pensions to Civil War veterans and the widows of Civil War veterans; to the Committee on Invalid Pensions.

5152. By Mr. TEMPLE: Petitions of Center United Presbyterian Congregation at Midway, Washington County, Pa., and congregation of the First United Presbyterian Church, Burgettstown, Washington County, Pa., in support of the Sunday rest bill (H. R. 10311); to the Committee on the District of Columbia.

5153. By Mr. TOLLEY: Petition of eight residents of Oneonta, N. Y., for the liberalization of the Civil War pension laws; to the Committee on Invalid Pensions.

5154. By Mr. VARE: Petition of employees of the navy yard, Philadelphia, Pa., requesting that if appropriation is made for 10 new vessels, cruiser type, one of them be built at the navy yard in Philadelphia and named in honor of that city, to take the place of the U. S. S. *Philadelphia*, which has been stricken from the Navy list; to the Committee on Naval Affairs.

5155. Also, petition of voters of Pittston, Pa., requesting Civil War pension legislation; to the Committee on Invalid Pensions.

5156. By Mr. WOLVERTON: Petition of Mrs. Jennie M. Chapman and other voters of Ritchie County, W. Va., asking that Congress consider a bill increasing the pensions of Civil War widows; to the Committee on Invalid Pensions.

SENATE

WEDNESDAY, *January 19, 1927*

(Legislative day of Tuesday, January 18, 1927)

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

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

Ashurst	Frazier	McKellar	Schall
Bayard	George	McLean	Sheppard
Bingham	Gerry	McNary	Shipstead
Blease	Gillett	Mayfield	Shortridge
Borah	Glass	Means	Smith
Bratton	Goff	Metcalf	Smoot
Broussard	Gooding	Moses	Stanfield
Bruce	Gould	Neely	Steck
Cameron	Greene	Norbeck	Stephens
Capper	Hale	Norris	Stewart
Caraway	Harris	Nye	Swanson
Copeland	Harrison	Oddie	Trammell
Couzens	Hawes	Overman	Tyson
Curtis	Heflin	Pepper	Wadsworth
Dale	Howell	Phipps	Walsh, Mass.
Deneen	Johnson	Pine	Walsh, Mont.
Dill	Jones, N. Mex.	Pittman	Warren
Edge	Jones, Wash.	Ransdell	Watson
Edwards	Kendrick	Reed, Mo.	Weller
Ernst	Keyes	Reed, Pa.	Wheeler
Ferris	King	Robinson, Ark.	Willis
Fess	La Follette	Robinson, Ind.	
Fletcher	Lenroot	Sackett	

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

SENATOR FROM ILLINOIS

Mr. DENEEN. Mr. President, I send to the desk the credentials of Col. FRANK L. SMITH, of Illinois, and ask that they may be read.

The VICE PRESIDENT. The clerk will read.

The Chief Clerk read the credentials, as follows:

STATE OF ILLINOIS,
EXECUTIVE DEPARTMENT,
Springfield, Ill.

To the PRESIDENT OF THE SENATE OF THE UNITED STATES:

This is to certify that, pursuant to the power vested in me by the Constitution of the United States and the laws of the State of Illinois, I, Len Small, the governor of said State, do hereby appoint FRANK L. SMITH a Senator, from said State, to represent said State in the Senate of the United States to fill the vacancy therein, caused by the death of the Hon. William B. McKinley, and for the unexpired term of the said William B. McKinley, deceased.

Witness: His excellency our governor, Len Small, and our seal hereto affixed at Springfield, Ill., this 16th day of December, in the year of Our Lord 1926.

LEN SMALL, *Governor.*

By the governor:
[SEAL.]

LOUIS L. EMMERSON,
Secretary of State.

Mr. DENEEN. Mr. President, I offer the resolution, which I send to the desk.

The VICE PRESIDENT. The clerk will read the resolution.

The Chief Clerk read the resolution (S. Res. 328), as follows:

Whereas FRANK L. SMITH, claiming to be a Senator from the State of Illinois, has presented his credentials, which are regular and in due form, and there being no contestant for the seat: Therefore be it

Resolved, That the oath of office be now administered to the said FRANK L. SMITH: Be it further

Resolved, That his credentials and all charges which may be filed against him and all objections that may be raised as to his right to a seat in the Senate be, and the same are hereby, referred to the Committee on Privileges and Elections, and that committee is hereby directed to hear and determine all charges and objections which may be submitted and to report to the Senate after due inquiry and as early as convenient.

Mr. DENEEN. Mr. President, Colonel SMITH is present, and I ask that he be now sworn in. He was appointed by the Governor of Illinois to fill the vacancy occasioned by the death of my late colleague, the Hon. William B. McKinley, who passed away December 7, 1926. The credentials of Colonel SMITH are in due form. He possesses the qualifications prescribed in the Constitution for the office of Senator. He is 30 years of age, has been a citizen of the United States for nine years last past, and is an inhabitant of the State of Illinois. He is not disqualified by reason of any inhibition in the fourteenth amendment.

I wish to present briefly my views on the right of Colonel SMITH to take the oath at this time.

It has been the practice of the Senate, with a few exceptions, to administer the oath to the Senator elect or designate when he presented himself at the bar of the Senate with credentials in proper form, regardless of a pending contest. I cite, first, precedents within the memory of sitting Senators.

(1) On February 23, 1903, the credentials of Senator SMOOT were presented by his colleague, Senator Kearns. At the same time a contest was filed, raising the question of Senator SMOOT's qualifications aside from those prescribed in section 3, Article I, of the Constitution. On March 5, 1903, the oath of office was administered and his case referred to the Committee on Privileges and Elections, and thereafter his right to a seat was upheld.

(2) In 1908 Hon. John W. Smith, of Maryland, presented his credentials. Objection was raised to him taking the oath and a motion was made to refer his credentials to the Committee on Privileges and Elections before the administration of the oath. This motion failed of adoption by a vote of 28 to 34. Senator Smith was sworn and took his seat.

(3) On December 4, 1916, the senior Senator from Arkansas [Mr. ROBINSON] presented the credentials of Hon. William F. Kirby as a Senator from that State. The senior Senator from Missouri [Mr. REED] moved to refer the credentials to the Committee on Privileges and Elections before the oath was administered. That motion was lost by a vote of 32 to 44 and immediately Senator Kirby took the oath of office.

(4) On November 18, 1918, Senator Lodge submitted the credentials of the Senator from New Hampshire [Mr. MOSES], asked that they be read, and moved that Senator MOSES be sworn in. Senator Pomerene, chairman of the Committee on Privileges and Elections, moved that the credentials be referred to that committee before the administration of the oath of office. On that motion Senator Lodge quoted and adopted the statement made by Senator Hoar, of Massachusetts, in the case of Senator SMOOT, as follows:

Mr. HOAR. The chairman of the Committee on Privileges and Elections, the Senator from Michigan [Mr. Burrows] is obliged to be absent. He desired me to state on his behalf that he understands the orderly and constitutional method of procedure in regard to administering the oath to newly elected Senators to be that when any gentleman brings with him or presents credentials consisting of the certificate of his due election from the executive of his State he is entitled to be sworn in, and all questions relating to his qualifications should be postponed and acted upon by the Senate afterwards.

If there were any other procedure the result would be that a third of the Senate might be kept out of their seats for an indefinite time on the presenting of objection without responsibility and never established before the Senate by any judicial inquiry. The result of that might be that a change in the political power of this Government which the people desired to accomplish would be indefinitely postponed.

Senator Lodge insisted that his motion to have Senator MOSES sworn in was of highest privilege and must be disposed of.

Discussing the right of Senator MOSES to take oath at that time the Senator from Missouri [Mr. REED] said:

It is not, as I understand, the custom of Congress, when a man presents himself in either House with a certificate in proper form, to deny him his seat pending the contest. If, then, we were to refer this matter to the committee, what is to be gained by it? The certificate is in proper form; that is admitted. Do we propose to keep this man from his seat while the Committee on Privileges and Elections institutes an inquiry as to whether or not an election contest ought to be started, and then to keep him from his seat during all of the contest, for all the weeks or months that that contest might proceed? If that course is to be followed in this case, then it can be followed in all other cases. As was so well said by the Senator from Alabama [Mr. UNDERWOOD], one-third of the Senate might be kept from their seats and business of the greatest importance might be transacted while the representatives of one-third of the States of the Union were deprived of the opportunity to sit in this Chamber.

It seems to me, therefore, that the better practice is at once to permit the swearing in of any man who comes here with a certificate, the regularity of which is not challenged, and then, if a contest is instituted, let that question be tried; but in the meantime the State should not be deprived of its representation.

The Senator from Alabama [Mr. UNDERWOOD] said:

I think the important question before the Senate in reference to the seating of a Senator is that the State from which he comes may have the representation of the people of that State that they may have a voice in the Senate according to their own selection.

Mr. President, it seems to me very clear that if a Senator and his credentials are in proper form, indicating that he has been the selection of his State for a seat in the Senate, that makes out a prima facie case that he is the man entitled to the seat, and nobody else is; and that it is the plain duty of the Senate at the earliest moment to administer the oath of office to the Senator elect and allow him to exercise his functions in this body. Of course if there is a contest of the election that is a matter that can come up afterwards. His taking the oath of office does not preclude a subsequent contest on the part of some one else.

If this rule was not followed and because a contest may be threatened a Senator is deprived of his right to take the oath of office when he presents his credentials, you might face a contingency here where one-third of the Senate would be prevented from acting because objection was made to their taking the oath of office when their credentials were presented.

I think that is the only question involved in the case, and so far as I know the universal precedent almost heretofore has been in accord with this proposition. There may be one or two exceptions, but they are exceptions growing out of other matters.

Senator Lodge's motion prevailed and Senator MOSES was sworn in.

(5) November 5, 1918, Hon. Truman H. Newberry was elected Senator from Michigan. A petition of contest was filed in the Senate on January 6, 1919, and on January 7, 1919, referred to the Committee on Privileges and Elections. On March 1, 1919, his credentials were presented by Senator Smith. On May 19, 1919, the oath of office was administered. On the following day, May 20, 1919, another petition of contest was filed against him, which was referred to the Committee on Privileges and Elections, and thereafter, on December 3, 1919, a resolution was adopted by the Senate ordering an investigation. On January 12, 1922, his right to his seat was sustained.

(6) On November 7, 1922, Hon. EARLE B. MAYFIELD was elected Senator from Texas. January 17, 1923, his credentials were presented and placed on file. A contest was filed by George E. B. Peddy on February 22, 1923. The oath was administered on December 3, 1923. The petition of contest was referred to the Committee on Privileges and Elections, and, after the committee reported, his right to his seat was sustained.

(7) On November 4, 1924, Hon. THOMAS D. SCHALL was elected Senator from Minnesota. His credentials were presented and filed on December 8, 1924. Notice of protest was presented and filed with the Secretary of the Senate February 2, 1925. Senator SCHALL took the oath of office on March 4, 1925.

(8) On November 29, 1926, Hon. ARTHUR R. GOULD was elected a Senator from Maine. On December 6, 1926, after his credentials were presented and while he was awaiting the oath to be administered, the senior Senator from Montana [Mr. WALSH] presented a resolution in which were incorporated certain statements purporting to have been made by a judge in the Province of New Brunswick in the Dominion of Canada, charging that bribery had been perpetrated. The resolution offered by the Senator from Montana directed the Committee on Privileges and Elections to investigate the truth of the charges made and to report same, with such recommendations touching action by it in the premises as may seem to be warranted. On objection the resolution went over one day and the oath was administered to Senator GOULD. On December 7, 1926, the resolution was adopted and the case is pending before the Committee on Privileges and Elections.

A leading case is that of Major General Shields, United States Senator at different times from three States—from Illinois in 1849–1855, from Minnesota in 1858–1859, and from Missouri in 1879.

General Shields was elected Senator from Illinois January 13, 1849. On March 5, 1849, a motion was made to refer his credentials to the Committee on the Judiciary because of disqualifications. Debate was had and the oath was administered on the following day, March 6, 1849. In the debate Senator Stephen A. Douglas said:

Mr. DOUGLAS. Mr. President, I again rise to a question of privilege. I do it without any concert with my colleague, whom I desire to be sworn. I do it as the only representative present from the State of Illinois, which is entitled to two Senators on this floor. It appears from the credentials now on your table that James Shields was elected a Senator of the United States by the Legislature of Illinois for six years from the 4th instant. His credentials are in due form, and therefore those credentials entitle him to a seat in this body. He stands in precisely the same position in which other Senators stood who were yesterday admitted to seats; and if there is any objection on the ground of ineligibility, it must arise after he has been sworn and has taken his seat. This body has no jurisdiction over him or this matter until he has been admitted to his seat as one of its members; for then alone can the question of eligibility arise. At present he has a right to a seat here, and to a vote on any question that may arise until the Senate shall adjudge him ineligible. * * *

If, sir, in this case the ineligibility was shown on the face of the credentials, I would not ask that General Shields should be sworn. But if the credentials are in the usual form, and that is not doubted, the presumption is in his favor, and he has a right to a seat here until the Senate shall adjudge him ineligible. All I ask, sir, is that the State of Illinois may be treated as other States are treated.

Mr. NORRIS. Mr. President——

The VICE PRESIDENT. Does the Senator from Illinois yield to the Senator from Nebraska?

Mr. DENEEN. I yield.

Mr. NORRIS. The Senator's last statement is what causes me to ask him a question. He said he asks that Illinois be treated the same as other States.

Mr. DENEEN. That statement was a quotation from Senator Stephen A. Douglas.

Mr. NORRIS. I thought the Senator was using his own language.

Mr. DENEEN. Oh, no; I was quoting from Senator Douglas and adopting his language.

Mr. NORRIS. While I am on my feet I will ask the Senator a question, if he will yield, or, if he prefers, I will wait until he has finished his quotation.

Mr. DENEEN. I would prefer, if it is agreeable to the Senator from Nebraska, to finish reading these precedents and conclude what I desire to say, and then I will endeavor to answer any questions which may be asked.

Mr. NORRIS. Very well; I will ask the question later.

Mr. DENEEN. Senator Douglas continued:

If there is no ineligibility shown on the face of the credentials to deprive him of the right conferred upon him by his State, this will furnish the first instance of the rejection of a Senator when his credentials are in due form. And why, sir, should there be such an exception now made in this case? I speak not, sir, on behalf of the claimant of this seat, but I speak on behalf of the State of Illinois, which I in part represent. I insist, sir, that if you were now engaged in calling the yeas and nays, and his credentials had not been presented, it would be my right and my duty to present his credentials, and it would be his right to be sworn and vote on the pending question.

I call upon the Senate to pause and examine this question. The Senate is not yet organized. No business can be done until the constitutional rights of Members to their seats have been acceded to. I do not say that General Shields is eligible to a seat on this floor. I know nothing of the facts, sir; but I do know, from the credentials on your table, that he has been duly elected by the Legislature of the State of Illinois. His credentials are in due form. They are in such form as to make it a matter of right that he shall take his seat. I know also that yesterday you swore other members who presented credentials identically the same. And I likewise know that hitherto you have never refused the right to a seat to any gentleman coming with like credentials. After General Shields shall have been sworn and admitted to his seat, I shall throw no impediment in the way of any examination that the Senate may desire to make of the facts of the case. It is the right of this body then to institute an investigation, when objections are made; but—and I say it with great respect—this body

has no right to reject without examination a Senator, when he presents his credentials in due form, showing that he has a right to a seat here.

The VICE PRESIDENT. Does the Senator, from Illinois insist on his question of privilege?

Mr. DOUGLAS. Yes, sir; on the ground that the State of Illinois is entitled to two votes in this Senate. * * *

My motion is not made at the request, nor even with the knowledge, of General Shields. It is made by me, as a Senator from Illinois, insisting on the rights of that State. I have no objection to the Senator from Wisconsin making any statement he chooses, at the proper time; but if he is to go on and make statements of facts with respect to the question at issue—thus superseding my motion—I contend that his course will be wholly irregular. I insist that the proper mode is to allow General Shields to be sworn, and then to proceed with the investigation of the testimony in the case regularly. As regards the facts in the case, I do not know what they are myself, and am therefore not prepared at present to make any statement as to the legality or nonlegality of the election.

Mr. President, I have carefully examined 39 cases which have arisen between the case against Senator Shields in 1849 and that against Senator SMOOT in 1903 in which there were objections to the credentials offered by Senators elect or designate. Of these there were 23 cases in which the oath of office was administered over objection and the matter thereafter referred to appropriate committees for investigation, as follows:

(1) Stephen B. Mallory, of Florida, in December, 1851. Objection was that he was not elected by a majority of the legislature.

(2) Lyman Trumbull, of Illinois, March 4, 1855. Objection was that he had been a State judge less than a year previous to his election, which under the Illinois statute was a disqualification.

(3) James Harlan, of Iowa, December 3, 1855. Objection was that in the joint session of the legislature electing a majority of the State senate was not present.

(4) Graham N. Fitch and Jesse D. Bright, of Indiana, 1857. Objection was that they were—

not elected by the Legislature of Indiana but by a convocation of a portion of the members thereof, not authorized by any law of the State by resolution adopted by the legislature or by any provision of the Constitution of the United States.

(5) Simon Cameron, of Pennsylvania, March 4, 1857. Objections were: (a) Irregularity of elections; (b) bribery and procurement of election by corrupt and unlawful means.

(6) Waitman T. Willey and John S. Carlile, of Virginia, 1861. Objection because Virginia was in a state of rebellion. After debate the motion made to refer credentials to the committee was lost and the oath of office administered.

(7) John P. Stockton, of New Jersey, March, 1865. Objection was that the convention which elected him had by resolution prescribed a plurality rule and that he had not received a majority vote.

(8) Alexander McDonald and Benjamin F. Rice, of Arkansas, 1868. Contested by John T. Jones and Augustus H. Garland on the ground that contestants had been elected Senators in the year 1866 and had presented their credentials and the credentials had been ordered by the Senate to lie on the table. McDonald and Rice were seated.

(9) Thomas W. Osborn, of Florida, 1868. Objection was that State of Florida had not ratified the fourteenth amendment.

(10) H. R. Revels, of Mississippi, 1870. Objection that Mr. Revels was partly of African blood and therefore had not been a citizen of the United States for nine years preceding his election.

(11) George E. Spencer, of Alabama, March, 1873. Two legislatures had elected Senators: One, George E. Spencer; the other, Francis W. Sykes. Spencer was permitted to take the oath.

(12) L. Q. C. Lamar, Mississippi, March, 1877. Objection was that the State government was a usurpation.

(13) John T. Morgan, of Alabama, March, 1877. Objection was that the State government was a usurpation.

(14) La Fayette Grover, of Oregon, March, 1877. Objection made on grounds of bribery and corruption.

(15) John J. Ingalls, of Kansas, March, 1899. Contest on charge of bribery.

(16) Elbridge G. Lapham and Warner Miller, of New York, October, 1881. Charges of irregular election and bribery.

(17) David Turpie, of Indiana, 1887–88. Objection was made that legislature was improperly organized and persons not lawful members of legislature acted as such.

(18) Charles J. Faulkner, of West Virginia, December, 1887. In this case the legislature had adjourned without electing a Senator. Mr. Lucas, the contestant, was shortly thereafter appointed Senator by the governor. Thereafter the governor called a special session of the legislature, which then elected Senator Faulkner.

(19) George L. Shoup, William T. McConnell, and Fred T. Dubois, of Idaho, December, 1890. There was filed a statement of the Governor of Idaho transmitting a certified copy of the proceedings of the joint convention of the legislature of that State in which three Senators were elected; one for the term beginning March 4, 1890, was presented to the Senate and on the same day the credentials of Messrs. Shoup and McConnell as Senators were presented. Mr. Shoup, who was present, was sworn and took his seat. The credentials were on the same day referred to the Committee on Privileges and Elections, which reported that the credentials constituted sufficient certificate of the election and recommended that Mr. McConnell be also sworn and admitted to a seat. The report was adopted and McConnell was sworn. It is fair to presume that Senator McConnell would have taken the oath with Senator Shoup had he been present at the time the oath was presented to Senator Shoup.

