the house shall require, may have free access to the governor; that if in reporting anything to the governor as the sense of the house, he happen to be mistaken, such mistake may not be imputed to the house, but that he have free liberty to resort to them for their true

meaning, and the mistake be pardoned; that it would please the governor to give credit to no information he may receive without doors, of matters moved and debated in the house, until the same shall have passed in resolves."

To this petition, it is stated, the governor was "pleased to assure the house that he would always protect them in the full enjoyment and exercise of the same." (Votes of Assembly, Vol. III, 219.) For repetitions of this ceremony in the same words in other years, see Votes of Assembly, Volume III, 444, 497, 536; Volume IV, 757; Volume VI, 2, 113, 193, 262, 284, 546.

²¹ American colonial precedents have not heretofore been collected and made available.

²² May, 120.

²³ An extended list of cases is to be found in the "Report from the Select Committee" (of the House of Commons) on the publication of printed papers (May 8, 1837), p. 3 and (Appendix) p. 19, reproduced in 9 Ad. & El. 12. It is said that more than a thousand cases of punishment for contempt by the two houses of Parliament have occurred, (though now they are of rare occurrence.

²⁴ May (op. cit. 114-116). For a full discussion of this privilege, see May, Chap. V, pp. 110-135.

²⁵ See the speaker's petition quoted above from the Assembly of Pennsylvania. See also New York Ass. Jour. Vol. I, 413-414 (1718). In 1660 the House of Burgesses of Virginia passed a resolution waiving their right of freedom from arrest in part, but adding "that they will be ten days after the expiration of this session subject to arrest, judgment, and execution against their estates, but the persons to be still free." (Jour. H. of B. 1659/60.)

²⁶ Ass. Jour., Vol. I, 4.

²⁷ Ass. Jour., Vol. I, 233, 234, 236, 238.

²⁸ Jour. of H. of B., 1740 (reprint), pp. XXXII, 421.

²⁹ For these and other illustrations see MAY, 87-88.

³⁰ The form of the apology provided by the speaker is set out in full. Jour. H. of B. 1659/60-1693 (reprint), pp. 473, 4, 5, 6, 7.

³¹ Jour. H. of B. 380 et seq.

³² Ass. Journ., Vol. I, 406-7.

³³ *Ibid.*, 419.

³⁴ *Ibid.*, 592, 594. For Samuel Townsend's case, see Ass. Jour., Vol. II (1758) 551-4 (writing insolent letter to speaker).

³⁵ Votes of Ass., Vol. V, 57.

³⁶ I Hartsell, 93; May, 86. For many other English cases see May, 85-87.

³⁷ Jour. H. of R. Vol. IV (reprint), 43.

³⁸ Saunders, Colonial Records of N. C., Vol. III, 603-4.

³⁹ Ass. Jour., Vol. I, 410-411.

⁴⁰ Votes of Ass., Vol. IV, 748-8, 763-4, 768, 769, 776, 777, 781-5, 820, 837, 846. Vol. V, 22.

⁴¹ In December, 1769, a paper was published calling a mass meeting of citizens "in order effectually to avert the destructive consequence of the late base, inglorious conduct of our general assembly" in voting supplies to the British troops then stationed in New York. The house thereupon adopted resolutions denouncing the publication as a "scandalous reflection on the conduct, honor, and dignity of this house," and declaring the author of it "guilty of a high misdemeanor." They therefore called upon the governor to offer a reward of 50 pounds for his arrest. The offer was made and Captain Alexander McDougal was arrested on February 7, 1770. He refused to give bond and was held in jail until he was indicted by the supreme court in the following April. He then gave bond in the sum of one thousand pounds, and was discharged. However, as the case before the court was never brought to trial, he was again arrested, and on December 29, 1770, he was arraigned at the bar of the house as "the supposed author or publisher" of the article. He pleaded, in reply, that he was already under indictment in the supreme court for the same offense, "and he conceived it would be an infraction of the laws of justice to punish a British subject twice for the same offense." His reply was voted "a high contempt" and he was sent to jail, only five members voting in the negative. He applied for habeas corpus, but upon the sergeant's showing in his return that he was "committed by a warrant of the speaker for a contempt of the authority of this house," the court refused to interfere. He was finally discharged when the house was prorogued on March 4, 1771, after an imprisonment of eighty-one days. (O'Callaghan, Documentary Hist. of N. Y. Vol. III, 534-537.)

It is of interest to note that McDougal rose to the rank of major general during the Revolutionary War and was a prominent member of the State Senate of New York from 1784 until his death in 1786.

⁴² Note the last two cases mentioned above. Also the case of Hezekiah Watkins, New York Journal, Vol. II, 520-21.

⁴³ In 1742 the Virginia House of Burgesses arrested and reprimanded William Nugent for beating the doorkeeper. (Jour. pp. XX, 131, 132.)

⁴⁴ See the case of Hugh Galne. (O'Callaghan, Documentary Hist. of N. Y., Vol. IV, 355.)

⁴⁵ New York, 1720, Captain Mulford forced to apologize for rash expressions concerning the assembly. (Jour. Vol. I.)

⁴⁶ New York, 1759, Rev. Hezekiah Watkins imprisoned for printing a libel on house. (Id. Vol. II, 520-21.)

⁴⁷ New York, 1758, Samuel Townsend arrested, held for a day, reprimanded and discharged. (Id. Vol. II, 551-55.)

⁴⁸ New York, 1765, anonymous insulting letter written to house. Governor asked to offer a reward of 50 pounds for discovery of perpetrator. (Id. Vol. II, 787.)

⁴⁹ Pennsylvania, 1743, party firing a gun loaded with shot at door of chamber. (Votes of Ass. Vol. III, pp. 539-540.)

⁵⁰ Pennsylvania, 1757, William McIlwaine ordered arrested for uttering "false and scandalous reflections on the house."—Absconded. (Id. Vol. IV, 734.)

⁵¹ Pennsylvania, 1769, woman ordered imprisoned for behaving in a "very disorderly manner, as well to the members as to the house itself." (Id. Vol. VI, 152.)

⁵² Pennsylvania, 1776, Capt. Josiah Hart ordered brought before the house for refusing to pay an account allowed by the house. Having appeared before the audit committee of the house and "paid all expenses incurred by his late misconduct," he was discharged without appearing at the bar of the house. (Id. Vol. VI, 705, 724.)

⁵³ Virginia, 1730, John Meroer and Peter Hedgman arrested, reprimanded, and discharged, "paying fees," for writing a scandalous, "a scandalous and seditious libel containing false and scandalous reflections upon the legislature." (Jour. H. of B. (1727-34), 66, 71.)

⁵⁴ Virginia, 1742, John Austin made his humble "submission" to the house for words spoken. (Id. XX, 107, 113.) On same day a committee was appointed to investigate a sermon preached by Rev. Mr. Effe, reflecting on members. (Id. pp. XX, 108.)

Virginia, 1742, address sent to governor's council complaining that at a conference between committees of that body and of the house, one councillor sat with his hat on. The council explained that no disrespect was intended, but that it was only an inadvertence. (Id. pp. XX-XXII, 141.)

⁵⁵ 6 State Tr. 1119 (1689).

⁵⁶ May, 64-66. Since 1868 election contests in England have been settled by two judges selected from the King's bench division of the high court of justice (Id., 641-643).

⁵⁷ In New York: In 1747 the high sheriff of Richmond was called on to explain his failure to send in the returns. "He humbly hoped that, as what he had done was through inadvertency, the house would not proceed to greater severities." He was let off with a reprimand by the speaker, "paying fees" (Jour., Vol. II, 227, 8, 9). Another similar case occurred in 1761 (Id., 658).

⁵⁸ In Pennsylvania: In 1797 the sheriff was brought to the bar and "made his humble submission to the house and promised to bring the said returns to-morrow" (Votes of Ass., Vol. II, 2, 3).

⁵⁹ In 1740 the former sheriff of Bucks, when brought before the bar, showed that his failure was not "through willful neglect or contempt of the house." Reprimanded (Id., Vol. III, 425-6).

⁶⁰ In 1756 William Parsons was charged with having detained the writ of election intended for the sheriff. He was allowed counsel and time to prepare for trial. Later the sergeant was told at his lodgings that "he had been gone out of town some days to Amboy for the recovery of his health and was not expected to return again to Philadelphia (Id., Vol. IV, 743).

⁶¹ Journ. H. of B., 1727-1740, pp. XXVIII, 278.

⁶² Id., 31, 32, 33, 34.

⁶³ Id., pp. XXXIII, 426-7.

⁶⁴ Votes of Ass., Vol. III, 498-503.

⁶⁵ Journ., Vol. IV, 165. [The Journals from 1715-1724 have been reprinted in five volumes by Mass. Hist. Society.] The upshot of the controversy was that the House finally secured the testimony desired, along with that of many other witnesses, and ultimately brought about the retirement of Walton and Moody from the service. Later when the house learned that Walton was still exercising his functions "and is bound eastward, having given out such speeches as (if possible to be accomplished by him) may prove very pernicious to this Government," they

"Resolved, That the sheriff of the county of Suffolk be directed forthwith to follow the said Colonel Walton and order his return to Boston to attend the order of this court." (Jour., Vol. IV, 199. See also pp. 94, 95-6, 126, 128, 130, 132-3, 146, 155, 156, 163-5, 167, 170, 177, 179, 182, 183, 186, 188, 191-2, 194-5. See also Hutchinson, Hist. of Mass. Bay, Vol. II, 276-294.)

⁶⁶ Votes of Assembly, Vol. III, 498-503, 564, et seq.

⁶⁷ Votes of Assembly, Vol. VI, 2, 111, 193, 66-102.

⁶⁸ Id., 199, 224.

⁶⁹ Saunders, Colonial Records of North Carolina, 585-586, 604.

⁷⁰ Assembly Jour., Vol. I, 9-10. The subject matter of the petition is not given.

⁷¹ Id., Vol. II, 552, 553, 554.

⁷² Votes of Assembly, Vol. IV, 747-748.

⁷³ Votes of Assembly, Vol. IV, 763-764.

⁷⁴ In this case the sergeant was ordered "not to permit any person whatsoever, either directly or indirectly, to converse with or speak to the said Armbruster till further orders from this house." (Votes of Assembly, Vol. VI, 776.)

⁷⁵ Id., 769.

⁷⁶ Votes of Assembly, Vol. VI, 777, 781, 784.

⁷⁷ Id., Vol. V, 5, 22. It seems that the house failed to get rid of Moore, for in 1775 we find him still oppressing the people as a justice of the peace. (Votes of Assembly, Vol. VI, 655.)

⁷⁸ Id., Vol. IV, 781-785, 786, 837, 843.

⁷⁹ 2 Hinds' Precedents, 1047-1052, 1052-1053.

⁸⁰ Constitution of 1784, 4 Thorpe, American Charters, Constitutions and Organic Laws, 2462. The provisions were retained in the constitutions of New Hampshire adopted in 1792 and 1902; 4 Thorpe, 2477-8, 2501.

⁸¹ Constitution of 1790, sec. 13 of Art. I, 6 Thorpe, 3260. The same provision reappears as Art. I, sec. 19 of the constitution adopted in 1865, as Art. II, sec. 16 of the constitution of 1868, and as Art. III, sec. 13, of the constitution of 1895. 6 Thorpe, 3272, 3287, 3314.

⁸² Constitution of 1780, Chap. I, Sec. III, Art. X, 3 Thorpe, 1890. In the case of *Burnham v. Morrissey* (14 Gray 226 (Mass. 1859)) the supreme court held that these provisions were not grants of power to the houses, nor did they by implication deny to the houses power to punish for contempt in other cases not here enumerated. Their purpose, said the court, was to define and make explicit powers inherent in all legislative bodies. In one respect they extended the inherent power of the houses by enabling them to commit for a period extending beyond the time of adjournment. See also *Coffin v. Coffin* (4 Mass. 1, 34-5 (1808)).

⁸³ This proviso was not adopted by South Carolina. New Hampshire adopted it, but with the term of imprisonment limited to a period not exceeding 10 days.

⁸⁴ Constitution of 1776, Arts. X and XII, 3 Thorpe, 1692.

Art. X: "They (members of the house of delegates) may inquire on the oath of witnesses, into all complaints, grievances, and offenses, as the grand inquest of this State; and may commit any person for any crime to the public jail, there to remain till he be discharged by due course of law. They may expel any member for a great misdemeanor, but not a second time for the same cause. They may examine and pass all accounts of the State relating either to the collection or expenditure of the revenue, or appoint auditors to state and adjust the same. They may call for all public or official papers and records and send for persons whom they may judge necessary in the course of inquiries concerning affairs relating to the public interest; and may direct all official bonds (which shall be made payable to the State) to be sued upon for any breach of duty."

Art. XII: "That the house of delegates may punish, by imprisonment, any person who shall be guilty of a contempt in their view, by any disorderly or riotous behavior, or by threat to, or abuse of their members, or by any obstruction to their proceedings. They may also punish, by imprisonment, any person who shall be guilty of a breach of privilege, by arresting on civil process, or by assaulting any of their members, during their sitting, or on their way to, or return from the house of delegates, or by any assault of, or obstruction to their officers, in the execution of any order or process, or by assaulting or obstructing any witness or any other person attending on or on their way to or

from the house, or by rescuing any person committed by the house. And the senate may exercise the same power in similar cases."

⁷² Constitution, Art. I, sec. 5.
⁷³ As to the contempt power in the State constitutions at the end of the nineteenth century, see an article by Frederick W. Whitridge, "Legislative Inquests" (1 Pol. Sci. Quart. 84 (1880)).

⁷⁴ G. Wheat, 204 (U. S. 1821).
Two early State cases, while not directly concerned with the contempt power, show clearly that the courts regarded it as inherent in legislative bodies. In the first, *Bolton v. Martin*, 1 Dall. 296 (1789), the Supreme Court of Pennsylvania held that the delegates to the convention called in that State to ratify the Federal Constitution enjoyed the same freedom from arrest on civil process as the members of the State legislature. While the latter had no privileges conferred upon them by express grant, the court said that "its members are legally and inherently possessed of all such privileges as are necessary to enable them, with freedom and safety, to execute the great trusts reposed in them by the body of the people who elected them."

The second case, *Coffin v. Coffin* (4 Mass. 1 (1808)), held that the legislative bodies in Massachusetts are for some purposes courts and may punish for contempt of their authority, though the point was not directly involved in the case. See pp. 34-35.

⁷⁵ Jour. of Con. Mar. 7, 1776, p. 84.
⁷⁷ Id., June 12 and 14, 1777, pp. 232, 236.
⁷⁸ Jour. H. of B. 1781, p. 8.
⁷⁹ Id. pp. 6, 7, 38, 58. It will be noted that this case is indefensible, as his alleged unlawful plan was not directed against the House in any way.

⁸⁰ The resolution adopted by the house on this occasion was as follows:

"Information being given to the house, by a member in his place, that John Warden, of the county of Hanover, hath been guilty of a high contempt and breach of privilege of this house, in uttering certain expressions derogatory to the honor and justice of the same.

"Ordered, That the subject matter be referred to the committee on privileges and election; that they do examine the matter thereof, and report the same, with their opinion thereon, to the house.

"Ordered, That the sergeant at arms attending this house take into his custody the body of the said John Warden, and Mr. Speaker is desired to issue his warrant accordingly."

The Member calling the matter to the attention of the House is supposed to have been Patrick Henry. Other prominent Members of this body were James Madison, Richard H. Lee, and John Marshall. Madison was a member of the committee to which this case was referred. (Cong. Debates, 1831-52, vol. 8, part 2, pp. 2880-81.)

⁸¹ Sen. Jour., November, 1800, 289, 320, 328, 334-35.
⁸² 2 Hinds' Precedents, 1105.
⁸³ Constitution of 1777, 5 Thorpe 2631.
⁸⁴ These three cases are referred to in the debates in Congress on Samuel Houston's case in 1832. (Cong. Debates, vol. 8, pt. 2, p. 2843, and pt. 3, pp. 3006-7.)

⁸⁵ Article 1, section 3; 5 Thorpe 2640.
⁸⁶ *Wickelhausen v. Willett*, 10 Abb. Prac. 164, 171 (1860). This statement of the revisers of 1830 is quoted with approval in the leading New York case, *McDonald v. Keeler* (99 N. Y. 463, 475 (1885)).

⁸⁷ Jour. Ass., Nov., 1824, pp. 1229, 1265-66, 1288, 1351. See also *Wickelhausen v. Willett*, *supra*, note 86.
⁸⁸ Jour. Ass., 1837, 133-136, 262, 371, 381, 423-424, 433-440, 466, 488-489. Also Ass. Doc. 198 and 237 (1837), and *Wickelhausen v. Willett*, *supra*, note 86.

⁸⁹ Journal, 1st sess., Fourth Cong., pp. 389, 391, 392, 393, 395, 397, 405, 407, 414. 5 Annals, pp. 166-170, 177, 179, 185-193, 212, 222-229. 2 Hinds' Precedents, pp. 1047-1052.

⁹⁰ The Speaker, John Dayton, of New Jersey; James Madison, of Virginia; Nicholas Gilman, of New Hampshire; and Abraham Baldwin, of Georgia, had all sat in the Constitutional Convention and signed the draft constitution. In addition to these men the House contained other well-known statesmen and able lawyers, among whom may be mentioned Albert Gallatin, of Pennsylvania, afterwards Secretary of the Treasury; Edward Livingston, of New York, afterwards Secretary of State under President Jackson; William B. Giles, of Virginia; and Jeremiah Smith, of New Hampshire.

⁹¹ Just before the vote was taken, John Nicholas, of Virginia, raised the issue of the power of the House to punish for contempt. "At the first embarking of the House in this affair he had felt doubts. His scruples had gradually augmented, and he was now of opinion that Randall should not have been meddled with at all in the present way. * * * He did not think that any resolution had yet passed the House, upon due consideration, whether they had a right to proceed or not." (5 Annals, 219.)

Little, if any, attention, was given to this suggestion, and a few minutes later the resolution by Mr. Livingston, quoted above, was adopted.

⁹² Senate Journal, 6th Cong., 1st sess., pp. 45, 51-54, 55, 56, 58, 59-61; 10 Annals, 63, 68-93, 104-105, 112-115, 117, 118, 121-124, 184; 2 Hinds' Precedents, 1052-1056. It seems that Duane was prosecuted and sentenced to serve 30 days in jail. (2 Hinds, 1052-1056.)

⁹³ Thomas Jefferson, who was Vice President and presided over the Senate during this debate, afterwards summarized in his "Manual," prepared for the Senate, the arguments for and against the exercise of the contempt power (pp. 18-19).

⁹⁴ Journal, 15th Cong., 1st sess., pp. 117, 119, 129, 154; 31 Annals, 580-583; 2 Hinds' Precedents, 1058-1059.

⁹⁵ 31 Annals, 589-590.

⁹⁶ *Anderson v. Dunn* (6 Wheat, 204; U. S. 1821).

⁹⁷ Jour. H. of R., 11th Cong., 2d sess., pp. 111, 123, 147, 148; Annals, pp. 685, 705, 987; 2 Hinds' Precedents, 1096.

⁹⁸ Jour. 20th Cong., 1st sess., p. 587; Cong. Debates, p. 2715; 2 Hinds' Precedents, 1081-1083.

⁹⁹ Jour. 22d Cong., 1st sess., pp. 590, 593, 595, 600, 604, 610, 713, 725, 730, 736; Debates, 2511-2619, 2810-3022; 2 Hinds' Precedents, 1083-1089.

¹⁰⁰ Jour. 12th Cong., 1st sess., 1812, pp. 276, 277, 280; Annals, p. 1266; 3 Hinds' Precedents, 1.

¹⁰¹ Jour. 24th Cong., 1st sess., pp. 232, 367-372, 378-382, 407-417, 489; Congressional Debates, 1685-1707, 1735-1754, 1760-1773, 1789; 3 Hinds' Precedents, 2-8. He was never declared guilty of contempt, for in the course of the trial before the House it developed that there had been a serious difficulty between respondent and two members of the committee and that his refusal to appear a second time before the committee was probably due to fear. The House thereupon ordered that he be discharged from custody.

LAUSANNE TREATY

Mr. BINGHAM. Mr. President, American missionaries in Turkey, as well as other Americans, including the American Board of Commissioners for Foreign Missions, are very deeply interested in the Lausanne treaty now before the Senate. The missionaries in Turkey are extremely anxious that the treaty should be ratified. I think the senior Senator from Idaho [Mr. BORAH] has asked that the treaty be printed. I ask unanimous consent that a brief communication, signed by two secretaries of the American board favoring the Lausanne treaty, may be printed in the RECORD.

The VICE PRESIDENT. Without objection, it is so ordered. The communication is as follows:

[From the American Board Quarterly News Bulletin]

CONGREGATIONAL HOUSE, Boston, May 20, 1926.

Friends of the American Board:

In this number we convey highly important messages in regard to the treaty with Turkey pending in the United States Senate, * * *

CORNELIUS H. PATTON,
BREWER EDDY,

Secretaries.

WHY THEY FAVOR THE LAUSANNE TREATY

The missionaries in Turkey and their supporters in America are in favor of the ratification by the United States Senate of the treaty with Turkey. This is because they, better than other Americans, understand the treaty, because they appreciate the good that will come from re-establishing diplomatic relations, and because they, more than others, feel the harm that would result from nonratification. They understand that the treaty recognizes the ending of special foreign privileges in Turkey. The United States was in no way responsible for this change and alone is quite unable to reverse it. Beyond this it in no way limits American rights either with regard to business or missionary work. It rather removes us from the humiliating position of accepting special favors and gives us the same rights as other foreigners in Turkey. It leaves the United States free to take any action which she may deem advisable, now or in the future, with reference to Armenia and the Armenians.

Ratification regularizes conditions already existent and gives to Americans and their work the protection of international law. A treaty will give a basis for negotiations regarding further rights, claims, and privileges and native born and naturalized American citizens. With regular relations and normal protection more can be accomplished for the Armenians than without. Nonratification would strengthen the feelings of race antagonism, which have been the cause of near eastern diplomacy for centuries. It would continue disjointed relationships and increase misunderstandings hampering the missionaries in one of the most daring projects ever launched upon Jesus's simple principle, "Love your enemies." It would look to retreat when conditions, incalculably more favorable than we ever dared to hope for, unmistakably urge an advance. The social, educational, and religious reformation now in progress among the Turks, with the resultant eagerness for western leadership, is one of the most significant movements in history; it has opened innumerable doors long closed by custom, bigotry, and superstition to the heart and mind of the Turk, and the missionaries in the spirit of loving service are entering in. The American Nation should make their task easier, not harder.

INVESTIGATION OF SENATORIAL ELECTIONS

The VICE PRESIDENT. The Senator from Maine [Mr. FERNALD] desiring to be excused from service on the special select committee appointed under Senate Resolution 195, the Chair appoints the Senator from Oregon [Mr. McNARY] in his place.

SCREEN-WAGON CONTRACTS, POST OFFICE DEPARTMENT

The VICE PRESIDENT laid before the Senate the amendments of the House of Representatives to the bill (S. 1930) to authorize the Postmaster General to readjust the terms of certain screen-wagon contracts, and for other purposes, which were, on page 1, line 4, after the word "mails," to insert "in the city of Tampa, in the State of Florida"; and on page 2 to strike out all of lines 3, 4, and 5 and insert a period; and to amend the title so as to read:

An act to authorize the Postmaster General to cancel a certain screen-wagon contract, and for other purposes.

Mr. MOSES. I move that the Senate disagree to the amendments of the House, ask for a conference on the disagreeing votes of the two Houses thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to, and the Vice President appointed Mr. MOSES, Mr. ODDIE, and Mr. TRAMMELL conferees on the part of the Senate.

PETITIONS AND MEMORIALS

Mr. SHEPPARD. Mr. President, I present, in the nature of a petition, a resolution on law enforcement and prohibition passed by the seventh annual convention of the National League of Women Voters, which I ask may be referred to the Committee on the Judiciary and printed in the Record.

There being no objection, the resolution was referred to the Committee on the Judiciary and ordered to be printed in the Record, as follows:

Resolution on law enforcement and prohibition passed by the seventh annual convention National League of Women Voters April 20, 1926

Whereas obedience to law is a fundamental requisite of orderly government, and only by enforcement of existing law can the Nation command the respect of its citizens: Therefore, be it

Resolved, That the National League of Women Voters in convention assembled hereby reaffirms its unwavering conviction that obedience to the Constitution and the written law of the land is the duty of every man and woman in the United States; and be it also

Resolved, That the league calls upon the President of the United States, the Secretary of the Treasury, and all State and local officials to use to the fullest extent the power conferred upon them for the effective establishment of prohibition: Be it further

Resolved, That the league again urges the merit system, applied through civil-service regulations, as the basis of appointment of officers in the Prohibition Unit.

Mr. WILLIS presented a petition of sundry citizens of Toledo, Ohio, praying for the passage of Senate bill 2607, the so-called migratory bird refuges and public shooting grounds bill, which was ordered to lie on the table.

He also presented a letter from John W. O'Leary, president Chamber of Commerce of the United States of America, together with a resolution adopted by the Chamber of Commerce of the United States at its fourteenth annual meeting, favoring the passage of legislation establishing upon a permanent basis a foreign commerce service of the United States for commercial attachés and trade commissioners, such officers to be appointed by the Secretary of Commerce after eligibility has been determined by examinations held by the Civil Service Commission and the Department of Commerce in coordination, which, with the accompanying resolution, was referred to the Committee on Commerce.

REPORTS OF COMMITTEES

Mr. COUZENS, from the Committee on Interstate Commerce, to which was referred the bill (S. 2615) to authorize common carriers engaged in interstate commerce to transport any blind person, accompanied by a guide, for one fare, reported it with an amendment and submitted a report (No. 894) thereon.

Mr. JONES of Washington, from the Committee on the District of Columbia, to which was referred the bill (H. R. 4812) to amend an act entitled "An act making it a misdemeanor in the District of Columbia to abandon or willfully neglect to provide for the support and maintenance by any person of his wife or his or her minor children in destitute or necessitous circumstances," approved March 23, 1906, reported it without amendment and submitted a report (No. 895) thereon.

He also, from the same committee, to which was referred the bill (H. R. 3833) to amend section 204 of an act entitled "An act to establish a code of law for the District of Columbia," approved March 3, 1901, and the acts amendatory thereof and supplementary thereto, reported it with an amendment and submitted a report (No. 896) thereon.

He also, from the same committee, to which was referred the bill (S. 3053) to amend sections 5, 6, and 7 of the act of Congress making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June 30, 1903, approved July 1, 1902, and for other purposes, reported it with amendments and submitted a report (No. 897) thereon.

Mr. SACKETT, from the Committee on the District of Columbia, to which was referred the bill (S. 3453) to provide for the construction of a bridge to replace the M Street Bridge over Rock Creek, in the District of Columbia, reported it without amendment and submitted a report (No. 898) thereon.

Mr. CAPPER, from the Committee on the District of Columbia, to which was referred the bill (S. 4094) to amend an act entitled "An act to incorporate the American Social Science Association," reported it without amendment and submitted a report (No. 899) thereon.

Mr. HARRELD, from the Committee on Indian Affairs, to which was referred the bill (S. 3160) for the relief of certain settlers on the Fort Peck Indian Reservation, State of Montana, reported it with an amendment and submitted a report (No. 900) thereon.

Mr. REED of Pennsylvania, from the Committee on Military Affairs, to which was referred the bill (S. 2353) to amend the military record of Leo J. Pourciau, and for other purposes, reported it with amendments and submitted a report (No. 901) thereon.

He also, from the same committee, to which were referred the following bills, reported adversely thereon, and submitted a report as indicated:

A bill (S. 2080) for the relief of Hamilton Stone Wallace, formerly colonel, Quartermaster Corps, United States Army; and

A bill (S. 3994) for the relief of Charles Evans Conkling (Rept. No. 902).

Mr. ROBINSON of Indiana, from the Committee on Military Affairs, to which were referred the following bills, reported them each without amendment and submitted a report, as indicated:

A bill (S. 4027) to authorize the construction of three cottages and an annex to the hospital at the National Home for Disabled Volunteer Soldiers, at Marion, Ind. (Rept. No. 903); and

A bill (H. R. 658) for the relief of Harry Coventry.

Mr. ROBINSON of Indiana also, from the Committee on Military Affairs, to which were referred the following bills, reported adversely thereon:

A bill (S. 860) for the relief of William O. Mallahan;

A bill (S. 2914) providing for the appointment of Michael McDonald (formerly a squadron sergeant major, United States Army), a warrant officer, United States Army, and to place him upon the retired list immediately thereafter;

A bill (S. 3165) for the relief of Andrew J. Patrick; and

A bill (S. 3672) for the relief of Frederick Bremer.

ENROLLED BILLS 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:

S. 1170. An act to provide for the appointment of a commissioner of reclamation, and for other purposes; and

S. 3115. An act to amend section 220 of the Criminal Code.

BILLS INTRODUCED

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

By Mr. SIMMONS:

A bill (S. 4320) for the relief of the State of North Carolina; to the Committee on Claims.

By Mr. HARRIS:

A bill (S. 4321) authorizing the construction of public buildings at West Point, Ga., and Lanett, Ala.; to the Committee on Public Buildings and Grounds.

By Mr. SCHALL:

A bill (S. 4322) granting a pension to Charles C. Chandler; to the Committee on Pensions.

By Mr. ROBINSON of Indiana:

A bill (S. 4323) for the relief of Bertha Harness (with accompanying papers); to the Committee on Claims.

By Mr. STANFIELD:

A bill (S. 4324) for the relief of the State of Oregon; to the Committee on Public Lands and Surveys.

By Mr. KING:

A bill (S. 4325) to establish the Bear River Migratory Bird Refuge; to the Committee on Agriculture and Forestry.

By Mr. SHORTRIDGE:

A bill (S. 4328) to authorize the appointment of an additional judge for the District Court of the United States for the Northern District of California; to the Committee on the Judiciary.

By Mr. JONES of Washington:

A bill (S. 4329) for the relief of C. H. Reynolds, assignee of the Bitu-Mass Paving Co., of Spokane, Wash.; to the Committee on Claims.

By Mr. REED of Missouri:

A bill (S. 4330) authorizing the Secretary of War to make settlement of the claim of the Franklin Ice Cream Co.; to the Committee on Military Affairs.

TRAVEL EXPENSES OF SENATE CLERKS

Mr. RANDELL submitted the following resolution (S. Res. 226), which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate is hereby authorized and directed to pay, from the contingent fund of the Senate, to not more than one clerk or one assistant clerk to each Senator, 10 cents per mile each way traveled, by the most direct route, from Washington, D. C., and return to the legal place of residence of the Senator by

whom appointed, as reimbursement for money expended by such clerk or assistant clerk for railroad fare, Pullman charges, meals en route, and other necessary expenditures incurred in connection with such trip: *Provided, however,* That such reimbursement shall be limited to the expenses of one round trip for each regular or extra session of Congress or special session of the Senate, and shall be paid on vouchers approved by the Committee to Audit and Control the Contingent Expenses of the Senate, when the Senator by whom appointed certifies in writing that said clerk or assistant clerk traveled at his direction.

EXPENSES OF SENATORIAL ELECTIONS INVESTIGATION

Mr. REED of Missouri submitted the following resolution (S. Res. 227), which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the special Senate committee created pursuant to Resolution 195, agreed to the 19th day of May, 1926, hereby is authorized to employ stenographic assistance, at a cost not exceeding 25 cents per hundred words, to report such hearings and proceedings as may be had in connection with any subject which may be before said committee and such clerical or other assistance as may be deemed necessary by the committee, that all expenses incurred, including costs of travel by the committee or their assistants, in furtherance of the purposes of said resolution, shall be paid out of the contingent fund of the Senate upon vouchers properly approved. The costs of this investigation shall not exceed \$_____.

PRESIDENTIAL APPROVALS

A message from the President of the United States, by Mr. Latta, one of his secretaries, announced that the President had approved and signed the following acts:

On May 19, 1926:

S. 85. An act to correct the status of certain commissioned officers of the Navy appointed thereto pursuant to the provisions of the act of Congress approved June 4, 1920:

S. 96. An act to amend the national defense act approved June 3, 1916, as amended by the act of June 4, 1920, relating to retirement;

S. 1480. An act to authorize the President to detail officers and enlisted men of the United States Army, Navy, and Marine Corps to assist the governments of the Latin-American Republics in military and naval matters;

S. 2058. An act for the relief of members of the band of the United States Marine Corps who were retired prior to June 30, 1922, and for the relief of members transferred to the Fleet Marine Corps Reserve; and

S. 2876. An act for the purchase of a tract of land adjoining the United States target range, at Auburn, Me.

On May 20, 1926:

S. 41. An act to encourage and regulate the use of aircraft in commerce, and for other purposes;

S. 2822. An act authorizing Rear Admiral Edwin A. Anderson, United States Navy, retired, to accept the silver service tendered by the Government of Panama;

S. 3080. An act to authorize payment of expenses of the Washington-Alaska military cable and telegraph system out of receipts of such system as an operating expense;

S. 3440. An act to regulate the interstate transportation of black bass, and for other purposes; and

S. 3560. An act to authorize the granting of leave to ex-service men and women to attend the annual convention of the American Legion in Paris, France, in 1927.

On May 21, 1926:

S. 3550. An act providing for an inspection of the Kenesaw Mountain and Lost Mountain and other battle fields in the State of Georgia;

S. 4070. An act granting the consent of Congress for the construction of a bridge across the Delaware River at or near Burlington, N. J.; and

S. 4116. An act to extend the time for the construction of a bridge across the north branch of the Susquehanna River from the city of Wilkes-Barre to the borough of Dorranceton, Pa.

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 amendment of the Senate to the bill (H. R. 9218) to authorize the Secretary of War to exchange deteriorated and unserviceable ammunition and components, and for other purposes.

The message also announced that the Speaker had appointed Mr. GOLDSBOROUGH as a member on the part of the House of the joint committee under House Concurrent Resolution 22, providing for the appointment of a joint committee to represent Congress at the celebration of the one hundred and fiftieth anniversary of the adoption of the Virginia Bill of Rights, in place of Mr. LINTHICUM, resigned.

GRAIN FUTURES EXCHANGES

The VICE PRESIDENT laid before the Senate the resolution (S. Res. 222) submitted by Mr. SHIPSTEAD on the 14th instant calling for a report of the grain futures administration on wheat-price fluctuation in 1925.

Mr. SHIPSTEAD. Mr. President, some days ago when I introduced the resolution and it came before the Senate, it went over for one day under the rule. In the meantime the Senator from Kansas [Mr. CURTIS] has informed me that the Secretary of Agriculture has not had time to prepare the report asked for the resolution. I want to give the Secretary a reasonable time to get his papers in shape, so I ask that the resolution may go over under the rule without prejudice.

The VICE PRESIDENT. Is there objection? The Chair hears none, and it is so ordered.