Regarding Frederick T. Dubois, his credentials were presented on December 30, 1890. On January 5, 1891, the committee reported that it was not customary to consider any questions arising on the credentials of a Senator until the term for which he was elected, and recommended that his credentials be placed on file.

(20) Fred T. Dubois, of Idaho, 1892. His seat was contested by William H. Claggett. Two legislatures had attempted to elect a Senator. The oath was administered to Dubois and the case referred to the Committee on Privileges and Elections.

(21) Wilkinson Call, of Florida, 1891–92. Charge was made that Call was elected illegally by the legislature.

(22) John Martin, of Kansas, 1894–95. John Martin and Joseph W. Ady were elected by two different legislatures. Martin's title was sustained.

(23) Richard R. Kenney, of Delaware, 1897. John E. Addicks claimed he was elected to the Senate and that Mr. Kenney was not the legally elected Senator. Kenney was seated.

In the 16 remaining cases between the case against Senator Shields in 1849 and that against Senator SMOOT in 1903, the oath of office was not administered, pending investigation. These were as follows:

(1) James Shields, 1858. The question involved was whether Minnesota was a State at the time he was elected.

(2) William M. Fishback, Elisha Baxter, and William D. Snow, of Arkansas, 1864–65. The question involved was loyalty of the State and whether the legislature electing them was the representative of the people. Decided in the negative.

(3) R. King Cutler, Charles Smith, and Michael Hahn, of Louisiana, 1864. The loyalty of the State was questioned.

(4) Joseph Seegar and John Underwood, of Virginia, 1865. The loyalty of the State was questioned.

(5) D. T. Patterson, of Tennessee, 1866. The loyalty of the State was questioned.

(6) Philip F. Thomas, of Maryland, 1867. The question was one of personal loyalty.

(7) Richard H. Whiteley and Henry P. Farrow, Joshua Hill, and H. V. M. Miller, of Georgia, 1868–69. The question was whether the Legislatures of Georgia were disqualified under the fourteenth amendment. Hill and Miller were seated.

(8) Adelbert Ames, of Mississippi, 1870. The question involved was inhabitancy.

(9) Abijah Gilbert, of Florida, 1870. His seat was contested on the ground that the proceedings in the legislature were not in accordance with the statutes of the State.

(10) Morgan C. Hamilton, of Texas, 1871. Two Senators presented credentials for the same term. Both credentials were referred to the Committee on Privileges and Elections. Those of Hamilton were sustained.

(11) George Goldthwaite, of Alabama, 1871. The charge was that some members of the legislature which elected him had been illegally elected.

(12) Thomas M. Norwood, of Georgia, 1871. Contested by Foster Blodgett. Two legislatures had attempted to elect a Senator. Senator Norwood was seated.

(13) Matt W. Ransom, of North Carolina, 1871. Contested by Joseph C. Abbott. Zebulon B. Vance had received the highest vote but was disqualified under the fourteenth amendment, and did not present his credentials. Abbott received second highest vote in the election. In the meantime Senator Ransom was elected and seated.

(14) The so-called Louisiana cases, 1873 to 1880, involved the question of whether there was a constitutional State government.

(15) Matthew C. Butler, of South Carolina, 1877. Ground of contest was election by two legislatures. David T. Corbin, contestant, finally withdrew his contest.

(16) Henry A. du Pont, of Delaware, 1895. The ground of contest was alleged illegality of election.

It will be observed that in the foregoing 16 cases the grounds for contest in 6 related to the loyalty of the Senator elect; in 7 the question related to irregularity of elections; in the case of Adelbert Ames, of Mississippi, in 1870, the contest related to inhabitancy; and in the case of Shields in Minnesota and in the Louisiana cases the objection was that there was no constitutionally organized State government.

Mr. NORRIS. Mr. President——

Mr. DENEEN. May I finish the statement? If the Senator will pardon me, I have but one page more. I shall be through in just a moment; then the question may be put. I desire to read the conclusion drawn from these precedents.

It appears, therefore, that in these 16 cases where the oath was denied until charges were heard by committees, the grounds of contest were the lack of the qualifications defined in section 3 of Article I of the Constitution (relating to age, citizenship in the United States, and inhabitancy) and the inhibitions under the fourteenth amendment.

To sum up, then, the precedents establish that since the case of General Shields in 1849 the Senate has in no case denied the right of a Senator elect or designate to take the oath of office before the hearing of his case, except where the qualifications specifically defined in section 3 of Article I of the Constitution itself were involved.

In the case of Col. FRANK L. SMITH there is no charge that he lacks the qualifications specified in the Constitution. He is 30 years of age, is a citizen of the United States and has been for over nine years, was an inhabitant of the State of Illinois when appointed, and has never violated the inhibitions of the fourteenth amendment. Therefore, under the precedents he is entitled to take the oath of office.

Mr. REED of Missouri. Mr. President, I shall detain the Senate but a few moments, because it is not my purpose at this time to enter into a discussion of the precedents or even to analyze the provisions of the Constitution.

All Senators will pursue such a course as they desire in the matter of this discussion. My own preference is that the discussion of the construction of the law and the merits of the case may take place hereafter on what I conceive to be a more appropriate occasion. However, other Senators may entertain a different view.

I simply remark at this time that the present case is distinguishable from all the cases referred to, and the line of demarcation is so clear that, in my humble judgment, it needs to be but mentioned to be fully recognized.

In the cases cited the applicant for a seat presented credentials, and upon the credentials asked to be sworn in. He contended that the credentials entitled him prima facie to his seat, and, as they was no contrary showing before the Senate, he was allowed to take the oath, and then the question as to his right to continue to sit was referred to an appropriate committee. That action in itself asserted the right and power of the Senate to overturn the prima facie case made by the certificate, and upon a proper showing to disregard the certificate and deny the right of occupancy to the applicant for a seat.

In the present case Mr. SMITH appears with credentials. Those credentials are, in my judgment, in proper form, and if that were all the information the Senate had before it officially, the ordinary course would be to accept the prima facie showing and allow the oath to be administered, although I am far from saying that if the Senate possessed general information putting it upon notice that the applicant was an unfit person to be seated in the Senate, the Senate would not be abundantly authorized to withhold the oath until a proper investigation had been made.

In this case, however, the Senate has official knowledge, which was gathered through a select committee of the Senate. The evidence was taken under oath. It has been printed and submitted to the Senate, along with the findings of the committee. It is here and is now within the conscience of the Senate.

If that evidence is sufficient to raise a serious question as to the right of Mr. SMITH to a seat, then it overcomes the prima facie showing made by the certificate of the Governor of Illinois, and the question becomes one of first instance and must be tried out and settled upon its merits. To my mind, under such conditions, it is almost absurd to say that the oath must be first administered, then a hearing, the evidence already having been gathered, and then an expulsion take place. That would seem to be a rather ridiculous performance.

It is claimed that this certificate makes a prima facie case, and that we must accept it temporarily, but that the moment after the oath has been administered and the certificate made consummate, and the wrong, if any there be, has been done, the Senate then, upon the instant, has the power of expulsion. That, to my judgment, is an unsound theory.

I grant, sir, that we should proceed in this matter with circumspection, with deliberation, and always observing the highest principles of justice. But to my mind the showing that has been made and officially reported to the Senate demonstrates such fraudulent conduct by the applicant for this seat as to prove his personal unfitness, and the evidence further discloses enough of fact to make it a justifiable conclusion that his appointment springs from and comes out of his election, and that it would not have been made save for his apparent triumph in that election, which the evidence thus far taken discloses was wickedly and fraudulently accomplished. It seems to me, therefore, that this fraud taints the entire transaction, and puts its challenge and stain upon these credentials here presented.

The claim that the Senate can not reject an applicant save upon the narrow ground that he is not possessed of constitutional age or constitutional residence seems to me to be utterly unsound. The language of the Constitution, found in section 3 of Article I, is the language of prohibition. It is a command to the Senate, "Thou shalt not." It is a disqualification fixed by law that he who does not possess these qualifications has under the Constitution no right to a seat here, and if we were to knowingly seat him we would violate our oaths of support of the Constitution.

> No person shall be a Senator who shall not have attained to the age of 30 years, and been 9 years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen.

That language, I repeat, is the language of prohibition. It goes to the qualifications of the man. It is a command to the Senate that it shall seat no man who lacks these qualifications. But when we come to section 5 of the same article of the Constitution we find words conferring power, granting authority:

> Each House shall be the judge of the elections, returns, and qualifications of its own Members.

That is a grant of power, and it is an unlimited grant. There is no authority to supervise it. There is no appeal from the decision. Courts may not interfere. The Executive can not interpose. The right was necessary to preserve the independence of the legislative branch of the Government.

How can any man contend that this language can be so twisted as to be made to read, "Each House shall be the judge of the elections returns, and shall be the judge as to whether the applicant is 30 years of age, and for 9 years has lived in the United States and been a citizen"? That would be a strange distortion of the plain language of the Constitution and would be a direct negation of the powers actually intended to be conferred.

Mr. BORAH. Mr. President——

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

Mr. REED of Missouri. I yield.

Mr. BORAH. The Senator has referred to section 5 of the Constitution, which provides that—

> Each House shall be the judge of the elections, returns, and qualifications of its own Members.

Does the Senator regard SMITH a Member of the Senate at this time?

Mr. REED of Missouri. Technically, no; but until the Senator from Idaho thought of that distinction I question whether it had ever occurred to anyone else.

Mr. BORAH. No; the Senator from Idaho is not the originator of that question. It was raised by one of the most distinguished Senators of the past.

Mr. REED of Missouri. Perhaps; but what a strange construction that is of words. Here comes a man who files his papers, asks to be sworn in, and the question at once is, Should he be a Member? If we decide that he should be a Member, we swear him in and we, by that act, pass upon his right to be a Member; and the Senator then says that, having determined that he shall be a Member, for the first time our jurisdiction attaches to determine whether he is qualified to be a Member.

Mr. BORAH. The Senator will remember that that was the main point in the argument of Senator Douglas. I simply wanted to get another distinguished Democrat's view of it.

Mr. REED of Missouri. I might say that the Senator's answer undoubtedly deserves the right to differ from Mr. Douglas on some other historic occasion.

Mr. BORAH. But I very seldom differ from the Senator from Missouri.

Mr. REED of Missouri. I am glad of that, for whenever I find myself in agreement with the Senator from Idaho I feel that I must be very nearly right.

Mr. BORAH. I think so. [Laughter.]

Mr. REED of Missouri. But the fact that I am in agreement with the Senator from Idaho on most occasions does not remove the danger of his occasionally erring in his judgment.

Mr. WATSON. Mr. President, will the Senator pardon an interruption?

Mr. REED of Missouri. Will the Senator allow me to proceed? I want to occupy the floor for only a few moments. I have talked longer than I intended to. I simply wanted to state the case in the rough.

It seems to me, regardless of what great men or near great men or other kind of men may have contended, that the construction that the Senate has no jurisdiction to protect its forces, but it must first open the door and it must first seat the applicant before it has any right whatsoever to take account of his qualifications is a very strained and unnatural construction to put upon the language of the Constitution. It has not been the custom to place such narrow constructions upon the Constitution. For instance, there is a clause in the Constitution which reads:

> Each House may determine the rules of its proceeding, punish its Members for disorderly behavior—

And so forth.

"Disorderly behavior" is the only phrase employed and it would be easy to argue that that means disorderly behavior in the Senate. I imagine that it has been so argued in the past. I only take time to read a line from Story. Story declares in his great work on the Constitution in paragraph 838:

> It seems, therefore, to be settled by the Senate upon full deliberation that expulsion may be for any misdemeanor which, though not punishable by any statute, is inconsistent with the trust and duty of a Senator.

Expulsion took place for acts which were not, according to the technical meaning, disorderly, and certainly not disorderly conduct on the floor of the Senate. That is the settled construction applied to the language to which I have just referred. However, that is somewhat aside from the present case.

Mr. President, my deliberate view of this case is that the Senate under the existing circumstances must for the present reject these credentials or, rather, to state it more accurately, must for the present refuse the oath of office because the committee appointed by the Senate has laid before the Senate the facts to which I have adverted. Upon those hearings Mr. SMITH was himself interrogated. He was given the fullest opportunity to testify regarding every fact within his knowledge. He was allowed time to consult his counsel. He was permitted to file documents in his defense. Nevertheless, in one sense this was an ex parte hearing. It was an investigation generally into the election of Illinois.

It has been suggested that because the committee, of which I have the honor to be chairman, undertook to carry on and did carry on this work, the credentials of Mr. SMITH to be referred to that committee. As the chairman of that committee, and, I think, speaking for all of its members, although I have not, I believe, consulted all of them, I state our very great preference that the subject under discussion should be referred to the Committee on Privileges and Elections.

I want Mr. SMITH to have the fullest opportunity to appear by counsel, to try his entire case before a committee which can not be said to have in any manner prejudged the merits of the controversy. He may have evidence and may be able to make a showing to that committee which was not submitted to the select committee. I would like to see that course taken, Mr. President, because I recognize the gravity of the question involved.

I know that when a very great power is lodged in any body and that body is a court of last resort the power should be exercised with discretion, with moderation, and, if possible, with a certainty of justice. It is no answer, however, to say that this power may be abused, for there can be no lodgment of power in any final tribunal which may not be abused. On the responsibility of the high offices which we are permitted to fill we must meet this case with no thought save that of justice and with no desire save to do justice not only to Mr. SMITH but to the United States of America.

One thing, sir, is certain, that if the Senate does not guard its own portals and protect its own integrity, then there is no power outside of the Senate to protect that integrity. We have the power and we must exercise it fairly in this case. We must so exercise it that all men will know that he who enters here must come, as a litigant comes into a court of chancery, with clean hands. If that fact can be certified to the country and made to be known of all men, then at least senatorial elections will be to some extent kept pure. Wealth will no longer try to purchase seats of honor and of power in this body.

So, Mr. President, I offer as a substitute to the resolution of the Senator from Illinois the resolution which I send to the desk.

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

The Chief Clerk read as follows:

> *Resolved*, That the question of the prima facie right of FRANK L. SMITH to be sworn in as a Senator from the State of Illinois, as well as his final right to a seat as such Senator, be referred to the Committee on Privileges and Elections; and until such committee shall report upon and the Senate decide such question and right, the said FRANK L. SMITH shall not be sworn in or be permitted to occupy a seat in the Senate.
>
> The said committee shall proceed promptly and report to the Senate at the earliest possible moment.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Haltigan, one of its clerks, announced that the House had passed the bill (S. 564) confirming in States and Territories title to lands granted by the United States in the aid of common or public schools, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed a bill (H. R. 15653) to furnish public quarters, fuel, and light to certain civilian instructors in the United States Military Academy, in which it requested the concurrence of the Senate.

ENROLLED BILLS SIGNED

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

S. 1730. An act to authorize the payment of indemnity to the Government of Great Britain on account of losses sustained by the owners of the British steamship *Mavisbrook* as a result of collision between it and the United States transport *Carolinian;*

S. 3444. An act to amend the act of February 11, 1925, entitled "An act to provide fees to be charged by clerks of the district courts of the United States";

S. 3992. An act to provide for the purchase of land for use in connection with Camp Marfa, Tex.;

S. 4252. An act setting aside certain land in Douglas County, Oreg., as a summer camp for Boy Scouts;

S. 4533. An act extending to lands released from withdrawal under the Carey Act the right of the State of Montana to secure indemnity for losses to its school grant in the Fort Belknap Reservation;

S. 5231. An act authorizing the sale of land at margin of the Rock Creek and Potomac Parkway for construction of a church and provisions for proper ingress and egress to said church building; and

H. R. 16164. An act to amend the Panama Canal act and other laws applicable to the Canal Zone, and for other purposes, approved December 29, 1926.

SENATOR FROM ILLINOIS

Mr. BINGHAM. Mr. President, it is with great diffidence that I presume to take a position in opposition to the distinguished constitutional lawyer who has just spoken [Senator REED of Missouri] and with whom I generally agree on all matters regarding the Constitution and the necessity of preserving the rights of the several States.

But it seems to me, Mr. President, that the Senator, due in part to the investigations which were conducted by his committee, has been led astray in this matter, and has been led to assume a novel position in regard to the unlimited power of the Senate to decide on the qualifications of its Members. The Senator from Missouri, after he had read that clause of the Constitution which gives each body the power to decide the qualifications of its Members, said:

> That is a grant of power, and it is an unlimited grant.

Mr. President, that the provision of the Constitution referred to is an unlimited grant of power to the Senate to decide as to the qualifications of its Members was certainly not the idea of those who framed the Constitution, nor of the majority of the Senators from the States represented in the Congress in the years when the Constitution and what it meant were still fresh in the minds of men and of Senators who were contemporaries of the Constitution makers. One of the very first cases to arise was considered in 1796, before the Constitution had been in effect 10 years. It was the case of Humphrey Marshall, referred to by the distinguished Senator from Montana [Mr. WALSH] at the beginning of this session, when he quoted from the remarks of the then Senator from Massachusetts, Mr. Sumner, in the middle of the last century.

Mr. Marshall was a Senator from the State of Kentucky. He was charged with gross fraud and with perjury by two judges of the State of Kentucky. A memorial was presented accusing him of those crimes. He asked for an investigation. The memorial was referred to a committee of the Senate. The committee made its report, and during the discussion it was agreed on the floor of the Senate to amend the last clause of the report to read as follows:

> And they are also of opinion that, as the Constitution does not give jurisdiction to the Senate, the consent of the party can not give it, and that, therefore, the said memorial ought to be dismissed.

Mr. President, I desire to call the attention of Senators to those words in which certain Senators who had been members of various constitutional conventions and others who were contemporaries of those who drew up the Constitution stated that the Constitution does not give jurisdiction to the Senate to inquire into acts done prior to the election.

It was then moved to expunge this clause, and those who voted in favor of the motion to expunge represented only four States of the original thirteen States, while those who voted in favor of this clause remaining in the report represented 11 States, and included a distinguished list of names, members of constitutional conventions of the several States, members of various Continental Congresses. In other words, they were more imbued with the spirit of the Constitution and knew more of the powers intended to be given the Senate than do some of us to-day.

Furthermore, when that resolution was adopted another very interesting but now somewhat antiquated position was taken with regard to a man being innocent until he had been proven guilty. With the consent of the Senate, I should like to read the last paragraph of the report as adopted in 1796 by the Senate. It reads:

> Mr. Marshall is solicitous that a full investigation of the subject should take place in the Senate, and urges the principle that consent takes away error, as applying, on this occasion, to give the Senate jurisdiction; but, as no person appears to prosecute, and there is no evidence adduced to the Senate, nor even a specific charge, the committee thinks any further inquiry by the Senate would be improper. If there were no objections of this sort, the committee would still be of opinion that the memorial could not be sustained.

Mr. President, in recent years we have heard so many charges made on the floor of the Senate against citizens of the United States, charges that have not been sustained in a court of law, that I think it is particularly appropriate to read the words that occur next in the report adopted in 1796.

> They think that, in a case of this kind, no person can be held to answer for an infamous crime, unless on a presentment or indictment of a grand jury, and that, in all such prosecutions, the accused ought to be tried by an impartial jury of the State and district wherein the crime shall have been committed.

Please notice that that was a case where crime was charged.

> If, in the present case, the party has been guilty in the manner suggested, no reason has been alleged by the memorialists why he has not long since been tried in the State and district where he committed the offense.

It would seem as though those words had some bearing on the present case.

> Until he is legally convicted—

these old contemporaries of the makers of the Constitution went on to say—

> the principles of the Constitution, and of the common law, concur in presuming that he is innocent. And the committee are compelled, by a sense of justice, to declare that, in their opinion, this presumption in favor of Mr. Marshall is not diminished by the recriminating publications which manifest strong resentment against him.

There is no evidence before us that Mr. SMITH has been indicted before a court or has been tried, and, under the principles of common law and the Constitution, we have no right to regard him as otherwise than innocent until he shall have been tried and convicted.

Another point made by the Senator from Missouri, Mr. President, was that if the Senate does not protect its own integrity then there is no power beside the Senate to afford such protection. It seems to me that this is a very extraordinary position to take in a government which is founded on the principle of representation—a representative government.

Aristotle described all the forms of government that were known to the ancients—monarchy, democracy, aristocracy, oligarchy—and stated the difficulties to be met with in those different forms of government. At that time no one had thought of a representative government. We, on the other hand, have found our prosperity in a representative system of government, and in a new principle of government that divides the governing powers between a central government—those powers necessary for the national defense—and the local or State governments, which look after their own affairs.

It is now proposed to deny to a sovereign State of the Union the right to have the ambassador whom she sends here, with credentials which are not questioned, even by the distinguished Senator from Missouri, as to their authenticity or as to their regularity, take the oath and be received as an ambassador from the State of Illinois until such time as his qualifications may be further looked into, if there be question raised against them.

Mr. President, I realize that this is not a political question. If Mr. SMITH shall be denied his right to a seat in this body, it will become necessary for the Republican Governor of Illinois to send another Republican. There can hardly be any charge against us that we are making any fight for Mr. SMITH in order to preserve a Republican vote here. The question, as stated by the Senator from Missouri, is as to whether the Senate shall keep itself pure; whether it shall hold up a high moral standard and say to the States of the Union, "You can not elect; you can not send anybody here to us whom we do not consider fit to sit alongside of us." In other words, we hold ourselves to be an exclusive club, with a membership committee which decides on the qualifications—social, ethical, moral, and otherwise—of those who desire to come into this body, a position absolutely contrary to that on which this Government was founded.

As superior Tories looked with scorn and contempt on those who championed the cause of the rascally thieves and rioters who threw the tea into Boston Harbor, so superior Senators who scorn to approve the choice of the Governor of Illinois will look with contempt on those of us who place the constitutional right of the States above popular clamor, even when it means the seating of one who is said to be guilty of moral obliquity.

The dignity of the Senate, the integrity of the Senate, it seems, can brook no opposition to any possible power which by the furthest stretch of the imagination can belong to it constitutionally. We hate to think how small our responsibility is for the qualifications of the men who rightfully sit here.

Mr. President, the Government of the United States has not been organized or instituted for the benefit and glory of the Senate but to carry out the wishes of the people in the several States. We may not like their choice. I have heard it said that there are sections of the country where New Englanders are not liked and where Connecticut Yankees are particularly disliked for the indigestibility of their "wooden nutmegs." Is the Senate then empowered to decide that no one who ever made or sold a wooden nutmeg may be sent here by the people of Connecticut? That might disfranchise all of us!

I have never met Mr. SMITH nor had any correspondence with him, nor do I care to enter into a discussion or defense of any actions of which he may be accused. My interest lies solely in the right given to the Governor of Illinois by the seventeenth amendment and in the rights given the Senate by the Constitution. My object is solely to preserve representative government, to foster loyalty to its principles, and to maintain our form of government, which has been more successful than any other in history.

With the consent of the Senate I should like to read once more that part of the seventeenth amendment which is concerned with the right of Mr. SMITH to take the oath. It says:

> The legislature of any State may empower the executive thereof to make temporary appointment until the people fill the vacancies by election as the legislature may direct.

The Governor of Illinois has been given that right by the Legislature of Illinois. He has exercised his constitutional right, and we now propose by the resolution submitted by the Senator from Missouri to deny the right of the person so designated to come here and take the oath and take his seat.

Mr. President, as I see it, this resolution is simply another step in the direction of an American empire. Is it another nail in the coffin destined to receive the last of State rights? So much of our thought is national, the States are almost forgotten. So much of our legislation is national, we almost resent any reference to the notion that a State has the constitutional right to do something the Congress and the people at large may not like. Our Government is becoming so paternalistic, we give so much aid of one sort and another to the States, that we can not bear to think of them not doing as we want them to do and not electing to our number people that we are glad to receive here. Because we have been an indulgent parent, we want filial respect and obedience. We want to make the rules for the States' moral and ethical and legal guidance.

I have even heard a distinguished southern Senator say that "State rights were all shot out of him at Appomattox." It is true that the right to secede was denied by ordeal of battle. But I am one of those who believe, and I represent a State which still believes, in the ninth and tenth amendments to the Constitution. We believe that they are necessary for the preservation of our form of government.

The ninth amendment to the Constitution says:

> The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.

And the tenth amendment says:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

A few weeks ago, Mr. President, Senators were so courteous as to permit me to discuss in another connection the trend toward centralization, and the dangers of centralization. It seems to me that the future of our country depends upon the preservation of the rights of the States and the constant practice of local self-government, even when the States make mistakes and when local government makes mistakes. Government by the people can not survive the loss of the right of the people to decide their own problems. If we attempt to dictate to them how they shall decide their own problems, as a parent dictates to his children, we take away from them that very right to exercise the powers, which makes them strong members of a government by the people.

When the Union was formed the citizens were keenly jealous of their rights. There were 13 sovereign States then. Each desired the fullest possible measure of liberty; but, remembering that they were small and weak and had powerful enemies, each State surrendered as much as was necessary in order to build up a Federal Government which could undertake the national defense. Powers not explicitly granted the new Federal Government were reserved to the States.

As years went by many new States came into the Union which never had enjoyed full sovereignty. They had been Territories or subordinate parts of the Federal domain. Their people naturally regarded the Federal Government as being in the nature of a grantor of their rights, a giver of their political franchise. It is easy to understand that they and those who represent them have no inherited or traditional interest in the rights of the States as such. They love the American Nation rather than the United States of America.

Mr. President, the Constitution was so constructed as to prevent us from following the whims or political necessities of the moment. At the present time some members of the Democratic Party appear to be desirous of maintaining the position that the Republican Party condones malpractice, condones corruption, condones evil practices in elections. These members of the Democratic Party, turning their backs on the right of the States to send here anyone they desire, seek to make political capital out of the fact that Republicans are now asking to have sworn into the Senate a representative of the sovereign State of Illinois who is said to have done something very recently that they do not like; and, Mr. President, that I do not like.

We can not trust the whims or political necessities of the moment. The States have the constitutional right to say who shall represent them here, except as they explicitly surrendered their rights in the Constitution. They agreed when they adopted the Constitution, first, that no Federal officeholder could be elected to the Senate of the United States, no nonresident of the State, no one under 30 years of age, and no one not a citizen for nine years. If any other qualifications were intended to be considered, why did they not add more important ones? But there is nothing about ex-criminals, nothing about morals or religion or health or even intelligence!

Are they not a group of essentials? The ones mentioned were not so essential—youth, nonresidence, office holding. If minor qualifications could be overlooked, why put in 30 years? If major qualifications could be overlooked, why put in treason, which was not in the original Constitution but was adopted later as an amendment? My point is that the States have the right to send whom they please, if they do it in the right way and if we judge that the men they send meet the few qualifications which all the States have agreed in the Constitution are fundamentally necessary.

The Congress was given the right to pass laws regarding elections; but we have passed no laws regarding primaries as yet and very few regarding elections. In this case the charge that is made against Mr. SMITH concerns a primary, but no court has decided that a law has been broken. We are treading on the delicate ground of personal opinion and public morality.

Mr. President, it is well known that morals and customs and manners change with the times and with the years. After all, it is the people who must decide who is to represent them. If we take this right away from the people, we overturn popular government. If the United States Senate is going to set itself up as an arbiter of public and private morals, then it ceases to be a constitutional law-making body and becomes an agent of tyranny.

We are undermining the sound division of power which has preserved our citizenship. What if governments and citizens do make mistakes? Whose business is that? It is not ours. It is the business of the States and the people who live in them. Are the States mere children and we their parents, who lay down laws for their guidance in this matter?

There is more manslaughter in the United States than in any other country. More than 15,000 people a year meet violent death by automobiles. It is said that more than 10,000 persons a year are murdered. Some of our great cities are swept by crime waves. Our courts are not free from lynch law; yet we assume a piety that is amusing to our foreign critics. And now the Senate is asked to assume a standard of morality higher than that of the States its Members represent!

Are we, then, so perfect? Are we better able to judge of a man's character than his neighbors and fellow citizens? What is representative government? It is the principle of sending to the legislative body those whom the citizens choose to represent them. Why has it been a success? Because citizens know the kind of citizens who live near them and are not so well able to pass upon citizens who live far away from them in other States.

Are we unaware of the growing restlessness of the American people under our blind passion for investigating everything and everybody? Is this body to be destructive or constructive? Are we to give our strength and time to furthering intelligent and active loyalty to the principle of representative government, or are we to tear it down because we do not like its results and are conscious that they are not always perfect?

Instead of haggling on halfway principles, let us take our stand on the solid ground that the only lasting basis of our form of government is that the States must retain all rights not explicitly given to the National Government. In case of doubt, the States are to be the beneficiaries. The Senate can not dictate to the people whom they shall choose as their representatives.

The limits are clearly set forth in the Constitution. No matter how much they may wish to elevate a brilliant young genius, 30 years is the limit granted by the Constitution. No matter how much the people of a State may desire to take advantage of the services of some famous advocate who lives in some other city or some other State, who lives in New York or Washington, he must be a resident of the State. No matter how excellent a new citizen has recently come into a State, he must have had nine years of citizenship. But as to religion, color, politics, morals, intelligence, or character—these matters are all relative and can be decided in a representative system only by the people who are to be represented.

Mr. President, no stream can rise above its source. If the source is to be an aristocratic Senate of refined and cultured moralists, fearful lest evil communications corrupt their good manners, then the chosen ones will be representatives of the Senate; but the result will be an oligarchy, an aristocracy, a senatocracy, not a republic.

It is unfortunate that this case has arisen over a man who is charged with an offense against public morals. However, the question would not have been likely to arise over a paragon of morality. John Wilkes was no paragon. John Wilkes, famous hero in English constitutional history, was a convicted criminal in jail at the time his right to sit in Parliament was being maintained by lovers of liberty. His crime appears trivial to us at this time; so do manners and morals change.

In the case before us, however, there is no evidence that Mr. SMITH has been convicted of a crime in a court of law. Public

opinion has been offended, it is true; but who are the culprits? The voters of the State of Illinois are the culprits. In the face of a solemn resolution of the Senate, referred to so often in debate on this floor, in connection with the Newberry case, in the face of an outraged public conscience, they have by a large majority placed the seal of their approval upon Mr. SMITH; and their governor, exercising the power given him by the State, has sent him here.

An ambassador who is persona non grata, and is known to be such, is usually not sent to a foreign country. We are under no obligation to receive a foreign ambassador who is persona non grata, and we need not receive him if we wish to be at war with another country. With one of our own States, however, the case is different. Do we wish to deny to Illinois the right to send her properly chosen representative here? Do we wish to declare war on Illinois? Her junior ambassador knocks at the gate. He has a right to be admitted.

Mr. President, if it was the intention of the makers of the Constitution to give the Senate the right to prescribe the qualifications of Senators, why did not the Constitution say so? Why specify such a relatively insignificant thing as nine years of citizenship? Why limit age?

It is true that we are the judge of the elections and of the qualifications. We judge of the elections, but we do not elect. We judge of the qualifications, but we do not make the qualifications; otherwise the Union of States which can never be denied their rights of representation becomes a farce.

No one can read the debates in the Constitutional Convention, the secret proceedings and debates of the Federal Convention, without being convinced that it was never intended that the States should give up any more of their rights than was absolutely necessary for the preservation of the Federal Government.

There is even an interesting passage in the secret proceedings for Saturday, June 9, 1787, in which Mr. Gerry stated that he took it for granted that "in the National Legislature there will be a great number of bad men of various descriptions."

The makers of the Constitution were under no misapprehension as to the fact that there were likely to be elected to the Congress "bad men of various descriptions," but they made no effort to keep them out. They knew that such an effort on their part would be instantly met with opposition by the States, which desired the right to send here whomever they might choose as their representatives, provided they met the qualifications which were laid down.

Article V of the Constitution provides that "no State without its consent shall be deprived of its equal suffrage in the Senate," and that is the one amendment which can not be amended. Yet we have before us this resolution, which seeks to prevent an ambassador from a State coming here with unquestioned credentials from taking his seat, thereby depriving that State of a vote in this body.

The question does affect most deeply our form of government. If we are to be an empire, as some people hope, then the Senate is responsible for the type of man it permits to sit in it. But if we are a union of the States, then the States are responsible, and not the Senators who sit here. Deprive a State of its responsibility, and you make it merely a province of the empire of America.

I admit that this has been the trend in recent years. Senators who still believe in State rights regret that trend, and regret the constant increase in the number of Federal commissions, the constant increase in the power of the Central Government. The rage for bigness, efficiency; our impatience with slow growth, with natural growth—these things have been the motive for much of this legislation.

Mr. President, what greater responsibility can rest upon a State than the duty of selecting the right kind of governor and the right kind of Senator? Here we have a governor exercising the right which is granted to his State under the Constitution, namely, to send here its representative to represent the State. What right have we to deprive a governor of that power? Does anyone think that it would be possible to secure an amendment to the Constitution providing that the governor can exercise that right only by and with the consent of the Senate? Try it, and see how far you get with such an amendment. Yet our Supreme Court judges, our ambassadors, even our postmasters, can not be appointed by the President without the advice and consent of the Senate. But try to get such an amendment incorporated in the Constitution—that no State can send here a Senator without the advice and consent of the Senate—and see how far you get!

This is a move on the part of those who truly believe in an imperial federal government. Shall those of us who believe in a representative and republican form of government—in a word, who believe in State rights—tamely submit? Shall we not rather stoutly challenge this spirit of imperial domination?

To those to whom the rights of the States as guaranteed by the Constitution are merely permissions to be exercised under good behavior I make no appeal; but to those to whom the rights of the States, as given by the Constitution, are living, fundamental rights, I do appeal. My appeal is that they will not permit the exigencies of an unfortunate situation to alter their faith; that they will not, for the sake of possible gain to their party or to their faction or to their bloc, establish a precedent full of danger to the Republic.

Political faiths are relative. Morals are relative. The unwritten law is no safe guide. He who breaks the unwritten law may be a felon, but he is not actually a felon until he is tried in a court of justice.

If the Senate insists on this resolution offered by the Senator from Missouri [Mr. REED], why not send our troops to Illinois to enforce our will? The President can appoint only by and with the advice and consent of the Senate. Why not insist, with the Army at our back, that the governor only appoint some one of whom we approve?

Can it be that those who framed the Constitution, and those State legislatures by whose vote it was adopted, proposed to base the qualifications of a Senator on that most precarious tenure, the will of any given Senate? Such an idea is preposterous. Does anyone suppose for a moment that 36 States of the Union would even to-day accept an amendment to the Constitution which would in fact put this into effect?

The people of Illinois claim their rights as derived from the Constitution of the United States, and not as a gift of Congress or of this Senate. It is true that the old idea in many European countries and in the South American countries is that power is derived from above, and not from the people. According to the old continental idea, which is gaining force in America, greatly to our regret in Connecticut, power is derived from the sovereign, from the king, by divine right. But the idea for which our fathers fought was the opposite idea. Power is derived from the people. Congress is the servant of the people, not its master or its preceptor.

If Mr. SMITH is the man Illinois wants to have represent her here, and he meets the requirements of the Constitution as adopted by the States, I do not see by what right he can be prevented from taking the oath. The sole justification for our action is on the theory that we are authorized by the States of the Union to pass upon the kind of ambassador they choose to send to this body. Yet they can never be deprived of their equal representation except by their own consent. As a matter of fact, the only justification for our political authority rests upon the consent of the people of the State. We did not give them this power. It was inalienable and inherent in them. We did not give them the power to choose Senators, nor can we take it away from them.

The Senate has no divine right to keep itself "holy and unspotted from the world." It was created by the people of the United States to do for them certain things which they could not do so well themselves. To choose their representatives was not one of them.

Mr. President, I have learned from certain remarks which have been made from time to time to me by my friends on the other side of the aisle, by distinguished leaders of the Democratic Party, that my name will be held up to continued derision and scorn for many years because I shall vote against denying Mr. SMITH the right to be sworn in. Like the list of those who voted for Mr. Newberry because they believed in his cause, my name will be continually subjected to aspersions. Let it be so.

Only permit me to say that if it be true that Mr. SMITH accepted money, and so forth, as charged, then he is not the kind of man I personally, as a citizen of Connecticut, would vote for to represent my beloved State in this body. If this charge be true, then as a member of the Republican Party in Connecticut I would do my best to prevent his nomination and election in my State. And as an American I regret to see such clouds appear on the title of a Senator elect, although in this case they do not appear on the title of the Senator designate.

The question of whether Mr. SMITH was properly elected, whether into the primary and election there entered certain facts which would vitiate that election, is a question that is not before us at the present time, and I reserve the right to vote as the evidence shall be presented to us when the question of the election comes before us. The question at the present time is in regard to Senator-designate SMITH, not Senator-elect SMITH.

I have no desire to prejudge this case. No court has found Mr. SMITH guilty, and I am an old-fashioned Connecticut

Yankee, brought up to believe that a man is innocent until a court has found him guilty.

But that has nothing to do with the present case. This case concerns the right of the sovereign State of Illinois to act under the seventeenth amendment to the Constitution. What are our immediate duties as Senators? It is for us to judge who is the Governor of Illinois, and whether he has signed these credentials. That is not questioned. It is for us to see that the man who comes here, who claims he represents the people of Illinois, did not secure these credentials by fraud, but is in deed and in truth the man whom the governor appointed legally and lawfully, and for whom the credentials were made out. That is not called in question. It is for us later to see whether he meets the qualifications laid down in the Constitution. That is not the point at present.

Why am I interested that the rights of the States should be preserved? Because I believe that this way lies liberty and freedom and the rights of man. The other way lies tyranny. Do you think that the conscientious members of the Holy Inquisition in Spain thought that they were doing wrong when they punished wicked heretics? Not at all. They were honest in their belief. They were justified by their fear that immortal souls might be forever lost. Nevertheless the world to-day, both Protestant and Catholic, admits that their acts were acts of tyranny, from our point of view.

Mr. President, in conclusion I accuse no one of evil motives. I assume that all are trying to be just, and trying just as hard as I am myself to preserve the Union and to keep their oaths to support the Constitution. But for the sake of keeping alive that responsibility of the citizen, which is the very essence of government by the people, let us not assume power, let us not sweep aside the spirit of the Constitution. Let us not take advantage of a doubtful interpretation of one phrase in order to show the public of the United States how lofty are the moral standards of the Senate, how pure and how free from taint, so that we can not take the chance of becoming infected by the alleged moral turpitude of the legal representative of the sovereign State of Illinois.

Let us rather courageously face even the charge that we are careless of character, and let us boldly proclaim our belief in the fundamental right of the States of the Union to be represented in the Senate of the United States.

Mr. WALSH of Montana. Mr. President, the nature of the charges against the Member designate from the State of Illinois has been set forth in the report of the special committee of which the senior Senator from Missouri [Mr. REED] is chairman, and in the addresses made by the Senator from Washington [Mr. DILL] and the Senator from Arizona [Mr. ASHURST] and the Senator from Tennessee [Mr. MCKELLAR]. It will not be necessary to detain the Senate now with any detailed statement concerning their character. They are, as intimated by the Senator from Connecticut [Mr. BINGHAM], who has just taken his seat, of the very gravest character.

There is involved in the question now before us a very important point of law touching the powers of the Senate in the premises. The Constitution gives to each House of Congress the right to judge of the elections, returns, and qualifications of its own Members. It likewise provides, as recited by the Senator from Missouri [Mr. REED], that no person shall be a Senator who shall not have attained the age of 30 years, been nine years a citizen of the United States, and at the time of his election a resident of the State from which he is chosen.

It is contended on the one hand that the Senate, in judging of the qualifications of its Members, is restricted to the three qualifications or disqualifications thus enumerated in the Constitution, and that it has no power to go beyond them. It is, upon the other hand, asserted that the power of the Senate is not thus limited. Those who assert the limitation of the powers of the Senate in the terms as indicated must, of course, maintain that if a man appears here with credentials fair upon their face—no matter what crimes he may have committed, however atrocious they may have been—if he is 30 years of age, a citizen of the United States for nine years, and a resident of the State from which he is chosen the power of the Senate is gone and he must be admitted. That is to say, Mr. President, though he may be a confessed traitor to the Government of the United States, though he may have committed murder or any other crime denounced in the Decalogue or in the statutes of his State or of any State, the Senate is powerless to exclude him from this body provided he has the qualifications of age, citizenship, and residence enumerated in the Constitution.