PRICES OF CRUDE OIL, GASOLINE, ETC.

Mr. TRAMMELL. Mr. President, I have on the calendar a resolution that has gone over under the rules for quite a little while, Senate Resolution 31. I would like to call up the resolution at this time.

Mr. CURTIS. Mr. President, I hope the Senator from Florida will not ask to have the resolution taken up this morning. It will probably occupy the time until 2 o'clock, and the Senator from Idaho [Mr. GOODING] has given notice that he would speak immediately after the conclusion of the routine morning business.

Mr. TRAMMELL. Mr. President, I did not know that the Senator from Idaho proposes to speak, but the matter involved in the resolution is of as great importance to the American people as anything that may be presented to the Senate; probably it is of more importance than the speech which is to be made.

Mr. CURTIS. What is the purpose of the resolution for which the Senator from Florida asks consideration?

Mr. TRAMMELL. It is a resolution which calls upon the Federal Trade Commission to make inquiry into the operations of the oil companies. Following up their custom of periodically advancing the prices of oil when business is best, they have recently advanced the prices of gasoline throughout the country, and the way in which it is done indicates that there is a concert of action, and certainly an indirect violation, if not a direct violation, of the antitrust law. This resolution was—

Mr. CURTIS. Mr. President, will the Senator from Florida yield to me for a moment?

Mr. TRAMMELL. If the Senator from Kansas will please permit me to finish my sentence, I will then yield. I submitted this resolution last year, but was unable to secure action upon it at that time because it developed that not long prior the Federal Trade Commission had made some investigation of the subject, and on account of that report the resolution was at that time defeated. I think this is a matter of a great deal of importance and that the resolution should be speedily acted upon.

The VICE PRESIDENT. The Chair lays before the Senate Senate Resolution 31, which the clerk will read.

The Chief Clerk read the resolution (S. Res. 31) submitted by Mr. TRAMMELL March 10, 1925, as follows:

Resolved, That the Federal Trade Commission be, and is hereby, directed to investigate and report to the Senate at the next session of Congress:

First. The very material advances recently made in the price of crude oil, gasoline, kerosene, and other petroleum products and whether or not such price increases were arbitrarily made and unwarranted.

Second. Whether or not there has been any understanding or agreement between various oil companies or manipulations thereby to raise or depress prices, or any conditions of ownership or control of oil properties or of refining and marketing facilities in the industry which prevent effective competition.

Third. The profits of the principal companies engaged in the producing, refining, and marketing of crude oil, gasoline, kerosene, and other petroleum products during the years 1922, 1923, 1924, and 1925, and also such other matters as may have bearing upon the subjects covered by the provisions of this resolution.

The VICE PRESIDENT. The resolution comes over from March 17, 1925.

Mr. CURTIS. Mr. President, this is the first time my attention has been called to the resolution, which was submitted while I was absent from the Senate on account of illness. I should like to have an opportunity to examine the resolution. As I understand, it is the resolution which the Senator offered at the last session of Congress, but at one of the meetings of the Republican conference we determined to request that all such matters be referred to a committee, unless the chairman of the committee had investigated the subject matter and had

passed on it. I have not had time to talk with the chairman of the committee in reference to the resolution. If the Senator from Florida will let the resolution go over until to-morrow or Monday, I shall have an opportunity to consult with the chairman of the committee in the meantime, and I shall be glad to do so.

Mr. TRAMMELL. Mr. President, of course, I do not like to go contrary to the wishes of the distinguished Senator from Kansas in the matter, but I suggest that the resolution ought to be acted upon. It does not involve any questions which would require a great amount of study. It embraces merely a plain proposition as to whether or not Congress desires to ascertain through the Federal Trade Commission what are the operations of the oil companies in continuously, as business grows better, advancing the price of gasoline, and in that way exacting a toll of millions and millions of dollars from the users of gasoline throughout the country. The practice contains every element of concerted monopolistic conduct on the part of the oil companies, and I think is a proper subject for the Federal Trade Commission to look into. That is the reason I am so insistent about the consideration of the resolution.

I had hoped that after we had the matter up last year the oil companies would, at least, take warning and not go ahead with the pernicious practice by concerted action of increasing prices. Simultaneously with the increase of price in New Jersey they increase the price in Indiana, and when the price is increased in Indiana simultaneously it is increased in Florida. In my opinion there is apparently a violation of the antitrust act which ought to be investigated.

Mr. CURTIS. Mr. President, if the Senator will yield, as I understand, he himself intends to speak on the resolution, and while he is occupying the floor I will consult with the chairman of the committee in regard to the resolution. This is the first time I have had an opportunity to examine it.

Mr. TRAMMELL. I am going to insist upon early action on the resolution, but I shall, for the present, respect the request of the Senator from Kansas.

FARM RELIEF

Mr. GOODING. Mr. President, at the other end of the Capitol there is being considered, in my judgment, the most important piece of legislation that has been before Congress in the interest of agriculture since the foundation of this Government, and I believe it is almost of equal importance to the whole country and to all its industries.

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

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

Mr. GOODING. Certainly.

Mr. CURTIS. I wish to know if we are considering Senate Resolution 31?

The VICE PRESIDENT. Senate Resolution 31 has been laid before the Senate.

Mr. GOODING. Mr. President, I repeat that, in my judgment, the proposed legislation now being considered in the House of Representatives in the interest of agriculture is the most important that has been before Congress in the whole history of the Government, because it seeks to restore the relationship which existed in this country between the agriculture and labor and the manufacturing industries for more than 100 years before the business of producing agricultural products was destroyed through legislation of our own Government.

Rumor has it, Mr. President, that no legislation will be passed in the House of Representatives to-day on the subject of farm relief; that it is more than likely that all bills having to do with this question will be recommitted to the committee or defeated, and then, it is said, that the Tincher bill or the Aswell bill may be substituted for the Haugen bill. I hope that will not be the case, because I wish to say that unless the House shall pass some legislation in behalf of the farmers, Congress is not going to adjourn at a very early date, for 60 Senators at different times have had luncheon together here, on which occasions farm problems and legislation were discussed, and there was an almost unanimous understanding that Congress should not adjourn until there was a full discussion of farm problems and a vote taken on some measure to provide agricultural relief. So, it might be well for Senators and Members of the House to understand that if farm legislation shall be defeated in the House to-day that will not end the fight but that the friends of agriculture in the Senate are going to continue it with the hope that there will be some legislation enacted that will be beneficial to agriculture.

The farmers of this country are not asking either for the Tincher bill or the Aswell bill. They are asking for what is known as the Haugen bill or the Senate bill as it was reported

out of the Committee on Agriculture and Forestry by the Senator from Oregon [Mr. McNARY].

It is not my purpose, Mr. President, to discuss the features of the Senate bill at any great length at this time. I am going to leave that to the Senator from Oregon, who reported the bill, for I am sure he is much more able to present the bill than am I. However, I wish to say that the Senate bill provides for an equalization tax on four of the principal farm products, namely, wheat, corn, hogs, and cattle. At the same time it defers such a tax on cotton. There is a distinct difference between the first four products I have named and cotton in the relationship which they bear to the general subject of agriculture, because the first four have a tariff to protect them, while cotton has no tariff. For that reason it was thought best to defer the equalization tax on cotton for two or three years.

Later, Mr. President, when I refer to the maps and diagrams that are now hanging on the wall, I am going to discuss the features of the bill, not at any great length, but so that I may be able to present my argument in a manner which will enable it to be better understood.

Mr. President, the question is often asked, What is the matter with agriculture, and why has agriculture met with such great losses in the last few years while the manufacturers have enjoyed their greatest era of prosperity, and labor has been fully employed at the highest wage since the dawn of civilization?

To me the story of the hardships, privations, and great losses that have overwhelmed agriculture in the last few years is a simple story. If the subject is approached with an open mind, a mind that is not prejudiced toward agriculture, it is not hard to understand why the basic industry of the Nation has been demoralized and some branches of it wrecked, while labor and the manufacturers have enjoyed their greatest era of prosperity.

Before the war the prosperity of the great industries meant the prosperity of agriculture, and likewise the prosperity of agriculture meant the prosperity of the great industries. For more than a hundred years before the World War there existed a close relationship in this country between agriculture, industry, and labor. I can remember something about the panic of 1873, and I can remember a great deal about the panic of 1893. In those two great panics agriculture, industry, and labor all went down together in one great crash. In the panic of 1893 the country witnessed more than 60,000 commercial failures, with liabilities of a billion dollars; railroads with mileage sufficient to reach twice around the earth could not meet their obligations and were forced into the hands of receivers; the manufacturing industries of the country were paralyzed; more than 3,000,000 men were thrown out of employment, and free-soup houses and bread lines had to be established in all of the great cities of the country to prevent death from starvation. At the same time agricultural products were forced down to ruinous prices, which brought wreck and ruin to that industry. In 1903, 1904, 1905, and 1906, 62 national banks and 212 State banks were forced to close their doors. Then we saw prosperity return; agriculture, industry, and labor all came back together to enjoy prosperity, as they had gone down together in the great panic of 1893, which brought wreck, ruin, and disaster to every industry.

Mr. President, you may search the history of this country from its very foundation, but this is the first time agriculture has been demoralized while the manufacturing industry and labor have enjoyed prosperity. To this rule there is no exception until in 1920, when the crash came to agriculture. Mr. President, I shall have no trouble in showing that our own Government through war-time legislation, together with the unwise administration of that legislation, destroyed all of the relationship that had existed in this country between agriculture, industry, and labor for more than 100 years and created a condition that is impossible for the farmers to meet.

Mr. President, when a great Government like this, either in peace or in war, through legislation or through the administration of legislation, impairs the basic industry of this Nation by creating a condition that is impossible for it to meet it becomes the duty of the Government to pass legislation that will bring back, as nearly as possible, the same relationship that existed between agriculture, industry, and labor before it was destroyed by the Government.

It is admitted by all those who have an open mind toward agriculture that a most serious condition has existed in that industry since the fall of 1920. In the last campaign all of the political parties recognized the serious condition of agriculture, and in their platforms they all made solemn pledges to the farmers of this country.

The Republican Party at its convention at Cleveland had this to say:

In dealing with agriculture the Republican Party recognizes 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 our 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, which was destroyed by the Democratic Party, through an unfortunate administration of legislation passed as war-time measures.

We promise every assistance in the reorganization of the marketing system on sounder and more economical lines, and where diversification is needed Government assistance during the period of transition.

The vigorous efforts of this administration toward broadening our exports market will be continued.

Mr. President, the platform of the Republican Party can not be misunderstood. I know that it was understood when it was adopted by the resolutions committee at Cleveland, for I was a member of that committee and had something to do with this part of the platform of the Republican Party. I was appointed on a committee with delegates from the State of Iowa to prepare this part of the platform, and after a discussion of it for something like two hours before the committee, in which I took up a good deal of their time, it was adopted unanimously.

The Democratic Party, Mr. President, at its New York convention, made just as solemn pledges to agriculture and went just as far, in my judgment, in its promises to bring back a balanced condition between agriculture, industry, and labor as the Republican Party did in its platform adopted at Cleveland.

The Democratic platform pledges the party—

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.

That is not quite as long as the corresponding part of the platform adopted by the Republicans, but it is just as strong to my mind, because it gives to agriculture all it is asking for now, and that is a commission that will have a chance to export the surplus that the farmers are producing to-day, brought about to some extent by the encouragement of their own Government during the war.

Mr. President, in the pending bill are involved the pledges of the two great political parties to the American farmer in the last campaign, and there is yet time to carry out these pledges before these two great political parties go back to the people for their support in the coming campaign.

Mr. President, we hear much to-day about price fixing, and our attention is called to the great danger of price fixing; but we have already passed the milestone of price fixing by legislation in America, for through legislation we have not only fixed the price of labor on our railroads but we have fixed the hours that constitute a day's labor on our railroads.

Congress passed the Adamson 8-hour law in September of 1916, and it became effective on January 1, 1917. Through that legislation we changed the basis of a day's labor on our railroads from a 10 and 12 hour day to an 8-hour day. Through the Adamson law and other increases made in the price of labor on our railroads in 1917 labor received an increase for that year of \$237,000,000. On the 1st of January, 1918, the Government took over the railroads for operation, and from the 1st of January, 1918, to the 1st of March, 1920, including the increase brought about by the Adamson law, the annual increase in the price of labor on our railroads amounted to \$1,086,000,000.

In 1920 Congress passed the Esch-Cummins Act and created the Labor Board. During 1920 the Labor Board increased wages on our railroads \$487,000,000, and in 1921 and 1922 the Labor Board decreased the price of labor on our railroads, which reduced the price paid to all labor on our railroads \$309,000,000.

The net annual effect in the increased price of labor on our railroads which was authorized by the Government is \$1,519,000,000. Our Government not only fixed the price of labor on our railroads through legislation but it fixed eight hours as a day's labor on our railroads, and it also fixed through legislation the price of freight rates that the farmer must pay to carry his products to market.

Since the beginning of the war, taking 1914 as a basis of 100 per cent in freight rates, the Government has increased the price of freight rates on our railroads by fully 100 per cent.

The first increase that was made was a 5 per cent increase in freight rates in 1915. This increase was generally confined to the eastern roads; but when the Adamson law was passed the railroads asked for a 15 per cent increase in freight rates to take care of the increased cost of labor brought about by the Adamson law.

In 1917 and 1918 the railroads were given an increase in freight rates of 15 per cent. First the eastern carriers were given this increase, and later on the western roads were allowed to increase their freight rates, which gave us an increased freight rate on our railroads over 1914 of 20 per cent.

On June 25 Mr. McAdoo, Director General of Railroads, issued what is known as General Order, No. 28, making a horizontal increase in freight rates on our railroads, with but one or two exceptions, of 25 per cent. Taking 1914 as a basis of 100 per cent in freight rates, Mr. McAdoo's increase of 25 per cent was equal to a 30 per cent increase over our 1914 freight rates; so that the increase in freight rates in 1915, 1916, 1917, and 1918 added an increase of 50 per cent to the 1914 freight rates. In 1920 Congress passed the Esch-Cummins Act, and on July 29 the Interstate Commerce Commission authorized a horizontal increase in freight rates ranging from 25 to 40 per cent, and 33½ per cent of an increase in all freight passing from one railroad zone to another. Taking 33½ per cent as an average of the increase in freight rates made by the Interstate Commerce Commission under the Esch-Cummins Act on the 29th of July, 1920, we had an increase in freight rates of just exactly 100 per cent since 1914.

In 1922 the Interstate Commerce Commission ordered a decrease of 10 per cent, and on some commodities the reduction was a little more than 10 per cent; so it is safe to say, Mr. President, that the increased freight rates in this country at the present time are somewhere between 80 and 90 per cent above the freight rates of 1914. Freight rates have been increased on the eastern railroads since 1914 a little more than on the western roads; but the facts are, Mr. President, that the freight rates were considerably higher on a mileage basis on the western roads before 1914 than on the eastern and southern roads, and they are still considerably higher on a mileage basis in the West than on the eastern and southern roads.

In the two horizontal increases made—one by the Director General of Railroads, Mr. McAdoo, of 25 per cent, and the other by the Interstate Commerce Commission in 1920 of from 25 to 40 per cent, and 33½ per cent between the different railroad zones—no thought or consideration was given as to how high the rate was originally or how low the rate, or how long the haul or how short the haul, or what the product would bear to carry it to market. The low-priced farm products, with but one or two exceptions, were increased the same as the high-priced manufactured articles. These horizontal increases worked a great hardship on the farmers of the West; and it is estimated that through these increases in freight rates since 1914 the farmers have been forced to pay more than \$3,000,000,000 in increased freight rates, which were authorized by their own Government.

In 1916 the shippers of this country paid the railroads a freight bill of \$2,560,988,111, and in 1925 the shippers of this country paid the railroads a freight bill of \$4,546,760,891. In 1916 the railroads paid labor \$1,415,302,636. The average earning for an employee on our railroads in 1916 was \$868, while in 1925 the railroads paid labor \$2,812,647,342, and the average earning paid to a railroad employee for 1925 was \$1,605.

Mr. President, when this Government fixed the price of the labor of nearly 2,000,000 men on our railroads, it fixed the price of labor in every industry in America, for labor organizations were not slow to take advantage of the increased price of labor on our railroads which had been authorized by our own Government, and in 1917, 1918, and 1919 labor organizations inaugurated 11,400 strikes, in most of which they were successful in bringing about an increase in the price of labor.

Our great railroads traverse every part of this country, and with the scarcity of labor during the war the farmers everywhere were forced to meet the increase in the price of labor on the farm.

The farmers of this country are not asking the Government to fix the price of farm products in this bill. All they are asking for is a fighting chance to exist and meet the conditions the Government has created by fixing the prices of labor and freight rates; that is all the farmers are fighting for, just a square deal and nothing more.

Mr. President, soon after the war we heard much about the country returning to normalcy, but if returning to normalcy

means returning to conditions that existed before the war, then this country will never return to normalcy, and as far as I am concerned, I hope generally we shall be able to maintain the present standard of wages and the same standard of living in this country. My fight is to build agriculture up and not tear industry and labor down to the present standard of agriculture.

However, one of two things must happen; either agriculture must be built up to the present standard that exists in industry and labor or it is only a question of time when a great crash will occur in America, and we will have an old-fashioned panic such as the country witnessed in 1893, and out of that wreck will no doubt come a closer parity between agriculture, industry, and labor; but I am sure that a parity reached in this way would be at the expense of both agriculture and labor, and that is the last thing any sane, sensible, American should want.

So with an increased cost of production forced on the farmer of practically 100 per cent by his own Government through legislation which has created a new condition that is impossible for the farmer to meet in many branches of agriculture, it becomes the duty of Congress to pass legislation that will assist the farmer of this country in stabilizing the price of agricultural products so as to enable him to get at least a fair return for his labor and investment.

Mr. President, if the Interstate Commerce Commission had not followed with an increase in freight rates of 15 per cent after the Adamson law was passed, and if the director general of our railroads, Mr. McAdoo, during the war had not followed his increase in the price of labor with a 25 per cent increase in freight rates, and if the Interstate Commerce Commission had not followed the Labor Board's increase in the price of labor with its increase in freight rates from 25 to 40 per cent, every mile of railroad in the United States would have been in the hands of a receiver long, long ago.

I do not care what industry it is, if you increase the cost of operation of any industry by 100 per cent, and there is no opportunity for that industry to receive a corresponding increase for what it produces, then bankruptcy will surely overtake that industry, and to that rule there can be no exception. That is exactly the condition this Government forced on the American farmer through legislation in fixing the price of labor on our railroads and in fixing the price of freight rates on our railroads.

No line of business could have existed in this country if they had occupied the same position as that of the American farmer, which is one of helplessness, and one in which the farmer is not able to pass the increased cost of production on to the people. When any other line of industry has its freight rates increased, it can pass that increase on to the farmer and other consumers in America, or if there is an increase in labor, industry, without an exception, can pass that increase on to the farmer and other consumers; but some one else always fixes the price of everything the farmer produces, and some one else always fixes the price of everything the farmer must buy for the home and the farm. So the farmer, under the present economic conditions that have been created by his own Government, that have increased the cost of production of farm products fully 100 per cent, is facing a most dangerous situation in all branches of agriculture where there is a surplus produced beyond the needs of our own people.

We hear much about organizing the farmers, and for years the farmers have made an honest effort to organize and bring about cooperative marketing, and in a very few cases they have met with some success, but you can not bring about an orderly, intelligent marketing of any branch of agriculture unless you have an organization in this country that controls practically the entire output of that branch of agriculture, and I do not believe it is possible for the farmer to organize and bring about such an organization in the larger branches of agriculture without the assistance of the Government.

I think we might just as well go out and try to organize the west wind in the arid West as to try to organize the farmers of this country without some legislation, because every hand is raised against the American farmer—that is, I mean the people who are living off him are against him. It is said that we have 19,000,000 people in America who are trafficking in farm products and that there are 36,000,000 in the farm population; that farm products bring every year \$21,000,000,000; that is what the American people have to pay for them. The 19,000,000 people who are trafficking in farm products take \$14,000,000,000 and leave the farmers \$7,000,000,000. So there are 19,000,000 people in this country who are interested in leaving the present conditions as they are. The farmer, in my opinion, is in an almost hopeless condition, as far as organizing

is concerned, to bring about an orderly and intelligent marketing in the larger branches of agriculture.

Mr. President, a very fair illustration of what happens in the great industries when they increase the price of labor was told in the Washington Post under date of March 24, 1924, when it copied a story from the Chicago Tribune telling the earnings of the United States Steel Corporation for 1923. The article was headed "More pay for employees," and read as follows:

Employees shared in the corporation's prosperity, both by obtaining the 8-hour day and also higher pay per day. The average earning per day per man was \$5.83, compared with \$4.91 in 1922. Total salaries and wages were \$469,502,634, compared with \$322,578,130 for 1922. The average number of employees was 260,786, compared with 214,931 the year before. The number of additional employees required because of the shorter day was 17,117, and to that change was attributed 60 per cent of the increase in total pay rolls.

Mr. President, when the United States Steel Corporation changed the basis of a day's labor in the steel mills from a 12-hour day to an 8-hour day and paid labor \$5.83 for an 8-hour day as compared with \$4.91 in 1922 for a 12-hour day, they followed that increase in wages with an increase in the price of steel of 20 per cent. This 20 per cent increase in steel gave the United States Steel Corporation an increased earning in 1923 of \$262,000,000. Out of this increase they paid labor an increase for 1923 over 1922 of \$146,824,504. This increase of 20 per cent in steel left a net increased revenue for the Steel Corporation of \$115,077,910. This increase in the price of steel brought about an increase of from 10 to 20 per cent in the price of farming machinery, and what is true in the great steel industry is true of all other great industries, for they are all able to pass their increased cost of operation on to the farmer and the rest of the people.

Mr. President, I have here the Idaho prices of a few articles that are used on the farm, and I want to call the attention of Senators to them.

In 1914 the farmer paid \$3.25 per hundred for horseshoes by the keg; to-day he pays \$9.75 per hundred. In 1914 he paid \$12 per ton for blacksmith coal; to-day he pays \$31 per ton. In 1914 he paid \$8.50 for a 1-ton scraper; to-day he pays \$18.50. In 1914 he paid \$72.50 for a 4-row riding beet cultivator, fully equipped; to-day he pays \$150.50. In 1914 he paid \$16.50 for a 60-tooth steel harrow; to-day he pays \$32. In 1914 he paid \$125 for a 3½-inch tire wagon; to-day he pays \$242.50. In 1914 he paid \$75 for a 14-inch gang plow; to-day he pays \$146.50; and in 1914 he paid \$62.50 for a 5-foot mower, but to-day he pays \$120 for the same type machine.

This is only a fair average of everything the farmer buys for his farm. On a former occasion in discussing the condition of the American farmer I made the statement on the floor of the Senate that this Government became a speculator and a profiteer in handling the farmer's wheat during the war; that it fixed the price of wheat at our primary markets below the cost of production for some of the wheat crops produced during the life of the food control act. I did not make that statement believing it was the deliberate purpose of this Government to become a speculator and a profiteer in handling the farmer's wheat, or that the Government intentionally fixed the price of wheat below the cost of production for some of the wheat crops produced during the life of the food control act.

But nevertheless, Mr. President, that is just what happened when Julius Barnes, the greatest speculator in wheat this country has ever known, was placed at the head of the Grain Corporation. On August 10, 1917, the food control act was approved, and under the provision of that act the President issued an Executive order on August 10, 1917, creating the Food Administration and appointed Herbert Hoover as United States Food Administrator; on August 14, 1917, the President issued another Executive order creating the Grain Corporation, and Julius Barnes was made president of that corporation.

On August 14, 1917, President Wilson appointed what was known as the fair-price committee, which consisted of 11 men representing all different interests in the country, to fix the price of the wheat crop of 1917. On August 13, 1917, the committee presented the following report to the President. I especially want to call Senators' attention to that part of the committee report in which they tell the story of how they arrived at \$2.20 per bushel as a fair price for the wheat crop of 1917. In that report the committee had this to say:

In reaching its conclusion the committee has been guided by the principle you have announced, that a fair price should be based upon the cost of production for the entire country plus a reasonable profit. We have relied upon the cost estimates for the crop of 1917, furnished by the United States Department of Agriculture, checked by

the results of our own independent investigations, and the evidence submitted to the committee by the producers and their representatives.

The committee has considered the regulations recently established by the United States Grain Corporation for the different grades of wheat, through which all transactions in wheat are to be standardized and speculation is to be entirely eliminated; also that profits to the grain dealer, miller, and flour dealers have been regulated and reduced by the Grain Corporation, effecting a material reduction in the cost of flour.

In consideration of the foregoing facts and circumstances this committee respectfully recommends that the price of No. 1 northern spring wheat or its equivalent at Chicago be \$2.20 per bushel.

Mr. President, the point I want to make clear is that if \$2.20 a bushel was only a fair price for a bushel of wheat as found from an investigation of the Department of Agriculture with a reasonable profit for the crop of 1917 then \$2.20 a bushel was an unfair price for the wheat crop of 1918, 1919, and 1920, after this country had increased the cost of production to the wheat growers by practically 100 per cent. If there is any doubt about \$2.20 being an unfair price in the minds of any Senators, I want to call their attention to the fact that the Department of Agriculture in 1919 made a survey as to the cost of production of wheat in six of the principle wheat-producing States of the Union—Kansas, Missouri, Nebraska, North and South Dakota, and Minnesota. In that investigation the Department of Agriculture found the actual cost of production of a bushel of wheat on the farm in those six States for 1919 was \$2.11 per bushel.

Mr. President, for the wheat crop of 1919 the Government paid the wheat growers of this country \$2.26 per bushel at the primary markets for No. 1 northern wheat. Here let me say, Mr. President, that No. 1 northern wheat is the highest grade of wheat produced in this country and brings from 10 to 15 cents more per bushel at the primary markets than common grades of wheat. About 15 per cent of the wheat grown in this country is No. 1 northern, and 85 per cent of it is a lower grade. So, while 15 per cent of our farmers received a premium of 15 cents per bushel for No. 1 northern, 85 per cent of the wheat growers received only \$2.11 at the primary markets for a bushel of wheat, or just exactly what the Department of Agriculture found it cost to grow a bushel of wheat in the six great wheat-producing States of the Union. But on top of the \$2.11, which was the actual cost to the farmer for producing a bushel of wheat on the farm, he had to pay for hauling charges to the elevator, elevator charges, and freight rates to the primary markets.

It has been estimated by reliable authority that the wheat growers of America sold their wheat crop of 1919 to the Government for between four and five million dollars less than it cost them to produce it, without a single dollar left for a reasonable profit, which we heard so much about. For the wheat crop of 1918, 1919 and 1920 it is estimated that the wheat growers of America were forced to sell their wheat to the Government for a billion dollars less than it cost them to produce it, and as I see it, the sad part of the story is the fact that the Government, during these increases in the price of labor and the increases in freight rates, gave no thought or consideration to the effect of these increases on agriculture when we reached the peak in the cost of production in 1920, after all of the increases I have mentioned, and after the farmer had been encouraged to grow more wheat to help win the war and more farm products of every kind and description, and was assured that Europe would need our wheat and every other agricultural product we could produce.

The farmers of the country in the early summer of 1920 were looking forward to a prosperous year. The food control act expired on May 31, 1920, under which the President had fixed the maximum price of a bushel of wheat. The next day, June 1, 1920, the farmers were able to sell their wheat in Minneapolis for \$3.09 per bushel. With the demoralized condition which existed in Europe, the farmer had every right to expect to sell his wheat crop of 1920 around \$3 per bushel, but he was doomed to disappointment, for Governor Harding, of the Federal Reserve Board, seemed to believe that board was created for the purpose of bringing about a deflation in the country at any time they thought it advisable to do so.

On May 18, 1920, Governor Harding called a meeting of the Federal Reserve Board and the Federal Advisory Council and class A directors of the Federal reserve banks. The meeting was a secret one, and very little was known outside of banking circles of what happened at that meeting until February 22, 1923, when the Manufacturers' Record, of Baltimore, published a stenographic report of the proceedings of that meeting, which I placed in the CONGRESSIONAL RECORD a few days after it appeared in that magazine. At that secret meeting of May

18, 1920, the question of restriction of credits, breaking down of prices, and increasing of freight rates were generally discussed and agreed to.

Mr. President, I offer at this time the names of all those in attendance at the meeting of the Federal Reserve Board, May 18, 1920, and ask that the list be printed in the RECORD at this point in my remarks.

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

The list of names is as follows:

Hon. Adolph C. Miller, member of the Federal Reserve Board.
Hon. Henry A. Mohlenpach, member of the Federal Reserve Board.
Hon. John Skelton Williams, Comptroller of the Currency and member ex officio of the Federal Reserve Board.
Hon. David F. Houston, Secretary of the Treasury and member ex officio of the Federal Reserve Board.

George L. Harrison, counsel, Federal Reserve Board.

Also members of the Federal Advisory Council: Philip Stockton, Federal reserve district No. 1; A. B. Hepburn, Federal reserve district No. 2; L. L. Rue, Federal reserve district No. 3; W. S. Rowe, Federal reserve district No. 4; J. G. Brown, Federal reserve district No. 5; Oscar Wells, Federal reserve district No. 6; F. O. Watts, Federal reserve district No. 8; E. F. Swinney, Federal reserve district No. 10; R. L. Ball, Federal reserve district No. 11; A. L. Mills, Federal reserve district No. 12; J. H. Puellicher, Marshall & Hsley Bank, Milwaukee, Wis.; John Perrin, chairman of the board and Federal reserve agent, Federal Reserve Bank, San Francisco; Hon. Edmund Platt, chairman of the Banking and Currency Committee, House of Representatives.

Boston: Thomas Beal, Edward S. Kennard, and Frederick S. Chamberlain.

New York: James A. Alexander, R. H. Treman, Charles Smith, and J. S. Sisson.

Philadelphia: Joseph Wayne, jr., M. J. Murphy, and Francis Douglas.

Cleveland: O. N. Sams, Robert Wardrop, and Chess Lamberton.

Richmond: John F. Bruton, Charles E. Rieman, and Edwin Mann.

Atlanta: J. K. Otley, Oscar Newton, P. R. Kittles, and W. H. Kettig.

Chicago: George M. Reynolds, Charles H. McNider, and E. L. Johnson.

St. Louis: J. C. Utterback and Sam A. Ziegler.

Minneapolis: Wesley C. McDowell and E. W. Decker.

Kansas City: J. C. Mitchell, E. E. Burham, and W. J. Bailey.

Dallas: John T. Scott, E. K. Smith, and B. A. McKinney.

San Francisco: C. M. McIntosh, J. E. Fishburn, and M. A. Buchan.

Mr. GOODING. Mr. President, at this time I shall only discuss and review a few of the statements made by some of the representatives of the great banks who attended that meeting.

Mr. Robert Wardrop, of the Cleveland Reserve Bank, said at that meeting:

I think a reasonable depression of business would be a good thing for the country.

He added further:

I really think we would do better if we could get down to a lower basis, and from that we could work up again.

Mr. President, at that meeting of the Federal Reserve Board an organization was perfected in this country to restrict credits and increase the rate of discount and to bring about the depression of business that Mr. Robert Wardrop thought would be a good thing for the country, and while they were trying to deflate the country and reduce prices these bankers—and they were the great bankers of the country, with power given them by the Government to control the financial destiny of the American people—passed a resolution and appointed a committee of five to present their resolutions to the Interstate Commerce Commission and the United States Shipping Board asking for an advance in freight rates. That resolution reads as follows:

Resolved, That this conference urge as the most important remedies that the Interstate Commerce Commission and the United States Shipping Board give increased rates and adequate facilities such immediate effect as may be warranted under their authority, and that a committee of five be appointed by the chair to present these resolutions to the Interstate Commerce Commission and the United States Shipping Board, with such verbal presentation as may seem appropriate to the committee.

Mr. President, at first it was hard for me to understand why these great bankers, who had met to restrict credit and deflate prices, should pass a resolution asking the Interstate Commerce Commission and the United States Shipping Board to increase freight rates, but I soon found that the great bankers who met with the Federal Reserve Board on May 18, 1920, in that secret meeting held in this city represented financial interests that owned and controlled a large majority of the stocks and bonds

of the railroads in this country. So it is not strange, after all, that they should want to protect their railroads from the deflation that they were about to force upon the country.

When Mr. James A. Alexander, one of the class A directors of the Federal reserve bank in New York, was asked about transportation in his district he said:

There is almost no such thing there now. There is one thing, I think, to be feared, and that is if the transportation facilities are improved and commodities moved freely and credits are to be released it may bring a temporary ease in the money market and may encourage people to go ahead and expand. I believe now is the time to put the rates up and keep them up.

Mr. President, it is hard to believe that the great financiers of the country would be guilty of wanting to wreck transportation on our railroads for fear there would be a temporary ease in the money markets; but when we bring back in review the railroad blockade that occurred in 1920, it can properly be asked what part the great financiers of this country, who own and control the vast majority of the stocks and bonds of our railroads, played in the freight blockade of 1920. I am not quite sure, however, but what in their madness to deflate the country with the pressure forced upon the farmers everywhere to liquidate, but that in their efforts to cripple transportation and to force deflation, or to bring the country back to normalcy, which we heard so much about, they served a good purpose; for even with the facilities the railroads offered for the movement of freight in 1920 the farmers were pressed so hard to pay up that farm products were upon the market in such great volumes that, under pressure to sell, the greatest deflation in the price of farm products ever known in the history of this country was brought about in a few short weeks. Wheat was selling in the primary markets in June as high as \$3.09 a bushel. By December, 1920, it sold for \$1.60 a bushel, a decline of \$1.49 a bushel. It seems to me that was deflation with a vengeance. Was there not an organized effort to break down and deflate the country? It has been said by those who have made a careful investigation that the farmers of the United States through that deflation suffered a loss in the value of farm lands and farm products as compared with 1919 of more than \$30,000,000,000.

Mr. President, again quoting from the Manufacturers' Record, Mr. Joseph, of Philadelphia, raised the question of graduated rates on borrowing or rediscounts, and said:

I would like to know whether in the districts that have adopted this procedure there has been eliminated the question of borrowing on Government securities from calculation as to the line of credit granted to a bank?

Governor Harding replied:

In the Kansas City district and the Dallas district in their tentative plans they have eliminated entirely borrowing on Treasury certificates of indebtedness and on Liberty bonds actually owned on the 1st of April, 1920.

Mr. Wayne then asked:

Have they made any reference to collateral notes of the customers that have been discounted by the banks as a result of the Liberty loan subscriptions?

Mr. Bailey, of Kansas City, replied:

They have to belong to the bank on the 1st day of April. We have made that rule.

Mr. Scott said:

It is the same way in the Atlantic district.

Mr. Wells said:

He wants to know if customers' notes secured by Liberty bonds are exempt from the application of it.

And Mr. Bailey said:

They are not.