On the other hand, if the other contention is admitted, that the power of the Senate to judge of the qualifications of its Members is not so limited, it must be admitted that the power is almost, if not quite, unlimited. So the Senate might conceivably exclude a man because we did not like his politics or his views upon economic questions or the cut of his clothes or the color of his hair. But we are obliged to choose either the one or the other construction of the Constitution as seems to us most accurately to carry out the intent of the framers of the Constitution and to safeguard the institutions of the country.

Mr. President, this is not the time to discuss the question of which of these views is sound or unsound. The Senator from Illinois [Mr. DENEEN] very properly at this time confined himself, as I shall, to the simple question whether that matter should be taken up at some other time. The question before the Senate now is as to whether the Senate has the power to deny the immediate admission and qualification of the Senator elect from Illinois and refer his credentials to the proper committee for inquiry as to his right to membership in this body.

The charges made against the Member elect from the State of Illinois relate to acts done by him or conduct of which it is charged he was guilty prior to the time he was appointed, and thus is presented the question to which I have adverted. I shall, however, as I stated, confine myself solely to the question of whether the Senate has the power at this time and whether it is in conformity with reason and the precedents of this body to refer his credentials, without permitting him to take the qualifying oath, to the proper committee for inquiry.

The legal question to which I have adverted came to the supreme test in what were known as the loyalty cases and the polygamy cases. The demonstrative case, so far as polygamy is concerned, was decided by the House of Representatives and not by the Senate. But as the power of the Senate in the premises is exactly the same as the power of the House it may well be regarded as a governing precedent, for the Constitution, it will be perceived, gives the same powers to each body—

> Each House shall be the judge of the elections, returns, and qualifications of its Members.

I refer to the case of Brigham H. Roberts, who came to the House of Representatives armed with entirely proper credentials—that is, credentials entirely fair on their face. He had all of the constitutional requirements, or at least was not subject to any of the constitutional disqualifications. But it was charged against him and established eventually that he had four wives and was at that time sustaining marital relations with all of them. The House refused to permit him to take the oath, but referred his credentials to the proper committee, which reported against him eventually and he was excluded from the body.

During and subsequent to the war various Members elect and designate came here to this body, all having the constitutional qualifications or, not being subject to the constitutional disqualifications, having credentials from their States, respectively, entirely fair on their face. But it was charged against them that they had been disloyal to the Union; in other words, had been guilty of treason, and the question was, Should those men be admitted?

In both of these classes of cases the legal question involved, concerning which the Senator from Connecticut has now spoken, was elaborately discussed and the conclusion of this body, as well as the other body, was that neither House is limited in determining the qualifications of Members by the three requirements of the Constitution, but that it may go beyond and ascertain whether he has been in the past guilty of conduct criminal in character or of an actual crime which disqualified him from sitting here as a Member.

Mr. REED of Pennsylvania and Mr. LENROOT addressed the Chair.

The VICE PRESIDENT. Does the Senator yield; and if so, to whom?

Mr. WALSH of Montana. I will yield in just a moment. In the report of the House committee on the Brigham Roberts case the following declaration was made:

> Both Houses of Congress have in innumerable instances exercised the right to stop a Member elect at the threshold and refused to permit him to be sworn in until an investigation had been made as to his right to a seat. In some cases the final right was accorded the claimant; in many cases it was denied.

I speak about this particularly because, the course suggested by the substitute resolution offered by the Senator from Missouri having been anticipated, the effort has been made industriously to inculcate the idea that that course is arbitrary, unjustified, and unprecedented. I shall endeavor to establish to the entire satisfaction of any reflecting man in this body not

only that the Senate has the power but that it has frequently exercised the power.

I now yield to the Senator from Pennsylvania.

Mr. REED of Pennsylvania. Referring particularly to the loyalty cases which arose in the Senate and not those in the House, will not the Senator indicate, as he reviews them, whether the Member elect was sworn in and then expelled or whether he was barred from taking the oath?

Mr. WALSH of Montana. Yes; I propose to do so. I propose to consider only those cases in which the Member elect was refused the oath and his credentials were referred to a committee for proper inquiry, just as is proposed here.

This is the language of the majority report of the House of Representatives in the Brigham Roberts case, concurred in by the other branch of Congress by an overwhelming vote. So well settled was the right of Congress in the premises that when President Grant sent a message to the Congress of the United States during his term, which commenced, it will be remembered, in 1872, he said as follows:

> In the admission of Senators and Representatives from all of the States there can be no just ground of apprehension that persons who are disloyal will be clothed with the powers of legislation, for this could not happen when the Constitution and the laws are enforced by a vigilant and faithful Congress. Each House is made the judge of the election, qualifications, and returns of its own Members, and may, with the concurrence of two-thirds, expel a Member. When a Senator or Representative presents his certificate of election he may at once be admitted or rejected; or, should there be any question as to his eligibility, his credentials may be referred for investigation to the appropriate committee. If admitted to a seat, it must be upon evidence satisfactory to the House of which he thus becomes a Member that he possesses the requisite constitutional and legal qualifications. If refused admission as a Member for want of due allegiance to the Government and returned to his constituents, they are admonished that none but persons loyal to the United States will be allowed a voice in the legislative councils of the Nation and the political power and moral influence of Congress are thus effectively exerted in the interest of loyalty to the Government of the United States and fidelity to the Union.

Yet, if the contention of the Senator from Connecticut is correct, a man actually coming here and confessing his treason to the Government of the United States is nevertheless entitled to be admitted as a Member of this body.

Mr. President, this question has been elaborately discussed, as I have stated, in connection with these two classes of cases. In the juridical history of the State of Illinois no name shines with greater effulgence than that of Lyman Trumbull, nor, for that matter, in the political history of that State if there be excepted only that of the lamented Lincoln and his great rival, the Little Giant, Stephen A. Douglas. Trumbull had knowledge and learning in the law that was vast. His judgment was ripe. His forensic talents were of the very highest order. He was a great judge before he became a great Senator. I dare say not even the sitting Senator from the State of Illinois [Mr. DENEEN] will refuse to accept as a general rule any declaration made by that great Senator and great lawyer upon a question of the Constitution.

I am going to refer the Senate to what he said in the case of Benjamin Stark, who in the year 1862 presented his credentials to the Senate as a Senator from the State of Oregon. I read from the Congressional Globe of January 2, 1862, as follows:

> Mr. NESMITH. I present the credentials of Hon. Benjamin Stark, appointed by the Governor of Oregon a Senator from that State to fill, until the next meeting of the legislature, the vacancy occasioned by the death of Hon. Edward D. Baker. I ask that they be read and filed, and that the oath of office be administered to Mr. Stark.

I do not quite understand how the Senator from Illinois [Mr. DENEEN], in the diligent inquiry which is made into this subject, omitted to call to the attention of the Senate this important case to which I now advert.

> Mr. FESSENDEN. I shall not object to the reading, but I shall object to the administering of the oath until I have made a motion in reference to the matter.
>
> The Secretary read the credentials, as follows:
>
> "The Governor of the State of Oregon
>
> "To Benjamin Stark, of said State"—
>
> The credentials being in the ordinary form.
>
> Mr. FESSENDEN. Mr. President, I move that the oath of office be not administered at present, and that the credentials, together with certain papers which I hold in my hand, be sent to the Committee on the Judiciary. I suppose that I ought to state the reasons for my motion, as this course is somewhat unusual if the credentials are in due form.

Mr. Bright, of the State of Indiana, after some further remarks by Mr. Fessenden, said:

> I think, sir, there is no precedent for a motion of that kind. I have never known a case where the Senate refused to allow a Senator to take his seat when his credentials were properly authenticated and he applied for admission upon this floor.

So it appears, Mr. President, that the very question with which we are now confronted was then before the Senate.

Mr. Trumbull, bear in mind, of the State of Illinois, rose and said:

> I merely rose to correct an impression which prevails in the Senate, arising from a statement made by the Senator from Indiana and acquiesced in by the Senator from Maine. It is not true that credentials have not been referred before parties have been sworn in in the Senate. Usually, where the credentials were fair upon their face, the person claiming a seat has been sworn in as a Member, but the practice has not been uniform, as the Senator from Indiana supposes it has and as the Senator from Maine agreed that it had been. There are a number of cases where the credentials themselves were referred, cases where Senators were refused their seats, and where Senators received their seats after the credentials had been referred.

Another Senator participated in the discussion at that time with whose name Representatives on the other side of the Chamber are wont to conjure. Reference has been made to the remarks of Senator Hoar quoted by the late Senator Lodge in the Smoot case. In the Smoot case the question now before the Senate was not presented at all. Senator SMOOT presented his credentials here, and he was sworn in without objection. Thereafter the Committee on Privileges and Elections were authorized to inquire into his case; and it was clearly established in that case that Senator SMOOT had never been guilty of polygamy, that he had but one wife, and never had had but one wife; and the only charge was that his relations with the Mormon Church were such as to disqualify him from a seat in this body; a view that the Senate very properly refused to accept. However, Senator Hoar's remarks were made in that situation of affairs. Mr. Sumner's comments were made when the very question was before the Senate as to its right to refer credentials for inquiry before the Member designate or elect was sworn in. Mr. Sumner said:

> I desire, Mr. President, to make one single remark. It is said that the proposition now before the Senate is without a precedent. New occasions teach new duties. New precedents are to be made when the occasion requires. Never before in the history of our Government has any person appeared to take a seat in this body whose previous conduct and declarations, as presented to the attention of the Senate, gave reasonable ground to distrust his loyalty. That case, sir, is without a precedent. It belongs, therefore, to the Senate to make a precedent in order to deal with an unprecedented case. The Senate is at this moment engaged in considering the loyalty of certain Members of this body, and it seems to me it would poorly do its duty if it admitted among its Members one with regard to whom, as he came forward to take the oath, there was a reasonable suspicion.

So, Mr. President, this is an unprecedented case. I think the record of the precedents of this body will be searched in vain for a case in which charges against a Member elect or designate had already been investigated by the Senate and a report unfavorable to the Member was before this body. Therefore, if it were necessary, as suggested by Senator Sumner, we might well establish a new precedent in this case; but, as I shall demonstrate, the course suggested by the substitute resolution of the Senator from Missouri [Mr. REED] is in no sense a departure from the established practice of the Senate.

Mr. President, Mr. Sumner had something more to say about this matter. I read from page 862 of the Congressional Globe of February 18, 1862. In the course of his remarks he said:

> But it is argued by the Senator from New York [Mr. Harris] that the Constitution has provided for the expulsion of a Senator by a vote of two-thirds, and that there can be no inquiry on the threshhold, except with regard to the qualifications of age, citizenship, and inhabitancy of the State whose certificate he bears. If this be true, then open treason itself would not be a disqualification; and the traitor, if allowed to go at large, might present his certificate and proceed to occupy a seat in this body. A proposition is sometimes answered simply by stating it; and it seems to me that this is done in the present case. The Constitution was the work of wise and practical men, and they were not guilty of the absurdity which such an interpretation attributes to them. They did not announce that a disloyal man, or, it may be, a traitor, might enter this Chamber without opposition, and then

intrench himself securely behind the provision requiring a vote of two-thirds for his expulsion. They did not declare that the mere certificate of a Senator was an all-sufficient passport to shield a hateful crime itself from every inquiry; nor did they insist that disloyalty in this high place was to be treated so tenderly as not even to be touched until, perhaps, it was too late. This whole argument that the claimant must be admitted to the Senate and then judged afterwards is more kind to the claimant than to the Senate; it is more considerate to personal pretensions than to public interests. To admit a claimant charged with disloyalty to a seat in the Senate, in the hope of expelling him afterwards, is a voluntary abandonment of the right of self-defense, which belongs to the Senate as much as to any individual.

The irrational character of such an abandonment is aptly pictured by the old member of Parliament in those verses, more expressive than poetical, once quoted by Mr. Webster:

> "I hear a lion in the lobby roar!
> Say, Mr. Speaker, shall we shut the door
> And keep him out, or shall we let him in,
> And see if we can get him out again?"

But the Senate is now asked to do this very thing. Instead of shutting the door and keeping disloyalty out, we are asked to let it in and see if we can not get it out again.

Mr. COPELAND. From whom did the Senator quote?

Mr. WALSH of Montana. I quoted from Charles Sumner in the Benjamin Stark case in 1862, quoting doggeral lines quoted by Mr. Webster from an old member of the English Parliament.

Mr. President, another name ought to make a strong appeal to Senators on the other side of this Chamber, that of George F. Edmunds. In his time he had the reputation, no doubt deserved, of being the ablest lawyer in this body, and in his time the Senate was remarkable for the legal lights that illuminated the discussions in this Chamber. He was heard in the Philip F. Thomas case in the year 1868.

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

Mr. WALSH of Montana. Yes.

Mr. LENROOT. Has the Senator concluded with the Stark case?

Mr. WALSH of Montana. Yes.

Mr. LENROOT. Will not the Senator please complete the history of the Stark case and tell us what the Senate did?

Mr. WALSH of Montana. Yes; the Senate adopted the resolution of Mr. Fessenden, prosecuted an inquiry about the matter, and finally seated Mr. Thomas, holding that the charges of disloyalty against him were not sustained.

Mr. LENROOT. If the Senator will yield further, the credentials were referred to the Committee on the Judiciary, and that committee reported that Mr. Thomas had a prima facie right to his seat; they allowed him to take the oath, and then afterwards the inquiry was pursued.

Mr. WALSH of Montana. Yes; the Senator is right. They reported on his prima facie right, and then went on with the inquiry.

Mr. LENROOT. Certainly.

Mr. OVERMAN. Notwithstanding the speech of Charles Sumner and Lyman Trumbull they found Mr. Thomas was entitled to be seated, and they tried the charge of disloyalty afterwards.

Mr. WALSH of Montana. That is quite right. We have the facts in the case.

I referred to Mr. Edmunds's argument in the Thomas case. In the light of everything that was done by the Senate in the Stark case the Senate was called upon to consider the Philip F. Thomas case, from the State of Maryland. Thomas was charged in the same way with disloyalty. He had been Secretary of the Treasury during the administration of President Buchanan, and resigned because he disagreed with the President in sending aid to the beleaguered forts in South Carolina. His son joined the Confederate Army, and in departing for that purpose the father gave him $100. That was the whole charge against him. An effort was made to exclude him. He was denied the right to take the oath, and eventually was excluded from the body. Mr. Trumbull made a speech in that case. He did not recede at all from the position he took in the earlier case of Stark as to the rights and power of the Senate, but he argued that the charge of disloyalty against Mr. Thomas was not sustained by the evidence, or, at least, if it was that the Senate might well overlook any misconduct on his part. Mr. Edmunds, however, did not take that view of it. He voted that Mr. Thomas be refused the oath and voted to exclude him from the Senate. He said:

> Now, to return, the question first is—

Bear in mind that this was on the motion that Mr. Thomas be denied permission to take the oath. It was in the year 1868, and I read from the Congressional Globe of February 13 of that year.

> Now, to return, the question first is: What are our rights under the Constitution over this man without regard to the statute and without regard to any overruling necessity? The Constitution declares, and that is all that it says upon the subject that is pertinent here:
>
> "No person shall be a Senator who shall not have attained the age of 30 years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that State for which he shall be chosen."
>
> Senators will observe that these are negative statements; they are exclusive, every one of them. It is not declaring who shall be admitted into the Senate of the United States. It is declaring who shall not be eligible to election to this body; that is all. It is the same as to the House of Representatives and as to other officers—always in the negative, always exclusive, instead of in the affirmative and inclusive. And upon what principle was this Constitution founded? Will lawyers here deny that we have a right to look to the course of constitutional and parliamentary jurisprudence in that country from which we derive our origin and most of our laws to illustrate our own Constitution and to enlighten us in this investigation? By no means. And what was that? The House of Commons in Parliament, using the very language that in another section of the Constitution is used here, were the exclusive judges of the elections, returns, and qualifications of their own members. What was their constitutional power under that rule? It was that they were the sole and exclusive judges not only of the citizenship and of the property qualification of persons who should be elected, but of everything that entered into the personnel of the man who presented himself at the doors of the House of Commons with a certificate of election for admission. And what were those rules? One was that an idiot could not be a representative in the Commons; another was that an insane man could not be; and a variety of other disqualifications of which the Commons themselves alone were the sole and exclusive judges.
>
> We declared in our Constitution that a certain class of persons should never, under any circumstances, whatever their other qualifications might be, be Senators of the United States; no alien should be a Senator. Did it therefore follow that every citizen, male or female, black or white, rich or poor, sane or insane, innocent or criminal, should be a Senator? Not by any means, I take it. We declared then that no person should be a Senator who was not a citizen, who had not a certain qualification of residence and of age, and there we stopped the rule of disqualification, leaving the common law exactly where it stood before; and that common law, in the very language of its immemorial time, was inserted in another section of the instrument, which declared that this body should be the judges of the elections, returns, and qualifications of its Members. And that very word "qualifications," by the known history of jurisprudence, had the scope and signification that I have named; and that was, that it was the duty of the body to apply it to the candidate, to keep itself pure from association with criminals and incompetent persons.

Thomas was excluded and was denied the right to take the oath. That is the rule there.

A large number of other cases of the same general character came before the other body, and the rule was perfectly well established, after more or less variation, just the same as in the case of the Senate, that when serious charges of that character were made against the man coming here with credentials fair upon their face, the credentials were referred to the committee for inquiry, and if the charges were sustained he was excluded, meanwhile being denied the right to take the qualifying oath.

There is another consideration that ought to be adverted to here.

It is very seriously urged, and argued with much plausibility—although I do not accede to that view—that once a Senator has been admitted to this body, and the question is unrelated to his election or the validity thereof, he can not be expelled for any cause arising antecedent to and unrelated to his election; so that, Mr. President, if we shall now administer the oath to the Member designate from the State of Illinois it will be contended that it is impossible for us to get rid of him hereafter.

Mr. President, I do not believe that further discussion of this subject is at all necessary. I think it can not be disputed by anyone, either upon reason or upon the precedents of both Houses, that when a man appears here—a Member designate or elect—with credentials fair upon their face, it is entirely within the discretion of the Senate either to administer to him the qualifying oath and then refer to the proper committee for consideration any charges that may be made against him, or it may in the first instance and at the threshold exclude him, if it

desires to do so, and refer the charges against him to the proper committee for inquiry.

If the former course has been the one more commonly followed, it was because in these cases the charges appertained to the legality of the election of the Member claiming the seat, of the facts in relation to which the Senate had no official information of any character whatever. That is the nature of nearly every case to which attention has been called by the Senator from Illinois [Mr. DENEEN]. This is an unusual case, as I have said before, and warrants unusual procedure; but I repeat that in the course proposed by the substitute resolution of the Senator from Missouri there is no departure from the well-established rule of this body.

The Senate exercises its wise discretion in the premises; and it is for each individual Senator to say whether that discretion ought to be exercised by allowing the Member designate from the State of Illinois to take the oath or by referring his credentials for consideration to the appropriate committee. I have no hesitancy, for myself, in saying that the latter course is the one that ought to be pursued.

Mr. OVERMAN. Mr. President, I take it for granted that this matter will be referred to a committee. As there are differences of opinion on the questions of law and many other questions here, I do not object to that; but I submit the resolution, which I send to the desk and ask to have read.

The PRESIDING OFFICER (Mr. MCNARY in the chair). The resolution will be read.

The Chief Clerk read the resolution, as follows:

Resolved, That FRANK L. SMITH, of Illinois, duly appointed a Senator of that State by the governor thereof, is entitled to take the constitutional oath of office and be admitted as prima facie entitled to his seat without prejudice to any subsequent proceeding in the case.

Mr. OVERMAN. Mr. President, that is my view upon this case; and I am satisfied that when the committee investigate the precedents for a hundred years they will find that this has been the course of the Senate.

The Senator from Montana [Mr. WALSH] talks about Trumbull and Sumner, and reads their speeches. What was the result there? What did the committee do? I am sorry the Senator did not give the result and read a short extract from the report of the committee, for they did exactly what my resolution proposes; they admitted him to a seat in this Chamber, although it was charged that he was a traitor.

Mr. President, an eloquent Senator donned the uniform of a brigadier general and went to the front to fight the battles of his country, and the next day, I think, or a day afterwards, was killed at the front. There occurred a vacancy in Oregon, and the Governor of Oregon appointed a man by the name of Stark. It was alleged that he was a traitor, that he was a secessionist, that he was in sympathy with the South, and it appeared here by affidavits and all kinds of charges and memorials. That matter was referred to the committee; but the committee, after the speeches of Mr. Trumbull and Mr. Sumner, reported unanimously in favor of Mr. Stark taking the oath, notwithstanding it was alleged he was a traitor and a sympathizer with secession.

I ask the clerk to read the report of the committee, one of the ablest committees of the Senate, of which Trumbull and Sumner were members, I think. See what they say about this matter, and whether I am not sustained in my proposition that the resolution I have introduced should be the action of the Senate.

The PRESIDING OFFICER. Without objection, the Secretary will read as requested.

The Chief Clerk read as follows:

[From p. 436, Hinds' Precedents of the House of Representatives, vol. 1]

The question submitted to the committee was, Whether or not evidence of this description (certain ex parte affidavits alleging treasonable declarations) could be allowed to prevail against his prima facie right to take his seat as a Senator. The committee were of opinion that they could not. The Constitution declares what shall be the qualifications of a Senator. They are in respect to his age, in respect to his residence, in respect to his citizenship; and the committee were of opinion that the Senate were limited to the question: First, whether or not the person claiming the seat and presenting his credentials produced the requisite evidence of his election or appointment; and second, whether there was any question as to his constitutional qualifications. * * * I do not understand that it is competent for the Senate, and I think they step aside from their only jurisdiction when they attempt to punish a man for his crime or misbehavior antecedent to his election. If this were so, the Constitution ought to be amended so as to read that the legislature of a State or the governor of a State, in a certain contingency, shall elect or appoint a Senator, subject to the advice and consent of the Senate. The Senate would then be the ultimate judge whether or not the man ought to have a seat here, and it would be competent for the Senate upon any caprice or any view it might take of the capacity, moral, or intellectual, or political, of a man, to reject him and prevent his taking a seat. Sir, I do not so understand the Constitution.

Mr. OVERMAN. Mr. President, I do not believe that the Senate can add any qualifications to the qualifications set forth in the Constitution. As said in this report, if we can add one qualification we can add another; we can add another and another and another, until finally it might be done by caprice, so that probably, as he said, the great sovereign States would have to come to the Senate and ask the advice and consent of the Senate as to whom they should elect to the Senate.

Mr. President, what are we doing? Are we trying a Member of the Senate? Who is FRANK SMITH? He is knocking at the door here with credentials, but he is not a Senator.

John Randolph once said: "When does a man become a Senator? Not until he takes his oath of office." SMITH has not taken his oath of office. When he takes his oath of office we then can try him, and if there is a charge against him we should try him, as provided in the Constitution.

The Constitution says that if the governor has a right to appoint, there are only three things for us to consider: The first is the man's age, the second is his citizenship, and the third is his habitation. It is admitted on this floor that the governor had a right to appoint. It is admitted that the appointee has the proper age. It is admitted that he is a citizen of the United States. It is admitted that he is a resident of Illinois. Does not he comply with every qualification named in the Constitution? Must we violate the Constitution and destroy the States in order to purify the portals of this Chamber?

I have my views upon this matter, and I believe, under the Constitution of the United States, Mr. SMITH is entitled to be seated.

I do not know whether the Committee on Privileges and Elections are going into these charges; I do not know what the committee will do; but I want them to take this resolution which I have introduced and consider it in connection with all these precedents. I call not only Charles Sumner and Trumbull, but I call that "Old Roman," the greatest man who ever sat upon this floor, Allen G. Thurman, of Ohio, and I read what he said in a similar case:

The certificate of election of a Senator was prima facie evidence of his right to a seat and sufficient until it was overthrown.

I do not read all that he said, but I come to this paragraph:

There was not, and there is not, as I had occasion to observe then, after a most careful examination of all the precedents, a single case in the whole history of this Government in which that rule has been departed from.

That is, the right of a Senator upon the certificate, having the age and the citizenship and the qualifications named in the Constitution, to be seated.

I admit that many cases have been referred to committees. I do not object to that being done in this case; I do not know but that I will vote for that. But I think the Senator ought to be seated without referring. I am willing that it should go to the committee, and I ask that my resolution be sent to that committee also, because I want them to know my views; and I want them to know the views of the Little Giant from Illinois, Stephen A. Douglas; I want them to know the views of Thurman and of other Democrats.

Mr. President, if the procedure here attempted and advocated by some had been the rule from 1868 to 1876 there would not have been a southern Senator upon this floor; not one. Two cases come to my mind. General Morgan, a Confederate general and later one of the great Senators in this body, who sat at the place right before me, known far and wide for his ability, came here with his credentials. The remarkable thing about that case—which is analogous to this—is that there had been a committee appointed by the Senate known as the "southern outrage" committee, which went to Mississippi, which went to Alabama, which went to all the Southern States and investigated the "southern outrages"—so called—and came back and reported. Then Morgan came here with a certificate; and then there was a charge that there was fraud in his election. He was admitted. So with Lamar. Those were two of the great southern men. So with Ransom, from North Carolina, and other Senators, who were admitted to the Senate upon their certificates just as Smith is entitled to be admitted upon his certificate. Then, if charges are made, there is nothing to prevent a trial.

One Senator has argued that we would have to expel SMITH if he were once seated. I do not know whether that is so or not, but I doubt it. I think after he gets to be a Member of the Senate we can declare his seat vacant, as we did in

the Lorimer case, as the resolution in the Stephenson case provided, as the resolution in the Newberry case provided. We could declare the seat vacant. Why could that not be done in this case, if the Senator is guilty? We can not try him under the clause of the Constitution which I have read. The first clause to which attention has been called refers to the age, citizenship, and qualifications. Then our fathers went a step further, after considering that, and in the fifth section they provided that—

Each House shall be the judge of the elections, returns, and qualifications of its own Members.

"Its own Members!" Is SMITH a Member of the Senate now?

Well do I remember 24 years ago, when I was admitted to this floor as a Senator. In the class admitted in that year was my distinguished and able brother Senator, who sits to my right, Senator SMOOT. There was objection to his being sworn in. There were memorials of all kinds filed with the Senate, and the sentiment of the whole country seemed to be against him. I heard one of the greatest arguments I had ever heard on the floor on this very question. There was a great argument, participated in by great lawyers. Senator SMOOT was seated. I doubt whether he ever would have been seated if we had not seated him at that time. He came here with lawyers and defended himself, and showed that he was not guilty, and he was admitted.

Every man is entitled to a fair trial. The committee which investigated the Smith case proceeded with an investigation, and it was in the nature of a grand jury of inquest. That is all it was. That committee went out and investigated, and came back here and reported. They had no right to try Mr. SMITH. A man is entitled to a trial. He is entitled to be heard, not ex parte, not by a grand jury of inquest, but to be heard, and we should let him be heard, no matter who he is or what he has done. As I said, Tucker on the Constitution says that a governor has the right to appoint a convict here if he wants to. It is for us to determine whether we will sit with him; it is for us to determine his qualifications as a Senator of the United States.

Now, Mr. President, ringing in my ears to-day, and I hope it will ring down the ages, is a warning, a remarkable statement of Senator Hoar, who, it is conceded, was one of the greatest Senators who ever sat upon this floor. He stated in the Smoot case what he conceived to be the law, and he uttered a warning to us to be careful what we did in matters like this, or it might come back to curse us in the days to come. Talking about the admission of Senator SMOOT upon his certificate, Senator Hoar said:

If there were any other procedure, the result would be that a third of the Senate might be kept out of their seats for an indefinite time on the presenting of objection without responsibility, and never established before the Senate by any judicial inquiry. The result of that might be that a change in the political power of this Government which the people desired to accomplish would be indefinitely postponed.

He might have added "destroyed." I am in the class of Senators to be sworn in when the next Congress shall convene, as is the senior Senator from South Carolina [Mr. SMITH] and as are others. Suppose some man should rise and make a reflection on us, or make some charge against us, and ask that we be not sworn in. Shall a majority, under this procedure, say "Step aside" and keep out the 36 men who are to be sworn in? If a majority of the Senate keep out one-third of the Senate, in time of heat or passion, the Republican Party or the Democratic Party, whichever has a majority, can absolutely destroy a minority and keep 18 States from being represented at all upon this floor.

So, Mr. President, from an examination of these precedents, with the argument that has been made, I do not see how there can be any doubt about this question, and when a man comes here with proper credentials and with the qualifications prescribed by the Constitution, why we shall not seat him as the Constitution requires, as my resolution proposes, to seat him without prejudice to any future proceeding, then if we desire to take proceedings against him we can do it, and let the man have his counsel here and be heard. It will be no ex parte proceeding. It will be no grand jury of inquest, but it will be an action by the Senate, and he being a Member of the Senate, he can be tried, and without it he can not be tried, in my judgment.

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 amendments of the Senate to the bill (H. R. 7555) to authorize for the fiscal years ending June 30, 1928, and June 30, 1929, appropriations for carrying out the provisions of the act entitled "An act for the promotion of the welfare and hygiene of maternity and infancy, and for other purposes," approved November 23, 1921.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 15959) making appropriations for the Executive Office and sundry independent executive bureaus, boards, commissions, and offices for the fiscal year ending June 30, 1928, and for other purposes; requested a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. WOOD, Mr. WASON, and Mr. SANDLIN were appointed managers on the part of the House at the conference.

INDEPENDENT OFFICES APPROPRIATIONS

Mr. WARREN. I ask the Chair to lay before the Senate the action of the House on the independent offices appropriation bill.

The PRESIDING OFFICER (Mr. MCNARY in the chair) laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 15959) making appropriations for the Executive Office and sundry independent executive bureaus, boards, commissions, and offices for the fiscal year ending June 30, 1928, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. WARREN. I move that the Senate insist upon its amendments, that it accept the invitation of the House for a conference, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to, and the Presiding Officer appointed Mr. WARREN, Mr. SMOOT, and Mr. OVERMAN conferees on the part of the Senate.

SENATOR FROM ILLINOIS

Mr. SHIPSTEAD. Mr. President, the Senator from Illinois [Mr. DENEEN], in his very eloquent and able presentation in support of his resolution, read a long line of precedents bearing upon the question at issue as expressed in the two resolutions before the Senate.

In order that the record shall to some extent be more complete, I want to cite another precedent of more recent date. On the 7th day of December, 1925, there appeared before the Senate one GERALD P. NYE, Senator designate from the State of North Dakota. His credentials were in the usual form, and being in the usual form on their face, were in due form.

Senator NYE was not permitted to take the oath of office. His credentials were referred to the Committee on Privileges and Elections, and as the result of that action the State of North Dakota was deprived of its right to equal representation in the Senate pending that controversy in the committee and later upon the floor of the Senate.

Mr. BINGHAM. Mr. President——

The PRESIDING OFFICER. Does the Senator from Minnesota yield to the Senator from Connecticut?

Mr. SHIPSTEAD. I yield.

Mr. BINGHAM. Is it not true that in that case the credentials were in question, and the right of the Governor to sign such credentials, the legislature not possibly having explicitly given him that right, was the very point at issue, which is not at issue in the present case?

Mr. SHIPSTEAD. Mr. President, the RECORD does not show what the objections were except so far as they were stated by the senior Senator from North Dakota [Mr. FRAZIER] at the time.

Mr. ROBINSON of Arkansas. Mr. President, will the Senator yield?

Mr. SHIPSTEAD. I yield.

Mr. ROBINSON of Arkansas. There was never any question about the regularity of the credentials presented by the Senator from North Dakota [Mr. NYE], was there?

Mr. SHIPSTEAD. None at all, so far as the RECORD shows.

Mr. ROBINSON of Arkansas. And the Senate did stand him aside until his eligibility was determined?

Mr. SHIPSTEAD. Yes.

Mr. ROBINSON of Arkansas. That case, of course, is distinguishable from this case, but the suggestion of the Senator from Minnesota that it is a precedent for this case is warranted in that the Senate went behind the credentials of the Senator from North Dakota. His credentials were regular, but he was not permitted to take a seat on the floor of the Senate until the question of his eligibility or of his qualifications was determined. The oath was not administered to him until the Senate had investigated the matter; and his credentials were regular.

Mr. GLASS. Mr. President——

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

Mr. SHIPSTEAD. I yield.

Mr. GLASS. Precisely the same thing occurred some years previously in the case of Mr. Frank P. Glass of the State of Alabama. He came here with credentials apparently just as sound and clear as the credentials presented here to-day by Mr. SMITH. He was set aside and his case referred to the Committee on Privileges and Elections for a report as to whether or not the Governor of Alabama had the right to appoint. The Senate could not have known whether he had the right to appoint until it had investigated.

Mr. ROBINSON of Arkansas. There is no difference in principle whatsoever.

Mr. DENEEN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Minnesota yield to the Senator from Illinois?

Mr. SHIPSTEAD. I yield.

Mr. DENEEN. May I ask the Senator if it is not a fact that when the credentials of Mr. NYE were presented by the senior Senator from North Dakota [Mr. FRAZIER] that he, the senior Senator from that State, asked to have the case referred to the Committee on Privileges and Elections without any further proceedings, because he anticipated that there would be some objection, and the case therefore was referred by unanimous consent?

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

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

Mr. SHIPSTEAD. If the Senator from West Virginia will permit me, I would like now to yield to the senior Senator from North Dakota [Mr. FRAZIER] in order that he may explain how he came to make that request upon the floor of the Senate. He told me at that time why he made the request, but as the Senator himself is here I prefer to have him state it himself.

Mr. FRAZIER. Mr. President, I will say that when the credentials of my present colleague [Mr. NYE] came in at the beginning of the Sixty-ninth Congress, the leader of the Republican Party in the Senate, the Senator from Kansas [Mr. CURTIS], in a conference with me suggested that I had better move to refer the credentials to the Committee on Privileges and Elections, stating to me that if I did not do so some member of the committee would do it, and that in his judgment it would be better for the case if I should make the motion, because the credentials undoubtedly would be referred to the committee anyway.

Mr. GLASS. The contention here is that the Senate can not constitutionally prevent a man from taking the oath if his credentials appear upon their face to be clear of objection.

Mr. ROBINSON of Arkansas. Mr. President——

Mr. SHIPSTEAD. I yield to the Senator from Arkansas.

Mr. ROBINSON of Arkansas. The contention is that the presentation of credentials in due form entitles the Senator elect or the Senator designate to the right to be immediately qualified; and if we can go behind the credentials for one purpose, of course, we can go behind them for other purposes.

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

Mr. SHIPSTEAD. I do not want to be discourteous to the Senator, but I ought, first, to yield to the Senator from West Virginia [Mr. NEELY].

Mr. NEELY. Mr. President, I inquire of the Senator from Minnesota if he does not believe that there are better reasons for refusing to seat the Senator designate from Illinois, pending an investigation of his case, than those upon which Mr. NYE, of North Dakota, was temporarily excluded from membership in the Senate?

The credentials in the Nye case were regular on their face and in proper form. No question was raised as to Mr. NYE'S qualifications. It was simply contended, in effect, that Governor Sorlie had violated the law, or, more accurately speaking, exceeded his authority under the law, by appointing Mr. NYE, because of the alleged nonexistence of either constitutional provision or statutory enactment empowering the governor to make the appointment in question.

In that case the Senate decided not to investigate Mr. NYE, Governor Sorlie's appointee, but, in effect, to examine the laws of North Dakota and conduct an investigation to determine whether the governor of the State had acted legally in making Mr. NYE'S appointment.

Before permitting Mr. NYE to take the oath of office and enter upon the discharge of his duties the Senate went back of his credentials and made an elaborate investigation of matters of law involved in the case.

In the case now before the Senate those of us who are contending that Mr. SMITH should remain on the outside until it has been properly ascertained that he is entitled to a seat on the inside are basing our contention on the report of an exhaustive investigation made by some of the ablest Members of this body, which, on its face, indicates that Mr. SMITH has possibly been so tainted by his alleged participation in a fraudulent election recently held in Illinois as to disqualify him from becoming a Member of the Senate.

In brief, is it not more important that we investigate an alleged matter of fact involving the moral turpitude of an appointee before permitting him to occupy his seat than it is to inquire into the validity of the law of a State by virtue of which credentials, regular on their face, have been issued to a thoroughly qualified appointee who is free from objection and entirely above suspicion?

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

Mr. SHIPSTEAD. I yield.

Mr. BINGHAM. Does the Senator agree that we were trying the Governor of North Dakota as to whether he had committed a crime or not?

Mr. NEELY. No, Mr. President; not as to whether he had committed a crime, but to ascertain whether he had exceeded his lawful authority in appointing Mr. NYE.

Mr. BINGHAM. We were trying to see whether the credentials were in proper order.

Mr. NEELY. No; they were in order. It was a question as to whether the governor had the lawful authority to issue the credentials.

Mr. BINGHAM. But if the governor had no power to sign them, they were not in order.

Mr. NEELY. If he had no power to sign them, he violated the law by issuing them. But the Senate sustained the governor's action and awarded Mr. NYE his seat.

Mr. BRATTON. Mr. President——

The VICE PRESIDENT. Does the Senator from Minnesota yield to the Senator from New Mexico?

Mr. SHIPSTEAD. I yield.

Mr. BRATTON. I think the Senator from Connecticut entirely misconceives the issue in the North Dakota case. The credentials were regular on their face. They recited the existence of the vacancy. They recited the power of the governor to fill the vacancy by appointment, so that the credentials, when measured throughout their four corners, were perfectly regular and came within the provision of the Constitution of the United States. But what the Senate did was to go behind that and examine the statute of the State of North Dakota to determine whether the Legislature of North Dakota had passed an act vesting the appointive power in the governor of that State. We were not trying the Governor of North Dakota to determine whether he had committed an offense. We were not measuring the credentials to see whether they were regular or irregular upon their face. We were passing upon a matter behind the credentials which supported the credentials, and that was whether the Legislature of North Dakota had empowered the governor to make the appointment, and, as my good friend the senior Senator from Arkansas [Mr. ROBINSON] just suggested sotto voce, the Senator from Connecticut decided that the Governor of North Dakota did not have the power because the legislature of that State had not empowered him to make the appointment. The Senator from Connecticut in that case went beyond the credentials to determine for himself what the Legislature of North Dakota had done or failed to do and what the effect of it was, and that was the question upon which the Senate passed.

Mr. BINGHAM. Mr. President, will the Senator permit me to answer the Senator from New Mexico for just a moment?

Mr. SHIPSTEAD. I shall conclude in a very few moments, and then the Senator from Connecticut can take the floor. I did not want to get into any extended discussion of the various phases of the matter. I wanted to apply my brief observations to the contention that the only issue before the Senate now is the question of the power of the Senate to refuse to administer the oath of office to a man who presents himself as a Senator elect or Senator designate, and whether the Senate has the right to refuse to accept the credentials on their face.

The credentials of Mr. NYE from the Governor of North Dakota were in due form and were in the usual form. The Senate did not accept them at their face value. If that rule applied in 1925, it ought to apply to-day. I think that is the only question for the Senate to decide now. We can not here upon the floor of the Senate decide, nor do I think it is proper to discuss at this time, the fitness or unfitness of Mr. SMITH,

the Senator designate from Illinois, to take his seat in the Senate. The question here, it seems to me, is a matter of procedure, whether or not there shall be an investigation, who shall conduct that investigation, and whether Mr. SMITH shall have an opportunity to be heard, as I think he ought, and whether or not the oath of office shall be administered at this time. Whichever way the Senate decides there are plenty of precedents for their decision. I did not think that the record would be complete without including this precedent of less than two years ago.

Mr. HEFLIN, Mr. MOSES, and Mr. BINGHAM addressed the Chair.

The VICE PRESIDENT. The Senator from Alabama.