Mr. President, speaking of the damnable conspiracy to force Liberty bonds on the markets, the Manufacturers' Record, of Baltimore, has this to say:

When the Federal reserve system undertook to violate every promise made by the Government and by the banks in persuading people to buy Liberty bonds, promising to carry them and then calling loans on them in order to force them out of the banks, breaking them down from 12 to 15 points or more, the honor of the Government and the good faith of the banks trampled in the mire, millions of bonds bought in good faith by patriotic people to help the banks and help the Government were forced to be sold at a loss, and the National Government bought in \$2,000,000,000 of its own dishonest promises to pay and the Secretary of the Treasury boasted of the money that had

been saved in doing so. And at these low figures hundreds of millions of bonds were bought in by big estates and big institutions, with heavy losses to the innocent original purchasers.

Mr. President, when we think of the sacrifice that was made by a great many people to purchase Liberty bonds, of the encouragement they were given by the bankers of the country in this matter, and of the cold-blooded way in which these great bankers at their secret meetings discussed their method of forcing Liberty bonds on the market, it is not strange that we have a few anarchists in America, for it is such selfishness and greed as exhibited by these great bankers in the Federal Reserve Board meeting of May 18, 1920, that have created anarchy and destroyed governments as far back as history tells the story of the rise and fall of civilization.

Our Government was the only Government during the war that made a profit out of handling the farmers' grain. The report of the Grain Corporation shows that during the life of the Grain Corporation they made a profit over and above all expenses out of the farmers of \$62,050,778.90. We were the only country on earth during the war that fixed a maximum price on a bushel of wheat.

In 1918 and 1919 the Canadian wheat growers received \$2.45½ per bushel for their wheat, and for the crop of 1919 and 1920 they received \$2.77 per bushel for their wheat. France paid her wheat growers in 1918 and 1920 \$3.94 per bushel for their wheat, and in 1919 and 1920 \$3.83 per bushel, and in 1920 and 1921 France paid her wheat growers \$3.35 per bushel. In 1920 and 1921 Germany paid her wheat growers \$7.13 per bushel. In 1918 and 1919 Italy paid her wheat growers \$4.33 per bushel; in 1919 and 1920 \$4.20 per bushel; in 1920 and 1921 \$5.64, and in 1921 and 1922 \$7.08 per bushel. Netherlands paid her farmers \$2.23 per bushel in 1918 and 1919. During the war Portugal paid her wheat growers \$3.83 per bushel. Spain paid her wheat growers \$3.96 per bushel during the war; Sweden, \$2.95; Switzerland, \$3.25; and for the crop of 1919 and 1920 Rumania paid her farmers \$5.25 per bushel for wheat. England gave her wheat growers a guarantee, based on 32 bushels per acre, which is something above the average yield of wheat in Great Britain, of \$2.22 per bushel. So the wheat growers of Great Britain received \$71.04 per acre during the war, and after the war Great Britain increased that guarantee, and it was said that altogether England paid a bonus of something like \$150,000,000 to her wheat growers. Australia fixed a minimum price of \$1.14 per bushel, but permitted her grain growers to receive the full market price, and paid her growers a bonus of something like \$4,000,000 besides.

The action of our Government in forcing our farmers to furnish the people of Europe with wheat for less per bushel than European governments paid to their own farmers during the war, after it had increased the cost of production to the American farmer by 100 per cent, together with the action of the Federal Reserve Board, are tragedies that will leave wounds and scars in the hearts of American farmers that will never be forgotten.

Mr. President, the debates in Congress on the Federal food control act, which was approved August 10, 1917, show very conclusively that Congress intended that the wheat growers of this country should be given a fair deal. I offer for the Record section 14 of that act, which guarantees the farmers of this country a minimum price for their wheat.

The PRESIDING OFFICER (Mr. SACKETT in the chair). Without objection, the section will be printed in the Record. The matter referred to is as follows:

Whenever the President shall find that an emergency exists requiring stimulation of the production of wheat and that it is essential that the producers of wheat, produced within the United States, shall have the benefits of the guaranty provided for in this section, he is authorized, from time to time, seasonably, and as far in advance of seeding time as practicable, to determine and fix and to give public notice of what, under specified conditions, is a reasonable guaranteed price for wheat, in order to assure such producers a reasonable profit. The President shall thereupon fix such guaranteed price for each of the official grain standards for wheat as established under the United States grain standards act approved August 11, 1916. The President shall from time to time establish and promulgate such regulations as he shall deem wise in connection with such guaranteed prices, and in particular governing conditions of delivery and payment and differences in price for the several standard grades in the principal primary markets of the United States, adopting No. 1 northern spring or its equivalent at the principal interior primary markets as the basis. Thereupon the Government of the United States hereby guarantees every producer of wheat produced within the United States that, upon compliance by him with the regulations prescribed, he shall receive for any wheat produced in reliance upon this guarantee within

the period, not exceeding 18 months, prescribed in the notice, a price not less than the guaranteed price therefor as fixed pursuant to this section. In such regulations the President shall prescribe the terms and conditions upon which any such producer shall be entitled to the benefits of such guaranty. The guaranteed prices for the several standard grades of wheat for the crop of 1918 shall be based upon No. 1 northern spring or its equivalent at not less than \$2 per bushel at the principal interior primary markets. This guaranty shall not be dependent upon the action of the President under the first part of this section, but is hereby made absolute and shall be binding until May 1, 1919.

Mr. GOODING. I wish particularly to emphasize the last two sentences of section 14, as follows:

The guaranteed prices for the several standard grades of wheat for the crop of 1918 shall be based upon No. 1 northern spring or its equivalent at not less than \$2 per bushel at the principal interior primary market. This guaranty shall not be dependent upon the action of the President under the first part of this section, but is hereby made absolute and shall be binding until May 1, 1919.

Mr. President, there is a vast difference between a minimum price on a bushel of wheat and a maximum price of a bushel of wheat when the world is at war. The farmers of this country would have accepted their great losses very cheerfully, I am sure, if profiteering had been stopped in other lines of industry in America, but everyone knows that profiteering was permitted to run riot in America.

I wish to read a short statement from a publication issued by the Grain Corporation, which shows very conclusively that there was no law in this country in 1917 fixing the price of wheat. The article is headed "What the farmer wanted," and reads as follows:

It should be clearly understood that the food control act, passed by Congress in 1917, contained no reference to the crop of 1917 or its price. There was nothing in the act itself authorizing any buying basis for Government purchases, and there was absolutely no authorization to the President or anyone else to "fix" the wheat price which should govern the prices to be paid in everyday transactions by individuals. It was necessary, however, that some element of stability should exist in the wheat market, and the best way to bring this about was to establish a fair buying basis for Government pur-

chases and induce other buyers to pay the same price. But what was a "fair" price? The farmers of the Southwest, who had sold some of their 1917 crop at prices around \$2.50 per bushel, held out for a price at least that high. They were backed up by the whole agricultural interest of the Northwest, which had seen the price of spring wheat pass the \$3 mark at Minneapolis before harvest. Naturally these interests were opposed to any reduction in the price.

The farmers were interested in getting a higher price, and when the fair-price committee met here and agreed on \$2.20 a bushel for a bushel of wheat nothing was said during the meetings about that being a maximum price. The late Senator Ladd and Mr. Barrett, the president of one of the farmers' organizations, told me on numerous occasions their understanding was that it was to be a minimum price, and that they were never more surprised in their lives than when on the next day they found out it had been made a maximum instead of a minimum price by the Grain Corporation.

So, Mr. President, without any authority of law as to the crop of 1917, the Government forced a maximum price for a bushel of wheat on the wheat growers without their consent. The action of the Government, through the Grain Corporation, headed by Julius Barnes, enacted a chapter in dealing with the farmers of this country that I believe is one of the blackest pages in American history.

There is no doubt but what the fair-price committee, when it fixed the price of a bushel of wheat at the primary markets at \$2.20 per bushel, believed the Grain Corporation would carry out its promise to regulate the profit of the flour-milling companies when they pledged there should be no profiteering in flour; but the Grain Corporation utterly failed in this matter, as is shown in the report of the Federal Trade Commission on wheat-flour milling.

Mr. President, I ask to print at this point in my remarks a table showing the profits made during the five-year period of the war by the large flour-milling companies located in the Northwest, the Southwest, and the Eastern seaboard country, as shown from an investigation of the Federal Trade Commission.

The PRESIDING OFFICER. Without objection, the table will be printed in the Record.

The table is as follows:

Table showing profits during five-year period of the war by 37 flour-milling companies in certain parts of country

Year	37 companies		Northwestern group		Southwestern group		Eastern group	
	Investment	Per cent of profit	Investment	Per cent of profit	Investment	Per cent of profit	Investment	Per cent of profit
1913-14.....	\$43,687,911.12	12.6	\$26,671,525.22	13.8	\$6,293,539.56	11.3	\$10,722,846.34	10.5
1914-15.....	45,830,752.49	17.2	27,843,276.69	10.4	5,954,412.73	20.9	11,033,063.07	9.1
1915-16.....	48,248,643.87	13.1	29,520,392.40	15.7	7,807,301.72	12.5	10,920,949.75	6.5
1916-17.....	55,382,957.48	38.4	34,673,062.86	44.7	9,293,918.23	34.2	11,415,976.39	22.8
1917-18.....	65,771,847.33	34.1	41,321,145.44	32.7	11,794,511.56	42.6	12,656,190.33	20.8

Mr. GOODING. This table shows that the 37 companies, with an investment of something over \$43,000,000, made 12.6 per cent profit in 1914; in 1915 they made a profit of 17.2 per cent; in 1916, 13.1 per cent; and in 1917, when regulated by the Grain Corporation, the same 37 companies made 38.2 per cent profit. In 1918 they increased their investment from \$48,000,000 to \$65,000,000, and were permitted by the Grain Corporation to earn in that year 34.1 per cent on their capitalization, which had been increased in two years out of the earnings of the company from \$48,000,000 to \$65,000,000.

It must be remembered these 37 companies are the large flour-milling companies of the northwestern group, the southwestern group, and the eastern group.

Mr. President, when the Grain Corporation, headed by Julius Barnes, permitted the flour mills of this country to become profiteers, as is shown in the report of the Federal Trade Commission, they trampled into the mire the solemn pledge made to the farmers that no profiteering was to be permitted by the flour mills of the country. While the farmers and wheat growers of this country were tied down to the cost of production of a bushel of wheat, which at times during the Federal food control act was below the actual cost of production, profiteering, as everyone knows, ran riot in America during the war; and the action of the Grain Corporation, headed by Julius Barnes, toward the wheat growers of this country under the food control act was nothing less than tyranny.

Mr. President, it is said that it is the net results in this life that count after all. On the 18th of this month six years had passed since the Federal Reserve Board held their secret meeting in this city in 1920, at which they started to deflate

the country. In 1910 the mortgage indebtedness of the farmers of this country was \$4,320,000,000; in 1925 it was \$12,250,000,000.

It has been estimated that in the increased indebtedness of the farmers and the shrinkage in the value of farm lands and farm products, as compared with 1919, the farmers of this country have sustained a loss since 1920 of more than \$30,000,000,000.

Mr. President, I offer for the RECORD a special report to the President by the Secretary of Agriculture on the wheat situation. This report is for the fiscal year ending June 30, 1923.

The PRESIDING OFFICER (Mr. FRAZIER in the chair). Without objection, the report will be printed in the Record.

The matter referred to is as follows:

When the price deflation came in 1920 the farmers who had accumulated large debts were seriously embarrassed. While the majority of them have been successful in tiding over their financial difficulties, a substantial number have not. This situation is brought out in a special inquiry made by the Department of Agriculture in the spring of 1923. Reports were secured from 15 States, covering the period January, 1920, to March, 1923.

Out of over 68,000 farm owners included in this survey, 4 per cent lost their farms through foreclosure or bankruptcy, 4½ per cent lost their farms without legal proceedings, and a little over 15 per cent had been spared such loss up to March, 1923, only because of the leniency of their creditors.

Out of almost 26,000 tenant farmers, 7.2 per cent lost property through foreclosure or bankruptcy, 7.8 per cent lost property without legal proceedings, and 21.3 per cent retained their property merely as a result of the leniency of creditors.

The seriousness of the situation is further reflected in the records of the bankruptcy courts. While the total number of bankrupt cases among farmers is not large, it must be remembered that the farmers as a rule do not resort to the bankruptcy courts when forced to give up property to creditors. The significance of the record lies, therefore, in the increase and distribution of such cases rather than in their absolute number. The records of the Department of Justice show that during the pre-war years 1912-1914 an average of 5.5 per cent of all bankruptcy cases were farmers, while in 1922 the percentage was 14.4. The resort by farmers to bankruptcy courts was especially pronounced in the more specialized wheat regions.

In the western winter-wheat region farmer bankruptcy cases in the pre-war years averaged 8 per cent of all cases; in 1922 this percentage had increased to 25. In the spring-wheat region the percentage increased from almost 22 per cent of all cases in the pre-war years to 48.9 per cent in 1922. The increase in bankruptcy cases among farmers in the Pacific Northwest States is also marked, particularly in Idaho, where almost 47 per cent of all cases put through the bankruptcy courts in 1922 involved farmers. The percentage of bankruptcies among farmers in 1922 was especially high in Iowa, Kansas, Nebraska, Colorado, North Dakota, South Dakota, Montana, and Idaho, ranging from 32.6 per cent of all cases in Nebraska to 78.5 per cent in North Dakota. Preliminary reports indicate that bankruptcies of farmers for the fiscal year ending June 30, 1923, will materially exceed those of 1922.

Mr. GOODING. Mr. President, in this special report by the Secretary of Agriculture on the wheat situation for the fiscal year ending June 30, 1923, he shows that in 1922, 1,220,000 of our farm population left the farms. He also shows that in those States where the survey was made of 68,000 farmers, 4½ per cent lost their farms through legal proceedings and that a little over 15 per cent had been spared such a loss up to March of 1923 only because of the leniency of their creditors.

Out of a survey of over 26,000 tenant farmers, it was shown that 7.2 per cent lost their property through foreclosure or bankruptcy, and that 7.8 per cent lost their property without legal proceedings, and that 21.3 per cent retained their property merely because of the leniency of their creditors.

Mr. President, there has been a decided improvement in the wheat situation in the United States since 1923, but this has only been brought about through the misfortunes of the wheat growers in Canada and in some parts of our own country. I shall discuss this feature again when I refer to the maps I have had placed here in the Senate Chamber, where they can be observed by the Senators.

Mr. President, I have here the number of national-bank failures in all of the States since 1910. The total number of bank failures—State and national—since June 30, 1920, in this country is 2,502. This does not include the State banks that have failed since June 30, 1925, or the national-bank failures since the 1st of January, 1926.

So, Mr. President, since 1920 we have had bank failures in this country at the rate of 500 a year. When 62 national banks and 212 State banks failed in the great panic of 1893 it was looked upon with astonishment and has been referred to on a great many occasions in the past; but here, Mr. President, we have an average of 500 bank failures for the past five years, and they are still failing at about the same ratio, and what a story they tell!

I want to call the Senate's attention to the fact that practically all of the bank failures that have occurred since 1920 are in the agricultural States, and that the bank failures in the industrial States are less than they were before the crash came to agriculture in 1920.

The State of Alabama since 1910 has had four national-bank failures. One of them was before 1920. The others have occurred since 1920. I will take just a few of the States where the largest number of failures have occurred.

In the Eastern States, where the great industries are located, there have been no bank failures to speak of since 1920, and very few before that time.

Connecticut had one national-bank failure between 1910 and 1920. Since 1920 it has had only one more national-bank failure.

Florida had six national-bank failures before 1920 and one national-bank failure since 1920.

Georgia had five national-bank failures during the 10 years prior to 1920 and seven national-bank failures since that time.

Idaho had 2 national-bank failures from 1910 up to 1920, and 20 national-bank failures in the last five years and a half.

Illinois had one national-bank failure from 1910 up to 1920, and two national-bank failures since 1920.

Iowa—the great agricultural State of Iowa—had one national-bank failure in 1914. That is, from 1910 to 1920 the great State of Iowa had only one bank failure. Since that time it has had

19 bank failures. These are national banks. This does not tell the story of the State banks.

Kansas had two national-bank failures from 1910 to 1920, and it has had five bank failures since that time.

Massachusetts has had one national-bank failure since 1920. Maryland has had one national-bank failure since 1920.

Maine has had none. Michigan has had no national-bank failures since 1920. It had one in 1912.

Minnesota had two national-bank failures before 1920; that is, from 1910 to 1920 Minnesota had two national-bank failures. Since 1920 Minnesota has had 26 national-bank failures.

Montana had one national-bank failure in the 10 years from 1910 to 1920. Since 1920, including 1920, Montana has had 50 national-bank failures.

Nebraska had two national-bank failures before 1920. Since 1920 it has had 15 national-bank failures.

New Mexico had one national-bank failure before 1920. Since 1920 it has had 19 bank failures.

New York had four national-bank failures from 1910 to 1920, and one bank failure since 1920.

North Carolina had one national-bank failure before 1920, and seven since 1920.

North Dakota had one national-bank failure in the 10 years from 1910 to 1920. Since 1920, including 1920, it has had 33 national-bank failures.

The State of Ohio from 1910 to 1920 had seven national-bank failures, but since 1920 it has had only two national-bank failures.

Oklahoma had only 1 national-bank failure between 1910 and 1920 and 35 national-bank failures since 1920.

Pennsylvania had 11 national-bank failures from 1910 to 1920 and 5 national-bank failures from 1920 to 1925.

South Dakota had 1 national-bank failure from 1910 to 1920 and had 34 national-bank failures from 1920 to the 31st of December, 1925.

These are only national-bank failures and tell only a small part of the story.

Texas had 4 national-bank failures in the 10 years from 1910 to 1920 and had 22 national-bank failures since that time.

Vermont has had no bank failures in the last 16 years.

Utah had no bank failures for 10 years, but since 1920 it has had 3 national-bank failures.

Virginia had no national-bank failures from 1910 to 1920, but it has had one since 1920.

Wisconsin had no national-bank failures for the period between 1910 and 1920, but it has had five national-bank failures since.

The State of Washington had one national-bank failure before 1920 and five since 1920.

The State of Wyoming had no national-bank failures for the 10 years between 1910 and 1920. Since 1920 it has had 11 bank failures.

Mr. President, I ask permission to have printed in the Record a table showing in detail the national-bank failures to which I have referred.

The PRESIDING OFFICER. Without objection, it will be so ordered.

The table is as follows:

Total number of national-bank failures in the United States from Jan. 1, 1910, up to and including Dec. 31, 1919..... 82
 Total number of national-bank failures in the United States from Jan. 1, 1920, up to and including Dec. 31, 1925..... 379
 Total number of national-bank failures east of Chicago (i. e., Michigan, Indiana, Ohio, New York, Pennsylvania, Maine, New Hampshire, Vermont, Rhode Island, Delaware, Massachusetts, New Jersey, Connecticut, Maryland) before 1920..... 29
 Total number of national-bank failures east of Chicago (same States as enumerated above) since 1920..... 13

Total number of national-bank failures in the following States

	Since 1920	Before 1920
California.....	9	1
Colorado.....	11	4
Idaho.....	20	2
Iowa.....	19	1
Kansas.....	4	3
Minnesota.....	26	2
Montana.....	50	1
Nebraska.....	15	2
North Dakota.....	33	1
South Dakota.....	34	1
Oklahoma.....	36	0
Texas.....	22	4
Wyoming.....	10	1
Washington.....	5	1
Wisconsin.....	5	0
Utah.....	3	0
Total.....	302	24

Mr. GOODING. Mr. President, the point I want to make is that these bank failures in the agricultural States of the Union tell the story of agriculture as fully as the increased mortgages that are on record and the increased indebtedness of the farmer, because I think we all know that it was the condition of agriculture, the deflation forced upon agriculture in this country, together with the increased cost of production forced upon agriculture by our own Government, that destroyed agriculture and created a condition impossible for the farmers to meet.

Mr. President, the saddest thing I know is to see a man, after he has passed the meridian of life lose the earnings of a lifetime without any fault of his own and forced to commence life's work over again to provide a home for his declining years. This is made doubly hard when he knows and understands that in his efforts to produce more wheat to help win the war he was forced to produce it at a loss or be branded as disloyal and a traitor to his country.

As a member of the Agricultural Committee of the Senate, I have listened to some distressing stories from bankers, farmers, and business men coming from the wheat-producing States. I am glad to say, however, that those distressing conditions do not exist any longer. But the wheat growers are still faced with an impossible condition. Mr. John F. Sinclair, a banker of Minneapolis, told the committee the distressing story of 168 suicides upon the farms of Minnesota, North and South Dakota, and Montana in 1922. I sometimes wonder what the condition in the home must be when strong men break down over their losses and weep like a beaten child and then commit suicide.

The story was told of farmers being so poor in some of those States that when death entered the home some one was forced to build a rough wooden box for burial, as there was no money in the family to pay funeral expenses. The story was told of how children had to be kept out of school, as their parents were too poor to buy shoes and clothing to keep them warm.

Mr. President, what a terrible condition that is to exist in a great country like this, where there is so much prosperity and so much wealth; in a country that now boasts of more than half of all the gold in the world; in a country where men are fast becoming billionnaires.

Surely every Senator must agree that a very strange condition exists in this country with our farm population leaving the farm at from half to one million every year and farmers giving up their farms in a wholesale manner while the wealth along every other line in this country has been increasing at a rate almost beyond belief.

In 1914 the total wealth of this country was estimated at \$200,000,000,000, in 1922 at \$320,000,000,000, in 1924 at \$350,000,000,000, and in 1925 the total wealth of this country was estimated at \$356,000,000,000. In 1922 the total wealth of the British Empire was estimated at \$180,000,000,000, of France at \$100,000,000,000, of Italy at \$30,000,000,000, and the total wealth of Japan was estimated at \$25,000,000,000.

Since 1914 this country has accumulated more wealth than France, Italy, and Japan combined, and almost as much as the total wealth of the British Empire, which has been accumulating its wealth for a thousand years. This country is generous to a fault, for since the war it has given a billion dollars to charity abroad, and last year it was estimated that the American people spent \$500,000,000 in foreign countries, most of which was spent in Europe for pleasure; but some day, Mr. President, unless we do something for agriculture, it will be necessary for us to begin charity at home.

Mr. President, here is a most interesting statement from the Comptroller of the Currency, which deals with the deposits in banks for the fiscal years of 1914 and 1925:

On June 30, 1914, there was deposited in national banks in this country \$8,565,000,000. On June 30, 1925, we had \$19,909,000,000 in national banks, and in State and commercial banks on June 30, 1914, we had \$3,411,009,666; while in 1925, in the same banks, we had on deposit \$13,402,017,000.

In loan and trust companies in 1914 we had \$4,280,095,458, and in 1925, \$9,465,628,000.

Deposited in stock savings banks in 1914 we had \$1,031,672,932, and in 1925, \$1,926,336,000.

Deposited in mutual savings banks in 1914 we had \$3,915,795,392, and in 1925, \$7,151,803,000.

Deposited in private banks for the fiscal year 1914 we had \$148,517,930, and in 1925 in private banks we had \$127,479,000, making a total amount deposited in all banks for 1914 of \$21,359,842,316, and for 1925 of \$51,982,932,000.

I ask to have the statement printed in the RECORD.

The PRESIDING OFFICER. Is there objection?

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

Total deposits all banks 1914 and 1925

Class of bank	June 30, 1914	June 30, 1925
National.....	\$8,563,750,926.12	\$19,909,000,000.00
State (commercial) banks.....	3,411,009,666.61	13,402,017,000.00
Loan and trust companies.....	4,280,095,458.29	9,465,628,000.00
Stock savings banks.....	1,031,672,932.97	1,926,336,000.00
Mutual savings banks.....	3,915,795,392.34	7,151,803,000.00
Private banks.....	148,517,930.02	127,479,000.00
Total banks other than national.....	12,796,091,390.23	32,073,263,000.00
Total all reporting banks.....	21,359,842,316.35	51,982,932,000.00

Mr. GOODING. Mr. President, in 1914 foreign countries had \$4,500,000,000 invested in this country, and since 1914 it is said we have paid off \$3,000,000,000 of that indebtedness. In 1914 the American bankers and financiers had \$2,000,000,000 invested in foreign securities, and it is said that to-day American bankers and financiers have something over \$8,000,000,000 invested in foreign securities. There is not a civilized country on earth that is not indebted to American bankers and financiers, and in some of the smaller countries the American bankers have taken over the customhouses to insure the payment of their loans.

American capital has several billion dollars invested in industries in foreign countries. American capital has something over a billion dollars invested in Cuban sugar plantations; nearly a billion dollars in Czechoslovakia in sugar, steel mills, and glass factories and sawmills, together with great landholdings. It is said that in China American capital controls the dried-egg industry.

So we are not a poor country. We have more wealth, I was about to say, than all the rest of the world. I will not say that, because that would be taking in a great deal of territory; but we have more than all of Europe combined. The farmers are now coming here asking for some legislation to enable them to make something beyond the cost of production.

I now want to discuss briefly the maps on the wall.

ORDER OF BUSINESS

Mr. FESS. Mr. President, I suggest the absence of a quorum. The PRESIDING OFFICER (Mr. FRAZIER in the chair). The clerk will call the roll.

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

Ashurst	Ferris	La Follette	Robinson, Ind.
Bayard	Fess	Lenroot	Sackett
Bingham	Fletcher	McKellar	Schall
Blease	Frazier	McMaster	Sheppard
Bratton	George	McNary	Shipstead
Broussard	Gerry	Mayfield	Shortridge
Bruce	Gillett	Means	Simmons
Cameron	Goff	Metcalf	Smoot
Capper	Gooding	Moses	Stanfield
Caraway	Hale	Neely	Steck
Copeland	Harrelld	Norbeck	Stephens
Couzens	Harris	Nye	Swanson
Cummins	Harrison	Oddie	Trammell
Curtis	Heflin	Overman	Tyson
Dale	Howell	Phipps	Underwood
Deneen	Johnson	Pine	Wadsworth
Dill	Jones, N. Mex.	Pittman	Walsh
Edge	Jones, Wash.	Ransdell	Warren
Edwards	Kendrick	Reed, Pa.	Willis
Ernst	King	Robinson, Ark.	

The PRESIDING OFFICER. Seventy-nine Senators having answered to their names, a quorum is present. The hour of 2 o'clock having arrived, Senate Resolution 31 will go to the calendar. The Chair lays before the Senate the unfinished business, which is Senate bill 2607, the migratory bird bill. The Senator from Idaho is entitled to the floor.

Mr. LA FOLLETTE. Mr. President, will the Senator from Idaho yield to me for a moment?

Mr. GOODING. I yield.

Mr. LA FOLLETTE. I desire to ask unanimous consent for the present consideration of the bill (H. R. 10859) to provide for the transfer of certain records of the General Land Office to States, and for other purposes.

I desire to state that through a misunderstanding last night at the session when I could not possibly be present, the Senator from Connecticut [Mr. BINGHAM] asked that the bill go over under the impression that I was opposed to the measure. As a matter of fact I am in favor of its passage and am anxious to have it disposed of. It simply provides for the return to the States of certain records of the Public Land Office after the Government Land Office has concluded with the use of them and it protects the preservation of the

records. The bill was unanimously reported by the House Committee on Public Lands, was passed by the House, and was unanimously reported by the Senate Committee on Public Lands and Surveys. I am sure there is no opposition to it. I will say to the Senator from Idaho that if it provokes any debate I will withdraw my request.

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

Mr. TRAMMELL. Mr. President, I do not like to object, but in view of the fact that we have occupied two hours here discussing farm legislation when I was trying to bring up for consideration my resolution which had to do with the recent increase in the prices of gasoline, and that we put off a matter of that character and of great importance to the American people, it seems to me there is no reason why we should take up little measures out of order like the one suggested. I demand the regular order.

The PRESIDING OFFICER. Objection is made to the request of the Senator from Wisconsin.

REMISSION OF DUTY ON BELLS FOR CARILLON PURPOSES

Mr. FLETCHER. Mr. President—

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

Mr. FLETCHER. I ask unanimous consent, out of order, to introduce a bill to admit free of duty certain bells for carillon purposes, and also a bill to remit the duty on a carillon of 56 bells to be imported by Edward W. Bok, of Philadelphia, Pa., to be installed by him in a tower at or near Mountain Lake, Fla., the carillon to be operated for the enjoyment and benefit of the public.

I will state that the reason for this action on my part at this time is that Mr. Edward W. Bok proposes to erect on his sanctuary at Mountain Lake, in Polk County, Fla., the finest carillon perhaps to be found in the whole country. It requires 56 bells. Such bells are not manufactured in the United States. My understanding is it is necessary that the bells shall have a certain tone, to carry a certain vibration, and that sort of thing, which does not in any way compete with bells manufactured in the United States.

The duty on bells is 40 per cent, so that if Mr. Bok has to pay \$100,000 for the 56 bells to compose this carillon it would take \$40,000 to get them into the country, which would make the cost prohibitive. I am asking that the Finance Committee, if they can see their way clear to admit free of duty bells for such a public purpose, shall recommend a bill to that end. Such a duty does not protect American manufacturers at all, because no American manufacturers make these bells.

Mr. JONES of Washington. Does the Senator think a bill like that can properly originate in the Senate?

Mr. FLETCHER. I am not sure about it, but bills have been introduced in the Senate on the subject.

Mr. SMOOT. Mr. President, I will say to the Senator that the subject is now before the Committee on Finance and is being considered. The committee took an unfavorable position on the matter. The question also arose as to whether the Senate has a right to enact legislation of that sort, as the Constitution provides that any bills affecting revenue must originate in the House. I will say to the Senator that no doubt the same bill will be introduced in the House, and if it is passed there and comes to the Senate we can take it up here immediately.

Mr. FLETCHER. I shall endeavor to arrange to have the same bill introduced in the House, but in the meantime I am asking the Senate Committee on Finance to consider the matter. I am going to ask unanimous consent now to have printed as a Senate document a pamphlet on the subject of Carillons and the Carillon to be Imported Into this Country for the Park Avenue Baptist Church, New York. I ask that the pamphlet may be printed as a public document.

The PRESIDING OFFICER. Without objection, the pamphlet will be printed as a public document [S. Doc. No. 118].

The bills introduced by the Senator from Florida will be read by title and referred.

The bills were read twice by title and referred to the Committee on Finance, as follows:

A bill (S. 4326) to admit free of duty certain bells for carillon purposes; and

A bill (S. 4327) to remit the duty on a carillon of 56 bells to be imported by Edward W. Bok, of Philadelphia, Pa., to be installed by him in a tower at or near Mountain Lake in Florida, the carillon to be operated for the enjoyment and benefit of the public.

INTERSTATE AND FOREIGN COMMERCE IN COAL

Mr. COPELAND. Mr. President, will the Senator yield to me a moment?

Mr. GOODING. I yield for a question; but if the Senator desires to take any time I must insist on finishing my remarks.

Mr. COPELAND. I want to submit a request for unanimous consent.

Mr. GOODING. I will yield for that purpose.

Mr. COPELAND. I will state to the Senate that I am under obligation to leave Washington to-morrow for a week and I desire to have the coal bill, Calendar No. 763, Senate bill 4177, given consideration, if possible, before I go away. I think that it will not interfere with the machinery of the program if the bill is given consideration immediately after the Senator from Idaho has finished his speech. It may defer action upon the migratory bird bill for a few hours, but nothing can be more important than the question of the poor people of the country getting coal.

Mr. GOODING. Mr. President, I shall have to object to taking up any other measure at this time, or in the future, so far as that is concerned, until we have disposed of farm legislation. I expect that some disposition will be made in the House of the farm legislation which they have been discussing over there for a week. I am sure the Senator would not want to displace farm legislation or interfere with an opportunity to discuss it in the Senate. I understand the Senator from Oregon [Mr. McNARY] will be ready very shortly to move to proceed to the consideration of farm legislation.

Mr. McNARY. Mr. President, I appreciate the necessity for reasonable expedition in the matter of farm legislation. I can assure the Senator from Idaho and others within the range of my voice that this session of Congress will continue until we have ample time for its consideration.

I wish to say to the Senator from New York [Mr. COPELAND] that if I were able to-day or to-morrow to have the farm relief legislation made the unfinished business, I would be willing to yield to him for a short time, because he told me of the necessity of leaving the city to go to the bedside of his father. I think the courtesy is due him to that extent, and should I be able to get the farm relief measure made the unfinished business so that we would be assured of its early consideration, I would yield to the Senator from New York under these peculiar conditions.

Mr. COPELAND. I very much appreciate what the Senator from Oregon has said. I have no other purpose in mind except to have some understanding about it. May I ask the Senator from Oregon what he understands now to be the situation?

Mr. McNARY. The migratory bird bill is the unfinished business. After that is disposed of, it is the hope of the Senator from Oregon that the unfinished business may become the farm relief measure, which is now on the calendar. Just when that will occur would be known only to a prophet. I hope I may get it made the unfinished business to-morrow or not later than Monday noon if we should adjourn over until Monday.

Mr. COPELAND. I appeal now to the leader of the majority, the Senator from Kansas [Mr. CURTIS]. I assume, of course, that at some time coal legislation is to be considered. Would it seriously disarrange the program if the Senator permitted the coal legislation to be taken up now?

Mr. CURTIS. Mr. President, I have no authority to agree to such an arrangement. I am told that the Senator from West Virginia [Mr. NEELY], who is absent at the moment, and one or two other Senators are opposed to taking up the coal bill at this time, and that it would take several days to dispose of it when it is taken up. Of course, I would not undertake to arrange any program. The Senator may, of course, do as he pleases, but I would prefer to carry out the program which has been arranged by the steering committee.

Mr. COPELAND. I have no disposition to forestall the Senator from West Virginia or any other Senator, because, as I see it, every Senator who has a view either for the legislation or against it must have an opportunity to express his view. I am simply asking the Senator if it is possible to arrange the program in such a way as to accommodate my necessity. I must leave the city to-morrow afternoon and I would like very much and I would feel very much happier to know that this matter had been disposed of or considered.

Mr. ROBINSON of Arkansas. Mr. President, the body at the other end of the Capitol is just now voting on so-called farm relief legislation.

Mr. McNARY. The vote is being taken on the motion to recommit the legislation to the Agricultural Committee.

Mr. ROBINSON of Arkansas. Yes; and the indications are that the motion to recommit will prevail by a very large majority. In view of that situation, I think that an opportunity ought to be given to consider the bill which has been reported from the Committee on Education and Labor by the Senator from New York [Mr. COPELAND] relating to coal. The subject

matter of that bill has been under consideration by the committee for several months. Every year heretofore since the war we have had this experience: A controversy has arisen between the coal operators and the miners, resulting in the closing down of many of the mines, a reduction of production, and increases in the cost of coal. It is true that a composition was made after the winter season had passed and production was resumed, but there is nothing conclusively showing that the next season will not present the same difficulties that have heretofore arisen. Certainly some time ought to be given to the consideration of legislation on this subject. The Senator from New York has been quite patient about the matter. The majority steering committee apparently has given no consideration whatever to legislation on the subject.