Mr. BINGHAM. Mr. President, will the Senator from Alabama yield to me? I will take just a moment. I should like to answer the question of the Senator from New Mexico [Mr. BRATTON], which he addressed to me and which I was unable to answer because the Senator from Minnesota [Mr. SHIPSTEAD] would not yield to me.

PROTECTING HONOR OF SENATE

Mr. HEFLIN. Mr. President, I am not going to occupy the floor very long. I would rather the Senator from Connecticut would wait until I finish my speech.

Some contend that Mr. SMITH ought to be admitted by the Senate and permitted to serve out the unexpired term of Senator McKinley. If that should be permitted, how ridiculous the Senate would be to admit now the same man whose election to the Senate is tainted with fraud and corruption, according to the testimony already taken and returned to this body by a committee representing the Senate. If the Senate should permit the Governor of Illinois to pick out this particular man, who is already under investigation by the Senate, charged with gross misconduct and corruption in securing election to a seat in this body, and have him seated here at this time, he will have tied the Senate's hands and made it practically impossible to refuse to admit him as a Member of this body when he presents his other credentials on the 4th of March.

If the Senate should admit Mr. SMITH now and permit him to serve until the 4th of March, and then refuse to permit him to continue to serve, the Senate would become an object of national scorn and ridicule. My position is that the things he has done and permitted to be done to obtain a seat in the Senate are so corrupt, reprehensible, and hurtful to clean and honest government that he is not entitled to become a Member of this body.

The governor's commission does not and can not change or hide the fact that the man he has appointed to the Senate is the same man that is charged with having bought a seat in the Senate.

To permit him, the same man, to come in and serve now and then refuse to admit him on his credentials March 4 would make the Senate ridiculous.

Mr. President, in the Nye case cited by the Senator from Minnesota [Mr. SHIPSTEAD] the matter was referred to the committee. He was never permitted to take the oath until the committee had investigated and reported on his case and we voted on the question as to whether or not he should be admitted. He never took the oath until this body by a vote of 41 to 40 declared that he was entitled to a seat in the Senate, and then and not till then was the oath administered.

The Glass case from my State has been mentioned. The governor of my State appointed Mr. Frank Glass. His credentials were referred to a Senate committee. The committee reported against him, as I understand, and the Senate never did permit him to take the oath. He was never admitted to the Senate. In that case it was decided that the governor was not authorized to make the appointment.

Now, the Senator from Connecticut [Mr. BINGHAM] said that if those things are true about Mr. SMITH and about how he got his election, he is not the kind of man he would like to have here. How is he going to protect this body——

Mr. BINGHAM. Mr. President, will the Senator be so kind as to quote me correctly?

Mr. HEFLIN. That, in substance, was what I thought the Senator from Connecticut said.

Mr. BINGHAM. Oh, no.

Mr. HEFLIN. Just what was the Senator's language on that point?

Mr. BINGHAM. I said that as a citizen of Connecticut, exercising my right of franchise, I would not vote for him to be a Senator from Connecticut. I did not say that I would not vote to seat that kind of man.

Mr. HEFLIN. The Senator means by that, then, that the standard of morality is higher in his State than it is in Illinois? [Laughter.] It has been suggested to me that the Senator from Connecticut thinks that the farther west one goes the farther he gets away from the seat of intelligence; that the wise men all come from the East. [Laughter.]

Mr. President, what are we going to do? We represent the States and we sit in this body representing the people of the United States. The power is conferred upon us to protect this body against men selected by predatory interests in the States. The greatest question that has confronted the Senate in many a day is up before it now—the question as to whether or not the Senate is going to sanction the sale of a seat in this body. That is the question that we have got to determine, and I think that the Senate, acting under the authority granted by the Constitution and its rules, should stop at the very threshold of this body any man who buys his seat with money.

Mr. President, we are going to have an opportunity on the roll call to see just how Senators stand on this question; we are going to have a chance to see who is in favor of keeping this body clean and free from corruption; we are going to be given the opportunity to say whether or not this historic place shall become a clearing house for political tradesmen and a millionaire's club. Of course, Senators will give various reasons for their votes, but the final show-down has got to come and the roll call will tell where a Senator's heart is.

I am reminded of the negro preacher in my State who told his congregation how the devil looked. He told them that the devil was red, that he had horns on his head, that he had fire for eyes and smoke for breath, and he announced that he would preach more about the devil the next Sunday night. A mischievous white boy of the community, about grown, had a red flannel suit made; he fixed up horns for the head, as the preacher had described them, obtained two little flashlights and fixed them above his ears for eyes, and he had a cigarette ready to smoke at the proper time when he went into the church and clouds of smoke would pour out from under the mask and he looked like what the preacher had described the devil to be. He was at the church on that Sunday night. The preacher said to his congregation, "I told you I would tell you about the devil; that he is red, he has got horns on his head, he has fire for eyes and smoke for breath." The preacher had no more than said that when old Mandy said, "I seed him pass the window," and old Aunt Susie said, "Hush, don't cause no disturbment." And then old Uncle Rufus cried out, "He's coming in at the winder." [Laughter.] Then the congregation fled, screaming and running and falling through the door. The parson, scared half to death, ran down the aisle; as he got down near the rear door the way was blocked and he could not get out. The devil was crowding in on him; so the parson turned and faced him and, looking into his fiery eyes, said, "Hold on, now, Mr. Devil, hold on. I have slandered and vilified you for nigh on to 15 years, but I am going to tell you the truth, my heart's been with you all the time." [Laughter in the Senate and in the galleries.]

Mr. President, we may differ on the tariff; we may differ as to when tax reduction should be had; we may differ as to whether or not certain interests shall drive us into war with Mexico; but, Senators, there ought not to be any difference between us on the question that is now before us. We should be of one mind; and the Senate should present a solid front on the question of protecting its own good name, its own honor, and the integrity of institutions intrusted to its care.

It was intended by the founders of this Republic that the honor of being a Senator should be sought and won upon the merits of the citizen asking it. The youth of the country was told that in order to become a Senator he must be honest, patriotic, and able enough intellectually to make a capable and worthy representative of the rights and interests of the people. Then the appeal of the candidate for the Senate was made to the common sense, judgment, and conscience of the voter, and the only inquiry the voter made about the candidate was, Is he honest; is he capable; is he worthy? But now, Mr. President, we have fallen upon a time when in some of the States of this Union they ask how much money has the candidate got? Who is backing him? How much is he paying for votes? What big concern controls him? Seats are being bought in the Senate.

Mr. President, the one hundred and fiftieth anniversay of our independence found the most corrupt political campaign ever inaugurated in America. It found men trying to sell what the colonial fathers gave their blood to achieve. Corruption in politics has reached the high-water mark in America. It is bolder and more brazen than it has ever been. It has laid its loathsome and slimy hands upon the ballot, the greatest weapon known to a freeman, and it has become the all-powerful, dominating thing in the Republican Party to-day. The independence of our country is 150 years old, and what did its one hundred and fiftieth anniversary find? It found a demoralizing, degrading, destructive influence at work in American

politics. It found a coterie of financiers on a little strip of land in New York, called Wall Street, directing the policies of the party in power and controlling the politics of several States of the Union. It found money the controlling force in Republican politics; it found public office, places of honor, and the principles of right and justice being sold as a commodity in the market place.

The citizen is the defender and preserver of the Republic. Its honor, well-being, and preservation are all in his hands. If he becomes corrupt and dishonest, the poison of his corruption and dishonesty gets into the very vitals of the Republic, and unless this poison is quickly eliminated the Republic is doomed. Corrupting the voter, buying seats in the Senate, and bribing Government officials are the crimes and scandals that shock and shame the country on the one hundred and fiftieth anniversary of our independence. God help the Senate and the American people to wake up and wage war, relentless war, on the forces that threaten our free institutions! God help us to deliver our country out of the hands of those who have brought disgrace and dishonor upon it!

Senators, are you ready to enlist in this warfare and do battle until these enemies are driven from the Capitol and the confines of our country? We have been chosen as the representatives and the guardians of the rights, interests, and liberties of the American people. The good name, the honor, and integrity of the Senate have been entrusted to our care and keeping; a grave and responsible duty rests upon us, and if we fail to discharge that duty, we are unworthy and unfaithful public servants. A citizen has no right to sell his vote, and the man who buys it is a public enemy and a traitor to his country. The man who would sell his vote and the man who would buy that vote should both be disfranchised and branded as public enemies. The right to corrupt the voter and buy public office has never been conferred upon any State in this Union. So when the Senate refuses to receive into its body one who has obtained his credentials by corrupting the citizen and securing political support through the lavish use of money it is protecting the State, the Senate, and the country against the forces that would destroy our free institutions.

A State has no right to sell a seat in the Senate. Debauching the voter, making barter of the ballot, corrupting the ballot box, constitute as grave crimes as can be committed against the country. The man who commits any of those crimes is an enemy to the citizen, an enemy to the State, and an enemy to the United States. He is a dangerous outlaw, and he deserves to be treated as such by every honest man and woman in the country.

Mr. MOSES. Mr. President, the great admiration which I have always felt for the senior Senator from Missouri, for his power of expressing his opinions, for the vigor with which he formulates his conclusions, is by no means diminished by what I have heard him say here to-day; but I prefer to hold to an opinion expressed by that Senator on another occasion, wherein the subject under discussion was one in which I took a somewhat larger personal interest than I do in the question now before the Senate. I am referring to an utterance made by the Senator from Missouri upon the day when I took my seat in this body, when in the course of the discussion two great constitutionalists, the senior Senator from Alabama [Mr. UNDERWOOD] and the senior Senator from Missouri [Mr. REED] discussed the problem; and the Senator from Missouri, after having summed up the entire legal question presented, concluded his statement with these words:

> It seems to me, therefore, that the better practice is at once to permit the swearing in of any man who comes here with a certificate, the regularity of which is not challenged, and then, if a contest is instituted, let that question be tried; but in the meantime the State should not be deprived of its representation.

Furthermore, Mr. President, I do not abate the appreciation which I have always had of the capacity of the senior Senator from Montana [Mr. WALSH] to state his views with unexampled clarity as we have listened to them to-day; but he will forgive me if I prefer to adhere to views of the constitutional qualifications of a Senator such as he held before; through a chance remark he was directed to the Roach case, and was enabled to take from the research of one of my predecessors in this body a line of reasoning which was eloquent and cogent, but which I believe to be unfounded.

Nor, Mr. President, am I able to follow the senior Senator from Missouri [Mr. REED] to his conclusion that the report laid before the Senate by the select committee, of which the Senator is chairman, affords basis for the action which he urges us to take to-day. That report admittedly is only a partial report, submitted on the 22d of December in one portion and on the 16th of December in another, presenting certain excerpts from testimony taken in some of the States, and nowhere presenting a recommendation. Nor from that committee has there ever come a recommendation upon which the Senate has acted.

Mr. President, holding these views, believing as I do in the constitutional provisions set forth by the senior Senator from Missouri on another occasion, I can not vote for his substitute, and it remains for me to point out only two more things: One, that the presentation of himself here by the Senator designate from Illinois in no sense, as I look at it, impinges upon the question which will arise when he comes here with his credentials of election. He has not been appointed through any corrupt act of anybody; and, in spite of any ill-advised words of the Governor of Illinois as quoted in a newspaper and upon which some Senators here will attempt to connect the title of the Senator designate with the acts complained of in the primary which preceded his election, it seems to me that the two cases are so dissimilar, so far apart, that under no condition should we attempt to yoke them in our deliberations now or in reaching our conclusions now.

The one other point which I should like to lay before the Senate, sir, is that if we adopt the substitute resolution offered by the senior Senator from Missouri [Mr. REED] and send this applicant, his credentials, and all charges and rumors connected with him and them to a committee, it may be—indeed, it is freely asserted here that it will be—that the committee will report adversely to the Senator designate. In that event, Mr. President, he and the State which he represents will have had no opportunity whatever to present his case before the only body which can determine his title and pass upon his qualifications, namely, the Senate itself; and I hold that it is unjustifiable and unjust, both to the State of Illinois and to the Senator designate, to pursue any other than the "better practice," which the Senator from Missouri upheld so splendidly and for my benefit eight years ago.

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

Mr. MOSES. Yes, indeed.

Mr. NEELY. I believe that it was stated in the debate on the Nye case, that the Senator from New Hampshire [Mr. MOSES] wrote to Governor Sorlie, of North Dakota, that if he appointed Mr. NYE to a seat in the Senate the appointee would be rejected. Was that statement well founded?

Mr. MOSES. I am sorry the Senator is so credulous. I never wrote to Governor Sorlie in my life.

Mr. NEELY. Did the Senator not write to the governor, the Republican national committeeman, or somebody else in North Dakota the substance of what I indicated in my previous question?

Mr. MOSES. I wrote to a judge out there, who sent me a brief on the North Dakota law, expressing my opinion.

Mr. NEELY. And the Senator did express the opinion that the Senate would not accept Mr. NYE's credentials or permit Mr. NYE to occupy a seat in this body?

Mr. MOSES. I did, and I voted that way.

Mr. NEELY. Did the Senator at that time believe that the Senate ought to reject Mr. NYE's credentials and refuse to seat the Senator designate pending an investigation?

Mr. MOSES. I hold now, as I held then, that the Senator should be seated if the credentials are in order. If the source of the credentials be tainted, if the Governor of North Dakota had not the power to issue the credentials, certainly the credentials were not in order, because if the laws of North Dakota did not empower the governor to issue such credentials naturally they were not in order. There is no question of the power of Governor Small here.

Mr. NEELY. Did any infirmity appear on the face of the credentials which were presented by Mr. NYE?

Mr. MOSES. No; but it appeared here through communications to the Senate, exactly as all the rumors and charges and countercharges in these cases have been presented.

Mr. NEELY. And the Senator was in favor of an investigation in the case of Mr. NYE before he was sworn in; was he not?

Mr. MOSES. I was not in favor of investigating Mr. NYE. I never wanted to investigate Mr. NYE. I did want to investigate the validity of his credentials.

Mr. NEELY. Does the Senator think it is more important to ascertain the validity of the credentials than it is to ascertain the qualifications of the person who holds them?

Mr. MOSES. I think that comes subsequently to the ascertainment of the validity of the credentials, because it is upon the validity of the credentials that the man may take his seat in this body. It is upon the ascertainment of his qualifications that he may retain it or be deprived of it.

Mr. NEELY. The Senator has intimated that Mr. NYE's credentials were tainted. What does the Senator mean by that?

Mr. MOSES. I did not say "tainted."

Mr. NEELY. I believe the RECORD will show that the Senator used that word.

Mr. MOSES. Well, assuming that I did, I went on——

Mr. NEELY. Assuming that the Senator did say tainted, may I inquire what he meant?

Mr. MOSES. I do not think I said "tainted," but for the moment we will pass that. It is not necessary to call in the Reporter to find out what I said. I amplified that, if the Senator will do me the justice to recall it, as I went on to answer his question, by saying that there was a grave question whether the Governor of North Dakota had the power, under the statutes of his State, to issue those credentials.

Mr. NEELY. And the Senator was in favor of the Senate's determining that question of power or authority, and ascertaining whether the presumptions of regularity were well founded in the Nye case, before permitting Mr. NYE to take the oath of office. Now, he is in favor of swearing in Mr. SMITH, and finding out the facts in the case afterwards; is he not?

Mr. MOSES. Oh, no; the two cases are not alike, and the Senator, with all his plausibility, can not make it appear that they are.

Mr. NEELY. Does it not occur to the Senator that the demand for an investigation in the pending case is more meritorious than was the demand for similar action in the Nye case?

Mr. MOSES. Frankly, no.

Mr. NEELY. The fact that Mr. SMITH is reputed to be a "regular" Republican and that Mr. NYE was understood to be a progressive does not, of course, affect the Senator's opinion in these cases?

Mr. MOSES. The Senator from West Virginia has been here long enough to know that the regularity of my Republicanism has often been called in question. [Laughter.]

Mr. NEELY. I shall admit that; but I am also constrained to add that I have always considered an imputation of party irregularity to the able Senator from New Hampshire as the basest of slanders.

Mr. BINGHAM. Mr. President, in answer to the remarks made by the Senator from New Mexico [Mr. BRATTON] some time ago, I should like very briefly to point out why I believe this case is not at all like the Nye case.

The credentials offered by Senator NYE to the Senate on December 7, 1925, read as follows. I shall read only the first sentence, or part of it:

> This is to certify that, pursuant to the power in me vested by the Constitution of the United States and the constitution and State laws of the State of North Dakota, I, A. G. Sorlie, the governor of said State, do hereby appoint GERALD P. NYE a Senator from said State.

That sentence was in question; and it only shows the extraordinary corner into which the opponents of the taking of the oath on the part of Mr. SMITH, of Illinois, are drawn that they should claim, as they are claiming, that the credentials of Senator NYE were not in question. The very statement in the credentials was the statement that was in question. The Constitution had given by the seventeenth amendment to the legislature of any State the authority to empower the executive thereof to make temporary appointments. Now, the question was, Had the legislature given him that power?

In the credentials it was claimed that the legislature had done so. That was in question. Whether the credentials themselves stated the facts, or whether they did not state the facts, was the very matter that was in question; and therefore it was entirely proper to withhold administering the oath to Senator NYE until it should be shown whether or not the credentials were proper. In this case the leading opponent of Senator SMITH has stated that the credentials are not in question.

There is one other difference between the two cases, and then I have done. In the case of Senator-designate SMITH of Illinois, the State of Illinois, through its senior ambassador here, the senior Senator [Mr. DENEEN], has presented the credentials and asked that he be sworn in; and we are trying to deny to the State of Illinois what it is asking through its Senator. In the case of Mr. NYE, the State of North Dakota asked, through its senior Senator [Mr. FRAZIER], that he be not sworn until the credentials were determined upon, as to whether the Legislature of the State of North Dakota, as the governor claimed, had given to the governor the power to sign such credentials. There was no request that he be sworn in.

Mr. FESS. Mr. President, the Senator from Illinois [Mr. DENEEN], in giving a detailed recital of the various precedents covering this case—the large majority of which are in accordance with the resolution he offered—specified something like 16 exceptions in which the oath of office was denied. I should like to call the attention of the Senate to those exceptions, and demonstrate that they do not stand on the same level with any of the others.

The Senator will recall that most of those, if not all, came in the period of reconstruction immediately following the war. Reconstruction was not completed until after 1868. In fact, it ran on into the seventies; and the question of taking the oath was one of loyalty on the one hand, and on the other, one of whether the State had been sufficiently reconstructed under the Federal requirements to justify the receipt of the Member. There are three things there that do not appear here. One is that the cases arose immediately after a great civil war, when public and political opinion ran very high.

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

Mr. FESS. I yield.

Mr. McKELLAR. Knowing the Senator to be a great student of American politics and American Government, I wonder if he would admit to a little error when he said that all those cases arose after the Civil War. I want to call attention to the case of Kensey Johns, of Delaware, which arose in 1794, 67 years before the Civil War. Mr. Johns presented his credentials to the Senate, whereupon it was moved that they be referred to the consideration of the Committee on Elections before the said Kensey Johns should be permitted to qualify. The committee reported that he was not entitled to a seat, and it was so held by the Senate.

I want to say that between that time and the time of which the Senator speaks, after the Civil War, there were some 15 like cases, where the credentials were referred to the Committee on Privileges and Elections, and after examinations were had and reports made to the Senate, as I recollect, in 13 of those cases the applicants were excluded without ever having taken the oath, and only 2 of them were seated.

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

Mr. FESS. I refer to the cases that were cited by the Senator from Illinois, of which he gave the dates. I yield to the Senator from Illinois.

Mr. DENEEN. In reply to the remarks of the senior Senator from Tennessee, I read the resolution which was finally adopted:

> *Resolved*, That Kensey Johns, appointed by the Governor of the State of Delaware as a Senator of the United States for said State, is not entitled to a seat in the Senate of the United States, a session of the legislature of said State having intervened between the resignation of the said George Read and the appointment of the said Kensey Johns.

The governor had no jurisdiction to appoint him.

Mr. McKELLAR. I was talking about the procedure. The Senator does not mean to say for a moment that whatever may have been the vice of Mr. Johns's election, it was not referred to the Committee on Elections before Mr. Johns was allowed to be sworn in. As I recollect, a new legislature met while the matter was proceeding before the committee, and Mr. Johns therefore was never permitted to take the oath.