Mr. CURTIS. Mr. President, may I interrupt the Senator from Arkansas?

Mr. ROBINSON of Arkansas. Yes; I yield to the Senator.

Mr. CURTIS. There has been no meeting of the steering committee since this measure was reported, but I have agreed to present it to the steering committee at its next meeting, which I hope will be to-morrow or Monday. I do not yet know when it will be; I am not a member of the committee; but I am going to ask the committee to meet, because I think some legislation on this subject ought to be enacted. So I shall ask the committee to take up and consider the question when they meet if no other disposition shall be made of it.

Mr. GOODING. Mr. President, I wonder if I might not be permitted now to go ahead and finish my remarks?

Mr. ROBINSON of Arkansas. Just a moment.

Mr. WILLIS. Mr. President, will the Senator from Idaho yield to me for a brief suggestion?

Mr. COPELAND. I appeal to the Senator from Idaho for just a moment. Let us have this measure considered. It is a matter near to my heart, and I am under the painful necessity of going away to-morrow.

Mr. ROBINSON of Arkansas. Mr. President—

The PRESIDING OFFICER. The Senator from Idaho [Mr. GOODING] has the floor.

Mr. SMOOT. Mr. President, the Senator from West Virginia [Mr. NEELY] and one other Senator—I forget who he was—gave notice that if this bill came up they desired to talk upon it, I think they said for days.

Mr. JONES of Washington. Until the 15th of next November.

Mr. SMOOT. Yes; until the 15th of next November. I do not believe that the bill ought to be brought up in the absence of the Senator from West Virginia.

Mr. ROBINSON of Arkansas. Of course, any Senator may object to the request for unanimous consent made by the Senator from New York, but any Senator who does so makes the objection upon his own responsibility. I understand that the request has been presented, and when the Senator from New York shall have concluded his statement I shall ask the Chair to submit the question.

Mr. SMOOT. The Senator from Idaho has the floor.

Mr. GOODING. I usually yield in a spirit of fairness to any measure and to any Senator, but I should like now to be permitted to go ahead and finish my remarks.

Mr. ROBINSON of Arkansas. The Senator from Idaho will have that opportunity. He is speaking now upon a question which is not before the Senate, but there will be no difficulty about his finishing his speech, and he will be permitted in a few moments to proceed. The Senator from New York, however, has submitted a request, and under the practice which prevails here we discuss such questions. I think an arrangement ought to be made to consider the bill reported by the Senator from New York.

Mr. WILLIS. Mr. President—

Mr. COPELAND. Just a moment please. Mr. President, I know that no Senator will try by parliamentary tactics of any sort to defeat a brief calm discussion at this time as to what should be done with the bill. So far as I am concerned, I want the Senator from West Virginia or any other Senator to have all the time he may need to discuss his opposition to the bill. It may not be the desire of the Senate to pass this legislation; I am not assuming that it is the desire of the Senate to do so; but for myself I feel that nothing is more important to the welfare of the people of the country than to have legislation of this sort enacted and I am sure the Senate is going to give that consideration to the subject which its importance demands. I hope before we finish this little conference in all good feeling we may agree about what shall be done in the matter, so that we may then consider the subject wholly upon its merits.

Both the migratory bird bill and the farm relief bill, in which the Senator from Idaho [Mr. GOODING] is so interested, meet my full approval. I want to see them passed; I do not want to see Congress adjourn until they shall have been enacted into law. Here, however, is a peculiar situation. I am sorry to put it on personal grounds, but because I am interested in the subject I am anxious to be here when the bill is considered. I can not be here next week. I can not see how the ultimate disposition of other bills now pending will suffer at all if they shall wait a little while to enable us to consider this bill. It is in that spirit that I now ask unanimous consent that when the Senator from Idaho shall have finished his speech we may take up this bill. The Senator from West Virginia [Mr. NEELY], who is in opposition, is now in the Chamber. I want him to be heard to the fullest length; I have no disposition to hasten action until every Senator shall have been satisfied; but I do hope that action will be taken.

Mr. NEELY. Mr. President, will the Senator from New York yield to me?

Mr. COPELAND. The Senator from Idaho [Mr. GOODING] has the floor.

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

Mr. GOODING. Mr. President, I do not think I ought to yield any further, other than for a short statement, for I desire to conclude my remarks. I have not much more to say. I wish merely to call the attention of Senators to the charts on the wall. I am not going to take up much more time, and I hope I may be permitted to conclude my speech.

Mr. COPELAND. I ask the Senator from Idaho to give us just a few minutes further time.

Mr. NEELY. I will not consume more than a minute.

Mr. GOODING. I cheerfully yield to the Senator for that length of time.

Mr. NEELY. Mr. President, if I were at liberty to follow my inclinations instead of my judgment, I should accede to any request that the distinguished Senator from New York [Mr. COPELAND] might make. But I am convinced that the enactment of his coal bill into law would injure a great industry of the State of which I have the honor to be one of the representatives in this body.

Therefore I am impelled to inform the Senator that if he is obliged to leave the city at an early date, he should entertain no hope of passing his bill through the Senate before he departs. Many days will be consumed by those of us who are unalterably opposed to this measure in debating its objectionable provisions.

Mr. COPELAND. Of course, Mr. President, the Senator will have to take those two or three days anyway, and we might have a sample for the next few hours of what he intends to say, and then we might determine how much time we could assign to him in the future.

Mr. GOODING. Mr. President, I wonder if I may be permitted now to proceed.

Mr. WILLIS. Mr. President, will the Senator yield to me for a moment?

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

Mr. GOODING. I suppose I will have to yield to the Senator.

Mr. WILLIS. Mr. President, I want to say to my friend from New York that it is not possible to take up this bill and have it passed upon before the Senator says he must leave. I think it is altogether proper that he should be here when any measure on this subject is considered, but I can say to him that I know it is not possible to consider this bill and to act upon it before the time when the Senator says he must leave. The Senate will be in session when he comes back here at the end of 10 days and there will be ample opportunity to consider the measure.

Mr. GOODING. Mr. President, I am not going to yield any longer. It is quite clear that this matter can not be disposed of within a reasonable time.

Mr. WILLIS. I thank the Senator.

Mr. GOODING. I will detain the Senate only a few minutes more.

Mr. COPELAND. Mr. President, will the Senator yield to me for a minute or two?

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

Mr. GOODING. I yield to the Senator from New York for two minutes.

Mr. COPELAND. I ask unanimous consent that Senate bill 4177 be made a special order for Monday, the 31st of May.

The PRESIDING OFFICER. Is there objection to the request presented by the Senator from New York?

Mr. WILLIS. Mr. President, for the reasons that Senators have already stated, for the additional reason that the day named is a holiday, and for the further reason that I do not approve of the policy at this time in the work of the Senate of individual Senators picking out particular bills and making their special orders to the end that every other measure of legislation may be crowded out, I feel compelled to object to the request.

Mr. COPELAND. Then I move that the bill be made a special order for Tuesday, June 1.

Mr. GOODING. Mr. President, will not the Senator defer making that motion until I shall have concluded? I think I have been very liberal in yielding. I have been on the floor some time, and I should like now to conclude my remarks.

Mr. COPELAND. I thank the Senator, and when he has concluded I shall renew my motion.

FARM BELIEF

Mr. GOODING. Mr. President, I should like to call the attention of Senators for a few moments to the charts on the wall. I am not going to discuss them at any great length to-day. They are placed there with the hope that Senators will study them. While they do not altogether tell a true story of agricultural conditions, yet the basis is there for the story, for they set forth the relationship that exists between the wholesale prices of commodities and the prices of farm products. As will readily be realized, wholesale prices do not represent the farmer's dollar, because he never buys wholesale; his products must be based on the retail dollar, if we are going to get a true picture of the purchasing power of his dollar.

There is this feature to which I wish to call the attention of Senators: This dotted line [indicating on chart] represents the prices of all commodities which the farmer must buy. This black line [indicating], showing violent fluctuations, mountain peaks and deep gulches as they might be called, represents the farmers' prices.

Mr. President, there is not an industry of any kind in America that could exist under the wild price fluctuations to which the products of the farmers have been subjected. I hope Senators will study these charts and appreciate what they mean. No industry of any kind, manufacturing or otherwise, can continue to exist if the value of the commodity which it produces decreases 50 or even 75 or more per cent in a few months, as the prices of agricultural products. Take cotton, for instance: This high point on the chart [indicating] represents a price of 37 cents a pound, and this low point on the chart [indicating] shows a price of 6 cents a pound. It is impossible for any line of industry to meet such conditions. The chart shows here [indicating] that the price dropped in 1920 from 37 cents a pound to 9 cents a pound some time in 1921. Such a tremendous decrease in price can only mean bankruptcy to any line of industry. The charts on the wall show that similar conditions apply as to all farm commodities represented by the various lines on the chart.

The bill does not propose to collect any equalization tax on cotton for three years. The House bill has been amended to make the time two years, and provides that the cotton growers shall then come in and collect their tax, the same as the growers of other commodities, for which the bill provides a tax or an equalization fee.

As far as cotton is concerned, I am very much in favor of deferring it for two years, providing the bill will provide that at the end of that time the cotton growers will come in—that is, if they want to come in at that time—and take the same position that the producers of all other agricultural products take, and, if there is any loss in the handling of farm products, that they themselves shall sustain the loss.

Mr. OVERMAN. Mr. President, does the Senator's bill provide that they shall come in voluntarily or that they shall be forced in at the end of that period of three years?

Mr. GOODING. I understand that under the Senate bill legislation will be required before they come in, but I do not think that is fair. I think if the Government advances to the cotton growers a revolving fund of \$75,000,000 for them to carry on their business with, and it proves a success, the cotton growers no doubt will be glad to come in. The cotton growers would have come in at this time; all those who represented the cotton growers and came here before the Agricultural Committee were very anxious that the cotton growers should be placed in the same status in the bill that the corn growers and the hog raisers and the cattle raisers and the wheat growers occupy; but it was thought best to make this other arrangement, owing to the fact that cotton occupies an entirely different position, as far as marketing is concerned, than wheat and corn. Producing, as we do, something like

65 per cent of the cotton of the whole world, there is no reason why there ought to be a loss, properly handled, in taking care of cotton. The chances are that there may be a profit there, as there is also a chance, of course of a loss.

In the case of a crop that dominates the whole world, like cotton, I believe it is clearly the duty of this Government to see that the growers get a fair price, and I think it can be easily handled properly unless you want to continue a wreck-and-ruin policy toward agriculture.

Mr. President, all the great industries are able to stabilize the price of their own products. When there is in the market an overproduction of the products of a manufacturer, he can close down very properly, and public opinion sustains him in closing down. The farmer can not do that; and it is very fortunate that he can not do it, because, if he could, the country might at some time or other suffer from a lack of food.

It is with agriculture the same as it has always been; it is either a feast or a famine. I am satisfied if this legislation is passed so as to bring about an orderly intelligent marketing, then the average price of cotton in the future will not be far from the average price the American people have paid in the last few years. The cotton growers are entitled to a fair price for the production of cotton. If it is necessary to increase the price of cotton to give the cotton growers a fair price for its production, the American people should be willing and glad to accept that increase. The cotton growers, like the wheat growers and every other grower of farm products, have had an increased cost of production forced upon them for which they are not responsible, and in considering this legislation that is the most important feature of all to be considered.

If this legislation is passed, Mr. President, the cotton growers could not afford to place an unreasonable price on that commodity; it would mean the development of cotton in other parts of the world, and we have every reason to believe if this legislation passes, and the commission is created with a commissioner for every line of agriculture represented, the same business methods will be used that are used in the great industries to-day.

All that the farmer is asking is to be allowed to do business along the same lines and with the same methods with which the Government permits the great industries to transact their business. They fix prices. Is there any doubt in the mind of any Senator here but that the steel people fix the price of steel? Is there any doubt in the minds of Senators but that Pittsburgh plus is still in existence, where they charge the freight rate to Gary, Ind., from Pittsburgh, Pa., on steel? It is said that the farmers pay millions of dollars every year in the way of freight on steel over a long line of railroad that the car is never hauled because of the Pittsburgh-plus basis. Why, it is said that the paper mills of this country not only fix prices but divide their territory; and I do not object to that as long as it is done in a reasonable, sane way. I simply want to see the American farmer given the same chance to do business in the same way. I am not quite sure that the great industries of the country are always altogether fair. At the same time, we all want them to be in a prosperous condition.

This map referring to cotton for the first four years takes cotton and all other commodities at 100 per cent. It goes on to show that at the present time the purchasing power of cotton is considerably below the level of pre-war wholesale prices. I think we all know that the spread between the wholesale price and the retail price is greater to-day than it was before the war. The wholesaler, of course, has to meet the increase in freight rates, and yet it is the retailer, who has the long haul, who pays the bulk of the freight rates after all; and added to the retailer are his freight rate, his increases in taxation, his increases in the cost of doing business. I do not know what happened in other States, but during the war the Government organized the retail merchants of my State.

They learned to cooperate and coordinate, and they learned to get better prices than they ever had before. No longer is there the cutthroat competition in the retail institutions in my State that I saw before the war; so, after all, as far as the dollar of the farmer is concerned, the spread between the retail dollar and the farm dollar is greater than it has ever been in the history of this country.

Mr. President, we have attained a new civilization. I was a homesteader in my State of Idaho—Mrs. Gooding and I—nearly 40 years ago. The farmer in those days required but little in this life. He got but little, and he was content with little. This, however, is the age of electricity, the age of the motor vehicle, the age of the flying machine, and the age of the radio. The farmer is entitled to some of these great

blessings that have come to humanity. In past years, when he had a failure of crops, it did not mean so much to him, because the cost of production was not so great; but with the increased cost of production to-day, when he loses a crop or when he gets less than the cost of production, it means not only bankruptcy for him, but broken banks in the community; and all that this bill seeks to do is to stabilize agriculture, stabilize production, and stabilize its prices.

I know farmers in my State who in the last few years have given up their automobiles and have gone back to using the old gray mare to go to market. We have gravel roads out in Idaho. The farmer can no longer travel over those gravel roads without shoeing his horses. You see him going into town now, going along the borrow pit where excavations have been made for grading up the roads. If the time ever comes when the farmer can not afford to own one of the cheaper automobiles and must be honked off the road by a limousine driven by some of those who are making their living off of the farmer, we have about reached the end of things in this country.

This chart shows the prices of cattle. It shows that, except for a very short period, the prices of cattle have never been at any time up to the wholesale prices of other commodities. They are still away below them.

I want briefly to refer to these different maps, and when the agricultural relief bill is before the Senate I shall take them up again. I am going to leave them on the wall with the hope that Senators are going to pay some attention to them.

I offer for the Record a table of the wheat production in this country for the years 1910 to 1925, showing the number of acres harvested, the total production, the amount exported, and the number of bushels imported.

There being no objection, the matter referred to was ordered to be printed in the Record, as follows:

Acreage, production, exports, and imports, 1910-1925

WHEAT

Year	Acreage harvested	Production	Exports, including flour	Imports
		<i>Bushels</i>	<i>Bushels</i>	<i>Bushels</i>
1910	45,681,000	635,121,000	69,311,760	1,146,558
1911	49,543,000	621,338,000	79,689,404	3,413,626
1912	45,814,000	730,267,000	142,879,596	1,282,639
1913	50,184,000	763,380,000	145,590,349	2,383,537
1914	53,541,000	891,017,000	322,464,975	715,369
1915	60,469,000	1,025,801,000	243,117,026	7,187,650
1916	52,316,000	636,318,000	203,573,928	24,924,985
1917	45,089,000	636,655,000	132,578,633	31,215,213
1918	59,181,000	921,438,000	287,401,679	11,288,591
1919	75,694,000	967,979,000	219,864,548	5,495,616
1920	61,143,000	833,027,000	366,077,439	67,398,002
1921	63,696,000	814,905,000	279,406,799	17,251,482
1922	62,317,000	867,598,000	221,923,184	19,944,934
1923	59,650,000	797,381,000	156,429,824	28,044,999
1924	54,209,000	822,627,000	268,022,900	6,199,424
1925	52,200,000	669,365,000		
1925, winter wheat				
1926	37,085,000	548,908,000	398,488,000	

¹ Winter wheat only: Increase, 1926 over 1925, winter wheat 150,422,000 bushels, according to May 8 estimate.

The Tariff Commission found in its investigation of wheat that the three-year average cost of production on the farm for 1921, 1922, and 1923, with interest allowed for land values in the United States, was \$1.40 per bushel, and in Canada 92 cents per bushel.

Mr. GOODING. This is the wheat chart. This chart shows the wild break that took place in 1920, after the Federal Reserve Board held its secret meeting and determined to deflate the country. You will notice that this line comes down like a rocket. Wheat prices on the farms ran to \$2.65 a bushel in 1920, after the Federal food control act expired, and then were forced down in one short year to \$1.11 a bushel on the farm—a difference of \$1.54 a bushel.

In 1924 the average price of wheat in America was \$1.14 a bushel. In 1925 it was \$1.45 a bushel. Unfortunately for the farmer—and that is true not only of the wheat growers but of all farmers—his good fortune comes to him through the misfortunes of other farmers. Canada produced in 1923 a wheat crop of 474,000,000 bushels. In 1924 the wheat crop of Canada was reduced, because of the drought, to 262,000,000 bushels, a shrinkage of 212,000,000 bushels. That reduced the world's production of wheat, which increased the price of wheat in America.

Not only Canada suffered a short wheat crop in 1924 but much of Europe suffered a shrinkage in the production of wheat in that year. We had a total world production of wheat in 1923 of 3,509,000,000 bushels, and for 1924 only 3,098,000,000 bushels—a shrinkage in the world production of wheat for 1924 of 411,000,000 bushels. So the farmers in 1924 benefited

through the misfortunes of the Canadian farmers and those in European countries and for 1924 received \$1.14 per bushel for their wheat on the farm. In 1925 the world production was 3,349,000,000 bushels, but the production of wheat in the United States for 1925 was only 669,000,000 bushels of wheat as compared with the production of 1924 of 862,000,000 bushels, making a shortage in 1925 as compared with 1924 of 193,000,000 bushels.

Six hundred and sixty-nine million bushels, Mr. President, is barely enough for our consumption, so through the misfortunes of the farmers in some parts of our own country in 1925, together with the tariff on wheat of 42 cents per bushel, the farmers of the United States received an average price of wheat on the farm for that year of \$1.45 per bushel. The danger confronting the wheat growers of 1926, however, is that this year promises to be a great wheat year. In 1924 the winter wheat crop was 398,000,000 bushels, while on the 8th of May of this year the Department of Agriculture estimates show the winter wheat crop at around 548,000,000 bushels, and it is yet too early for estimates on the spring wheat crop for this year, but if the season is as favorable for spring wheat as for winter wheat this country will produce close to 900,000,000 bushels of wheat for 1926.

Indications are, Mr. President, that there will be an increased production of wheat over all the world. These conditions have alarmed the wheat growers of America, and everywhere the wheat growers are pressing for this legislation, which, if passed, will save the wheat growers from great losses and give them benefit of most of the protection of 42 cents per bushel on wheat.

This chart shows the fluctuations in the price of corn. I am going to leave that for the senior Senator from Iowa [Mr. CUMMINS] to discuss when he takes up the question of farm problems.

This chart shows the all-commodity products and 30 principal farm products.

This chart shows that the lines ran along very evenly together up to 1920, but in 1920 came the wild break. Since 1920, 30 principal agricultural crops have never been on a parity with the wholesale prices, fluctuating all the time between 20 and 30 per cent.

Mr. President, I shall not take up any more time in the Senate to-day in discussion of these seven charts, which show the purchasing price of the wholesale dollar and the farmer's dollar. I have not referred to the charts showing the fluctuations that have taken place in the hog industry, the cattle industry, or the butter industry. These I shall leave until the bill is before the Senate for consideration.

I want to say to my Republican friends and to my Democratic friends that it is unfair to say that legislation during the war and the administration of that legislation was altogether responsible for the condition of agriculture. The great principle of the protective tariff plays its part in the demoralization of farm products where they have to be shipped abroad and sold in a foreign market.

If there is one thing I have stood for in this Chamber, and if there is one thing I have stood for all of my life, since I have understood the principle of protection, it is protection to American industries. If there is one thing I am going to stand for and fight for wherever the good fortunes of life may carry me, it is protection to American industries.

Mr. President, this country would have a hard time to exist at the present time without protection, for the cost of production in America is vastly greater in proportion to the cost in foreign countries than it was before the war. So protection becomes more essential if we are going to maintain the American standard of living and the American wage.

I think every Republican who has ever made a tariff speech has boasted that protection was responsible for the high wages of America and for our better standards of living, and I have always said for a better citizenship. I want to tell Senators that the great principle of protection, which, to my mind, is responsible for making this the greatest country the world has ever known since the morning stars first shone over the creation of man is in danger. If you think the American farmer is going on and produce at a high cost that has been created by his own Government, and then be forced to sell in a foreign market and compete with the paupers of the world, then you do not understand the American farmer. He will wake up some day, and he is waking up now, and he has come here organized, and practically every farm organization is asking for this legislation. Senators had better see that the farmer is given a square deal. That is all he wants.

Mr. President, if this bill passes it will enable the farmer to get a fair price on the American market. He can only get a

fair price because the tariff on the four principal farm products—wheat, corn, cattle, and hogs—will not permit him to sell those farm products in America higher than the foreign price plus the protection given to those industries. In fact, he will always have to take a little less than the foreign price plus the amount of protection in order to keep out importation as much as possible of these same farm products. In other words, Mr. President, the protective tariff is a guaranty on the four principal farm commodities that I have mentioned because there is no way of forcing the American price above that level.

If this bill passes, we will have an orderly marketing of farm products; there will be an orderly marketing of the surplus abroad and we will not have such wild scenes in the marketing of farm products as now occur in the wheat pit, where men tear off their clothes and at times tear their hair, and where the price of wheat always depends on some report that is made, and often a none too reliable report as to the conditions of the crops down in the Argentine, or in some other foreign country, or in some parts of our own country where a frost or a hot wind is reported, or that there is black rust when such a report brings about a wild fluctuation in the price of wheat in this country. If this bill passes, it will mean we shall have a safe, sound, and sensible marketing of farm products. It seems to me with this high standard of civilization we should reach and bring about an intelligent, orderly marketing of farm products so the farmer can go along and do business in the same orderly way as the business of the great industries is transacted to-day.

Mr. President, a representative of the American Federation of Labor came before Senators at one of our luncheons and went on record for the Haugen bill and made the statement that he knew the farmers were not getting a reasonable price for some of their farm products, and that if the bill increased the price of farm products so as to give the farmers a fair price in the cost of production labor organizations would not object to it. I do not think this legislation will result in an increase in the price of farm products. It is going to stabilize them. I think, one year with another, legislation enabling us to have intelligent farm marketing will mean cheaper farm products to the consumer. I think the time has come when a lot of those who traffic in farm products should be eliminated. Let me tell the industrial East that your industries are in danger. Time was when the farmers were your best customers. The farmer has not been able to buy much in the last few years, for he has had to fight to save his home from the mortgage company and to keep the wolf from the door.

Mr. President, since the beginning of the war the balance of trade in this country has been something like \$21,000,000,000 in our favor. That is not going to last. Closer and closer the lines are being drawn, and the balance of trade is getting a little thinner every year. We had better pay attention to our markets in our own country.

I hope Senators will study the charts on the wall and look at those ragged peaks. How they remind me of a range of mountains in my own State, called the Sawtooth Range, that can be seen on a clear day against the western sky more than a hundred miles away, some of them with their peaks above the perpetual snow line.

Mr. ASHURST. Mr. President—

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

Mr. GOODING. I yield.

Mr. ASHURST. I ask the able Senator, in whose speech I have been taking great interest, if he will not leave these maps on the wall during the discussion of the McNary-Haugen bill?

Mr. GOODING. Yes; they will be here. They were prepared by the Department of Agriculture, and it is my hope that Senators will study them and give some attention to them.

Mr. President, I was very happy when the present increase in the tariff on wheat from 30 cents a bushel to 42 cents a bushel was made. I thought that was going to help the farmer, but I have discovered that, for some reason, at times he has received but little benefit from the tariff of 42 cents a bushel on wheat, and I have come to the conclusion that it is simply because the millers have a thorough organization.

Mr. SMOOT. The hard-wheat growers.

Mr. GOODING. No; not even the hard-wheat growers at times have received much benefit from the tariff.

Mr. President, I offer a table for the RECORD showing the price of No. 1 dark northern wheat at Minneapolis and the price of No. 1 northern at Winnipeg for the years 1924, 1925, and up to May 1 of 1926. This table shows that, with the exception of a few months, the growers of wheat in this country who come in competition with the high-grade wheat of Canada have received but little benefit of the protection on

wheat, and it is safe to say, Mr. President, that the growers of the low grades of wheat in this country have received little, if any, protection out of the tariff of 42 cents per bushel on wheat.

Wheat report January, 1924, to April, 1926, inclusive

[Source: Bureau Agricultural Economics, United States Department of Agriculture]

	Minneapolis No. 1 dark northern	Winnipeg No. 1 northern Manitoba	Excess, Minneapolis over Winnipeg
1924—January.....	\$1.24	\$0.94	\$0.30
February.....	1.27	.97	.30
March.....	1.26	.95	.31
April.....	1.26	.96	.30
May.....	1.30	1.03	.27
June.....	1.37	1.12	.25
July.....	1.47	1.35	.12
August.....	1.38	1.42	-.04
September.....	1.35	1.42	-.07
October.....	1.51	1.60	-.09
November.....	1.54	1.64	-.10
December.....	1.71	1.73	-.02
1925—January.....	1.98	1.96	.02
February.....	1.94	1.97	-.03
March.....	1.80	1.76	.04
April.....	1.60	1.56	.04
May.....	1.73	1.82	-.11
June.....	1.69	1.71	-.02
July.....	1.66	1.62	.04
August.....	1.67	1.67	.00
September.....	1.58	1.38	.20
October.....	1.58	1.27	.31
November.....	1.67	1.42	.25
December.....	1.77	1.57	.20
1926—January.....	1.78	1.56	.22
February.....	1.73	1.55	.18
March.....	1.67	1.48	.19
April.....	1.66	1.57	.09

Production of wheat to correspond to above prices

Fiscal year ending June 30	United States		Canada	
	All wheat	Hard spring ¹	All wheat	Hard spring
1923-24.....	797,381	170,954	474,199	449,901
1924-25.....	862,627	175,648	262,097	235,179
1925-26.....	669,365	134,883	422,327	393,958

¹ Four States—Minnesota, North Dakota, South Dakota, and Montana.

Let us not forget that this table refers to only the hard-wheat grower. Only 15 per cent of the wheat growers of this country produce what is known as No. 1 northern wheat, which competes with Canada.

It is sarcasm to say that the wheat growers, outside of the hard-wheat growers, have gotten any benefit from the tariff.

I do not think anybody ever fought harder for protection to American industries than I have, and I did not care whether it was protection to the citrus-fruit grower of California and Florida or the manufacturers in New England. I stood by the man of New England when nearly every other Senator, with the exception of the Senator from Connecticut [Mr. McLEAN] and one or two others, had left the fight. I do not think we can have protection too high in America.

The time has come in this age of organization when organization goes beyond our own borders. The Senator from Montana [Mr. WALSH] in discussion only a few days ago called our attention to the fact that in his investigation of the Aluminum Co. of America he found the aluminum producers' organization reached beyond our own shores.

When the Republican Party puts a tariff law on our statute books that undertakes to give the farmer protection, by some means and in some way it ought to see that he is not robbed of it. That is what has happened to the wheat growers at the present time.

I hope no one will think that I am yielding any of my convictions so far as protection to American industries is concerned. On one occasion, in discussion of the tariff question, I showed that articles on the free list had increased as much in many instances as those commodities that had high protection given to them. This is the age of organization and monopolies. It seems to me it is a farce to put protection on farm products and then permit the millers of the country to rob the farmer of the benefits.

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

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

Mr. GOODING. I yield.

Mr. KING. I am interested in the observations which the Senator has made regarding the millers, and I think he is absolutely correct. Does not the Senator think that some of the evils of our industrial system, some of the injustices which afflict the people, could be remedied if the Attorney General would enforce the Sherman antitrust law and the Clayton Act, and if the Federal Trade Commission would endeavor to carry out the terms of the Federal trade law?

Mr. GOODING. The Senator is a great lawyer and knows that is impossible. He knows that it can not be done under the improved methods of doing business. I have not forgotten that when we had one of the Assistant Attorney Generals before the Interstate Commerce Committee he told the story of how they transact business in these days. They do it around the table. There is no record of any conspiracy or any combination to increase prices. They do it in a very simple way. In an investigation by the Government of the General Electric Co. it was shown that while the sale of the little light bulbs constitutes only 20 per cent of the business of that company, their profits from that source are 60 per cent of the total profits of the company. Under the improved methods of doing business the Sherman antitrust law is pretty nearly a dead letter on the statute books.

I am not objecting to business men getting together in a sane and reasonable way and getting a fair profit on their investments. I am asking that the farmers, however, be given the same opportunity to do the same thing. It is going to require legislation to do it.

Mr. SHIPSTEAD. Mr. President—

Mr. GOODING. I am going to close my remarks in about two minutes, if the Senator will permit me.

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

Mr. GOODING. Very well; I yield.

Mr. SHIPSTEAD. I hope the Senator will not conclude until he explains a little more in detail the statement he made as to how he thinks the millers are, as I understood him to say, robbing the farmers of the benefit of the tariff. I would like to have an explanation of that statement.

Mr. GOODING. I thought I made that pretty clear. I said, as the Senator would remember if he had been in the Chamber, that through a high protective tariff the principles of protection, to my mind, have made of America the greatest country that civilization has ever known. We pay in America higher prices for everything we get; we pay labor higher prices. We have new immigration laws which have restricted immigration, so there is an opportunity for labor to get the

full measure of protection. The point I am making is that the farmer is forced to pay a protective price for American labor, and then when he sells his surplus in foreign markets he sells in competition with cheaper labor, or what we might call free-trade labor. That is the point I am making.

Mr. SHIPSTEAD. Perhaps I misunderstood the Senator. I thought the Senator said the millers were robbing the farmers.

Mr. GOODING. What I said was the report that I put into the Record to-day shows that the millers of the country, according to the report of the Federal Trade Commission, during 1917 and 1918, after they were regulated, made exorbitant profits.

This report stated that in 1914 these large flour-milling companies, 37 of them altogether, the largest there were in this country, made 12 per cent in 1914, 17 per cent in 1915, 13 per cent in 1916, and they were permitted to make 38 per cent in 1917 and 34 per cent in 1918, when they were under the regulation of the Grain Corporation which was headed by Julius Barnes.

I do not know anything about the profit the miller is making at the present time. I want it to be clearly understood that I am not objecting to any line of industry making a fair profit. When we come down to the Sherman antitrust law, however, it is not enforced and never has been enforced, and under the present methods of doing business it is practically impossible to enforce it.

Mr. President, unless the Senator from Minnesota wants to ask some further questions I intend to yield the floor.

Mr. SHIPSTEAD. I shall not impose upon the Senator's time. I have spent considerable time in a study of the fluctuation and control of prices of farm products, and I have not found that the milling industry at the present time and for some time past has made a great deal of money.

Mr. GOODING. I have not any information, and I did not make any statement that they were at the present time. I merely called attention and placed in the Record a table showing the report of the Federal Trade Commission on 37 of the large milling companies in the northwestern group, southwestern group, and the eastern group.

Mr. President, I have here several tables with reference to wheat, cotton, cattle, hogs, and butter production in the United States, and so forth, which I ask permission to have printed in the Record as a part of my remarks.

The PRESIDENT pro tempore. Without objection, permission is granted.