Mr. FESS. Mr. President, my statement as originally made stands, that the cases cited, which were the exceptions detailed by the Senator from Illinois, are almost exclusively those that followed the Civil War, and there were other phases behind the denial of the right to have the oath administered. One was that the sentiment of the country had never run so high as immediately following the Civil War. I think every Senator, on both sides of the aisle, will appreciate at once, as they have always appreciated, that that was a period when deliberation was difficult to sustain. There was much difference of opinion, and even on both sides of the political issue utterances were very unguarded, and I think very unfortunate.

So in the reorganization following the Civil War, when Members elected to this body came up from a section recently in a dispute, it would be easy to see why their qualifications would be questioned quite seriously. It is easily understood why that would be the case, and that it is not a very safe course to follow.

Secondly, nearly all the issues went to the question of loyalty to the Constitution, and the question of taking an oath is intimately associated with loyalty to the Constitution. As during and immediately following the war that sentiment was running very high; whenever a question of loyalty came up there was a hesitancy on the part of some in this body to have the oath administered.

There is another thing that I think Members here might overlook; that is, the validity of the credentials at that time. It would be determined by inquiring whether the State in which

the Senator was elected had under the requirements of the reconstruction act—whether that act was wise or otherwise not being a question now—been reconstructed in accordance with the Federal law, in the enactment of which the Senate had been a party. The question of the validity of the credentials coming from those States was raised. In such a case the first step going to the validity of the credentials would be to refer them to a committee before the oath was administered.

One point I want to bring out is that almost universally the precedents in reference to this question indicate that one seeking a seat here should have the oath administered, and then, after that, whatever would be done in the way of an investigation, could take place, the Member having an opportunity to be heard.

I think I am accurate in stating that outside of that particular period of our history it has been all but the universal custom that when the credentials are presented they are accepted and the oath is administered if there is no question of the validity of the credentials, which, of course, was the subject of the dispute in reference to North Dakota.

Mr. BAYARD. Mr. President——

The VICE PRESIDENT. Does the Senator from Ohio yield to the Senator from Delaware?

Mr. FESS. I yield.

Mr. BAYARD. I suggest to the Senator's recollection—I have no doubt it is somewhere stored away in his mind—the case of Henry A. du Pont, of Delaware, which arose in 1895. That was a case where credentials were presented, which, on motion on this floor, were referred to the Committee on Privileges and Elections.

Mr. FESS. I would have to refresh my mind on that particular incident. Let me say again, and I do not say this to stir any political feeling——

Mr. BAYARD. I can state the facts in that case in a moment, if the Senator would like to have me do so.

Mr. FESS. I would prefer to have the Senator state them in his own time. I should like to call to the attention of the Senate just now the peculiar situation which existed. If an examination is made of the list of those who, immediately following the Civil War, voted to seat the men whose right to take the oath was questioned, it will be found that they were universally on the Democratic side, while it will be found that those who denied the right to take the oath were universally on this side. I mention that to indicate that it is not a question of politics.

Mr. CARAWAY. The Senator is proving he is right by showing that his party has always been wrong.

Mr. BAYARD. Mr. President, may I state that the du Pont case, to which I referred, came up before a Republican Senate, and Mr. du Pont was not given his seat?

Mr. FESS. Mr. President, the Senator from North Carolina [Mr. OVERMAN] quoted the utterances of the "Old Roman," and he properly stated that there never was a greater figure, probably, in this body than Allen G. Thurman, of Ohio. At one time when Mr. Thurman was speaking he was somewhat disturbed about some historical question when Blaine, of Maine, interrupted him, and Thurman, with that fine courtesy which gave him recognition throughout the country without regard to political affiliation, turned to the distinguished statesman from New England and said, "Whenever it is a matter of history or law, I turn to the historian and lawyer of Maine." I recall that as one of the fine courtesies of this great Democrat, quoted a while ago by the Senator from North Carolina [Mr. OVERMAN].

I think this question is above the possibility of political advantage or disadvantage. It is not a question of whether the man who seeks a seat in the Senate is to retain the seat. It is the question as to whether he is to be given the right to be heard, and, so far as I am concerned, I insist, so far as my influence can go, that he be given that right, and when the facts are all in I shall reserve my right to vote in accordance with the facts as they may have been presented. But I will not prejudge any man's case, and, more than that, I certainly will not deny to a State that is sovereign its right to be heard upon the credentials which on their face indicate that Mr. SMITH is entitled to a seat.

Ours is a peculiar system of government. Our Government is the only one in the history of the world that represents the double sovereignty, in which there is the sovereignty of the Nation and the sovereignty of the State. The sovereignty of the State is just as exacting and just as precious, within the limits in which it is sovereign, as is the sovereignty of the Federal Government within the limits of its sovereignty.

Ours is a Government with strong power to preserve order, but we are also a Government with a jealous regard for local self-government and the liberty of the State, and whenever the Federal authority goes to the extent of denying the rights of the State within the limits of the rights of the State we are approaching despotism, and whenever we permit the rights of the State to go beyond the limits of the rights of the State then there is danger of anarchy. But the nice balance which makes the United States what it is, is that ability at the head of the Government, sovereign in all things pertaining to all the people, and yet absolutely impotent as regards those rights which are the State rights and within the limit of the State rights.

I am not one of the citizens of the country who believe that the Federal Government has the power to override the legitimate rights of the States. On the other hand, woe be to our American system whenever we reach a point where we deny the legitimate rights which belong to the States, and the rights of local government, just the same as would be the danger if we would exalt the rights of the States beyond the rights of the Government. With that balance we maintain order from the head and retain liberty in the part, and whenever we in any way interrupt that balance there is danger ahead. This Government is the one Government in all history which has attempted to solve that problem.

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

Mr. FESS. I yield.

Mr. McKELLAR. The Senator says that State rights are involved here. Suppose, instead of appointing Mr. SMITH, the Governor of Illinois had sent here a man 25 years of age, who was clearly within the inhibition of the Constitution. The Senator would not have voted to seat such a man, would he?

Mr. FESS. No; because that——

Mr. McKELLAR. Would he not have to go back to Illinois in the same way?

Mr. FESS. That is one of the limitations which is written in the Constitution.

Mr. McKELLAR. Of course, I understand that; but the question I am asking the Senator is, Would not those credentials have to be turned down by the Senate, and would not the Governor of Illinois have to appoint a new Senator? What difference is there between the credentials in this case and those in the case I mention?

Mr. FESS. There is all the difference in the world.

Mr. McKELLAR. There may be to the Senator from Ohio, but I do not think there is to anybody else.

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

Mr. FESS. I yield.

Mr. SMITH. I merely want to call attention to the fact that the Senator from Tennessee is now postulating that the governor in the case he cites did clearly an illegal act which would vitiate the very credentials themselves, and that case would not be on the footing on which the present case now stands, where no man questions the credentials at all.

Mr. FESS. Precisely.

Mr. McKELLAR. While they do not question the credentials, they do question the appointment of this man.

Mr. FESS. There is one feature to which I wish to call the attention of the Senate in reference to the right of the State. Both the original Constitution and the amendment refer to the manner in which the House of Representatives is to be constituted and how the Senate is to be constituted. The seventeenth amendment provides that—

> The Senate of the United States shall be composed of two Senators from each State, elected by the people thereof for six years.

What would happen if the people of any State would decline to elect a Senator? Where is the power in the Senate of the United States to mandamus the State? How influential could this body, a Federal body, a branch of the Congress, be to enforce that provision of the Constitution? Under the Constitution, which says that the Senate shall be composed of Senators elected for six years by the people of the States, if a State should decide that it would not elect Senators, that would end it. The State is supreme in regard to the Constitution so far as its membership in this body goes. When it does elect a man and sends him here, with the credentials regular and no suggestion of invalidity, I do not see why we should not follow the unbroken practice, unbroken with the few exceptions I have given, and administer the oath. In that way the State would have its voice in this body up to the time that the right of the man to sit was determined. That is the course I propose to pursue, to permit the State of Illinois to have representation in this body and then allow the matter of fitness of the man to sit to go to the committee for investigation, and let him have his voice in this body so that he may be heard.

I should feel very much out of place as a student of the Constitution of the United States if I should deny that privilege both to the State of Illinois and to the Senator designate, and

considering as well the immediate dangers of establishing such a policy. I merely want to state that if we do this it becomes a precedent. These other cases are mere modifications easily understood. This is a precedent which we have not yet established, and I hope that every Senator will think of the meaning of his vote before we prejudge the case, refuse a man the opportunity to take the oath, and deny him that opportunity without giving him a legitimate trial.

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

Mr. FESS. I yield.

Mr. BRATTON. Confining the discussion now purely to the procedural matter, assume that a man came here with his appointment regular on its face, but the Senator had conclusive evidence that he was only 21 years of age. Let us assume that the Senator had a statement from the appointee's parents, a certified copy of the birth record, conclusively showing that he was only 21 years of age, but his certificate was regular on its face. Would the Senator say, as a procedural matter purely, that he would be bound to favor letting the man take the oath and take his seat and sit here until that matter was determined later?

Mr. FESS. If the question of age was the one in dispute and was a subject requiring investigation, I certainly would not deny him the oath, but would let the investigation be made under the clause of the Constitution which says we are the judges of the qualifications of our Members.

Mr. REED of Pennsylvania. Mr. President, will the Senator yield for an observation?

Mr. FESS. I yield to the Senator from Pennsylvania.

Mr. REED of Pennsylvania. I would like to say that that is exactly the basis on which Henry Clay entered this Chamber and served as a Member.

Mr. FESS. That is true.

Mr. REED of Pennsylvania. He came here under age, with a certificate legal on its face. He was sworn in and no one challenged his age, as could have been done at any time.

Mr. BRATTON. I doubt very much if the Senator from Pennsylvania has given a fact which every Member of the Senate did not know already. I was simply directing my attention to the views expressed by the Senator from Ohio on the procedural matter—not the substance of it but the procedural matter—and was about to say that with a fact of that kind, conclusive in character, before the Senator, if he would still vote to let him take his seat here, he is simply waiving substance to technicality.

Mr. FESS. I will say to my friend from New Mexico that under the qualification provision of the Constitution, under which the item he mentions would clearly fall, I think the body would be free to act summarily or to refer to a committee. It would be more regular to let him take the oath and refer the matter to a committee to be determined by the facts brought before the committee.

Mr. BRATTON. That is the very point I was trying to advance. The Senator does not commit himself to the doctrine in all cases that the Senate is powerless to pass upon the matter at this point, but in every case must allow the appointee or the Senator designate to take his seat.

Mr. FESS. To be perfectly frank with the Senator from New Mexico——

Mr. BRATTON. As the Senator from Ohio always is.

Mr. FESS. I do not go as far as some Members have gone and hold, for example, that a man might commit a crime as a Member elect, which is wholly without doubt at all and not in dispute. I believe I would think a long while whether this body did not have the right to specify that disability under the head of qualifications. In other words, I do not fully agree with those who say qualifications, except the three items of the Constitution, are excluded.

Mr. GEORGE. Mr. President, I think I understand the Senator's position. Suppose the case of a man duly elected here to this body, tried here and expelled by the unanimous vote of the body because of his unfitness, and then suppose, if we can—the presumption may be violent, but it is a test of the principle invoked by those who use it—that in no circumstance can the Senate stop the applicant, whether Senator elect or designate, at the door and make inquiry into his rights. Suppose that, after having been thus expelled by the unanimous vote of the Senate, he should come back here under an appointment made by the governor of his State, is it conceivable that any man here would rise in his place and say in that case that we would not have a right to exclude him and deny him the right to take his seat?

Mr. FESS. I can answer the Senator by indicating to him my attitude in the other body when a case like that came up, where a man was elected who was under indictment on a question which involved loyalty. He was denied a seat. I voted as a Member denying him the seat. He was afterwards reelected and the second time denied a seat. He was afterwards reelected and the third time was seated. In the case which we have before us here——

Mr. GILLETT. May I suggest that I think the Senator from Ohio has forgotten that in that case the applicant was disqualified under the fourteenth amendment because of having given aid to an enemy.

Mr. FESS. The Senator from Massachusetts is referring to one case and I am referring to another.

Mr. SMITH. Mr. President——

Mr. FESS. I yield to the Senator from South Carolina.

Mr. SMITH. Will the Senator allow me to make a suggestion to the Senator from Georgia? In the case which he hypothecates would it not be a safer plan for this body, whose powers and duties are so clearly defined in the Constitution, to give due regard to the chief executive of a great sovereign State who had appointed a man whom we unanimously rejected, and to hold a clear distinction between the dual powers, seat him and then reject him? We would be more nearly right then than to assert the right which we are trying to assert now that this body has the right to go behind the regular and legal form of return and send our investigating committees into the domain of a sovereign State and attempt to dictate what manner of man they shall send here.

Mr. FESS. I thank the Senator. I am afraid of the tendency of the cases which may follow if we adopt this precedent. While it probably would not occur, I can imagine a case where religious feeling would run so deeply that with some one coming from a State which was entirely under the domination of a religious cult which was not in control here, a precedent of this sort might extend to the punishment of the State in that degree. I can give something more pertinent.

Mr. WALSH of Montana. Mr. President, the Senator need not give himself any particular concern about that. The Constitution provides that no religious test shall ever be required as a qualification to any office or public trust under the United States.

Mr. FESS. The difficulty about that is what the Constitution means among those who are differing about it.

Mr. LENROOT. We might violate the Constitution under our right to determine the qualifications of a Member designate or Member elect.

Mr. FESS. I do not see how the Senate can be punished for committing any sort of crime. There is another thing that may be involved. Suppose the sentiment runs too high on the wet and dry question. Here the most radical utterances are heard on either side, utterances which it is difficult for me to understand, and utterances that I might make which it would be just as difficult for others to understand. Suppose that the sentiment would so dominate the situation here that we would take into our hands the power which is attempted to be exercised here and simply win our way by excluding those whom we did not like? If we may do it in this case, why can not we do it in the other case? It is not the effect in this particular case that concerns me so much, but it is the precedent which may be established, which I think may become a serious matter.

Mr. GEORGE. Mr. President, I rose to say that I was putting a hard case. I confidently assert that no man in this body will deny that in that event the Senate would imagine that it did not have the power to act. I am speaking about the naked power; that was all I rose to say.

Mr. REED of Pennsylvania. Mr. President, I do not flatter myself that, in the words of the Senator from New Mexico [Mr. BRATTON], I can tell the Senate anything that it does not already know, but I venture the hope that I may remind the Senate of some things that it seems to have forgotten.

There appear to be three questions that have been discussed indiscriminately to-day, without any careful effort to keep them distinct. To begin with, there is the question of the facts concerning Mr. SMITH'S behavior in his primary campaign. About those facts I know nothing; about Colonel SMITH I know nothing. I do not even know him when I see him. We must all agree, I think, that the facts of the matter are not before us in the argument to-day, and it was refreshing to hear that distinction made in the beginning of the argument of the Senator from Montana [Mr. WALSH].

The next question is the question of the Senate's power to exclude or reject a Member for want of those moral qualifications that we are all agreed are desirable. The best lawyers in the Senate may well differ about the power of the Senate to reject or exclude for want of qualifications. We are all agreed that those listed in section 5 of Article I as to age, residence, and citizenship are qualifications on which we may pass. I may, perhaps, add a disqualification which is imposed in sec-

tion 6 of Article I, that no person holding Federal office shall become a Member of either House. The language of the Constitution is:

> No person holding any office under the United States shall be a Member of either House during his continuance in office.

That should be added to the list of disqualifications; and the disqualification of section 3 of the fourteenth amendment is still another. We are all agreed on that.

We do not agree—and our disagreement is sincere—as to the power of the Senate to reject or exclude men who, in our opinion, are unfit because of their lack of other desirable qualifications. Either of our contentions is capable of a reductio ad absurdum; either one may be carried to such a point that it becomes clear absurdity. The Senator from Montana instanced that when he suggested that his position could be carried to the absurdity of excluding a Member elect because of the cut of his clothes. I want to be equally candid, and to say that the limitation of the power that I believe is vested in the Senate might be carried to the extent of holding that we were unable to reject a proven traitor if his State should elect him with knowledge of his treason. Those are the two absurdities to which the two propositions may be carried.

It does not disprove the existence of a power to say that it may be abused. On the other hand, it does not prove its nonexistence to say that it is in some conceivable cases almost essential that we have it.

Mr. McKELLAR. Mr. President, will the Senator from Pennsylvania yield to me?

Mr. REED of Pennsylvania. I beg the Senator from Tennessee to let me proceed for a moment more.

Mr. McKELLAR. It is precisely as to the statement the Senator has just made in reference to qualifications provided by the Constitution that I desire to interrupt him. The Senator, I know, is familiar with the laws which were passed in the First Congress, one in 1790 and the other in 1791, which forever disqualified any judge who accepted a bribe from holding an office of any kind under the Government of the United States. The next year Congress passed another law forever disqualifying anyone from holding an office who gave a bribe. If the forefathers—and Mr. Madison and other distinguished men who had taken part in framing the Constitution were in that First Congress—if they had thought that the qualifications were limited to those which the Senator has enumerated as being in the Constitution—and the Senator is exactly right about that—why would they have thought of violating the Constitution by adding other qualifications in the first session of Congress?

Mr. REED of Pennsylvania. Mr. President, I am perfectly familiar with the results that follow an attainder of anyone holding office; it might follow an impeachment by the Senate, for example, but the point I was making—and I can not too strongly emphasize it—is that the question of the power of the Senate is not involved in the decision which we are called upon to make to-day. The question before us to-day is whether this man shall be sworn; and then the power of the Senate, whatever it is, be applied to the facts, whatever they may be, or whether we shall deny him the oath and make our investigation before he is sworn. So that I say, whatever may be the facts and whatever may be the true doctrine as to the power of the Senate to exclude for want of qualifications, that question need not be decided before we cast our vote on the resolution and the substitute resolution before us.

The question that confronts us is the narrow one of pure law, I think; it involves no morals; the pure question of law under the Constitution is whether it is our duty to permit this man to be sworn and then investigate him or whether we should postpone his being sworn until we shall have investigated him.

I take it that we all agree that the investigation so far made, while it has been highly illuminating and may forecast our decision, has not been such a judicial investigation as to preclude the necessity of anything further. I think we are all agreed that Mr. SMITH of Illinois has the right to be confronted by his accusers, to cross-examine them, the right to be represented by counsel, and to summon witnesses in his own behalf. The necessary limitation upon the time and the convenience of an investigating committee are such as to prevent his having that kind of a hearing.

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

Mr. REED of Pennsylvania. I yield.

Mr. DILL. Does not the Senator think, with the two kinds of prima facie evidence that the Senate has—namely, the credentials on the one hand, and the report of the committee on the other hand, that the fair thing to do to Mr. SMITH, to the Senate, and to the country is to allow him to have the judicial hearing to which the Senator says he is entitled—and to that I agree—and in the meantime not permit him, in face of the prima facie evidence against him, to be a Member of this body and partake in the enactment of legislation?

Mr. REED of Pennsylvania. That is just the question to which I want to address myself, because I think it is the only question that confronts us. The Senator from Missouri himself, who so energetically and ably conducted that examination, does not pretend that it has been so thorough and impartial as to preclude the necessity of further investigation. As he said this morning, it may have some effect on the preliminary presumption, the prima facie case, but all he asks is that the investigation shall be conducted by the Committee on Privileges and Elections. It is to that that I wish to address myself for not over five minutes, if I can help it, and certainly for not over 10 minutes.

The Constitution guards more sacredly than any other right the right of the States to equal representation in the Senate. In order to limit the State of Illinois to one Senator it would not be sufficient to have the House of Representatives pass unanimously a joint resolution amending the Constitution to that effect, to have the Senate concur unanimously in that resolution, and to have 47 of the States ratify that amendment. The provision as to equal representation in the Senate is the only thing in the American Constitution that is incapable of amendment without the consent of the State that may be affected. Under Article V of the Constitution the one thing that is held out from the power of amendment that is vested in the Nation is the right to equal suffrage in the Senate. It is not so in the case of the House of Representatives. The representation of the various States in the House can be and ought to be modified every 10 years. Should there be a vacancy in the Senate the seventeenth amendment and the laws of the States cooperate to bring promptly into this body a temporary representative to fill that vacancy. It is not so in the House of Representatives. The whole scheme of things is so arranged that each State shall always have on guard here in this body its two representatives.