The tables are as follows:

FOREIGN CROPS AND MARKETS
World production, 1894-1925
[Million bushels, 1. c., 000,000 omitted]
WHEAT

Year	Production for countries reporting all years	Estimated world production, except Russia	Total Europe, excluding Russia	Production in selected countries							
				Russia		France	Italy	India	Argentina	Australia	Canada
				Production	Export						
1894	1,750	2,138	1,069	477	128	344	122	271	61	28	
1895	1,696	2,343	1,042	310	146	340	118	261	46	18	
1896	1,646	2,065	1,088	412	135	340	145	201	32	21	
1897	1,582	1,902	829	340	132	342	87	200	53	28	
1898	2,145	2,566	1,157	459	-----	364	137	269	105	41	
1899	1,968	2,348	1,113	454	68	365	138	255	102	40	
1900	1,824	2,235	1,100	423	74	326	147	200	75	48	
1901	2,049	2,496	1,103	428	87	311	182	265	56	39	
1902	2,021	2,530	1,208	607	143	328	151	227	104	12	
1903	2,163	2,670	1,266	621	153	363	203	298	130	74	
1904	2,055	2,503	1,116	667	195	300	185	360	151	55	
1905	2,135	2,695	1,224	636	167	335	177	283	135	68	
1906	2,315	2,961	1,356	543	100	329	194	320	156	66	
1907	2,197	2,641	1,176	571	62	381	195	317	192	45	
1908	2,041	2,565	1,181	628	105	316	168	229	156	63	
1909	2,256	2,804	1,240	846	237	359	190	285	131	90	
1910	2,133	2,762	1,201	836	230	253	153	350	146	95	
1911	2,277	3,028	1,347	563	81	322	192	376	156	72	
1912	2,370	3,077	1,284	801	106	334	166	371	187	92	
1913	2,378	3,080	1,301	1,028	170	319	215	368	105	103	
1914	2,309	2,815	1,072	528	8	283	170	312	169	25	
1915	2,629	3,477	1,125	627	14	223	171	377	169	179	
1916	2,022	2,713	1,049	-----	-----	205	177	323	84	152	
1917	2,023	2,553	740	-----	-----	135	140	382	235	115	
1918	2,373	2,866	906	-----	-----	226	183	370	180	76	
1919	2,238	2,792	894	-----	-----	182	170	280	217	46	
1920	2,262	2,922	949	-----	-----	237	141	378	156	146	
1921	2,350	3,133	1,216	267	-----	323	194	250	191	129	
1922	2,310	3,184	1,044	202	-----	243	162	367	196	109	
1923	2,479	3,509	1,261	327	23	276	225	372	247	125	
1924	2,381	3,098	1,055	382	-----	281	170	361	191	165	
1925	2,352	3,349	1,381	661	15	329	241	325	215	107	

Acreage, production, exports, and imports, 1910-1925

CORN

Year	Acreage harvested	Production		Imports
		Bushels	Bushels	
1910	104,035,000	2,886,290,000	65,614,522	53,425
1911	105,825,000	2,531,488,000	41,797,201	903,062
1912	107,083,000	3,124,745,000	50,780,143	12,367,369
1913	105,820,000	2,446,988,000	10,725,819	9,897,939
1914	103,435,000	2,672,804,000	50,688,303	5,208,497
1915	106,197,000	2,994,793,000	39,896,928	2,267,299
1916	105,296,000	2,568,927,000	66,753,294	3,196,420
1917	116,730,000	3,065,233,000	49,073,263	3,311,211
1918	104,467,000	2,052,665,000	23,018,822	10,229,249
1919	97,170,000	2,811,302,000	16,728,746	5,743,384
1920	101,699,000	3,208,584,000	70,905,781	124,591
1921	103,740,000	3,068,569,000	179,490,442	137,529
1922	102,846,000	2,906,020,000	96,696,221	227,704
1923	104,324,000	3,953,537,000	23,135,200	4,617,000
1924	101,076,000	2,312,745,000	9,791,000	
1925	101,631,000	2,900,581,000		

Acreage and production in the United States from 1910 to 1924

COTTON

Year	Acreage picked	Production	
		Bales	Bales
1910	32,403,000	11,609,000	15,693,000
1911	36,045,000	13,703,000	14,150,000
1912	34,283,000	16,135,000	11,192,000
1913	37,089,000	11,450,000	11,502,000
1914	36,382,000	12,041,000	11,421,000
1915	31,412,000	13,440,000	7,954,000
1916	34,985,000	9,762,000	10,140,000
1917	33,841,000	13,153,000	16,103,000
1918	36,068,000		
1919	33,566,000		
1920	35,878,000		
1921	30,503,000		
1922	33,036,000		
1923	37,123,000		
1924	40,115,000		
1925			

Total hog production in the United States, 1910-1925

1910	27,000,000	1918	65,000,000
1911	57,000,000	1919	65,000,000
1912	56,000,000	1920	62,000,000
1913	57,000,000	1921	63,000,000
1914	55,000,000	1922	68,000,000
1915	62,000,000	1923	80,000,000
1916	68,000,000	1924	80,000,000
1917	57,000,000	1925	68,000,000

Total cattle production in the United States, 1910-1925

1910	61,803,000	1918	67,422,000
1911	60,502,000	1919	68,550,000
1912	57,959,000	1920	67,120,000
1913	56,527,000	1921	65,587,000
1914	56,592,000	1922	66,059,000
1915	58,329,000	1923	67,240,000
1916	61,920,000	1924	66,506,000
1917	64,583,000	1925	64,928,000

Total butter production in the United States, 1917-1925

Pounds		Pounds	
1917	759,511,000	1922	1,153,515,000
1918	793,285,000	1923	1,252,214,000
1919	849,994,000	1924	1,356,214,000
1920	863,577,000	1925	1,356,000,000
1921	1,054,738,000		

Prices paid on the farm for wheat and corn for the years of 1908 up to and including an estimated price on the crop of 1925

Year	Wheat per bushel	Corn per bushel
1908	\$0.904	\$0.638
1909	1.025	.662
1910	.963	.618
1911	.867	.559
1912	.875	.675
1913	.787	.602
1914	.888	.713
1915	1.062	.716
1916	1.254	.75
1917	2.029	1.318
1918	2.042	1.487
1919	2.142	1.515
1920	2.136	1.389
1921	1.116	.578
1922	.998	.575
1923	.956	.779
1924	1.149	.88
1925	1.45	

ORDER FOR RECESS UNTIL MONDAY

Mr. CURTIS. Mr. President, I ask unanimous consent that when the Senate concludes its business to-day, it take a recess until 12 o'clock on Monday next. I make the request for the reason that I have talked with the Senator in charge of the migratory bird bill, which is the unfinished business, and with other Senators who expect to offer amendments to it, and we believe we can save time by pursuing this course.

The PRESIDENT pro tempore. Is there objection? The Chair hears none, and it is so ordered.

FEDERAL AID HIGHWAY LEGISLATION

Mr. ODDIE. Mr. President, on May 5 it was my privilege to report to the Senate H. R. 9504, better known perhaps as the Federal aid roads bill, with recommendation from the Committee on Post Offices and Post Roads, of which I am a member, that it be enacted into law. This bill provides for an amendment to the Federal aid highway act approved July 11, 1916, authorizing for the fiscal years 1928 and 1929 an appropriation out of the Federal Treasury of \$75,000,000 each year to be spent on State roads in the Federal aid highway system and \$7,500,000 annually to be spent on roads in and to our national forests.

There is nothing new or unusual about this bill. Its appropriation provisions are identical with those of the bill which passed the Sixty-eighth Congress, making authorizations for the fiscal years 1926 and 1927. Strictly speaking, however, this is an authorization and not an appropriation measure, although when passed it will create a contractual obligation on the part of the Federal Government to the States which must be honored. But not one dollar may be withdrawn from the Federal Treasury now on account of it. Congress is merely authorized to make an appropriation at a future date. Obviously, this is not necessary from a legislative viewpoint; but as a practical matter, it is most desirable. The expenditures involved are large, and but few States would be able to match the funds allotted to them and spend them on actual road construction in the year for which they were authorized. So the law has wisely provided that each State may have three years in which to use all of the funds allotted to it in any one year. Thus the entire amount authorized by this bill may not actually be appropriated until the second session of the Seventy-first Congress, and certainly nothing will be appropriated sooner than the first session of the Seventieth Congress. I mention this detail only because there is some uncertainty as to whether or not a portion of the current Federal revenue must be set aside to meet the appropriations authorized.

In offering this bill for immediate and favorable consideration I am presenting what without doubt is one of the least controversial, and at the same time most important, bills which have come before Congress this session.

An investigation of the House records will show that the Committee on Roads made a unanimous report favoring immediate passage. This report is full of most valuable and interesting statements on road matters by some of the ablest and best posted men in the country on these matters, and I commend it to those who may be interested.

The Committee on Rules in the House reported unanimously on the resolution which permitted early consideration of the bill in that body. The CONGRESSIONAL RECORD for April 16 shows that during the four hours permitted for debate on the bill in the House 25 Representatives either spoke on the merits of the bill or requested the privilege of extending their remarks in the Record. Every one of them asked that the bill be acted upon favorably. Although there was not a record vote in the House, I am informed on reliable authority that not one Congressman voted against the measure.

For convincing evidence of the great public interest in the subject, and also the complete unanimity of expression on it, I call attention to the fact that nine of the very largest and strongest national organizations in the country representing the viewpoint of the farmer, the tradesman, the motorist, the banker, the automobile manufacturer, the manufacturer and business man generally, labor, and the State highway official, appreciating keenly the value of this Federal activity to the country at large and their own groups in particular, have joined unanimously in requesting Congress to continue Federal aid on roads until the work on what is now known as the Federal aid highway system has been completed. Under the Federal highway act of 1921 this system is limited to 7 per cent of the total mileage of roads in existence at that time, or slightly more than 200,000 miles of highway.

I ask to have incorporated in the Record copies of resolutions adopted by eight of the national organizations referred to, urging the continuation of Federal aid on roads. These national organizations, indorsing the extension of the principle of Fed-

eral aid on roads and the public interest expressed through them, are thoroughly representative in character. They are the American Automobile Association, representing more than 800 motor clubs and branches, with a total membership exceeding 800,000 motorists; the American Bankers' Association, with a membership of 23,000 banks; the American Farm Bureau Federation, representing 45 State federations and 1,800 county bureaus, with an underlying membership of 1,250,000 farmers; the National Grange, composed of 8,000 local organizations, with a membership of 1,000,000 farmers; the Chamber of Commerce of the United States, representing 900 local chambers of commerce and 500 trade and commercial organizations, with an underlying membership of 750,000 industrial and commercial concerns; the American Federation of Labor, representing 35,000 local trade-unions, with an underlying membership of 4,000,000 skilled workers; the National Automobile Chamber of Commerce, with a total membership of 145 motor-vehicle manufacturers, representing every important manufacturer in this line except the Ford Motor Co. and about 64 per cent of the passenger-car production and 80 per cent of the truck production in the United States; and the American Association of State Highway Officials, representing the highway departments of the 48 States, with a membership composed of the best engineering and executive talent on highway matters to be found in the world to-day. Indorsement was also given by the American Road Builders' Association, the number of members of which I do not know.

I ask unanimous consent to have printed in the RECORD at this point the indorsements to which I have referred, including a letter addressed to me by Thomas P. Henry, president of the American Automobile Association, dated May 18, 1925, in which he gives very interesting and instructive data on Federal-aid roads and this proposed legislation, and a letter written to me by Frank Page, the president of the American Association of State Highway Officials, dated May 18, who also furnishes very interesting and illuminating data on the Federal-aid road problem.

The PRESIDENT pro tempore. In the absence of objection, the matter referred to by the Senator from Nevada will be printed in the RECORD.

The matter referred to is as follows:

AMERICAN AUTOMOBILE ASSOCIATION,
OFFICE OF THE PRESIDENT,
Detroit, Mich., May 18, 1926.

Hon. TASKER L. ODDIE,
United States Senate, Washington, D. C.

MY DEAR SENATOR ODDIE: Having observed that you recently reported from committee H. R. 9504, and understanding that you are to have charge of the bill on the floor of the Senate, I want to assure you of the deep and lasting interest of the American Automobile Association, representing 810 motor clubs and branches, with an individual membership of 800,000 motorists, in the subject with which it deals—Federal aid on roads.

In 1908 this association called its first annual good roads and legislative convention. This was followed by related meetings until January, 1912, when the American Automobile Association called the first national good roads Federal-aid convention. Consistently and persistently since that time it has urged the development of an adequate system of State and national highways, the accomplishment of which will be largely assured by the passage of this bill.

The appropriations authorized for the fiscal years 1928 and 1929 of \$75,000,000 annually to be spent on State roads in the Federal-aid highway system and \$7,500,000 on roads in and to our national forests are most reasonable and have already met with general public approval. Any lesser appropriations at this time would seriously handicap the States in carrying out their road-building programs and at the same time destroy their confidence in the promises of the Federal Government to undertake a joint responsibility with the States and fulfill the obligations assumed.

Not since the World War has there been such a unanimity of purpose and action on any measure of such great public importance as there has been on the present roads bill. Nine of the largest national organizations, all leaders in their respective fields, were represented at the hearings held by the House Committee on Roads and unanimously asked that Federal aid on roads be continued in behalf not particularly of their own groups but of the Nation. Can anyone doubt the public interest shown when he realizes that the farmers, bankers, union tradesmen, motorists, manufacturers and business men generally, and State highway officials joined in a unanimous appeal through their national organizations for what is now represented by H. R. 9504?

It is unthinkable that an orderly, constructive program of road building which has meant so much to our Nation, has always had the most sympathetic support from the general public, has been indorsed by both Republicans and Democrats in their party platforms, and the continuation of which has had the unanimous approval of the House and will have the approval of our President, if we may accept as final his

expressions to Congress at the beginning of this session, should be thrown into chaos by doing away with Federal aid at this time. Surely all who have given their indorsement have not erred in interpreting the public interest. The solution of our great national problems requires that we give primary consideration to the national welfare and not local needs, benefits, or prejudices.

As early as 1903 the Federal Government began the construction, at its own expense, of the Old National Pike, running from Cumberland, Md., to Vandalia, Ill., at a total cost of about \$7,000,000. From 1893 to 1912 modest appropriations were made to maintain an office of road inquiry. In the latter year a congressional commission was appointed to investigate the highway problem and determine whether or not the Federal Government had a real duty in the matter. For three years the commission investigated the Federal responsibility and finally concluded that "the demand for Federal aid has become general and insistent," and that national participation was necessary. In 1916, shortly after the report was made, the first Federal aid road act was passed, which permitted the States to use the Federal funds allotted to them on any rural post roads they might select. This procedure was followed for five years, whereupon the Federal highway act of 1921 set up what is now known as the Federal-aid highway system. Of the 3,000,000 miles of highway in this country, only 7 per cent, or 200,340 miles, are on the Federal system.

To say that the Federal system is too large is to deny the need of connecting all of the county seats and main market centers in the several States. When Congress set up this system, after long deliberation, it felt that by connecting the points mentioned it had included the lowest mileage that would be adequate for the Postal Service, the defense of the Nation, the extension of farm markets, a greatly enlarged interstate commerce, and the general welfare of the Nation. Certainly this limit is most conservative when viewed in the light of the real Federal responsibility.

To stop or reduce the appropriations now would be an unwarranted breach of faith with the States on a matter of vital concern to every American citizen. Ten years ago the Federal Government declared its policy of "aiding" the States to build highways of national importance. Five years ago it affirmed this policy by setting up the Federal-aid highway system. In 1922 and 1925 it reaffirmed this policy when it made additional appropriations to be spent in improving roads on this system. To-day the system is about two-thirds improved. But instead of the Federal Government having paid half, its contributions have amounted to less than one-fifth of the actual cost of the improvements. The States have spent more than \$2,000,000,000 and the Federal Government only \$550,000,000 to improve roads which Congress admits are highways of national importance, and for that reason should receive Federal aid when improved. It should be recalled here that the United States Government has collected in war excise taxes directly from the motorists a sum in excess of \$975,000,000. The Government therefore is still more than \$425,000,000 to the good.

I submit to the opponents of Federal aid that there is not a single argument used by them to-day which did not receive full consideration by Congress prior to the time the Federal policy was declared and its program put under way.

There is nothing new or unusual about this bill. Its merits are so well known and the national interest in it so apparent that we hope it may have prompt and favorable consideration by the Senate.

Very truly yours,

THOS. P. HENRY, *President.*

Resolution on Federal aid for highways unanimously adopted at annual meeting of the American Automobile Association at Atlantic City, N. J., June 29 and 30, 1925

Whereas the Government of the United States during much of its existence has manifested a deep and practical interest in the promotion of better transportation facilities of all kinds for the American public, as evidenced by—

- (a) Land grants to railroads consisting of 158,000,000 acres;
- (b) The expenditure of one and one-quarter billion dollars in the development of waterways and harbors in the United States;
- (c) The construction and maintenance of the Panama Canal, at a cost of over a half billion dollars; and

Whereas the policy of the United States Government in aiding the States in building a national system of highways has greatly stimulated highway construction in the States themselves; and

Whereas such a national system of highways is essential to facilitate the transportation of mails, secure adequate defense of the Nation in time of war, promote the development of the natural and commercial resources of the individual States, and insure a steady and uninterrupted flow of commerce between the States; and

Whereas the United States Government has expended \$417,000,000 upon good roads, thereby giving evidence of the importance with which the Government regards the new type of transportation: Now, therefore, be it

Resolved, That the American Automobile Association regards the farsighted policy of the United States Government in aiding in the establishment of a national system of highways and extending financial

aid to States in the construction of such highways as being in the public interest, and urge the Congress of the United States to continue its policy until the national highway system is completed.

AMERICAN ASSOCIATION OF STATE HIGHWAY OFFICIALS,
THE EXECUTIVE COMMITTEE,

May 18, 1926.

HON. TASKER L. ODDIE,
United States Senate.

MY DEAR SENATOR ODDIE: As president of the American Association of State Highway Officials, I desire to place before you the following facts with reference to the Federal highway legislation now pending before the Senate of the United States, and to urge, in view of these facts, early consideration of this legislation.

At its last annual convention, held at Detroit, Mich., on November 20, 1925, the association unanimously adopted the following resolution:

"Whereas the appropriations now authorized by Congress for the purpose of carrying out the provisions of the Federal highway act do not extend beyond the fiscal year to end June 30, 1927; and

"Whereas appropriations beyond said fiscal year 1927 should be authorized for such periods in advance as to enable the State highway departments to so plan their construction as to best utilize such appropriations when they shall become available: Now therefore be it

Resolved, That it is the sense of this association that Congress at its ensuing session should authorize further appropriations for said purpose for the fiscal years to end June 30, 1928 and 1929, respectively, and that the appropriations so authorized should be at the rate of \$80,000,000 for the cooperative construction of rural post roads and \$8,000,000 for the construction of forest roads for each of said fiscal years 1928 and 1929."

I am also including a table of figures which shows the amounts of Federal funds placed under agreement, as well as the amounts actually paid to the States during the calendar years 1922, 1923, 1924, and 1925. From these figures you will note that approximately \$80,000,000 is the average annual sum of the program of agreements executed and payments made covering these four years, and from these figures the association has arrived at this figure as the extent of the program which should be provided to continue highway construction at its average current rate. There has been a variation between the years, so the association has believed it fair to take the average over these four years as more truly representative of the rate of construction than any single year. The figures referred to are as follows:

Federal highway funds used during calendar years 1922, 1923, 1924, and 1925

Calendar year	Agreements executed	Payments made to States
1922.....	\$68,186,528	\$74,900,671
1923.....	77,798,963	74,833,972
1924.....	84,261,869	96,148,474
1925.....	84,553,311	80,441,339
Total.....	314,800,671	336,384,456
Average.....	78,700,168	84,096,114

During the years above referred to the program exceeded the authorizations of the Congress by reason of unexpended balances which were carried over from the previous years. But these balances have now been exhausted to the point that the program for the fiscal years 1928 and 1929, which are the years covered by the bill now pending, can only be practically in the same amount as the authorizations made by the Congress for these years.

The Association of State Highway Officials stands squarely and unanimously behind this request for early action on the measure, which has already been passed by unanimous vote of the House of Representatives. A close study of the added cost of highway transportation as between improved and unimproved roads is convincing that there is no expenditure of public funds which brings greater economy to the people than those for roads. It has been the experience in my State, North Carolina, which has been carrying on a large program of road construction, as well as the experience of practically every other State, that the support and the influence of the Federal Government has been a real incentive to the people of the United States to engage in this great work of road improvement on an adequate scale, and the helpful cooperation through the Bureau of Public Roads has helped to produce confidence in the undertaking and maintain high standards of efficiency and integrity in the expenditure of the necessary public funds. Unless early action is had upon the measure now pending, a serious handicap will result in highway work in practically every State.

Very truly yours,

FRANK PAGE,

President American Association of State Highway Officials.

Resolutions on Federal aid for highways unanimously adopted at annual convention of American Association of State Highway Officials at Detroit, Mich., November 20, 1925

Whereas the appropriations now authorized by Congress for the purpose of carrying out the provisions of the Federal highway act do not extend beyond the fiscal year to end June 30, 1927; and

Whereas appropriations beyond said fiscal year 1927 should be authorized for such periods in advance as to enable the State highway departments to so plan their construction as to best utilize such appropriations when they shall become available: Now therefore be it

Resolved, That it is the sense of this association that Congress at its ensuing session should authorize further appropriations for said purpose for the fiscal years to end June 30, 1928 and 1929, respectively, and that the appropriations so authorized should be at the rate of \$80,000,000 for the cooperative construction of rural post roads and \$8,000,000 for the construction of forest roads for each of said fiscal years 1928 and 1929.

Whereas the system of Federal-aid highways selected and designated by the highway departments of the several States and approved by the Secretary of Agriculture of the United States, pursuant to the provisions of section 6 of the Federal highway act, embraces those highways in each State, selected after careful study, which will provide a properly correlated and connected system and best accommodate local and farm-to-market traffic as well as State and interstate traffic; and

Whereas any reduction in said system of highways as now selected and approved would tend to break the continuity of said system and might so restrict the same that many communities served by highways now rightfully included therein would be deprived of such service: Now therefore be it

Resolved, That this association is opposed to any plan which has for its purpose a reduction in the system of Federal-aid highways as now provided for in section 6 of the Federal highway act.

NATIONAL AUTOMOBILE CHAMBER OF COMMERCE,
HIGHWAYS COMMITTEE,

Washington, May 19, 1926.

HON. TASKER L. ODDIE,
United States Senate, Washington, D. C.

MY DEAR SENATOR: The Senate Committee on Post Offices and Post Roads has recently reported favorably a bill authorizing the continuance of Federal appropriations for highway purposes during the fiscal years 1928 and 1929.

In an era of constantly growing motor transportation these expenditures not only insure a necessary increase in our capital highway facilities, but they also make possible a wise and prudent administration of the very large sums annually invested in roads by the Nation as a whole.

In other words, while these appropriations are but a small percentage of the whole, they constitute a notable achievement in the elimination of waste and in the direction of true economy.

For these reasons and for others which will be found in detail in the testimony (cf. pp. 138-141, hearings before the Committee on Roads on general authorization bills) of Mr. H. H. Rice, of our organization, before the House Committee on Roads, the members of the National Automobile Chamber of Commerce are strongly in favor of this legislation.

Very truly yours,

ROY D. CHAPIN, Chairman.

NATIONAL GRANGE, P. OF H.,
Washington, D. C., May 14, 1926.

To Members of the United States Senate:

As the representative of the National Grange in Washington, I am expressing some concern over the delay in action by the Senate on the pending bill providing for a continuance of Federal-aid highway construction. This bill, as I understand, has received almost unanimous approval of both the House and Senate committees and has passed the House of Representatives without opposition. It will be a great service to all concerned, among whom the people on the farms of the United States form a large part, if the Senate will act favorably at an early date on this legislation.

The resolution which the Grange adopted at its annual meeting last November at Sacramento, Calif., fairly represents, I believe, the view of the farmer people of the United States on this important subject. It is as follows:

"Whereas the Federal Government from its earliest history has recognized means of communication and transportation as national necessities and national obligations calling for its supervision and financial support; and

"Whereas interstate-highway transportation is more important today than ever before in our history, and the Federal-aid highway system as designed under the act of Congress in 1916 is but one-third com-

pleted and at the present rate of progress it will take at least five more years to complete the gaps in the more important interstate highways; and

"Whereas continuation of Federal-aid appropriations by the National Government will result in continuity in highway construction and produce a nation-wide system of coordinated highways vitally necessary from military, commercial, and tourist standpoints; and

"Whereas over 4,000,000 of the 17,500,000 motor vehicles in the United States are owned by farmers and operated in the rural communities and the completion at the earliest possible date of a national system of highways is therefore of vital importance to the agriculturists of this country: Be it therefore

"Resolved, That the National Grange in convention assembled at Sacramento, Calif., does hereby petition Congress to recognize the urgent necessity of continued Federal-aid appropriations to complete a system of interstate highways that will adequately serve all the people of this Nation; and be it further

"Resolved, That the secretary be instructed to forward a copy of this resolution to the Senators and Congressmen representing every State in the Union."

Yours respectfully,

T. C. ATKESON,
Washington Representative.

Resolution of Federal aid for highways unanimously adopted by the National Grange at their annual session in Sacramento, Calif., November, 1925

Whereas the Federal Government from its earliest history has recognized means of communication and transportation as national necessities and national obligations calling for its supervision and financial support; and

Whereas interstate-highway transportation is more important to-day than ever before in our history, and the Federal-aid highway system as designed under the act of Congress in 1916 is but one-third completed, and at the present rate of progress it will take at least five more years to complete the gaps in the more important interstate highways; and

Whereas continuation of Federal-aid appropriations by the National Government will result in continuity in highway construction and produce a nation-wide system of coordinated highways vitally necessary from military, commercial, and tourist standpoints; and

Whereas over 4,000,000 of the 17,500,000 motor vehicles in the United States are owned by farmers and operated in the rural communities and the completion at the earliest possible date of a national system of highways is therefore of vital importance to the agriculturists of this country: Be it therefore

Resolved, That the National Grange, in convention assembled at Sacramento, Calif., does hereby petition Congress to recognize the urgent necessity of continued Federal-aid appropriations to complete a system of interstate highways that will adequately serve all the people of this Nation, and cooperate with the States in road building; be it further

Resolved, That the secretary be instructed to forward a copy of this resolution to the Senators and Congressmen representing every State in the Union.

AMERICAN FARM BUREAU FEDERATION,
Washington, D. C., May 17, 1926.

To the Senate of the United States:

GENTLEMEN: The American Farm Bureau Federation is strongly in favor of a continuation of highway construction in this Nation in keeping with the provisions of the Federal highway act of 1921.

As an evidence of this position you are hereby offered resolution No. 6, which was adopted at the seventh annual meeting of our organization in Chicago, Ill., in December, 1925.

"We petition Congress to continue the cooperation with the States in the construction of roads as rapidly as the economic conditions of the country will warrant. We further oppose any reduction in the Federal highway system of roads already agreed upon by the Secretary of Agriculture and the State highway departments, pursuant to the provisions of section 6 of the Federal highway act."

In carrying forward the purposes sought to be accomplished by this resolution, your attention is called to the so-called Dowell bill (H. R. 9504), which has been approved by the House of Representatives and now comes before the Senate from the Senate Committee on Post Offices and Post Roads for your approval. This bill provides \$75,000,000 for each of the fiscal years ending June 30, 1928 and 1929, these amounts being for the purpose of cooperating with the States in the building of highways. There also is carried in this bill the sum of \$7,500,000 for each of the two years above enumerated for the construction of forest roads and trails.

It is greatly to be hoped that the Senate of the United States can pass this measure with no reduction from the above amounts. Your personal interest and approval in this effort is respectfully solicited.

Very respectfully,

AMERICAN FARM BUREAU FEDERATION,
CHESTER H. GRAY, Acting Director.

AMERICAN FEDERATION OF LABOR

Resolution on Federal aid for highways adopted by American Federation of Labor at Atlantic City, N. J., October 16, 1925

Whereas from the beginning of our country the Federal Government has maintained its responsibility for the national defense, the Postal Service, interstate commerce, and anything that pertains to the general welfare; transportation has been encouraged by the Federal Government at all times; rivers and harbors, canals, and railroads have received millions of dollars from the Federal Government for their development. While the Federal Government as early as 1803 made some effort to accept the responsibility of highway construction, it was not until motive power on the highway eliminated distances that the Federal Government was made to see the tremendous value that highway improvement has upon the general welfare and protection of the people; and

Whereas in 1916, after three years' investigation by a committee of Congress, the Federal Government, through Congress, began to make definite appropriations to cooperate with the States in the construction of highways, in 1921 a definite system of highways of interstate character was laid out by the several States and approved by the Federal Government, on which system the Federal funds were to be expended. This system of highways when completed will connect all of the county seats and main market centers of the country with an improved highway; and

Whereas up to the present time this system of roads has been about half completed: Therefore be it

Resolved, That the Federal Government should continue in this work with the States until such time as this system has been completed, according to agreement heretofore entered into, as few, if any Federal expenditures, has added so much to the public convenience, better living standards, and general prosperity of the country as for the improvement of our highway system.

AMERICAN ROAD BUILDERS' ASSOCIATION

Resolution on Federal aid for highways adopted by American Road Builders' Association at their meeting in January in Chicago, Ill.

Resolved, That this association heartily approves the present arrangement whereby the National Government cooperates with the several States in the construction of highways through the medium of Federal aid.

CHAMBER OF COMMERCE OF THE UNITED STATES.

The importance of improved highways has already had recognition by the Chamber, and the highway development in the country has attracted wide attention. In order that funds now to be spent for highway construction may adequately serve the economic purposes which are becoming clearly recognized, the following fundamental principles should govern:

Bonds should be issued by States, Territories, counties, or municipalities, and Federal assistance furnished only for portions of highway construction which are reasonably enduring and permanent in character.

Federal appropriations should be made only for assistance to State and Territorial highways which will become a part of an interstate system.

Federal assistance should be continued only to those States and Territories which adequately maintain highways for which there has been Federal aid.

Most careful study should be made by the Federal Government in cooperation with State governments as to routes, the probable character of service over such routes, and the best form of construction to meet such service. These studies should include ultimate economies of location and design.

It was voted that the declaration be adopted.

Adopted by the ninth annual meeting of the Chamber of Commerce of the United States in 1921.

AMERICAN BANKERS' ASSOCIATION

Resolution adopted by the American Bankers' Association at its convention at Atlantic City in 1925

It is the judgment of this convention that the Federal Government should continue its policy of cooperation with the several States in road construction until such time as the interstate system of highways laid out by agreement between the Federal Government and the States has been completed.

Mr. BRUCE. Mr. President—

The PRESIDENT pro tempore. Does the Senator from Nevada yield to the Senator from Maryland?

• Mr. ODDIE. I yield.

Mr. BRUCE. May I ask the Senator from Nevada whether he is entirely familiar with the grossly unequal operation of the Federal-aid road system, or, in other words, whether his attention has been called to the fact that whereas the State

of Maryland gets back, in one form or another, out of the taxes that it pays into the Federal Treasury 2.32 per cent the State of Nevada gets back 315.92 per cent?

Mr. ODDIE. Mr. President, that is a very broad question, and it will take some time to answer it. I will ask the Senator from Maryland if he will withhold the question until I shall have completed the presentation of certain data? I will say, however, in brief answer to the Senator's question, that computations on which the Federal-aid appropriations are made are based on three factors: Area of the State, the mileage of post roads, and the population.

Mr. BRUCE. Yes; but that all assumes the justice of the underlying principle of the system. I do not wish now to interrupt the Senator. However, I only say that I do agree with him entirely in his statement that it will take him some time to answer the illustration of the gross injustice and the inequality of this legislation which I have called to his attention.

Mr. ODDIE. Mr. President, I shall have to differ from my good friend from Maryland by refusing to assume that there is anything unjust or inequitable in the Federal-aid system, because its principle and operation have been studied and worked out successfully for a number of years. It is one of the fairest, most practicable, and just things that have been done by our Government.

Mr. President, the unanimous action taken by the House, the general public approval, the well-known declarations in the platforms of both the Republican and the Democratic Parties, and the favorable attitude of President Coolidge, as expressed in his message to Congress at the beginning of this session, were valuable aids to the Senate Committee on Post Offices and Post Roads in disposing of the bill promptly.

Much has been said regarding the essential provisions of the bill itself and the unusual legislative history incident to it. There is much to be said about its merits and about the merits of Federal aid on roads generally. Public interest in the bill is very apparent, but there have been so many misstatements about Federal aid to roads, or perhaps it would be better to say statements based on misinformation on incomplete information, that I must outline what appear to me to be the fundamentals of the subject justifying the adoption of the policy of Federal aid on roads 10 years ago as well as the continuation of such a policy beyond the period which Congress has already authorized.

Before going into the fundamentals of the problem, I will call attention to a few of the outstanding historical and statistical facts concerning this activity. Federal aid was inaugurated under the Federal aid road act of 1916. This was not, however, the first participation by the Federal Government in road building. As early as 1803 Congress planned the Cumberland Pike, running from Cumberland, Md., to Vandalia, Ill. A few years later it authorized the construction of the pike with Federal funds alone, at a cost of about \$8,000,000.

Shortly after the pike was constructed, it was turned over to the States, which in turn passed it on to toll companies. And then for a half a century the much vaunted "local control" was given an excellent "try out." The only free highways for years were impassable in unseasonable weather. The free highways were in fact the byways.

In 1893, two years after the States began a real program of road construction, Congress appropriated \$10,000 to establish the office of road inquiry, which proceeded to "inquire" for eight years. At the end of that time it changed its name to the office of public roads. The constant growth of State highway departments and expansion of State road activities between 1893 and 1912 gave Congress larger vision of highway requirements, and in the latter year it created a special commission to investigate the highway problem and to determine whether or not the Federal Government had a real duty in the matter. For three years the commission made a thorough investigation, and finally submitted its report, a few sentences of which I quote:

All the arguments that have been here presented showing the value of the construction and maintenance of good roads are of equal weight in support of the plea for Federal aid. Experience has demonstrated that past methods are inadequate to accomplish desired results. To the original plan of leaving highway construction and maintenance to the several localities State participation has been added in nearly every State in the Union, but even this has not proved to be sufficient, and the demand for Federal aid has become general and insistent.

National participation in the good-roads movement is justified, moreover, on more extensive grounds. The activity of the National Government would more strongly emphasize the importance of the attainment of good roads, would establish higher standards, and to some extent would shift the burden of expense from the rural resident to the inhabitants of the city.

A significant indication of the state of public opinion was obtained in response to a letter sent by the commission to a large number of newspapers, commercial organizations, and granges asking for a statement of the consensus of opinion on the subject of Federal participation in highway development. The following is an extract from the report:

The letter of inquiry made no reference to any particular plan for Federal aid but sought to ascertain the trend of public opinion in general.

Newspaper editors generally ascertained and communicated the consensus of opinion in their communities; commercial organizations and granges held meetings, discussed the questions presented, and adopted resolutions setting forth their views.

Replies representing 100,000 individuals came from every State in the Union, and since the requests for opinions were made without discrimination and the answers received were from all parts of the United States the responses show, with reasonable accuracy, the consensus of public opinion on the subjects mentioned. Ninety-seven per cent of the replies received favored Federal aid and 3 per cent were against it.

This report was followed by the enactment of the first Federal aid roads bill in 1916.

Under the Federal aid road act of 1916 the States were permitted to use the Federal funds allotted to them on any rural post roads they might select. This procedure was changed under the act of 1921 by setting up what is now known as the Federal-aid highway system. This act provided that in approving projects to receive Federal aid the Secretary of Agriculture must give preference to such projects as will expedite the completion of an adequate and connected system of highways, interstate in character. The States were then asked to designate through their State highway departments a system of highways not to exceed 7 per cent of the total highway mileage of the State at that time. Upon the system so designated all of the Federal apportionments must be spent.

The 7 per cent system is limited to 200,349 miles of highway. At the close of the last fiscal year the States had designated for improvement only 178,737 miles on it. The designation of the balance was held in reserve to take care of future highway emergencies as they might arise. Up to March 31, 1926, 64,000 miles of the highways so designated had been completed or were under construction with Federal aid. The States, however, had completed or were constructing 70,000 miles on the designated system without any assistance whatever from the Federal Government. So to-day 134,000 miles on the Federal-aid system have been improved or are being improved.

The appropriations authorized for Federal aid through the fiscal year 1927 amount in all to \$690,000,000. Actual expenditures for Federal aid up to March 31, 1926, were \$548,000,000, while the cost to the States of the mileage, improved and under construction, both with and without Federal aid, was about \$2,000,000,000, or nearly four times the share contributed by the Federal Government in improving what it recognizes as the Federal-aid system.

If the national needs are such that they can be adequately provided for only by improved State roads and the States refuse, neglect, or otherwise fail to make the improvements, there is a definite obligation on the Federal Government to take such steps as it legally and reasonably can to secure the building of these roads. I consider such matters as road systems, mileage, types of surfacing, and the share of expense to be borne by the Federal and State Governments as mere incidents to the major problem.

If we accept the premise laid down, the obligation of the Federal Government to continue its aid on roads can be proved only by showing—

- First. The national need of improved State highways;
- Second. Reasonable and legal steps that may be taken by the Federal Government to meet national needs; and
- Third. Failure by the States to make improvements to serve adequately the national needs.

The national needs for improved roads are not many, but they are highly important to the public at large. *First, let us consider the Postal Service; second, commerce among the States; third, national defense; fourth, the extension of farm markets; and fifth, the general welfare of the Nation. If these five needs are established, they should be sufficient.

The carriage of the mails is a national function and one that is specifically provided for in our Federal Constitution. The accepted modes of transportation of the mails are by rail, water, air, or over the highways. Obviously the first three are of importance only in the carriage between points of collection and distribution and even then only over great distances. For short hauls and house-to-house delivery the carrier must travel either by automobile, by horse-drawn vehicle, or on foot. Rural carriers are paid on the basis of the standard route of 24 miles. Their annual salaries are computed on the basis of \$75 per

mile. By reason of road improvements and the consequent ability of rural carriers to use motor vehicles instead of horse-drawn vehicles throughout most of the year, carriers have been able to take on much larger routes than the standard. For each additional mile so taken on they are paid \$30 annually. By the consolidation of routes and the extension of rural service beyond the standard mileage the carriers have added \$30 annually to their income and the Post Office Department has saved \$45. This saving alone, due to improved post roads, amounts to more than \$7,000,000 per year. What the saving to the public through increased efficiency in the Postal Service, particularly through the lessening of time for deliveries, together with direct savings to the carriers through lower depreciation and operating costs of their vehicles, has not been estimated, but in my opinion it is very substantial and exceeds greatly the known savings to the department in salaries. Experience has shown conclusively that the building of good roads has made it possible to transmit the mails more quickly and more economically.

We have approximately 12,000 miles of coast and border line. It is absolutely necessary that there be improved highways following these boundaries. Back of what might be our first line of defense at any time, there should be numerous other trunk highways improved to the extent that they might be used, if necessary, as our second, third, fourth, and fifth lines of defense. I am referring particularly to the seacoast. These in turn must be connected with each other and with our various manufacturing or agricultural centers so that the whole will form a complete network of highways gridironing the Nation. We must not lose sight of the necessity of completing as soon as possible our system of transcontinental highways from coast to coast as a military precaution to supplement the railroads in an emergency.

During a military emergency it is often impracticable to transport materials or men other than over highways and the difference between victory and defeat may depend largely upon the condition of the highways over which vehicles commandeered for the emergency must travel speedily and heavily loaded. We need no better examples of the value of improved roads during a military emergency than those still fresh in our minds as the result of the late World War.

Government surveys show that the farmer using motor equipment has quadrupled the economic range in his choice of markets. This has enabled him to take advantage of more favorable prices at a greater distance. In a great number of cases it has resulted in direct sales to the consumer of his products, which otherwise would remain unproduced or unsold. On the other hand, cooperative truck service, where it exists, has relieved him of the necessity of taking his goods to market and has permitted the farmer to remain a producer and not a transporter or marketer. The result is that more farm products are being produced, much of which is being marketed, that in the past was largely permitted to go to waste. Frequently the farmer has been brought within reach of a large city and enabled to turn from the production of a low-value crop to perishable and more valuable products.

One of the most important things that the farmer obtains from improved highways is increased marketing facility by the hauling of various farm commodities into the cities by motor truck. The truck passes the farmer's gate, thereby furnishing a service which can not be duplicated by the railroads. In this way the cost of distribution of agricultural products has been materially reduced. Let us take the distribution of milk as an example. Experts declare the shipment by truck instead of by rail has reduced the number of handlings from six to only two. Heretofore the farmer had to haul his milk to the local shipping point, then it was hauled by rail to the city, and then the city distributor had to go to the milk platforms and get it. Now it comes right from the farmer to the city distributor's place of business. There is an estimated saving of 5 cents per hundredweight effected on all milk trucked in by the elimination of the haul from the railroad milk platforms to the city distributor. Benefits from this new method of transportation are realized not only by the farmer but by the consumer as well. The economies brought about by the more advanced methods have helped materially to keep the selling price of the products at a reasonably low figure, which at the same time has been high enough to allow the farmer or producer fair returns on his labor and capital invested.

It is generally conceded that something must be done by Congress to relieve agricultural conditions. Strong efforts are being made in this session to agree on some legislation that will give the farmer relief. President Coolidge very aptly said in his message to Congress at the beginning of this session:

Agriculture is a very complex industry. It does not consist of one problem, but several. They can not be solved with one stroke. They have to be met in different ways, and small gains are not to be despised.

The problem of good roads in the farming areas is one of the major problems of this complex industry. Good roads play a highly important part in making life on the farm more agreeable and profitable. It is very evident that the gains to the farmer from good roads are large, consequently adequate farm relief and the continuation of Federal aid on roads must go hand in hand.

The question of the relationship of road improvements to the general welfare of the Nation is one which can best be answered by inquiring into the value of such improvements in the social, economic, and political life of our country.

When we consider the facilities offered by our great system of national highways for recreation to millions of our citizens, the health giving and building that motoring gives them, the educational opportunities made possible by the bringing together of rural schools into modern consolidated schools which compare favorably with the more advanced institutions of learning in our great metropolitan districts, and the opportunities offered for closer fellowship within the family circle during the vacation periods and for greater participation in the religious and civic life of the community, it will be very evident that the benefits therefrom extend far beyond the community and State and are permitting a social development by our Nation which has never been equaled in the world's history.

With regard to the economic value and necessity of improved roads we may well look to President Coolidge once more for enlightenment. In his first message to Congress he said:

No expenditures of public money contributes so much to the national welfare as for building good roads.

The practice of penny-wise economy on roads by any political agency is to be deplored, particularly when the cure is much less costly than the ailment. We might well add to the statement just quoted another made by an eminent authority on highway transportation, Mr. Thomas H. MacDonald, Chief of the Bureau of Public Roads, who stated:

We pay for improved roads whether we have them or not, and we pay less if we have them than if we have not.

It costs money, real money, to drive any motor vehicle over the highways. Few of us accurately compute the actual costs. If we do, we consider not only the cost of gasoline and tires but other operating costs, together with depreciation, insurance, storage, interest on investment, and similar expenses. The highway department of Kentucky recently made an investigation of the differences in operating costs alone of vehicles operating on improved and unimproved roads. These costs included only gasoline, oil, grease, tires, and repairs. On good roads they were found to be 4.22 cents per mile and on bad roads 6.72 cents per mile, or a difference of 2½ cents. Assuming that the average car runs only 5,000 miles per year, its owner, if able to run on good roads, would save \$125 during that time in operating expenses alone. Multiply this, if you will, by the 20,000,000 vehicles in use to-day and you will find that the surcharge on the motoring public of America, due to unimproved roads would amount in a single year to the huge sum of \$2,500,000,000, or two and a half times the present highway bill of the Nation. It might be interesting to state that in 1925 there were manufactured in the United States 3,678,327 motor passenger cars and 474,923 motor busses. These, if placed end to end, would extend for 9,688 miles.

Another economy of improved highways is to be found in the effect they have on land values. When the Bureau of the Census was collecting data for its report on the "Estimated national wealth," our Government experts gave much thought to the question of how to determine the real value added to national wealth by improved highways. Some thought that the true figure was the replacement expense of highway improvements at present costs with an adequate allowance for depreciation of the improvement since it was made. It was finally decided, however, that the real value of such improvements must be largely, if not entirely, reflected in the value of the real property which the improved highways served, not necessarily in the value of the property along the highways or within any stated distance from them, but somewhere in the United States. In other words, the value of highway improvements is national and not local, and in not accepting replacement cost less depreciation as the true value of highway improvements, it may be reasonably assumed that these experts considered the actual value as greatly in excess thereof.

From an economic standpoint the increase in land values and the direct savings in operating costs of motor vehicles using

the highways would seem to fully justify not only the expenditures we are making at the present time but considerably more. The computations made, however, have not taken into account the huge economic value of improved highways in facilitating the transportation of persons as well as agricultural and industrial products. Nor does it include any allowance for the added efficiency of the American business man to-day, which is estimated at 57 per cent where he is able to use an automobile. Nor does it include the noncommercial utility of the motor vehicle such as time saved outside of business and in healthful recreation. Nor does it make allowance for the stimulating effect improved roads have had upon the more extensive use of motor vehicles and in turn the effect the expansion of the automobile industry has had upon the prosperity of the Nation. This industry alone is responsible directly for the livelihood of more than 3,200,000 persons and indirectly for the happiness and prosperity of the entire Nation. During the 25 years of its existence the automobile industry has grown until now it is our most important manufacture, rated according to wholesale value. In 1925 the total wholesale value of cars and trucks reached the stupendous sum of \$3,000,000,000, while the wholesale value of parts and accessories and tires amounted to almost \$2,000,000,000 more. Consider the interdependence of the automobile industry and highway building and the ultimate effect of these on the country at large. They have assumed the proportions of a national need.

We may well contemplate what the employment situation in the United States might be to-day if it had not been for this industry and the vast range of new activities added to the industrial roster of the Nation by the manufacture, service, and use of automotive equipment. Labor has been employed at high wages. There has been no unemployment in any of the industries, and yet all manufacturing industries have had a supply of labor ample to meet ordinary requirements. Farms and factories have produced more without creating an embarrassing surplus. What would these 3,200,000 persons have done for a livelihood during the last few years if they had not found employment directly or indirectly in the automotive industry? They could not have been absorbed by other industries, for during this time there has not been a scarcity of either labor or manufactured products. Widespread unemployment is the only answer. And the great prosperity that we boast to-day would have been only a hope for the future.

In appraising the economic value of the automotive industry I should not fail to mention the real effect the use of its product has had on other transportation facilities. Often it is said that the use of the automobile, the bus, and the truck is crowding other freight and passenger carriers out of the transportation field. But is this the fact?

Let us compare first the effect the use of automotive equipment has had on the type of transportation with which it comes in more direct competition than any other—the electric railways. Statistics prepared by the American Electric Railway Association, covering 221 electric railways, show the operating revenues for these railways during 1924 were \$552,000,000, while for 1925 they were \$546,000,000, or a decrease of a fraction more than 1 per cent. But this small loss of revenue had no effect whatever on the earnings of the companies, for the net income of these railways showed an increase in 1925 of more than 13 per cent over 1924.

Statistics prepared by the Interstate Commerce Commission on steam railroad operation are even more interesting when there is talk of competition. The total operating revenue of the railroads in 1924 were \$5,921,000,000, while for 1925 they were \$6,187,000,000, an increase of about 5 per cent. Out of this the net operating income in 1924 was \$986,717,000 and in 1925, \$1,136,984,000, an increase in the latter year of 15 per cent. Certainly, this shows no serious effect from highway competition. But let us examine further the report made recently by the commission on railroad abandonments, which has a direct bearing upon the question of ruinous competition. This report shows that of the 2,438 miles of railway abandoned from 1916 to 1925 exhaustion of natural resources caused 57.8 per cent; competition of other railroads, 29.3 per cent; rearrangement of railroad lines, 1.3 per cent; miscellaneous, 7.3 per cent; and motor vehicles only 4.3 per cent.

The national needs are such that road improvements must be made if we are to continue to progress, and these needed improvements can be obtained only by Federal cooperation, which can be given in a lawful manner. What the Government can do to meet these demands is best illustrated by what it has been doing for the past 10 years—cooperating with the States in the improvement of roads on the Federal-aid system. Small as has been the Federal Government's participation in the expenses, slightly more than one-fourth of the cost of the improvements

on the Federal-aid system itself, and annually not more than 8 per cent of the total highway bill of the Nation, it nevertheless has been large enough to accomplish the results we have looked for. Federal aid without question has afforded the greatest possible stimulus to State road construction. The annual appropriations for Federal aid by Congress have accomplished two results which are highly important from the national standpoint. First of all, they have stimulated construction in the States to a point where the Federal contributions at present are negligible in many States; and, secondly, the appropriations have been and still are large enough to make the States willing to match the Federal funds in improving the interstate roads on the Federal-aid system. With the impetus Federal aid has given to road building throughout the States there are a few that have gotten to the point where they could well afford to forego the privilege of receiving further funds. While these States could forego this privilege, the Federal Government could not, for if it expects at any time in the reasonably near future to have a complete system of national highways, it must offer to all the States sufficient inducement in the form of financial aid to get them to improve interstate highways in preference to unimportant local highways.

Mr. COPELAND. Mr. President—

The PRESIDING OFFICER (Mr. BRATTON in the chair). Does the Senator from Nevada yield to the Senator from New York?

Mr. ODDIE. I yield.

Mr. COPELAND. The Senator has just said that it is necessary to have a complete system of Federal highways. Has the Federal Government prepared a plan which covers the entire country, so that it has in contemplation something which, when completed, will be, as the Senator has said, a completed plan?

Mr. ODDIE. There is a plan which was laid out after exhaustive study, on which the present 7 per cent highway system is being worked out. That plan contemplates something over 200,000 miles of highways, and this legislation we are considering now is for the purpose of authorizing appropriations for the continuation of this work for the years 1928 and 1929.

Mr. COPELAND. I should like to ask the Senator this question: Is there a definite plan? Has the Government outlined a plan of development which during the next 10 years it hopes to carry out?

Mr. ODDIE. I can not say that the present plan will extend as long as 10 years, but I believe and hope that it will, although the program, including the two hundred thousand and odd miles, has been very carefully worked out.

Mr. COPELAND. It does not mean anything to me to say how many miles are developed. It is conceivable that the Government might build 200,000 miles of roads that would not be such roads as might be included in the constitutional roads which Congress could appropriate money to build. I have had an impression, I may say to the Senator from Nevada, that the Government, if it is seeking to have continued appropriations, should mark out a plan of through highways, so that when it builds one section of road this year it will have in mind that another section of the same road will be built next year, and the third year another section, so that ultimately, when the plan is carried to its culmination, there will be well-worked-out useful highways, and highways which have been built in accordance with the constitutional right of the Congress to appropriate money for that purpose.

That is what I have in mind, and I have had the suspicion, if I may say so to the Senator, that there has been a haphazard appropriation of money, that there has been the construction of a highway here and a lateral highway there, that there has not been any definite, constructive plan as to what is ultimately to be done when these appropriations have been expended.

As the Senator knows, I have been insistent upon such a plan for several years, and I think the advocates of Federal expenditures for highways are under obligation to this country and to the taxpayers to see to it that such a definite plan as I have suggested shall be put into operation. I want to ask the Senator, who has been a consistent advocate of the plan from the first, if there is such a plan in existence. Has some official, or some body, or some board, worked out such a plan looking to the ultimate completion of this enterprise?

Mr. ODDIE. Mr. President, I can assure the Senator from New York that such a plan has been very carefully and thoroughly worked out, and one of the main objects of this system is to prevent the uncoordinated building of roads in the different States. The object is to correlate the systems in the various States into one great system.

Mr. COPELAND. To have the roads correlated into one great interstate system?

Mr. ODDIE. And the interstate system is to be connected with the intrastate system, which is equally important and necessary.

Mr. COPELAND. Of course I am willing to admit and to concede that an interstate system such as has been suggested by the Senator may be carried out by the lawful use of Federal money, but I do not believe that the expenditure of money for any intrastate system, unless that intrastate construction is actually a part of what will ultimately become a great interstate system, is a lawful or constitutional use of the funds of this Government.

Mr. ODDIE. Mr. President, on the point just raised by the Senator from New York, this argument is based on the false premise that transcontinental routes are the only ones over which Congress may properly exercise any control. This, of course, is not the case, for it may proceed, in extending Federal aid, under any one of three distinct powers—one general and two specific. The general power is that to provide for the common defense and general welfare of the Nation. The two specific powers are those to regulate interstate commerce and to establish post roads. According to the best constitutional authority, the power to provide for the common defense and general welfare, while an admitted limitation on the taxing power of Congress, is also sufficient authority for Congress to legislate on subjects not embraced within the specific or enumerated powers, but nevertheless included in the general power. This unquestionably embraces Federal aid on roads.

This argument evidently is offered on the assumption that transcontinental highways are the only ones that can be built under the commerce clause. This obviously is wrong, for any reasonable interpretation of that clause would permit the improvement of all interstate highways. Furthermore, it might permit the improvement of intrastate highways if the clause, as it affects highways, is interpreted as liberally as it has been with respect to railroads. There are many decisions holding that a railroad built and operated wholly within a State is subject to Federal control if used to complete a movement of interstate traffic.

There can be no question that the authority of Congress, acting under the defense and welfare clauses, to improve roads is by no means limited either to interstate or transcontinental routes. When the Federal-aid highway system was set up, the Secretary of Agriculture asked the General Staff of the Army to submit a map showing roads that were required for military purposes. The General Staff called upon the department commanders of the Army to submit such maps. With a few exceptions, notably with respect to roads along the Mexican border, the replies received were substantially that any road that was desirable for peace-time commerce was of military importance in time of war. Any road that is desirable for peace-time commerce would certainly meet the requirement that improvements on it be in the interests of the general public welfare.

No attempt is made in the Federal Constitution to define what a post road is or to place any specific limitations on the power of Congress to provide them. Obviously, then, Congress may make any reasonable definition it wishes of what constitutes a post road. Such a definition will stand until the Supreme Court changes it. Under the first Federal aid act a post road was defined as any road over which the mails were carried. By the act of 1919 this definition was amended to read that a post road is any road which now carries or which may hereafter carry the mails. This definition stands to-day.

In view of the absolute power in Congress to improve post roads or military roads and to define what roads shall be included in these classifications, and in view of the action already taken by Congress under this authority to set up the Federal-aid highway system, no one can seriously maintain that it is exceeding either its express or implied powers under the Federal Constitution. The least that can be said about it is that the action taken at this time is perfectly proper and legal and there is, in my opinion, little likelihood that the United States Supreme Court would ever overrule the conclusions of Congress in carrying out these powers. Up to this time the action taken by Congress to legislate under them has been most reasonable and in the public interest.

Mr. COPELAND. If the Senator will bear with me for a moment, there is a very serious question in regard to this matter. Of course, I am not qualified to discuss a constitutional question, yet there are so many works upon the Constitution that anybody who understands the English language can get fairly accurate information as to what the authorities think regarding this question.

I want to quote just a paragraph from John Randolph Tucker, who, as the Senator knows, has written a very illuminating

book upon the Constitution of the United States. Mr. Tucker, in his book, says:

If there were no roads, they being absolutely necessary for the transportation of mail matter, to make a road under such circumstances would be a fair exercise of power. But to make a road for other purposes and with other intents than for postal purposes under cover of this power would be neither necessary nor proper, but a fraud on the Constitution.

Of course, the Senator may contend that any road is a post road because the rural-delivery man travels over it. He may contend that the road up to my front door is a post road because the mail carrier travels it, but I think that the Senator must make clear that these roads which are built under this highway act are honest-to-goodness post roads, and that if there were no express trains or motor cars suitable for carrying the mail these roads might be used by buses or by postmen to carry through mail. I can not see, and I have not been able to see, that these lateral roads, which make for the convenience and the happiness of the people, are built lawfully when they are built by the use of Federal funds. I know how useful they are. I think there is some justification in that they lower the cost of the necessities of life. They enable the farmer to bring his produce to market, and no doubt contribute a lot to the lowering of the prices of food necessities in the cities. Yet, after all, I say to the Senator that I think this suspicion of the unlawful use of Federal funds for this purpose could be swept away if the Senator, with the enthusiasm for which he is noted, would bear down upon the highway officials of the Government, to see to it that there is a definite program arranged for roads which, in the true sense, will be interstate roads, and make for the common welfare, and that they are not just purely to take care of local interests. That is the thought I have in mind.

Mr. ODDIE. Mr. President, replying to the Senator from New York first on the practical side, I will say that the Federal Government to-day is using over 1,200,000 miles of roads on which it carries the mail.

I will say something further on the constitutional question raised by the Senator from New York, because that is a matter that has been discussed at various times in connection with this Federal-aid highway legislation, and it is important that the people of the country know that in this legislation they have something that is absolutely constitutional without a question.

The Constitution provides that the Congress shall have power—

First. To lay and collect taxes, duties, imposts and excises, to pay the debts, and provide for the common defense and general welfare of the United States; but all duties, imposts, and excises shall be uniform throughout the United States.

Second. To regulate commerce with foreign nations and among the several States and with the Indian tribes.

Third. To establish post offices and post roads.

Fourth. To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by the Constitution in the Government of the United States, or in any department or officer thereof.

In regard to the question of the authority for Federal aid in the matter of building roads I will mention the post-roads clause in the Constitution.

The statement has been made that the authority for Federal aid on roads is to be found solely in the post-roads clause of the Constitution. This is wrong. There are three distinct powers under which Congress may act in providing Federal aid. The first is a general power, and is found in its authority to lay and collect taxes, duties, impost and excise, to pay the debts, and provide for the common defense and general welfare of the United States. The best constitutional authority on this point, the late Justice Story, who was Chief Justice of the Supreme Court for 34 years, holds that the defense and welfare provisions of this clause are at one and the same time a limitation on the taxing power, as well as a grant of a general power to collect taxes and appropriate revenues derived therefrom in the accomplishment of the purposes mentioned. In other words, as has so often been argued by opponents of Federal aid, the defense and welfare provisions are not synonymous with the specific or enumerated powers in the Constitution following that to lay and collect taxes.

There can be no question that the post-roads clause is sufficient authority for any appropriations Congress has made or is likely to make in the furtherance of Federal aid on roads. Every road improved with this money is of real, and not merely assumed, importance from the standpoint of the Postal Service.

The second specific authority to appropriate for good roads, that contained in the commerce clause, has been bitterly assailed on many occasions in both the House and Senate. There is, however, an abundance of legal authority to support

the conclusion that the commerce clause is ample authority for Congress to appropriate under it to either aid the States in building roads of importance from the standpoint of interstate commerce or for the Federal Government to assume control of the roads and make improvements at the sole cost of the Federal Government. With such complete authority there can be no doubt as to the wisdom of Congress in providing for the national needs by aiding the States in improving the roads instead of compelling them to permit improvements by the Federal Government.

If Congress has power to appropriate, as it has done, more than \$1,300,000,000 for the improvement of rivers and harbors, and more than \$379,000,000 for the construction of the Panama Canal, all under the authority given it by the commerce clause, it certainly has ample authority to extend governmental aid to the States in the improvement of highways of national importance. As arteries of commerce, highways are just as important, if not many times more important, than are our harbors, rivers, and canals, improved at a much heavier total expense to the Federal Government.

In the interpretation of the extent of the power of Congress to regulate interstate commerce the Supreme Court of the United States has held that where the regulation of interstate commerce was dependent upon the construction or improvement of the facilities by which the commerce is carried on, the Federal Government might provide such facilities, whether they be railways, highways, or waterways. In other words, the court has given a very broad interpretation to the power of Congress to "regulate" interstate commerce.

That Congress has power to go even further and authorize or construct roads and highways as a means of communication between the States without the concurrence or consent of the States within which the structures are made is upheld in the following cases:

1. *Wilson v. Shaw* (204 U. S. 24.)
2. *Luxton v. North River Bridge Co.* (153 U. S. 525).
3. *Stockton v. Balto., etc., R. Co.* (32 Fed. 9).
4. *Indiana v. U. S.* (148 U. S. 148).

For our purposes the opinion of Justice Brewer, of the United States Supreme Court, in the celebrated case of *Wilson v. Shaw*, Secretary of the Treasury (204 U. S. 24), should be conclusive on this question. In affirming the decision of the court of appeals, in which it held that Wilson had no right to restrain the Secretary of the Treasury from paying \$40,000,000 to the Panama Canal Co. and \$10,000,000 to the Republic of Panama for work already completed on the Panama Canal, and to further restrain the Secretary of the Treasury from paying out money for the completion of the canal and from borrowing money for that purpose and issuing bonds of the United States therefor, the Supreme Court disregarded the technical questions raised and decided the case upon the fundamental principles of constitutional law involved. The following is a quotation from the decision:

Complainant contends that the Government has no power to engage anywhere in the work of constructing a railroad or canal. The decisions of this court are adverse to this contention. In *California v. Pacific Railroad Co.* (127 U. S. 1, 39) it was said:

"It can not at the present day be doubted that Congress, under the power to regulate commerce among the several States, as well as to provide for postal accommodations and military exigencies, had authority to pass these laws. The power to construct, or to authorize individuals or corporations to construct national highways and bridges from State to State is essential to the complete control and regulation of interstate commerce. Without authority in Congress to establish and maintain such highways and bridges, it would be without authority to regulate one of the most important adjuncts of commerce. This power in former times was exerted to a limited extent, the Cumberland or National Road being the most notable instance. Its exertion was but little called for, as commerce was then mostly conducted by water, and many of our statesmen entertained doubts as to the existence of the power to establish ways of communication by land. But since, in consequence of the expansion of the country, the multiplication of its products, and the invention of railroads and locomotion by steam, land transportation has so vastly increased, a sounder consideration of the subject has prevailed and led to the conclusion that Congress has plenary power over the whole subject. Of course, the authority of Congress over the Territories of the United States, and its power to grant franchise exercisable therein, are and ever have been undoubted. But the wider power was very freely exercised, and much to the general satisfaction, in the creation of the vast systems of railroads connecting the east with the Pacific, traversing States as well as Territories, and employing the agency of the State as well as Federal corporations. (See *Pacific Railroad Removal cases*, 115 U. S. 1, 14, and 18.)"

In *Luxton v. North River Bridge Co.* (153 U. S. 525, 529), Mr. Justice Gray, speaking for the court, said:

"Congress, therefore, may create corporations as appropriate means of executing the powers of Government, as, for instance, a bank for the purpose of carrying on the physical operations of the United States or a railroad corporation for the purpose of promoting commerce among the States. (*McCulloch v. Maryland*, 4 Wheat. 316, 411, 422; *Osborn v. Bank of United States*, 9 Wheat. 738, 861, 873; *Pacific Railroad Removal cases*, 115 U. S. 1, 18; *California v. Pacific Railroad*, 127 U. S. 1, 29.) Congress has likewise the power, exercised early in this century by successive acts in the Cumberland or National Road, from the Potomac across the Alleghenies to the Ohio, to authorize the construction of a public highway connecting several States. (See *Indiana v. United States*, 148 U. S. 148. See also *Monongahela Navigation Co. v. U. S.*, 148 U. S. 312.)"

These authorities recognized the power of Congress to construct interstate highways.

A fortiori, Congress would have like power within Territories, outside of State lines, for there the legislative power of Congress is limited only by the provisions of the Constitution and can not conflict with the reserved powers of the States. Plaintiff, recognizing the force of these decisions, seeks to obviate it by saying that the expressions were obiter dicta, but plainly they were not. They announced distinctly the opinion of this court on the questions presented and would have to be overruled if a different doctrine were now announced. Congress has acted in reliance upon these decisions in many ways, and any change would disturb a vast volume of rights supposed to be fixed; but we see no reason to doubt the conclusions expressed in these opinions and adhere to them.

If it is the desire of any Senator to go further into this subject, he may do so by going over the following cases in which the decision above mentioned, in the case of *Wilson* against *Shaw*, has been cited: 262 U. S. 486, 257 U. S. 590, 263 U. S. 478, 152 Fed. 757, and 201 Fed. 679.

Another argument that has been used against Federal aid on roads is that the "defense" and "general-welfare" provisions of the Constitution are limitations on the power to tax and are not general powers under which the Federal appropriations may be made to carry them into effect. For an answer to this charge we may well look to an eminent authority on constitutional law, such as Mr. Justice Story, who served as Chief Justice of the United States Supreme Court from 1811 to 1845. In his work on the Constitution, volume 1, page 673, section 923, in referring to the interpretation to be given to the power of Congress "to lay and collect taxes, duties, imposts, and excises, to pay the debts, and provide for the common defense and general welfare of the United States," he says:

If the power of taxing here be granted, why should it not be qualified according to the intention of the framers of the Constitution? But then, it is said, if Congress may lay taxes for the common defense and general welfare, the money may be appropriated for this purpose, although not within the scope of the other enumerated powers. Certainly it may be so appropriated, for if Congress is authorized to lay taxes for such purposes it would be strange if, when raised, the money could not be applied to them. That would be to give a power for a certain thing and then deny the end intended by the power.

In section 924, page 675, of the same volume, Mr. Justice Story elaborates further on his views as to the effect of the provisions in question:

The only real question is whether, even admitting the power to lay taxes is appropriate for some of the purposes of the other enumerated powers (for no one will contend that it will of itself reach or provide for them all), it is limited to such appropriations as grow out of the exercise of those powers. In other words, whether it is an incident to those powers or a substantive power in other cases which may concern the common defense and the general welfare. If there are no other cases which concern the common defense and general welfare, except those within the scope of the other enumerated powers, the discussion is merely nominal and frivolous. If there are such cases, who is at liberty to say that, being for the common defense and general welfare, the Constitution did not intend to embrace them? The preamble of the Constitution declares one of the objects to be to provide for the common defense and to promote the general welfare; and if the power to lay taxes is in express terms given to provide for the common defense and general welfare, what ground can there be to construe the power short of the object, to say that it shall be merely auxiliary to other enumerated powers and not coextensive with its own terms and its avowed objects? One of the best-established rules of interpretation, one which common sense and reason forbid us to overlook, is that when the object of a power is clearly defined by its terms, or avowed in the context, it ought to be construed so as to obtain the object, and not to defeat it. The circumstance that so construed the power may be abused is no answer.

On the legal side there can be no question of the power and the obligation of the Federal Government to continue this activity. The broad powers given Congress over post roads and in providing adequately for the defense of the Nation as well as for the general public welfare are ample to cover any form of Federal aid on roads which has up to this point been undertaken. The national demands, however, greatly exceed the limitations placed upon them by Congress in providing for them directly and adequately. The extension of farm markets is a problem with which Congress has not specific authority to attempt to solve unless it is incidental to other problems over which it has jurisdiction. But when we realize the full importance of this and other similar problems we feel that in acting under the powers given us to deal with certain national problems we should do so liberally when the solution of one of the problems will also solve the other. This is not meant in any way to countenance an abuse of our authority to legislate, but is simply a declaration of my belief that we should interpret these powers in the light of modern conditions, which were never dreamed of by the framers of the Constitution.

The large percentage of the citizens of every State are motorists, tourists, or business men using the highways of other States. It might be contended that there should, therefore, be reciprocity between the States so that motorists from one State might enter and leave another State at will. It is possible for one State to collect taxes from motorists and other users of the highway, put them into its own treasury, and if its revenues are large build splendid highways. I might then insist that other States improve their highways and permit its citizens to travel on them. But is it not a much fairer and more equitable way to solve the problem by having the Federal Government collect in taxes from all citizens of the United States sufficient revenue to make possible its aid to the States in improving the interstate routes, now so heavily burdened with tourist traffic and vehicles operated for commercial purposes? To withdraw or curtail such aid at this time would be uneconomic, a breach of faith, and wrong.

Our national needs are such that we must have improved roads; and these needs can be adequately served by the Federal-aid road system authorized by the Federal highway act of 1921, which provides for a complete network of interstate highways gridironing the country in such a manner that no person will be compelled to live at any point more than 10 miles from a road improved with Federal aid. Only then will the Federal obligation be fulfilled. We recognize a national need for good roads, but cooperation among the 48 States, without the present Federal-aid legislation, in the improvement of a definite system of interstate highways such as are included in the Federal-aid highway system is only a vain dream. My views in no way reflect upon my own or any other State; for the purposes of State and national highways, while similar in some respects, are so widely different in others of greater importance that the States themselves would not be justified in making the improvements.

No expenditure of public funds for highway improvement is justified unless the improvement is an economic necessity. When a State spends the money of its citizens for roads it must do so with due regard for the economic and political demands of the State itself. In other words, strictly State highways must meet State and local needs, not national needs. Furthermore, some of the States are financially unable to make improvements that will meet national needs. The highways improved with Federal cooperation are built with due regard for all of the national needs, particularly the demands that may be placed on them during a military emergency. For instance, every culvert and bridge on the Federal-aid roads must be so constructed that it will meet the requirements of the Army. Close cooperation has always existed between the War Department and the Bureau of Public Roads, with the result that there is little chance that any road will be built with Federal aid that will not serve adequately the military needs of the Nation; consequently, the Federal Government should neither ask nor expect the States to build roads at their sole expense to serve such needs.

To discontinue Federal aid now or at any time in the future before the highways on the designated systems have been improved would be an unwarranted breach of faith with the States. Ten years ago the Federal Government declared its policy. Five years ago it reaffirmed this policy when it set up the Federal-aid highway system. To-day this system is about two-thirds improved, but instead of the Federal Government having assumed one-half of the total cost, it has borne slightly more than one-fifth. The improvement of national highways has cost the States more than \$2,000,000,000 and the Federal Government only \$550,000,000.

When Congress laid out a system of national highways and agreed to aid the States in improving them, the States accepted the offer with the greatest sincerity and faith. They expected then, and will continue to expect, Federal cooperation until all of the roads on the system are improved to meet existing traffic needs. To withdraw this aid now would be a most unhappy solution of the Nation's highway problem and a sad testimonial to the ability of the Federal Government to keep faith on what is unquestionably one of the most important cooperative undertakings ever entered upon between the two principal political divisions of our Nation.

Mr. President, I have presented what appear to me to be the fundamentals of the problem of Federal aid on roads. While I have not gone into exhaustive detail on the subject, I believe the points made are sufficiently clear and logical to show the duty of the Federal Government in the premises. I have not heard a single argument made that would offset the fundamentals I have outlined. There have been statements made from time to time that this activity should be discontinued, but in each instance the public has been urged to adopt some isolated idea or notion about the subject which entirely overlooks the real purposes of Federal aid and to accept the argument as a justification for discontinuing one of the most meritorious undertakings of our Federal Government.

We have heard it said that Congress lacks constitutional power to continue Federal aid; that the bases for distributing the funds and mileage are inequitable; that the demand for Federal aid is sectional; that such aid has destroyed local initiative; that it has encouraged extravagance; that the East pays the highway bill of the Nation, particularly the West; and that the Federal-aid system is already too large. I shall now take up each of these arguments and show their fallacy.

The argument that Congress is not clothed with sufficient constitutional power to provide for Federal aid has been worn threadbare and should be discarded. I think the statements I have just made, the quotations from the Constitution, the law, and the authorities, have answered this objection.

What more authority can be required than the right to legislate for post roads, national defense, and general welfare? Would such eminent statesmen as Jefferson, Hamilton, Madison, Clay, Calhoun, and Webster have constantly maintained the constitutional authority of Congress not only to aid States to build roads but to actually go into the States and build them at the sole expense of the Government if there had been any doubt in their minds as to what the framers of the Constitution intended?

Of late the proponents of this view have found it expedient not to argue that there is no power in Congress to give aid to the States, but that in giving such aid it has been more liberal than necessary in carrying out its constitutional obligations. My answer to this is that the framers of the Constitution knew what they meant and said it. They gave Congress complete control of certain fields of activity; they said that it could build post roads, prepare to defend the Nation, and provide for the general welfare. There is not one of the essential objects of Federal aid that is not fully and adequately covered by one of these specific powers. The duty of Congress in using its discretion is to act as intelligently and fairly as conditions warrant. This, I submit, it has done.

When Congress decided to contribute toward highway improvements it gave a great deal of time to the study of the most equitable method for distributing the Federal funds. Post-road mileage was immediately admitted as one of the factors, for the Federal Government was using daily thousands of miles of highways for the distribution of mail; population was agreed upon as one which naturally carried with it a more or less constant relationship to wealth, for it has been found that they coincide to a great degree; area was chosen because it carried with it the problem of the growth of the States in their development and a recognition that the States in which the Federal Government holds much of the land can not add to population or road mileage on that very account.

Taxable property was eliminated because there was no equalized method of assessment for property for taxation purposes—some States assessed one-third of the value, some one-half, and some full value. It was not necessary to recognize wealth because of its direct relationship to population. Congress therefore decided that the most equitable method to adopt for the distribution was on the basis of one-third according to the ratio which the area of each State bears to the total area of all States; one-third in the ratio which the population of each State bears to the total population of all States, as shown by the latest available Federal census; and one-third in the ratio which the mileage of rural-delivery routes and star routes

in each State bears to the total mileage of rural delivery and star routes in all States.

The contention that the demand for Federal aid is a sectional matter, coming largely from the Western States, is based entirely on the erroneous impression that the roads in the East have been built. It is true that road improvement was begun in the East at an early date, but every mile of the original construction has been or is being rebuilt to meet modern traffic requirements, and the Federal-aid funds are as eagerly used in this section as in any other. The Eastern States benefit to a marked degree by this Federal service for the very reason that their population is dense and the number of their interstate roads is greater. An analysis of the figures of Federal expenditures for the last fiscal year shows that the New England, Middle Atlantic, and the East North Central States, which contain only 13.7 per cent of the land area of the Nation, receive 28.2 per cent of the Federal aid. It shows also that the Mountain and Pacific Coast States, which constitute 39.6 per cent of the total land area, receive only 18.8 per cent of the Federal aid.

Another argument is that Federal aid destroys local initiative. How can this be said when the Federal expenditures are less than 10 per cent of the Nation's annual highway bill? Each year the Federal share is becoming relatively less, for the amounts provided by the Federal Government show some signs of constancy, while the amounts provided by the States must become larger and larger if they are to meet the ever-increasing demand for better transportation facilities. The fact is that Federal aid, instead of destroying local initiative, has encouraged it far beyond the expectations of those Members of both the House and Senate who framed the original bill.

We must not overlook the argument that Federal aid encourages extravagance. Can the 50-50 plan of the Government, with a limitation of \$15,000 per mile on the payments that it will make, be such a tremendous inducement to State highway departments and State legislatures that they will jump at the opportunity of matching Federal funds with a larger share of funds raised by local taxes in order to build roads promiscuously and without regard to economic demand? Such a charge is unwarranted. Furthermore, it may be said generally that no improvement on the Federal-aid system is extravagant from the national standpoint. The argument loses sight entirely of the fact that Federal aid is intended to secure the improvement of a definite system of interstate highways, so that they will adequately serve national needs. It would certainly be inconsistent to expect the States to construct roads solely to meet national needs and to ignore entirely the local needs.

To say that the Federal-aid highway system is too large is to maintain that there is no need to connect all of the county seats and main market centers in the several States. When the 1921 act was being prepared much consideration was given to this question, and it was finally decided that in the national interest this connection was necessary and that the least mileage that would connect these points was 7 per cent of the total road mileage of all the States. Certainly this is a most conservative limit on Federal participation when viewed in the light of the full Federal responsibility.

One of the latest and most popular arguments against Federal aid is that it is unfair to compel the Eastern States to pay for highway improvements in the West. The premise on which this argument is based is unsound. It presupposes that the real source of Federal taxes is circumscribed by State lines and that a Federal function to be properly fulfilled should benefit all States in direct proportion to the tax revenue received through them. It overlooks entirely basic facts that are fundamental to our Government. Our States are political and not economic units, and our system of Federal taxation is such that the revenues collected from any one State are in no way a true indication of the creation of the wealth or use or consumption of the products taxed within the particular State. Furthermore, if the benefit theory be sound, why would it be necessary to centralize certain important powers in a Federal Government at all? Would it not be just as easy to operate as a federation of States? On March 10 of this year I discussed this matter on the floor of the Senate and had placed in the Record two very able and illuminating articles bearing on this question, one entitled "A billion for highways! Who pays the bill?" by A. J. Brosseau, director of the National Automobile Chamber of Commerce, and appearing in Nation's Business of January, 1926, and the other article, entitled "Who pays Uncle Sam's bill?" made by the American Association of State Highway Officials.

Let us inquire into the source of Federal taxes. Economic studies show that the percentage of population and wealth of most States to the entire population and wealth of the Nation

is about the same as the percentage of internal-revenue collections from those States to the total collections for the United States.

There are, however, a few notable exceptions to the rule, which will illustrate the point I have in mind. New York, for instance, has 10.2 per cent of the population, 11.7 per cent of the total wealth of the Nation, while its payments in internal revenue are 28.8 per cent; Michigan has 3.3 per cent of the population, 3.6 per cent of the total wealth, and pays 7.9 per cent of the internal revenue; North Carolina has 2.3 per cent of the population, 1.4 per cent of the wealth, and pays 5.7 per cent in revenue.

The question naturally arises as to the cause for these excess payments. In Michigan it is easily explained when it is understood that 43 per cent of the total tax paid by Michigan is excise on automobiles and 73 per cent of all of the automobile excise taxes is collected in that State. When it is known that the average tax on which this computation was based was \$31 per car, there is no difficulty in understanding how this large fund is actually spread out over the entire country, for the purchaser of the new automobile pays the bill. On the other hand, the income tax of the Fords alone was \$21,260,000. In justice to the people of this State, however, it should be noted that they do not claim to have paid more than their due share.

As to North Carolina a similar explanation must be made. North Carolina's seeming excess is even more startling, for 86 per cent of the internal revenue paid by that State is on tobacco in its manufactured form. Can anybody question the statement that smokers all over the United States pay for the \$400,000 worth of internal-revenue stamps used daily in the tobacco plants of that State?

The total internal revenue credited to New York in round numbers is \$690,000,000. Of this amount 73 per cent comes from corporation and individual incomes, and 40.9 per cent of the 73 per cent is from corporations. The largest corporations in our country have their principal offices in New York, pay their Federal taxes there, and secure their income and profits from practically every State in the Union. The United States Steel Corporation, for instance, paid an income tax of \$16,000,000 in New York in 1923. It has 145 plants and warehouses, only two of which are located in New York State. It further has 153,000 stockholders out of whose profits this tax was taken. These stockholders held residences in every State in the Union.

Let us also consider the situation of the railroads, many of which have their principal offices in New York City. Probably the most flagrant examples are the Union Pacific and the Southern Pacific. The Union Pacific in 1923 paid an income tax in New York of \$4,500,000, and yet this road does not operate east of Omaha and Kansas City, half of the length of the continent from New York. The Southern Pacific paid a tax of \$5,000,000 and this road does not run any nearer New York than New Orleans.

The gigantic corporations which have their business offices in that State recognize no such limits as State lines. Transportation has enabled them to carry their products to the remotest hamlet. Twenty-four picked more or less at random showed a capital stock of practically \$2,500,000,000.

Let us also glance at the other side of the picture. Parties who have been protesting that their States are being assessed by the Federal Government to give funds to some far distant State seem to forget that it is the natural resources of that far distant State that contributes to their prosperity. Mines in Nevada, Utah, and Colorado and other Western States produce enormous wealth, and much of their profits go to residents of other States.

Let us consider the argument that the benefits of Federal aid are not distributed in proportion to the taxes collected. It seems hardly necessary to discuss this if one recognizes Federal aid as a proper governmental obligation and function. Every such activity must benefit some class of citizens or sections of the country more than another, but there is hardly a single activity in which the Federal Government engages that brings a larger and more direct return to the people of the United States. If equality of benefits is the test, let me ask how Congress can justify the appropriation it has made of more than \$1,300,000,000 for rivers and harbors. Do they benefit directly the farmer or the mountaineer? And further let me suggest that the Federal Government has collected from the users of motor vehicles within the past nine years a sum that approximates \$1,000,000,000, or much more than enough to offset the total appropriations for Federal aid and those proposed, or more than \$100,000,000 in excess of the total cost of Federal aid through the years for which authorizations are now asked. Surely as a class the motor-vehicle users deserve

most sympathetic consideration when Congress recognizes the benefit system.

While the aid authorized in this bill will not be available to the States until the fiscal years ending June 30, 1928 and 1929, the appropriations for 1928 should be allotted on January 1, 1927. This means that Congress should act on this bill at this session. Furthermore, and perhaps of greater importance, the States must match the Federal funds before making the improvements authorized, and their officials are entitled to know reasonably in advance of the meeting of the legislatures what the Federal Government intends to do, so that they may prepare their highway programs intelligently. Practically all of the State legislatures which meet in 1927 will convene the early part of January. Unless early action is taken on the bill, the State highway departments and the legislatures as well will be subjected to unnecessary inconvenience and embarrassment.

The authority of Congress is ample to continue Federal aid on roads. The policy of our Government has been clearly established, the improvement of an adequate system of interstate highways to meet national needs is a highly desirable Federal function, the States expect Congress to continue this policy at least until the Federal-aid system is completed, and that any attempt which might be made now or in the future to withdraw or curtail Federal participation before this system is completed would be an unwarranted breach of faith.

Mr. President, it is a misnomer to speak of the Federal appropriations for highway work as "Federal aid." The fact is that through the present cooperative law the Government has induced the States to shoulder a large share of a burden which is rightfully that of the National Government.

I ask unanimous consent to have inserted in the Record some tables showing the appropriations for Federal aid for roads, authorizations, apportionment to the States, the amount appropriated, the disbursements to the States, administration, mileage, and so forth, which will give much interesting statistical information on the subject.

The PRESIDING OFFICER. Without objection, the tables will be inserted in the Record.

The tables referred to are as follows:

Federal aid

[From Bureau of Public Roads]

(Figures for each fiscal year ending June 30)

Year	Authorized	Apportionments to States	Appropriated	Disbursements to States, administration, etc.
1917	\$5,000,000	\$4,850,000	\$5,000,000	\$34,337.85
1918	10,000,000	9,700,000	10,000,000	574,816.30
1919	65,000,000	63,050,000	65,000,000	2,915,282.76
1920	95,000,000	92,150,000	95,000,000	20,340,774.24
1921	100,000,000	97,000,000	100,000,000	57,462,768.07
1922	75,000,000	73,125,000	75,000,000	89,946,603.64
1923	50,000,000	48,750,000	50,000,000	71,604,703.75
1924	65,000,000	63,375,000	65,000,000	80,447,823.78
1925	75,000,000	73,125,000	75,000,000	97,482,829.80
1926	75,000,000	73,125,000	75,000,000	
1927	75,000,000	73,125,000		
Total	690,000,000	671,375,000	691,200,000	420,809,945.19

¹ The present Agricultural appropriation act carries \$75,000,000 in Federal-aid funds from the authorizations of these two years, closing out the balance of \$23,800,000 from the authorization for 1925, which had remained unappropriated. This leaves a total of \$23,800,000 from the authorization of 1926 and \$75,000,000 from the authorization of 1927 which remain unappropriated—a total of \$98,800,000.

(1) First column shows the total amount of Federal-aid funds authorized to July 1, 1927. (Present Federal aid bill would extend authorizations to cover fiscal years of 1928 and 1929 with an amount of \$75,000,000 authorized for each of those years.)

(2) a. The second column shows the apportionment to the States of the funds authorized. These authorizations have all been apportioned to the States, the last apportionment being completed January 1, 1926.

b. The difference between the apportionment total and the authorization total is represented by the funds allotted to Federal administration, research, etc.

(3) The third column shows the total of appropriations to date, which have lagged behind authorizations. Until 1923 there were no authorizations, as the Federal funds were simply appropriated and made available in the Treasury until used. By 1923, however, the balance on hand was so large that the program was continued by making authorizations for the future, and appropriating as the funds were needed. To date all the authorizations prior to 1926 have been canceled by appropriations. Under the authorization of \$75,000,000 for 1926 the sum of \$51,200,000 has been appropriated by the present agricultural appropriation bill. There is authorized to be appropriated, therefore, the sum of \$23,800,000, being the balance of the authorization for 1926, and \$75,000,000, being the total authorization for 1927.

With the passage of the present agricultural appropriation act, therefore, there will be a balance on hand of authorized but unappropriated funds totaling \$98,800,000. This, added to the figure of \$591,200,000 actually appropriated to date (including present agricultural appropriation act), equals the total of \$690,000,000 authorized up to and including 1927. The reason for the lag between appropriations and authorizations is that the money is now appropriated to meet the expected obligations of each year.

(4) The last column shows the total amount of Federal-aid expenditures, including administrative expense of something less than the statutory limitation of 2½ per cent of available funds. Payments to States are slightly less than the totals shown.

In 1917 the figure shown represents administrative expense.

LIST OF TABLES

1. Comparison of combined receipts from motor-vehicle licenses and gasoline taxes to State funds required to match Federal-aid road apportionment, 1925.
2. Total program of Federal highway projects which have been approved for construction (includes projects completed and projects under construction) as of April 30, 1926.
3. Total cost Federal aid and mileage of Federal-aid roads completed to April 30, 1926.
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5. Total cost Federal aid and mileage of Federal roads approved for construction as of April 30, 1926.
6. Apportionment of Federal aid to States, fiscal years 1917-1927.
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8. Unobligated balances of Federal-aid apportionments as of April 30, 1926.
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12. Estimated State and local highway expenditure program for 1925.
13. Estimated program of State and local expenditures for calendar year 1926.
14. Apportionments and appropriations for cooperative road construction as of May, 1926.
15. Revenue derived from Federal excise taxes on automobiles, trucks, motor cycles, tires, accessories for the fiscal years 1918-1925, inclusive, arranged by States in which collected.

1925—Comparison of combined receipts from motor-vehicle licenses and gasoline taxes to State funds required to match Federal-aid road apportionment

[U. S. Department of Agriculture, Bureau of Public Roads]

States	A Combined receipts from motor-vehicle and gas taxes (1925)	B State funds required to match \$75,000,000 Federal-aid road apportionment	C Surplus of combined receipts over State funds required A-B=C	D Ratio of A to B or A=D/B
Alabama	\$4,651,931	\$1,541,870	\$3,110,061	3.02
Arizona ¹	1,261,543	403,800	857,743	3.12
Arkansas	6,100,360	1,264,164	4,836,196	4.82
California ¹	22,773,087	1,628,000	21,145,087	13.99
Colorado ¹	3,391,245	1,068,000	2,323,245	3.17
Connecticut	7,553,056	474,801	7,078,255	15.90
Delaware	1,022,781	365,625	657,156	2.79
Florida	11,303,135	892,878	10,410,257	12.66
Georgia	7,429,239	1,983,089	5,446,150	3.74
Idaho ¹	2,088,030	628,000	1,460,030	3.32
Illinois ¹	12,969,754	3,191,479	9,778,275	4.06
Indiana	12,302,712	1,938,693	10,364,019	6.34
Iowa	13,246,218	2,070,396	11,175,822	6.39
Kansas	7,515,284	2,074,360	5,440,924	3.62
Kentucky	6,821,622	1,411,607	5,410,015	4.83
Louisiana	5,739,588	997,262	4,742,326	5.75
Maine	3,450,482	685,140	2,765,343	5.04
Maryland	4,553,337	635,783	3,917,554	7.16
Massachusetts ²	9,843,901	1,090,118	8,753,783	9.03
Michigan	22,762,080	2,225,227	20,536,853	10.23
Minnesota	13,608,774	2,124,151	11,484,623	6.40
Mississippi	4,024,274	1,291,960	2,732,314	3.11
Missouri	11,426,213	2,417,727	9,008,486	4.72
Montana ¹	1,589,963	1,193,000	396,963	1.33
Nebraska	6,130,260	1,581,969	4,548,291	3.87
Nevada ¹	527,902	132,000	395,902	4.00
New Hampshire	2,443,166	365,625	2,077,541	6.68
New Jersey ²	10,515,323	935,082	9,580,241	11.24
New Mexico ¹	995,230	690,000	305,230	1.44
New York ²	25,506,245	3,657,096	21,849,149	6.97
North Carolina	14,442,222	1,699,168	12,743,054	8.49
North Dakota	1,717,989	1,180,699	537,290	1.45
Ohio	22,157,181	2,789,588	19,367,593	7.94
Oklahoma ¹	9,729,089	1,415,000	8,305,089	6.86
Oregon ¹	8,279,297	710,000	7,569,297	11.66

¹ States not on 50-50 basis on account of public lands and nontaxable Indian lands.

² No gasoline tax assessed.

1925—Comparison of combined receipts from motor-vehicle licenses and gasoline taxes to State funds required to match Federal-aid road apportionment—Continued

Table with 5 columns: States, A (Combined receipts from motor-vehicle and gas taxes (1925)), B (State funds required to match \$75,000,000 Federal-aid road apportionment), C (Surplus of combined receipts over State funds required A-B=C), D (Ratio of A to B or A/B=D). Rows include Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and Hawaii, plus a Total row.

1 States not on 50-50 basis on account of public lands and nontaxable Indian lands.
2 Hawaii and District of Columbia not included in total except Hawaii shown on State funds.

Total program of Federal highway projects which have been approved for construction—Includes projects completed and projects under construction, as of April 30, 1926

Table with 4 columns: States, Total cost, Federal aid, Miles. Rows include Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and Hawaii, plus a Total row.

Total cost, Federal aid, and mileage of Federal-aid roads completed to April 30, 1926

Table with 4 columns: States, Total cost, Federal aid, Miles. Rows include Alabama, Arizona, Arkansas, California, Colorado, Connecticut, and a Total row.

1 Figures subject to revision on payment of a few final vouchers now outstanding.
2 Mileage is of original improvement only.

Total cost, Federal aid, and mileage of Federal-aid roads completed to April 30, 1926—Continued

Table with 4 columns: States, Total cost, Federal aid, Miles. Rows include Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and a Total row.

Total cost, Federal aid, and mileage of Federal-aid roads under construction as of April 30, 1926

Table with 4 columns: States, Estimated total cost, Federal aid allotted, Miles. Rows include Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming, and Hawaii, plus a Total row.

Total cost, Federal aid, and mileage of Federal roads approved for construction as of April 30, 1926

Table with 4 columns: States, Total estimated cost, Federal aid allotted, Miles. Lists 48 states and a total row.

Apportionment of Federal aid to States, fiscal years 1917-1927-Contd.

Table with 4 columns: States, Total apportionment 1917-1925, Apportionment fiscal year 1926, Apportionment fiscal year 1927, Total apportionment 1917-1927. Lists 19 states and a total row.

Total payments to States as of April 30, 1926

Table with 4 columns: States, Total payments, Apportionment fiscal year 1926, Apportionment fiscal year 1927, Total payments. Lists 48 states and a total row.

Apportionment of Federal aid to States, fiscal years 1917-1927

Table with 4 columns: States, Total apportionment 1917-1925, Apportionment fiscal year 1926, Apportionment fiscal year 1927, Total apportionment 1917-1927. Lists 48 states and a total row.

Unobligated balances of Federal-aid apportionments as of April 30, 1926

Table with 4 columns: States, Unobligated balances, Apportionments fiscal year 1926, Apportionments fiscal year 1927, Unobligated balances. Lists 19 states and a total row.

Comparison of Federal motor-vehicle receipts with Federal expenditures for highway construction, as of March 31, 1926

Table with 3 columns: Fiscal year ending June 30, Receipts from manufacturers excise tax on motor vehicles, parts, tires, and accessories, Receipts from special occupational tax on passenger automobiles for hire, Expenditures for Federal cooperative construction and administration. Lists years 1917-1926 and a total row.

Statement of Federal highway funds as of July 1, 1927 (estimated) (Based on obligations incurred since May 1, 1924)

Table with 6 columns: States, Apportioned fiscal years 1917-1927, Total obligations as of June 30, 1927, State apportionment will be wholly absorbed on these dates, Balance of 1927 funds available for new work July 1, 1927, Additional amount required prior to July 1, 1927, to carry out present rate of construction, Apportionment for fiscal year 1927 (included in first column). Lists 5 states.

Statement of Federal highway funds as of July 1, 1927 (estimated)—Continued

States	Apportioned fiscal years 1917-1927	Total obligations as of June 30, 1927	State apportionment will be wholly absorbed on these dates	Balance of 1927 funds available for new work July 1, 1927	Additional amount required prior to July 1, 1927 to carry out present rate of construction	Apportionment for fiscal year 1927 (included in first column)
Colorado	\$12,325,812	\$11,368,335		\$957,477		\$1,380,384
Connecticut	4,333,681	3,036,427		1,207,254		473,428
Delaware	2,474,058	2,474,058	Dec. 1, 1926		\$360,284	365,625
Florida	8,084,954	7,862,574		222,380		897,185
Georgia	18,431,953	18,431,953	Dec. 1, 1926		1,451,994	1,981,189
Idaho	8,559,627	8,559,627	Jan. 1, 1927		794,774	936,589
Illinois	29,832,198	26,770,291		3,061,967		3,175,616
Indiana	18,204,355	18,204,355	Sept. 1, 1926		2,688,197	1,935,890
Iowa	19,485,563	17,641,330		1,844,233		2,060,469
Kansas	19,464,411	19,464,411	Mar. 1, 1927		224,014	2,072,166
Kentucky	13,212,809	13,119,913		92,896		1,416,809
Louisiana	9,272,408	8,509,485		702,923		1,000,764
Maine	6,404,828	5,796,756		608,072		883,574
Maryland	8,925,057	8,925,057	Oct. 1, 1926		735,695	634,624
Massachusetts	10,108,726	9,173,842		934,884		1,080,055
Michigan	20,342,365	18,651,635		1,690,830		2,217,418
Minnesota	19,591,780	19,591,780	Jan. 1, 1927		2,087,593	2,130,158
Mississippi	12,128,018	12,128,018	do		572,564	1,293,203
Missouri	22,786,436	22,786,436	Aug. 1, 1926		4,841,508	2,406,847
Montana	13,424,885	9,054,490		4,370,395		1,651,660
Nebraska	14,635,235	14,160,048		475,187		1,588,133
Nevada	8,795,215	8,795,215	Sept. 1, 1926		1,040,059	948,318
New Hampshire	3,169,492	3,169,492	Jan. 1, 1927		250,536	865,625
New Jersey	8,467,420	8,467,420	Sept. 1, 1926		1,265,603	634,708
New Mexico	10,972,386	9,519,471		1,452,915		1,187,294
New York	34,045,195	34,045,195	May 1, 1927		1,808,909	3,647,166
North Carolina	15,717,206	15,717,206	Oct. 1, 1926		2,253,332	1,708,554
North Dakota	10,748,650	10,560,136		188,523		1,193,720
Ohio	25,731,790	25,451,323		280,467		2,777,037
Oklahoma	16,059,787	16,059,787	Dec. 1, 1926		1,677,710	1,752,245
Oregon	10,879,847	10,879,847	Sept. 1, 1926		938,486	1,182,945
Pennsylvania	31,358,781	31,358,781	do		4,153,204	3,346,920
Rhode Island	2,697,569	2,697,569	May 1, 1927		125,074	365,625
South Carolina	9,801,524	9,801,524	Dec. 1, 1926		1,218,800	1,051,993
South Dakota	11,166,790	11,166,790	Feb. 1, 1927		1,849,570	1,222,198
Tennessee	15,280,591	15,280,591	Mar. 1, 1927		580,715	1,618,419
Texas	40,606,431	40,606,431	Jan. 1, 1927		3,696,841	4,426,017
Utah	7,818,779	7,818,779	Apr. 1, 1927		306,722	848,251
Vermont	3,268,507	3,238,200		30,307		365,625
Virginia	13,501,514	13,501,514	Dec. 1, 1926		1,700,853	1,445,852
Washington	10,145,776	10,145,776	June 1, 1927		895,865	1,130,050
West Virginia	7,352,511	7,352,511	Jan. 1, 1927		817,653	793,936
Wisconsin	17,438,815	15,602,323		1,836,492		1,870,262
Wyoming	8,566,274	8,566,274	Dec. 1, 1926		812,733	935,594
Hawaii	1,100,153	600,000		500,153		365,625
Total	671,375,000	646,549,409		24,825,591	39,977,611	73,125,000

Federal highway system January 30, 1926

States	Certified total mileage	Limiting 7 per cent mileage	Mileage on 7 per cent system approved Jan. 30, 1926	Per cent limiting mileage Jan. 30, 1926
Alabama	56,551	3,959	3,872.00	98
Arizona	21,400	1,498	1,498.00	100
Arkansas	71,950	5,037	5,007.03	99
California	70,000	4,900	4,562.60	93
Colorado	48,000	3,360	3,332.00	99
Connecticut	12,000	840	835.43	99
Delaware ¹	3,800	266	345.08	130
Florida	27,548	1,928	1,901.00	99
Georgia	80,892	5,663	5,558.40	98
Idaho	40,200	2,814	2,768.60	98
Illinois	96,771	6,774	5,002.22	74
Indiana	70,946	4,966	4,679.00	94
Iowa	108,113	7,638	7,231.00	95
Kansas	124,143	8,690	7,873.00	91
Kentucky	53,000	3,710	3,639.95	98
Louisiana	40,000	2,800	2,800.00	100
Maine	23,104	1,617	1,393.46	86
Maryland ¹	14,810	1,037	1,421.69	137
Massachusetts	20,525	1,437	1,308.00	91
Michigan	75,000	5,250	4,817.00	92
Minnesota	103,050	7,214	6,849.60	95
Mississippi	53,000	3,710	3,329.00	90
Missouri	111,510	7,806	7,530.00	96
Montana	67,100	4,697	4,366.00	93
Nebraska	80,272	5,619	5,489.00	98
Nevada	22,000	1,540	1,398.00	91
New Hampshire	14,112	988	977.39	99
New Jersey	17,120	1,198	1,198.30	100
New Mexico	47,607	3,333	3,298.00	99
New York	81,873	5,731	5,018.00	88
North Carolina	60,000	4,200	3,790.30	90
North Dakota	106,202	7,434	6,162.00	83
Ohio	84,497	5,915	5,912.50	99
Oklahoma	112,698	7,889	5,545.00	70
Oregon	41,826	2,928	2,814.00	95
Pennsylvania	90,000	6,300	3,693.36	59
Rhode Island ¹	2,368	166	242.43	146
South Carolina	52,318	3,662	3,230.00	88
South Dakota	115,390	8,077	5,666.00	70
Tennessee	65,204	4,584	3,180.20	70
Texas	182,816	12,797	11,129.00	87
Utah	24,057	1,684	1,588.00	94

¹ Extensions to the 7 per cent system have been approved in these States.

Estimated program of State and local expenditures for calendar year 1928—Continued

Table with columns: States, Grand total expenditures (estimated) on State and local roads, Probable expenditures by State highway departments (Construction and maintenance, For construction: Total, Roads, Bridges, For maintenance only), Probable expenditures on roads and bridges by local authorities, Estimated road mileage to be constructed by State highway departments (Total, Earth improved, Sand, clay, gravel, and macadam, Asphalt, concrete, and brick), Miles maintained by State highway department.

Remarks: Above data reported by State highway departments of respective States. 1 Details given in last three columns. 2 Approximate details.

Apportionments and appropriations for cooperative road construction by fiscal years as of May 8, 1928 APPORTIONED FOR CONSTRUCTION AND ADMINISTRATION

Table with columns: Authorized by—, 1917, 1918, 1919, 1920, 1921, 1922, 1923, 1924, 1925, 1926, 1927, Total. Lists various Acts of Congress and their corresponding funding amounts.

APPROPRIATIONS

Table with columns: Act of July 11, 1916 (39 Stat. 355), Act of Feb. 28, 1919 (40 Stat. 1200), Act of Nov. 9, 1921 (42 Stat. 212), Act of June 19, 1922 (42 Stat. 660), Act of Feb. 26, 1923 (42 Stat. 1321), Act of June 5, 1924 (43 Stat. 460), Act of Feb. 12, 1925 (43 Stat. 889), Total, Balances unappropriated. Lists appropriations for various fiscal years.

1 Act of June 19, 1922, carried authorization for fiscal years 1923, 1924, and 1925.

2 Dates of acts authorizing apportionment of funds previously authorized.

Revenues derived from Federal excise taxes on automobiles, trucks, motor cycles, tires, accessories for the fiscal years 1918-1925, inclusive. Arranged by States in which collected

[Taken from annual reports of the Commissioner of Internal Revenue]	
Alabama	\$131,746.76
Arizona	19,703.53
Arkansas	79,433.31
California	9,610,069.24
Colorado	1,244,879.60
Connecticut	6,297,146.78
Delaware	23,135.43
Dist. Columbia	29,530.91
Florida	47,154.63
Georgia	582,871.61
Idaho	15,282.59
Illinois	26,374,329.14
Indiana	57,632,461.50
Iowa	1,814,901.45
Kansas	351,849.86
Kentucky	750,567.26
Louisiana	134,812.80
Maine	24,917.12
Maryland	595,452.69
Massachusetts	15,794,605.48
Michigan	461,414,845.31
Minnesota	1,239,993.63
Mississippi	18,569.07
Missouri	6,790,943.01
Montana	8,186.13
Nebraska	1,002,273.02
Nevada	\$871.37
New Hampshire	117,265.53
New Jersey	12,106,919.08
New Mexico	1,045.62
New York	74,255,169.00
North Carolina	701,231.73
North Dakota	11,998.95
Ohio	134,283,889.38
Oklahoma	286,983.54
Oregon	179,045.89
Pennsylvania	17,842,240.28
Rhode Island	240,698.72
South Carolina	397,831.18
South Dakota	73,712.94
Tennessee	213,886.71
Texas	980,542.20
Utah	38,815.14
Vermont	13,099.89
Virginia	315,383.93
Washington	423,719.42
West Virginia	372,842.14
Wisconsin	28,807,958.52
Wyoming	3,618.17
Hawaii	12,458.63
Total	863,710,288.87

Mr. President, I ask permission to have printed in the Record a table showing some interesting figures relative to national forest roads and trails.

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

The table referred to is as follows:

Forest highway system—Total, 14,840 miles

[From hearings before House Committee on Roads, Feb. 15-20, 1926, p. 193]

Source of funds	Miles ¹	Approximate costs ²
Built with exclusively county and State funds ³	1,369	\$18,326,296
Built with Federal aid and local cooperative funds (State and county): ³		
Federal aid	490	5,390,000
Local funds		6,432,000
		11,822,000
Built with forest highway funds and other Federal funds with local cooperation:		
Forest highway funds	3,239	15,989,074
Section 8 funds		8,574,346
F. F. R. C.		7,637,198
Local cooperation		13,508,877
		45,709,495
Total	5,098	75,857,791
Less total of all Federal funds as above		37,590,619
Balance of State and county funds		38,267,172

¹ Includes mileage under construction Jan. 1, 1926.
² Due to differing dates of closing statistical accounts deferred payments to contractors, etc., figures in these columns are subject to corresponding corrections.
³ Eleven Western States only.
⁴ Some of the earlier mileage built with these funds is not now included in forest highway system.

Mr. ODDIE. Mr. President, the bill now under consideration by the Senate provides an authorization of \$7,500,000 for forest roads and trails for each of the fiscal years 1928 and 1929, in addition to the \$75,000,000 per year for highways under the Federal-aid system.

Provisions for the survey, construction, and maintenance of national-forest roads and trails are contained in section 23 of the Federal highway act.

The national forests comprise approximately 160,000,000 acres of Federal-owned land located in 33 States and in the Territories of Alaska and Porto Rico. If all the forests were assembled as one unit, they would cover an area equivalent to all the New England States, plus New York, New Jersey, Pennsylvania, Delaware, Maryland, West Virginia, and Virginia. The national forests now contain about 600,000,000,000 feet of standing timber and are capable of yielding about 6,000,000,000 feet. The value for timber, grazing, and water power is estimated at about one and one-half billion dollars. Including the other resources, the total will approximate \$2,000,000,000.

A system of roads and trails is absolutely essential to the proper administration, protection, and utilization of the Federal land and resources within the national forests. This system must be not only adequate in mileage, but capable of giving the transportation service that the property and traffic requires.

The financial aid given by the Federal Government toward the construction of national-forest roads and trails is essentially different from the Federal-aid appropriations for roads on the 7 per cent system. The forest road appropriation is based on the ownership of land by the Federal Government. Each road approved under the provisions of section 23 of the Federal highway act must be necessary to the administration, protection, or development of the Federal property. Forest roads are not restricted to the interstate or intercounty systems; they may be on the 7 per cent, State, county, or community system, or they may be essentially property roads. The selection of projects is vested in the Secretary of Agriculture. The construction and other work is done under the direct supervision of the Department of Agriculture. While cooperation may be accepted, it is not required.

With two exceptions the sections of the Federal highway act, other than section 23, do not relate to or govern the forest-road appropriation; this appropriation is separate and distinct from the appropriation for Federal aid. All roads and trails constructed from the forest-road appropriation are not only open to the public, but are extensively used by the public. The roads are a part of the system of public highways.

The legislation is based on the ownership of the land. The appropriation is founded on the constitutional provision for developing and protecting Federal property. The appropriation is made in order to promote the most effective protection and utilization of the national forests—to bring about a coordinated and balanced use in order to obtain from each area the greatest aggregate of public benefits and the most valuable forms of service.

The Federal Government as the owner of the national forests has two obligations, (1) to protect, develop, and administer the property efficiently so that the forests may be of the greatest benefit to the people, (2) to share in the burdens of a land-owner for the public transportation system necessary to the property itself and to those who need a means of transportation to and across the property. These two obligations are recognized in section 23 of the Federal highway act. Each road and trail must be necessary to the national forests. The legislation differentiates between the forest roads of greater value to public travel than for the forests themselves and those which are more greatly needed for forest protection, utilization, or administration than for the States, counties, and communities within or near the forests. The total appropriation is by law split into two parts; that for forest roads and trails of greatest value to the forests is called the forest-development fund; the remainder is called the forest-highway fund.

In 1905, when the national forests were created, the areas were practically a wilderness. The only transportation system was that constructed by the pioneers, prospectors, homesteaders, and the small settlements who had to have some means of transportation. Primitive conditions still prevail in a large measure, and this acts to hold back development, but the States, counties, and communities have done much toward building the necessary transportation system. Beginning with 1916 the Federal Government started with assistance, providing \$1,000,000 a year for 10 years. Material progress has been made, but much remains to be done. The needs in many cases are urgent.

For the forests themselves the greatest need is to protect the property from destruction by fire. With the national consumption some four times the annual growth, the destruction of the remaining timber must be reduced to the absolute minimum. The 600,000,000,000-foot stand of national forest merchantable timber must be saved. Possibly even more important is the protection of the growing timber and reproduction and the productivity of the soil. Scores of years are necessary to grow a tree, but a fire will kill it in a few minutes. Roads and trails are necessary to protection against fire. The time to provide the necessary protection system is before rather than after the timber is destroyed.

Roads and trails alone do not prevent destruction by fire, but they reduce the loss greatly and materially lessen the cost of suppression and detection. A very material aid in fire-suppression work is the availability of the crews engaged in road or trail building.

The market demand for the national forest timber is decidedly increasing; each year the national forest supply is becoming more and more important in meeting the national needs. Roads aid greatly in exploiting the timber and expediting its sale. Even where the timber is taken out by driving the streams, roads are necessary for transportation of supplies, equipment, and men. But the greatest service is in actually hauling out the timber to market or shipping point. Each year brings larger use of motor trucks for hauling timber. It is

decidedly advantageous to the Federal Government to provide the necessary roads. An existing means of transportation often results in selling timber which would otherwise be unmarketable or in the Government getting a higher price than would otherwise be obtainable. Furthermore, instead of a temporary road which would be built by the ordinary operator and which would be practically valueless at the completion of his operation, the Federal road will be of value in connection with later sales besides serving other forest resources and meeting public and forest needs. The necessary timber utilization roads increase the Federal receipts and the national supply of manufactured timber products; they make money for the Federal Government. First, the integrity of the Government property must be preserved. Next, that which has been saved should be utilized and made remunerative under conditions that will insure continuous production.

The national forest road and trail system is also essential to the utilization of water power, irrigation, grazing, and all other resources of the forests. Every road is open to and used by the public. Roads into and across the forests are required by the public. The national forests in the main occupy the rugged mountainous areas and lie in the path of the necessary extension of State and county roads. In a large number of cases the forest highways are necessary links in through roads extensively used by the public; these links must be as good as the portions outside the forest if the required service to the traveling public is to be rendered. Mining, irrigation, agriculture, and other public and private resources and holdings in or near the forests need roads in the national forests. Scattered ranches and small settlements within the forest boundaries must have a means of transportation and communication. The forests contain large areas of land that are extremely attractive from a recreation and scenic standpoint. The public demands opportunity to enjoy these resources.

The States and counties have done much in constructing the roads in the forests. They are now cooperating with the Federal Government and also building roads entirely from their own funds. They think that the Federal Government should give very material assistance, due to its large holdings and to being exempt from local taxation. Of the total forest highway mileage, 4,037 miles (28 per cent) is on the Federal 7 per cent system, 3,984 miles (28 per cent) is on the State system, and the balance (44 per cent) is on the county system.

The proposed system is based on the estimated needs within 10 years. It is 44,587 miles in length, of which 14,840 miles are forest highways and 29,747 miles are forest development roads. This system also includes a total of 84,041 miles of trails.

The proposed forest-road system contemplates 4.6 miles of road for an average township of an area of 36 square miles. At present the average township has 1.2 miles of roads of type adequate to the required service and an average of 2.2 miles of unsatisfactory roads. Taken as a whole, the system now contemplated is about 25 per cent complete. In the six western forest districts there are now 2,487 whole townships, out of a total of 5,784 townships, which have now no roads at all anywhere within the township lines. Forty-one per cent of the whole townships have no roads at present. Even when the system now planned is completed, 33 per cent will be without any roads.

From appropriations already made, and including cooperation amounting to 20 per cent of the total expenditure, 10,022 miles of road and 21,497 miles of trail were constructed or improved prior to June 30, 1925. Thirteen thousand nine hundred and seventy-eight miles of road and 38,858 miles of trail were maintained.

Forest roads are constructed to a standard adequate to provide the service required by traffic and property. The standard is higher for the forest highways—the forest roads of primary importance to public travel—than for the forest development roads. Hard-surfaced roads are not needed. Usually the natural material is used, surfacing of crushed rock or gravel being supplied only when the natural material is unsuitable. On the sidehill sections the width varies from 9 feet overall for the very light service roads up to a maximum of about 23 feet where provision must be made for two-way travel.

Twenty-eight per cent of the forest-highway system now planned is of satisfactory standard. The forest-development road system is about 25 per cent done and the trail system about 59 per cent completed. Changes in traffic and property requirements within the next 10 years will probably require additions or eliminations from the system now planned. If no changes are made in the present system and in the road standards and costs of doing work, and if the forest-road appropriations and the cooperative assistance continue as at present, the forest-highway system will be completed in about

26 years and the forest-development system in approximately 18 years.

Mr. President, my intention is to call this bill up at the very first opportunity, and, if there is no objection, I should like the bill to be acted on at this time.

Mr. CURTIS. Mr. President, I agreed with Senators on the other side that there would be no other measure taken up to-night except a bill in charge of my colleague, the junior Senator from Kansas [Mr. CAPPER] relating to the District of Columbia. I hope the Senator from Nevada will not make his request now.

Mr. ODDIE. Then, Mr. President, at the very first opportunity I will ask unanimous consent that it may be taken up. I believe from what I have learned from a number of Senators and from the general impression over the whole country, that the bill will pass without much further discussion.

REGULATION OF TRAFFIC IN THE DISTRICT

Mr. CAPPER and Mr. BRUCE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas is recognized.

Mr. CAPPER. Mr. President, I ask unanimous consent for the immediate consideration of Order of Business No. 569, being 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.

That bill provides for certain amendments to the traffic act now in force in the District. Its passage is urged by the District Commissioners and by the traffic director. It has been reported unanimously by the Committee on the District of Columbia, and, if possible, should have action at once.

Mr. DILL, Mr. BRUCE, and Mr. CURTIS addressed the Chair.

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

Mr. DILL. I understood the Senator from Kansas to request unanimous consent for the consideration of a bill, and before unanimous consent shall be given I desire to be heard.

Mr. CURTIS. Will the Senator yield to me in order that I may submit a request for unanimous consent?

Mr. BRUCE. Mr. President, I am going to object to any request for unanimous consent, because I wish to say a few words on a subject that I have been trying all day to say something about. It will take me but a few minutes.

Mr. CURTIS. I do not think my request will interfere with the Senator. I merely wish to ask unanimous consent that the unfinished business may be temporarily laid aside. That will permit the bill for which my colleague desires consideration to be taken up, if there is no objection to it. The Senator from Maryland can then proceed if he so desires.

Mr. BRUCE. Very well.

The PRESIDENT pro tempore. The Senator from Kansas asks unanimous consent that the unfinished business may be temporarily laid aside. Is there objection? The Chair hears none, and it is so ordered. The junior Senator from Kansas is recognized.

Mr. CAPPER. I ask unanimous consent for the immediate consideration of the bill to which I have referred.

Mr. DILL. Mr. President, before unanimous consent is granted I desire to say that this bill gives the director such additional powers that I do not think it ought to be passed with such a small number of Members of the Senate here. I do not want to call for a quorum; but this bill proposes to define traffic in such a way that the director of traffic in this city is going to be able, and in a newspaper statement that was published in the Star last night and in the Post this morning he states that he proposes to keep horses and wagons and buggies off certain streets; and under the powers of the traffic act he can put people in jail for violating his regulations. I do not believe the Congress ought to confer any such power.

The statement in the Washington Post this morning, quoting Mr. Eldridge to that effect, shows very clearly what he will do if he is given these powers. I admire him for his frankness; but I can not consent to allowing the bill to go through the Senate by unanimous consent, or even to be taken up for consideration, when there is not a quorum here, with these provisions remaining in the bill as to pedestrians and animals.

Mr. CURTIS. Mr. President—

The PRESIDENT pro tempore. Does the junior Senator from Kansas yield to his colleague?

Mr. CAPPER. I yield.

Mr. CURTIS. Could we not have a unanimous-consent agreement that the bill shall be taken up and not acted upon to-night, so that the Senator from Maryland may make the speech he wanted to make a few minutes ago? I feel that I foreclosed

him from making his speech by having the unfinished business temporarily laid aside.

Mr. DILL. I am perfectly willing for the Senator from Maryland to make his speech, but I am not going to consent to the consideration of this bill until I have an understanding about the amendments to it.

Mr. BRUCE. Mr. President, I desire to say something on the motion.

The PRESIDENT pro tempore. No motion has been made. The junior Senator from Kansas has asked unanimous consent for the consideration of House bill 3802. That unanimous consent has been refused, as the Chair understands, through the action of the Senator from Washington, and there is nothing before the Senate at the moment.

Mr. CURTIS. Mr. President, as the Senator from Maryland [Mr. BRUCE] desires to make a speech; unless he be given unanimous consent to do so, I will ask that the unfinished business be laid before the Senate.

Mr. BRUCE. Yes; I desire to say just a few words.

MIGRATORY-BIRD REFUGES

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 2607) for the purpose of more effectively meeting the obligations of the existing migratory-bird treaty with Great Britain by the establishment of migratory-bird refuges to furnish in perpetuity homes for migratory birds, the provision of funds for establishing such areas, and the furnishing of adequate protection of migratory birds, for the establishment of public shooting grounds to preserve the American system of free shooting, and for other purposes.

THE PROHIBITION LAW

Mr. BRUCE. Mr. President, I desire to say that I was simply astonished when my attention was called to an Executive order which has just been issued by the President of the United States. That Executive order reads:

In order that they may more efficiently function in the enforcement of the national prohibition act, any State, county, or municipal officer may be appointed, at a nominal rate of compensation, as prohibition officer of the Treasury Department, to enforce the provisions of the national prohibition act and acts supplemental thereto in States and Territories, except in those States having constitutional or statutory provision against State officers holding office under the Federal Government.

First of all, I should like to know from what source the President deduces his legal right to issue any such order. Of course, I have had no opportunity to give anything in the nature of an exhaustive examination to that side of the subject.

Presumably the President believes himself to be issuing a legal order. Presumably he consulted with the Attorney General of the United States before he issued his order, but I am prepared to say that, so far as I am concerned, any legal advice that the President may have received from the Attorney General of the United States on the subject is entitled to no very extraordinary measure of deference. From what I have seen of him, I am inclined to think that he is as much a stranger to law as he is to English syntax.

I have hastily refreshed my memory of the Volstead Act, but I can find no legal authority for the order in it. I believe that at the time that the war draft act was passed there was a provision in it imposing upon certain State officers Federal duties, but that act was passed under conditions wholly extraordinary, when there was little disposition in any quarter to ask whether it was legal or illegal. I have also heard it suggested that a precedent for this order is to be found in some act enacted during the reconstruction period. God forbid that we should go back to those hard and unconstitutional times to find legal authority for any act of the Executive!

This order provides that it shall have no application to "States having constitutional or statutory provision against State officers holding office under the Federal Government." My State does not fall within that category, so the order applies with full force to it. Under the constitution of the State of Maryland no senator or delegate in the Maryland General Assembly can hold a Federal office. That is the only provision in that constitution which forbids any State officer from holding a Federal appointment. So, as far as Maryland is concerned, the President has assumed the power of going into it and attempting to confer upon its officers authority to enforce the provisions of a law which to the majority of its people is nothing less than detestable. And, mind you, this Executive order does not undertake simply to confer the power of enforcing the national prohibition act upon some State, county, or municipal police officer. It says that the President may confer such power upon "any State, county, or municipal officer" in

the State of Maryland—perhaps, forsooth, upon the Governor of Maryland, or the comptroller of Maryland, or the secretary of state of Maryland, or the mayor of Baltimore city, as well as upon some constable in the city of Baltimore, or some sheriff in one of the counties of Maryland, or some member of the State roads constabulary in the State of Maryland.

Just think of it! Only a few days ago, down at Williamsburg, the President said in the course of an address:

No plan of centralization has ever been adopted which did not result in bureaucracy, tyranny, inflexibility, reaction, and decline.

And also:

The States should not be induced by coercion or by favor to surrender the management of their own affairs.

And here he is suggesting the most extreme stretch of Federal authority that has ever been brought to my attention in my time!

I remember that a good many years ago, when that great man, Mr. Cleveland, was giving expression to some rather lofty sentiments about civil-service reform and at the same time making several appointments that were highly obnoxious to public sentiment, Thomas B. Reed, of Maine, the Republican leader in the House, said in his sarcastic way: "What a pity it is that the author of such noble sentiments should not have more influence with the appointing power!" So I say, what a pity it is that the author of those sentiments in relation to a subject of such supreme importance as State sovereignty should not be more loyal to his own professed convictions!

Come into Maryland, indeed, and authorize one of its State officers to enforce the national prohibition law! If that officer were to accept such a commission and attempt to exercise any power under it, we have a governor who, if I am not mistaken, would remove him from his office forthwith.

I have always had a liking for the President; I have always had a respect for him, and I have so expressed myself upon the floor of the Senate. If I did not believe as well of him as I do, I would say that this extraordinary order was assignable to mere chagrin, to mere disappointment, to mere resentment excited by that overwhelming victory won by the antiprohibition cause in Pennsylvania a few days ago, despite the fact that the President in vain attempted to avert it. Or perhaps it may be that there is something, after all, in the rumor that the President is to be a candidate for the Presidency again and has made up his mind to be the candidate of the "drys." If that is true, he certainly has adopted a most effective way of making himself solid with Wayne B. Wheeler and the rest by calling to the aid of prohibition not only all the power that resides in the Federal Government but much of the power that resides in the State governments besides.

In Maryland we are not willing that the contamination of prohibition shall be communicated in any form whatever to our efficient and honest State officials. We are fully mindful of the 875 prohibition agents who have been dismissed from the prohibition force mainly for official corruption or other forms of downright rascality. The State of Maryland has several times declared that it will not pass any act in aid of national prohibition. That is the settled policy of her people; and there is no reason to believe that it will ever be reversed. Indeed, there never was less indication than at present that it will ever be reversed.

I was in Baltimore last night at one of the most enthusiastic and impressive demonstrations against prohibition that I have ever witnessed in my life. The whole air was electric. There was hardly a single telling point made against prohibition that did not bring the whole audience to its feet, applauding and cheering as only true freemen can applaud and cheer; and yet here is this announcement of the President that the settled policy of our State is to be violated, that the Federal Government is to confer upon our State officers powers that our own State has refused to confer upon them as a matter of principle, as a matter of conviction, as a matter of fixed, and I think I am justified in saying, of irrevocable policy.

Mr. KING. Mr. President, will the Senator permit an interruption?

The PRESIDENT pro tempore. Does the Senator from Maryland yield to the Senator from Utah?

Mr. BRUCE. I yield.

Mr. KING. I was wondering if the views of the President, as expressed in the proclamation, or edict, or ukase, whatever it may be—

Mr. BRUCE. "Ukase"; that is a good word with which to describe it.

Mr. KING. However we may denominate it, if it is to be the prevailing policy hereafter, whether the President of the United

States may not go into every State for the enforcement of every Federal statute—the statute against narcotics, the statute against Federal larcenies, the statute in regard to frauds upon lands, and every other penal statute that has been passed, including any statutes in regard to the fourteenth and fifteenth amendments, and utilize the State machinery for the purpose of enforcing those laws.

Mr. BRUCE. Of course. Give power an inch, and it will always take an ell. That is the law that invariably governs tyranny and usurped authority in every form.

Mr. KING. Aside from the question of prohibition, if this policy is to be pursued, assuming that it is even right or proper morally in the prohibition case, what would be the effect in respect to our State policy, and the relation of the Federal Government to the States in the future, and in connection with all penal statutes enacted by the Federal Government?

Mr. BRUCE. It tends inexorably to lead step by step to the final stage of absolute centralization of authority in the Federal Government.

I doubt whether in the whole history of the United States—and I have some little familiarity with that history—that any President, except in times more or less revolutionary, has ever undertaken such a bold, such a totally indefensible encroachment upon the just rights of the States.

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

Mr. BRUCE. Yes.

Mr. OVERMAN. Outside of prohibition, where does the President find any right or power to issue Executive orders at all?

Mr. BRUCE. Of course, I have had very little opportunity to look into all the legal aspects of this matter, and having been a lawyer for a great many years I know that one should not commit himself hastily to any legal conclusion, but so far as I am advised at present, there is no source from which the President can infer the authority that he claims.

Mr. OVERMAN. Can Congress confer that power on him?

Mr. BRUCE. I was just about to come to that. Literally construed the proposal of this order apparently is to confer the authority of a national prohibition agent on a State officer in the State of Maryland, say, whether that officer is disposed to assent to that grant of authority or not, and whether the State of Maryland is inclined to assent to it or not. In other words, the language of the Executive order is that—

Any State, county, or municipal officer may be appointed, at a nominal rate of compensation—

Do not overlook that feature of the order—

as prohibition officer of the Treasury Department, to enforce the provisions of the national prohibition act.

That is to say, we are not to go below the surface of the words, he may be appointed willy-nilly, and no matter how repugnant to every honest, decent, impulse of his own self-respect the bestowal of such authority on him might be. He is simply told, "Here is a presidential ukase," to adopt the apt term of the Senator from Utah. "You must obey it whether you wish to obey it or not, or whether the State of Maryland is willing that you shall obey it or not"; and the only way in which you can escape obedience is by giving up your State office. Speaking under the impressions of the moment, I do not believe that the Federal Government has any more constitutional power to superimpose Federal duties upon the State duties of a State officer than it has to impose a tax upon the salary of a State officer.

Mark, too, the feature of this order to which I have passingly referred. The Federal Government, under its provisions, is to adopt the State officer as another execrable—as I see it—instrument of prohibition tyranny, and it does not propose to pay him anything except a purely nominal compensation, and that notwithstanding the fact that, for all this order shows, the ordinary measure of the duties of the State officer may be largely increased by the superadded Federal duties.

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

Mr. BRUCE. I yield.

Mr. DILL. This order is unnecessary except in those States that have no State enforcement laws, is it not?

Mr. BRUCE. It is, I should say. We have no State prohibition enforcement law.

Mr. DILL. It can be aimed only at them.

Mr. BRUCE. Yes; it looks that way. There are only two States in the Union that have no State prohibition enforcement laws at present, as I am informed, though I am subject to just correction if I am mistaken, and those are the States of New York and Maryland. Perhaps the President had in mind the referendum on the prohibition question that is to take place in the State of New York this fall and the effect that brisker en-

forcement might have on public opinion in that State in the interim.

I really do not think that the President could have understood the full significance of this order, or that his Attorney General could have understood it, which is intelligible enough. But look at it as you please, no plea can be urged in its behalf, except the tyrant's plea, of necessity, which we all know is never lacking when human oppression is about to be exerted in some governmental form or other.

Speaking for the sovereign State of which I happen to be one of the representatives here, I resent this order with all the force of such intelligence as I possess, with all the manliness of spirit that I can claim, and with all the just indignation that such an Executive act is so well calculated to excite.

I sincerely regret that I have to speak in this candid way about the President of the United States, but I would be faithless to the people of the United States, and certainly to the interests and sentiments of the people of my own State, if I did not express myself in the frank manner that I have.

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

Mr. BRUCE. I yield.

Mr. BORAH. I understand that the State of Maryland has a constitutional or statutory provision which would make this order inapplicable to that State.

Mr. BRUCE. The only provision in our constitution that I can recall relating in any manner to the subject matter of this Executive order is the provision that no senator or delegate in our general assembly shall hold a Federal office. We have a provision also in our State constitution that no State officer shall hold two offices of profit.

Mr. BORAH. That has been pretty generally held by the courts, has it not, to prevent a State officer from accepting a Federal office?

Mr. BRUCE. Not that I know of.

Mr. BORAH. I have not looked it up.

Mr. BRUCE. As I recall it at this moment—but I will not rely upon my memory too confidently—the language of our constitutional provision is that no person shall hold two State offices of profit.

Even if this were not so, I do not think that the interpretation suggested by the Senator from Idaho would be the proper one, because, as I have said, when the Maryland Constitution in another connection forbids a senator or delegate in the Maryland General Assembly to hold a Federal office, it uses words wholly free from ambiguity.

Mr. BORAH. I am not familiar with the laws of Maryland, but there are a number of States which would prevent a State officer from holding a Federal office at the same time he holds the State office.

Mr. BRUCE. I have not the slightest doubt of it. The clause in our constitution which provides that no one person shall hold two offices of profit is, as I remember, a very common provision in the State constitutions of the country.

[NOTE.—Article 35 of the Maryland Declaration of Rights says: "No person shall hold at the same time more than one office of profit created by the constitution or laws of this State."]

It is perfectly clear to my mind that this Executive order bears directly upon the State of Maryland.

Of course, I need not argue when I am engaged in a colloquy with such a distinguished lawyer as the Senator from Idaho that the State of Maryland is under no constitutional obligation whatever to enact any prohibition aid enforcement statute if it does not choose to do so. It is hardly necessary for me to state such a truism as that our form of government is a dual form of government and that the States are as supreme in their spheres of sovereignty as the National Government is in its; and that consequently, if there is a clash between a State and the Federal Government where the State is acting distinctly within its own constitutional domain, the latter has the right to take any view of the controverted question that it honestly entertains. I do not suppose that any lawyer who deserves the name would dispute that proposition.

In the exercise of their constitutional discretion, both the State of New York and the State of Maryland have determined that they will not enact any prohibition State enforcement law. Yet here is apparently a deliberate, studied attempt on the part of the President of the United States to defy the exercise of that entirely lawful and legitimate discretion, and to make State officers agents for prohibition enforcement, even though the State itself, of which they are but servants, is inflexibly opposed to lending its aid to prohibition enforcement at all.

Mr. President, I might say more on the subject, but I believe that I have said enough, at any rate, to present to the Senate

my leading ideas with respect to it. I shall be glad to see some other Senator assume what seems to me to be the impossible task of defending the order.

TRANSFER OF GENERAL LAND OFFICE RECORDS

Mr. LA FOLLETTE. Mr. President, I ask unanimous consent for the immediate consideration of the bill (H. R. 10859) to provide for the transfer of certain records of the General Land Office to States, and for other purposes.

Mr. CURTIS. Mr. President, may I inquire if that is the bill the Senator explained this morning?

Mr. LA FOLLETTE. It is.

Mr. KING. Has the Senator spoken to the Senator from Arkansas [Mr. ROBINSON] about it?

Mr. LA FOLLETTE. I have.

Mr. CURTIS. Has he any objection to it?

Mr. LA FOLLETTE. There was no objection.

Mr. KING. Mr. President, may I ask the Senator from Wisconsin if it is the bill which provides for certain records to be deposited with the States after the Federal Government has ceased to require them?

Mr. LA FOLLETTE. It is.

Mr. KING. I think it is a very wise piece of legislation.

The PRESIDENT pro tempore. Is there objection to the present consideration of the bill?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill which was read as follows:

Be it enacted, etc., That whenever the last United States land office in any State has been or hereafter may be abolished the Secretary of the Interior be, and he is hereby, authorized to transfer to the State within which such United States land office was or is situated such transcripts, documents, and records of the office aforesaid as may not be required for use of the United States and which the State may desire to preserve.

Sec. 2. That when the public surveys in any State have been so far completed that in the opinion of the Secretary of the Interior it is no longer necessary to maintain a public survey office in said State, he may turn over to the State the field notes, maps, plats, records, and all other papers appertaining to land titles in such public survey office that may not be needed by the United States and which the State may elect to receive.

Sec. 3. The transcripts, documents, records, field notes, maps, plats, and other papers mentioned in sections 1 and 2 of this act shall in no case be turned over to the authorities in any State until such State has provided by law for the reception and safekeeping of same as public records, and for the allowance of free access to the same by the authorities of the United States.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

MIGRATORY-BIRD REFUGES

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 2607) for the purpose of more effectively meeting the obligations of the existing migratory-bird treaty with Great Britain by establishment of migratory-bird refuges, etc.

Mr. KING. Mr. President, I desire to offer a substitute in the form of an amendment to the pending bill and at the same time I offer a resolution for investigating the whole subject in connection with the Department of Agriculture.

The PRESIDENT pro tempore. Without objection, the amendment will be printed and lie on the table, and without objection the resolution will be received, printed, and lie on the table.

Mr. KING. I would like to have the amendment printed in the Record in order that all may see just what it is.

The PRESIDENT pro tempore. Without objection, the amendment will be printed in the Record.

The amendment is as follows:

Amendment intended to be proposed by Mr. KING to the bill (S. 2607):

A bill for the purpose of more effectively meeting the obligations of the existing migratory bird treaty with Great Britain by the establishment of migratory-bird refuges to furnish in perpetuity homes for migratory birds, the provision of funds for establishing such areas, and for the furnishing of adequate protection of migratory birds, for the establishment of public shooting grounds to preserve the American system of free shooting, and for other purposes

Strike out all after the enacting clause and insert in lieu thereof the following:

That the Secretary of Agriculture is authorized and directed to acquire by purchase, gift, or lease such areas of land or of land and water within the United States which are not now used for agricultural pur-

poses and which he determines to be suitable and advantageous for use as migratory-bird refuges.

Sec. 2. Such lands, when acquired according to the provisions of this act, shall constitute Federal migratory-bird refuges and shall be maintained (a) as refuges and breeding places for migratory birds included in the terms of the convention between the United States and Great Britain for the protection of migratory birds, concluded August 16, 1916, and (b) to such extent as the Secretary of Agriculture may by regulations prescribe as refuges and breeding places for other wild birds, game animals, fur-bearing animals, and for the conservation of wild flowers and aquatic plants, and (c) to such extent as the Secretary of Commerce may by regulations prescribe as refuges and breeding places for fish and other aquatic animal life.

Sec. 3. No such area shall be acquired by the Secretary of Agriculture until the legislature of the State in which such area is situated has consented to the acquisition of the same by the United States for the purposes of this act, and except in the case of a lease no payment shall be made by the United States for any such area until title thereto is satisfactory to the Attorney General and is vested in the United States.

Sec. 4. The existence of a right of way, easement, or other reservation or exception in respect of any such area shall not be a bar to its acquisition (1) if the Secretary of Agriculture determines that any such reservation or exception will in no manner interfere with the use of the area for the purposes of this act, or (2) if in the deed or other conveyance it is stipulated that any reservation or exception in respect of such area in favor of the person from whom the United States receives title, shall be subject to regulations prescribed under authority of this act.

Sec. 5. The Federal migratory-bird refuges required under this act shall be subject to the provisions of sections 6, 7, 8, 9, and 11 of the act entitled "An act to establish the upper Mississippi River wild life and fish refuge," approved June 7, 1924.

Sec. 6. The sum of \$1,000,000 is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, to effectuate the provisions of this act.

Amend the title so as to read: "An act for the purpose of more effectively meeting the obligations of the existing migratory bird treaty with Great Britain by the establishment of migratory-bird refuges to furnish in perpetuity homes for migratory birds, the provision of funds for establishing such areas, and for the furnishing of adequate protection of migratory birds."

Mr. KING submitted the following resolution (S. Res. 228), which was ordered to lie on the table and to be printed:

Senate Resolution 228

Whereas the United States, on August 16, 1926, concluded with Great Britain a convention for the protection of migratory birds which pass between the United States and Canada in regular seasonal flights; and

Whereas it is claimed that by said convention the United States become committed to the protection of such migratory birds during the period of their flight and presence in the United States; and

Whereas in order to discharge such alleged commitments upon the part of the United States Congress passed the migratory bird treaty act, approved July 3, 1918, and to further effectuate the purposes of said convention Congress by the act entitled "An act to establish the Upper Mississippi wild life and fish refuge," approved June 7, 1924, provided for the establishment of an extensive refuge and breeding place for such migratory birds in the upper Mississippi Valley and authorized an appropriation of \$1,500,000 for the acquisition of the lands required for such refuge; and

Whereas it is claimed that additional refuges are necessary at suitable and advantageous localities for the further protection of migratory birds; and

Whereas it is reported that persons representing corporations and organizations interested in the killing of migratory birds have claimed that they had an agreement with the Biological Survey as to what lands should be purchased for public shooting grounds in the event that Congress should appropriate public funds for the purchase of shooting grounds, or should provide a Federal shooting license of \$1 per annum for the purpose of raising funds to purchase such shooting grounds, as proposed in bills pending in Congress.

Whereas the protection of migratory birds under said treaty and the protection of the wild life of the country is a policy which concerns the whole country and not merely the small proportion of the people who desire to kill such wild life for sport or the corporations which manufacture guns, powder, and shells for the purpose of hunting and killing game; and

Whereas an extensive controversy has developed as to the proper measures which should be taken by Congress to discharge the obligations of the Government under said migratory bird treaty and as to the general policy of the Government with respect to the protection of wild life: Now, therefore, be it

Resolved, That the Committee on Agriculture and Forestry is authorized and directed to make an investigation to determine what addi-

tional legislation, if any, is necessary or desirable for the enforcement of the migratory bird treaty with Great Britain; and particularly what additional bird refuges are required; the best localities for such refuges; the estimated cost of such refuges; the best means to develop such refuges; the extent to which the Government should cooperate with the several States with respect to the maintenance of such refuges; the most effective means to administer such refuges; whether the Department of Commerce should participate in the maintenance of such refuges; whether there should be an advisory committee to advise the Biological Survey of the Department of Agriculture with respect to the performance of its duties and functions with respect to the maintenance and administration of such refuges, and if so, how such advisory committee should be appointed and what compensation should be allowed for it; how funds should be raised to purchase land for game refuges; and generally to make a comprehensive study of the whole subject of game refuges and report its findings and recommendations to the Senate.

The committee is authorized to hold public hearings, to send for persons and papers, to administer oaths, to sit during the session or during any recess of the Senate, and to sit at such places as it may deem advisable. Any subcommittee of such select committee duly authorized thereto may exercise the powers conferred upon the committee by this resolution.

EXECUTIVE SESSION

Mr. CURTIS. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After three minutes spent in executive session the doors were reopened, and the Senate (at 5 o'clock and 3 minutes p. m.), under the order previously entered, took a recess until Monday, May 24, 1926, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate May 21, 1926

APPOINTMENT, BY TRANSFER, IN THE REGULAR ARMY

FIELD ARTILLERY

Capt. Stanton Louis Bertschey, Infantry, with rank from July 1, 1920.

PROMOTIONS IN THE REGULAR ARMY

TO BE COLONEL

Lieut. Col. Daniel Whilldin Hand, Field Artillery, from May 15, 1926.

TO BE LIEUTENANT COLONEL

Maj. George Watkins Ewell, Quartermaster Corps, from May 15, 1926.

TO BE MAJORS

Capt. Frank Elmer Parker, Finance Department, from May 15, 1926.

Capt. Edwin Fairbrother Ely, Finance Department, from May 16, 1926.

Capt. Raymond George Moses, Corps of Engineers, from May 16, 1926.

APPOINTMENTS IN THE NAVY

The following-named citizens to be assistant surgeons in the Navy, with the rank of lieutenant (junior grade), from the 9th day of June, 1926:

Alexander E. Brunshwig, a citizen of Illinois.
 Edgar E. Evans, a citizen of Colorado.
 Charles F. Flower, a citizen of California.
 Herbert T. Rothwell, a citizen of Colorado.
 Gifford H. Henry, a citizen of Oklahoma.
 Harold V. Packard, a citizen of Iowa.
 Leon D. Carson, a citizen of Illinois.
 Claude R. Bruner, a citizen of Missouri.
 George S. Heller, a citizen of Tennessee.
 George D. Gertson, a citizen of North Dakota.
 Joseph B. Gordon, a citizen of Virginia.
 Gerald W. Smith, a citizen of Kansas.
 Thomas M. Arrasmith, jr., a citizen of North Carolina.
 Emmett F. Guy, a citizen of Illinois.
 Harry D. Cowlbeck, a citizen of New York.
 Franklin V. Sunderland, a citizen of Colorado.
 Walter F. James, a citizen of Illinois.
 Welbourne F. Bronaugh, a citizen of Oklahoma.
 Arthur W. Loy, a citizen of Tennessee.
 Albert T. Walker, a citizen of California.
 Albert Ickstadt, jr., a citizen of Illinois.
 Arthur K. Joerling, a citizen of Ohio.
 Verner P. Johnson, a citizen of Minnesota.
 Thomas Jackson, jr., a citizen of Pennsylvania.
 Roy A. Boe, a citizen of Iowa.
 Henry M. Walker, a citizen of Tennessee.

Glenn S. Campbell, a citizen of Oregon.
 Clyde M. Longstreth, a citizen of Iowa.
 Herman M. Maveety, a citizen of Michigan.
 Fred E. Angle, a citizen of Kansas.
 Charles R. Wilcox, a citizen of Iowa.
 Paul E. Wedgewood, a citizen of Ohio.
 French R. Moore, a citizen of Oregon.
 Charles B. Congdon, a citizen of Minnesota.
 Robert Krohn, a citizen of Wisconsin.
 William D. C. Day, a citizen of Indiana.
 Cornelius G. Dyke, a citizen of Iowa.
 Paul S. Ferguson, a citizen of Missouri.
 Joseph W. Kimbrough, a citizen of North Carolina.
 William J. N. Davis, jr., a citizen of Illinois.
 Raymond W. Hege, a citizen of North Carolina.
 John C. Vermeren, a citizen of Illinois.
 Bruce E. Bradley, a citizen of Virginia.
 Stephen A. Parowski, a citizen of Illinois.
 Theophilus F. Weinert, a citizen of Illinois.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 21, 1926

POSTMASTERS

COLORADO

Dwight L. Willis, Holyoke.
 Grace M. Fawcett, Smuggler.

GEORGIA

James T. Dampier, Adel.
 Edwin R. Orr, Dublin.
 Columbus W. Fields, Hampton.
 Jackson C. Atkinson, Midville.
 Rois A. Martin, Milner.

MARYLAND

John F. Wiley, White Hall.

MINNESOTA

Lyll E. Williams, Dexter.
 Anna E. Miller, Kelliher.
 Katherine C. McCaffrey, La Crescent.
 Orville G. Nichols, Mazeppa.
 Archie M. Hayes, McGregor.

NEBRASKA

Fred Wolter, Ohioa.

NEW JERSEY

Ralph G. Riggins, Bridgeton.
 Richard Ransom, Hohokus.
 John J. Schilcox, Keasbey.
 John A. Wheeler, Monmouth Beach.
 Arthur S. Warner, Spring Lake Beach.

NORTH CAROLINA

James M. Selby, Belhaven.

TENNESSEE

Solomon A. Vest, Mount Pleasant.

WASHINGTON

Carl J. Gunderson, East Stanwood.
 Nelson J. Craigie, Everett.
 Lewis Murphy, Republic.

WISCONSIN

Paul W. Schuette, Ableman.
 William H. Howard, Altoona.
 George E. Grob, Auburndale.
 Leslie D. Jenkins, Bagley.
 Nels O. Neprud, Coon Valley.
 Reginald E. Caves, Dalton.
 Wallace M. Comstock, Oconto.
 Donald C. McDowell, Soldiers Grove.
 Charles A. Arnot, South Wayne.

HOUSE OF REPRESENTATIVES

FRIDAY, May 21, 1926

The House met at 12 o'clock noon.

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

Infinite and Eternal God, while Thou art so near us, yet Thou art so far away; do Thou open the depths of our spiritual understanding that we may behold Thy glory. Satisfy our longings and guide our wandering thoughts. May this sacred moment be an inspiration to help us through this day. Let an ideal life haunt us. May we feel the thing we ought to be beating beneath the thing we are. We bless Thee just for