Mr. GLASS. Mr. President——

Mr. REED of Pennsylvania. I yield to the Senator from Virginia.

Mr. GLASS. Is not that itself subject to constitutional limitation? Did not we stand aside a Senator from Alabama until his case could be inquired into? Did we not in December, 1925, keep the junior Senator from North Dakota [Mr. NYE] waiting here weeks and weeks without permitting him to take the oath in order to ascertain whether or not he was constitutionally a Senator?

Mr. REED of Pennsylvania. We have in the past ignored what I think is our clear duty under the Constitution. Chiefly, that occurred under the passion that followed the Civil War, and I do not think that the precedents that were established at that time need to be controlling on us now.

Mr. GLASS. But, Mr. President——

Mr. REED of Pennsylvania. Please let me answer the question. In the Nye case, to which the Senator also refers, the question went solely to the right of the governor to appoint. The question was whether the State or North Dakota had complied with the seventeenth amendment to the Constitution. It went behind the credentials and went to their essential validity. If there were a question of the essential validity of these credentials I should say that Mr. SMITH should be stood aside until that was determined.

Mr. GLASS. In the last analysis, then, the Senator admits the sovereignty of the States is obliged to be subject to the sovereignty of the Nation.

Mr. REED of Pennsylvania. I do not admit it in that way, of course. What I say is that if a State has not taken advantage of the seventeenth amendment it has itself to thank for its failure of representation here, but if it does take advantage of the seventeenth amendment—and Illinois clearly has—then it is our duty not to deny it that equal representation which the Constitution guarantees while we are making up our minds about the qualifications of the appointee.

Mr. GLASS. Judging the face of the credentials of the Senator from North Dakota, North Dakota plainly had complied with the Constitutional requirements.

Mr. LENROOT. Oh, no!

Mr. REED of Pennsylvania. That was the point. I did not think North Dakota had.

Mr. GLASS. That was the point that was raised by an investigation of the facts; but nobody could determine that point on the face of the credentials presented here by the junior Senator from North Dakota.

Mr. REED of Pennsylvania. It was not upon an investigation of the facts at all; it was upon the construction of the law of North Dakota.

Mr. GLASS. Did not that involve as a fact whether or not the statutes of North Dakota authorized the governor to make an appointment?

Mr. REED of Pennsylvania. That is a question of law, not a question of fact.

Mr. GLASS. Well, questions of law may be questions of fact.

Mr. REED of Pennsylvania. They are often confused, I grant the Senator.

Mr. SHIPSTEAD. Mr. President, at any rate it was a question of whether or not the Senator was entitled to his seat.

Mr. REED of Pennsylvania. That is perhaps a loose way of expressing it. It was a question whether his appointment ever had any validity; whether the appointing power ever had any power to act under the seventeenth amendment. If that question were raised here, I should say, of course, Mr. SMITH should be stood aside until it was settled; but there is no question about that power in this case.

Mr. BRATTON. Mr. President——

Mr. REED of Pennsylvania. Will not the Senator let me finish? I have almost concluded.

Under Article V of the American Constitution, not all of the Congress and not all of the other States could do what we are trying to do by a bare majority of the Senators present this afternoon. Can it be that we can deny Illinois one-half of her representation here until such time as we, in the pressure of all our engagements, can get around to a determination of the facts as to Mr. SMITH'S primary campaign expenses? Can it be that we, who are sworn to uphold the Constitution, are upholding it when by a bare majority we deny her one-half of her representation pending the decision of that question? How we should decide it when the facts are in, and what our power is in the premises, are totally different questions, and questions on which I am not prepared to give an answer; but I do say that until that proof is in and that decision made Illinois has a right to her two votes here, and that we are breaking down the most sacredly guarded right in all of the Constitution if by a majority to-day we deny her complete representation during that period.

Mr. GLASS. May I ask the Senator if the junior Senator from North Dakota had not just as implicit and sacred a right to take his seat here until the question as to the statutory procedure was determined in his case?

Mr. REED of Pennsylvania. Absolutely not, in my judgment, because the certificate that he presented was as invalid as if it had been written in vanishing ink.

Mr. GLASS. Who determined the invalidity of it, and how was it determined? It did not appear upon the face of the credentials.

Mr. REED of Pennsylvania. It appeared on the face of the law, of which we take judicial notice.

Mr. GLASS. There was not a Member of the Senate, I venture to say, who was familiar with the statutes of North Dakota when we stood Mr. NYE aside for weeks and weeks to determine that question; and, as a matter of fact, it is the considered judgment of some of the best legal minds in this body that we finally determined it wrongly.

Mr. REED of Pennsylvania. On the contrary——

Mr. GEORGE. Mr. President——

Mr. REED of Pennsylvania. Let me answer one question at a time.

Mr. GEORGE. I did not want to ask a question; I merely wanted to say that in my judgment there ought not to be any confusion arising from the character of cases like the case of Senator NYE and other cases. I think there is a very wide difference. When one presents his certificate here based upon the appointment of a governor, the law under which the governor acts is as much a part of that certificate as if set out therein; and, whether we know it or not, we are presumed to take cognizance of the laws of the State. Now, we might not have known as a fact that North Dakota had a statute, and we might not have known as a fact what the provisions of that statute were, but we were presumed to know; and therefore the question there presented was Senator NYE'S title to the office.

Mr. GLASS. Very well. It was decided by the Senate itself that his title was good; that there was a statute on the books of North Dakota that authorized his appointment by the governor; and, that being a part of the certificate, we nevertheless stood him aside here for weeks and weeks, and would not let him take his seat until we made an inquiry.

Mr. REED of Pennsylvania. Then, Mr. President, if the Senate eventually decided that the Governor of North Dakota had authority to appoint, and if that settles the matter, we did North Dakota a great wrong in holding out her Senator during that time, and those of us who believed that North Dakota had given her governor that right and nevertheless voted to postpone that Senator's sitting here did an inconsistent and, in my judgment, an indefensible thing.

Mr. WALSH of Montana. Mr. President, let me inquire of the Senator, then, if the logic of that argument is not this: That whenever a man appears here with credentials, whatever doubt may arise with respect to the power of the governor, we should swear him in at once, lest perchance we do some wrong, because we might eventually determine that the governor had the power to appoint and he was entitled to his seat. Of course, we do no wrong to the State of North Dakota. The Constitution invests this body with the power to determine the elections, returns, and qualifications of its Members, and it is our duty to go on and do that.

Mr. REED of Pennsylvania. But the Constitution does not invest us with power to suspend the representation of those States pending our consideration of the qualifications of the Members.

Mr. WALSH of Montana. Quite right; but if the Senator's position is sound, and we did a wrong to the State of North Dakota, then, by unquestioned reasoning, whenever a man comes here with credentials fair on their face we can not stop to inquire whether the governor has or has not the power to appoint, because if we should eventually decide that the governor has not the power, we have done a wrong to that State. Accordingly, the logic of the argument of the Senator means that whenever a man comes here with credentials, and the power of the governor is challenged, we must admit that man and swear him in.

Mr. REED of Pennsylvania. The Senator from Georgia [Mr. GEORGE] answered that point in better words than I can use. I think he answered it conclusively; and if there were any doubt in my mind as to the authority of the governor to appoint, I should resolve that doubt in favor of the State. I voted as I did in the Nye case because I thought it was clear that the governor had no right to appoint; but that is a different case than this, because here everyone admits that the governor has the right to appoint. The one point that I want to drive home, if the power is in me to do it, is that we do an unconstitutional thing, not to SMITH—we do not care about him—not to the Senate, but to the State of Illinois, which is guaranteed equal representation by the Constitution to which we have pledged our honor.

Mr. SHIPSTEAD. Mr. President, the Senator from Connecticut [Mr. BINGHAM] read the credentials of the junior Senator from North Dakota [Mr. NYE]. It is not disputed that Mr. NYE was denied the right to take the oath of office. The only objections to his taking the oath of office were raised by his colleague [Mr. FRAZIER]. He said:

> Mr. President, I see no reason why Mr. NYE should not take the oath of office at this time.

Objection was raised to his taking the oath by his colleague, who thought he had a right to sit in the Senate. He said:

> But I understand that there is some question raised as to the regularity of our law in North Dakota. For that reason, and to avoid any unnecessary discussion at this time, I move that Mr. NYE'S credentials be referred to the Committee on Privileges and Elections.

That is the only record, so far as the CONGRESSIONAL RECORD shows, of any objection to Mr. NYE taking his oath of office at the time of the presentation of his credentials. Objection was raised by his colleague, who believed he was entitled to his seat. No one else raised an objection, at least as far as the RECORD shows. The question is, Why did his colleague, who thought him entitled to his seat, raise the objection to Senator NYE taking the oath of office?

It is quite apparent that he must have taken that course contrary to his own best judgment. As a matter of fact, he did it upon advice. He had consulted with older Members of the Senate who were more familiar with the methods of procedure than he was. He told me so himself at the time. He told me he was informed that whenever a question was raised as to the right of a Senator to take his seat the usual procedure at all times was that his credentials must go to the Committee on Privileges and Elections, and meantime he could not be sworn in. The Senator told me at that time, also, that he had been informed that it would come with better grace for him to raise that question, because if he did not do so others would raise the objection, and there were enough votes to deny Mr. NYE the right to take his oath.

It seems to me that the only thing we can decide, the only issue that is before us now, is whether or not we must auto-

matically swear in a man, administer to him the oath of office, upon the presentation of his credentials, whatever they may be. If we are now going to act upon the assumption that the credentials themselves automatically compel the Senate to administer the oath of office, then, of course, we have been wrong many times in the past.

I think it is very clear that it is for the Senate to decide whether, under the circumstances, the man who presents credentials shall be sworn in, or whether, if an objection has been raised to his taking his seat, he shall stand aside. The question of one reason or another seems to me to be immaterial. It may be a question of the right of the governor to appoint. On the other hand, it may be a question of the fitness of the Senator. It seems to me that is not to be determined now. A question having been raised, shall we take the same action that we have taken in the Nye case and refer the matter to the Committee on Privileges and Elections and refuse meanwhile to administer the oath? It seems to me that will be perfectly consistent in the light of the past action of the Senate.

Mr. LENROOT. Mr. President, I entertain a view regarding this question which possibly may not be entertained by any other Senator. Nevertheless, I desire to express it very briefly.

An effort has been made to apply to this case the same rule that was applied in the Nye case. For myself, I should be very glad to apply that rule. If it be claimed upon the part of anybody that there is any question regarding the power of the Governor of Illinois to appoint, if there be any question regarding the qualifications of Mr. SMITH laid down in the Constitution, I should be glad to refer those questions to the Committee for report. That is what happened in the Nye case.

Mr. GLASS. That is precisely what we are seeking to do here now.

Mr. LENROOT. If the resolution were limited to the question of whether Colonel SMITH should be sworn in, I should gladly vote for it, but the resolution now pending involves not only that question but the question, on which the committee will report, of whether the Senate itself shall create a qualification or a disqualification not named in the Constitution that would exclude Colonel SMITH from a seat in this body.

Mr. GLASS. On the contrary, the sole question, in my mind, is whether the Senate has a constitutional right to judge of the qualifications of its Members.

Mr. LENROOT. If the matter were referred to the committee to investigate and report upon that question, I would be delighted to support the resolution; but that is not the question before us.

Mr. GLASS. Not in the opinion of the Senator. In my opinion, that is the major question before us.

Mr. LENROOT. I think that if this resolution is carried—and I expect it will be—the Senator will find that there will be a report from the committee not only upon the constitutional qualifications, not only upon the regularity of the credentials, but giving the opinion of the committee as to the fitness of this man to have a seat in the United States Senate.

Mr. GLASS. Is not fitness a constitutional qualification?

Mr. LENROOT. It is not.

Mr. GLASS. I think it is.

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

Mr. LENROOT. It is not a qualification required by the Constitution. The only question is whether the Senate can add it as a qualification when it is not required by the Constitution.

Mr. McKELLAR. No, Mr. President, if the Senator will yield, under the holding of the highest court of this land, or of any land, the Senate has the power. In the Newberry case Mr. Justice McReynolds, in delivering the opinion of the court, after having discussed it—and the Senator will recall that substantially it is the same kind of a case that this is in many respects, involving the question of fraud and corruption——

Mr. LENROOT. I do not yield further to the Senator to discuss that.

Mr. McKELLAR. I just want to call the Senator's attention to the ruling of the court. Mr. Justice McReynolds said:

> As each House shall be the judge of the elections, returns, and qualifications of its own Members, and as Congress may by law regulate the times, places, and manner of holding elections, the National Government is not without power to protect itself against corruption, fraud, and other malign influences.

Mr. LENROOT. I make no question about that. In the first instance, we all agree, I think, that under the power of expulsion we have full power. I also think that in the case of conduct that can be related to an election or appointment we have full power. I do not think there will be any difference of opinion upon either of those subjects.

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

Mr. LENROOT. I yield.

Mr. BRATTON. I would like to have the Senator address himself to a point which I have in mind, because I want to get his views on it. He says there is a wide distinction between the Nye case and this case. There is a distinction, in that one question was involved in the Nye case and another question is involved in this case. In the Nye case the question was whether the governor of the State had the power to appoint. If he did not have that power, Mr. NYE was not entitled to his seat. In this case certain charges have been made, and whether or not Mr. SMITH shall be seated will be decided upon the determination of those charges. So that we had one question in the Nye case, decisive there, and there is another question here which will be decisive in this case. But is not the Nye case in point so far as the procedural question is concerned; that is, as to what shall be done with the Senator designate pending the determination of the decisive question?

In the Nye case, pending the determination of the decisive question there, Mr. NYE was not seated. What distinguishes this case from the Nye case upon the procedural question alone? As I conceive it, that is the only question with which we are dealing to-day, and, in view of the Senator's learning, I would like to hear him discuss that feature of it.

Mr. LENROOT. I shall be very glad to; and the Senator propounds a very fair question.

I want to say first, Mr. President, that, as many other Senators have said, the views I now express have nothing to do with the merits of the proposition as to whether Mr. SMITH shall be entitled finally to his seat in the Senate. My argument goes to the question of procedure, and whether or not Mr. SMITH should be permitted to take his oath at this time, in the first instance, or whether there should be a reference to the committee for the purpose of deciding certain questions under the Constitution, and a report from them as to whether Mr. SMITH should then be permitted to take the oath pending an investigation upon the merits.

Mr. BRATTON. If the Senator will allow me, I quite agree with the Senator, and I desire to refrain entirely from expressing any opinion respecting the merits; but on the question of the procedure to be followed, the Senator doubtless is familiar with the Niles case, which came up from Connecticut, where Mr. Niles was elected, came here with his credentials regular on their face, but some question was raised relating to the mental fitness of the Senator elect, and when his credentials were presented a motion was made to refer those credentials to a special committee. That was done on April 30, 1844. The Senator elect did not take the oath until that special committee made its investigation and reported, more than two weeks later. During the time the committee was investigating the matter before it, not going to the facts surrounding his election or his qualifications, Niles was not permitted to take his seat, but was stood aside. Will the Senator point out wherein there is any distinction between that case and this upon the exact question with which we are dealing now, namely, the procedure to be followed pending a determination of the matter?

Mr. LENROOT. Will the Senator state what the question was in the Niles case?

Mr. BRATTON. The question was the mental fitness of Mr. Niles to sit here, and it was decided that perhaps he was not mentally sound, but sound enough to sit in this body.

Mr. LENROOT. The Senator is well aware that that goes to an entirely different question, as to whether a man who is mentally unsound can take the oath of office at all.

Mr. BRATTON. Not so far as the procedure to be followed is concerned, pending the decision of the question?

Mr. LENROOT. Yes; if he is unsound, mentally unfit, he could not take the oath of office; it would not have any effect.

The case, however, directly in point, may I say to the Senator, is that quoted by the Senator from Montana this morning, the Benjamin Stark case.

Mr. BRATTON. Of course, that is in point.

Mr. LENROOT. That is the leading case upon the subject.

Mr. WALSH of Montana. Why does not the Senator include the case, decided six years later, of Philip F. Thomas?

Mr. LENROOT. I will be glad to refer to the Thomas case.

Mr. BRATTON. I am unable to see any difference, so far as the procedural matter is concerned, and that is what we are talking about first.

Mr. LENROOT. I thought that I had made it clear that I would be perfectly willing to vote to refer to the committee before the administering of the oath the question of the regularity of the certificate or the constitutional qualifications of Mr. SMITH as laid down in the Constitution. That was exactly what was done in the Stark case. I am willing to do that, but I want to give now my reason why I do not believe we should go so far as is contemplated by this resolution.

Mr. President, the question here is not as to the right of Mr. SMITH. The primary question is as to the right of a State to have representation in this body, and I undertake to say that every State has a right to have representation when that State has complied with the provisions of the Constitution regarding the election of Senators.

The other point, as to whether the Senate has a right to create additional qualifications, or create a disqualification not named in the Constitution, is a question with which the State can not be chargeable, and until such time as this body shall create such disqualification, or a new qualification granting its right to do so, every State is entitled to representation in this body.

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

Mr. LENROOT. I yield for a question.

Mr. MCKELLAR. I call the Senator's attention to the Niles case, of which the Senator from New Mexico spoke.

Mr. LENROOT. I am discussing this question——

Mr. MCKELLAR. I ask the Senator——

Mr. LENROOT. I refuse to yield to permit the Senator to break in upon my discussion. The State in everyone of those cases has been at fault in some respect.

Mr. MCKELLAR. Mr. President——

Mr. LENROOT. I decline to yield. I have given my opinion of the Niles case, and the Senator heard it, and he does not need to interrupt me upon that.

If the State is charged with having been at fault in the election, or in the making of the certificate, as in the Nye case, the State has no right to claim representation here, as a matter of right, pending an investigation, but when there is no charge that the State has been at fault, when it has complied with every provision of the Constitution, when it has followed the Constitution of the United States in the matter of an appointment, I insist that it has the right to that representation until such time as the Senate shall have created some disqualification not enumerated in the Constitution.

Mr. REED of Pennsylvania. Mr. President, will the Senator permit a suggestion?

Mr. LENROOT. Yes.

Mr. REED of Pennsylvania. The question did not arise in the NYE case. There was no effort made to have Mr. NYE take the oath. His colleague [Mr. FRAZIER] presented the credentials, and himself moved at once that they be referred, without the administration of the oath. There never was any question raised, and that case did not set any precedent. The Senator is exactly right.

Mr. GLASS. Mr. President, the Senator from Pennsylvania then did not do his duty if he did not rise and insist at the time that Mr. NYE had a right, on the face of his credentials, to be sworn at once, and there was no power in the Senate, 95 Senators assenting, according to the argument of the Senator from Pennsylvania, to preclude him from taking the oath.

Mr. REED of Pennsylvania. On the motion of his colleague—— .

Mr. GLASS. No matter upon whose motion it was, I say the Senate, 95 Members concurring, had no right to deprive Mr. NYE one minutes of his privilege to take the oath.

Mr. REED of Pennsylvania. The Senator is mighty hard pressed if he can not find a better precedent than that.

Mr. GLASS. I am taking the Senator's own argument. It may be a hard-pressed argument, but it is the logical conclusion from the argument he presented. I do not think much of it.

Mr. LENROOT. Mr. President, I merely wish to repeat that if any Senator shall state upon this floor that he raises the question of the regularity or competency of this certificate, or of the qualifications of Mr. SMITH, as laid down in the Constitution, I shall gladly vote to refer those questions to a committee before permitting him to take the oath.

It seems to me I have made myself entirely clear. My position in this matter is certainly not inconsistent with my position in the Nye case.

Mr. GLASS. Not at all, in the Senator's view, but there are those of us who think that the substitute resolution involves the very question of the constitutional right of the Senate to determine the qualifications of its own Members.

Mr. LENROOT. Upon that question my view is this, that there are two questions which may be involved, one of them where the State has not the right to insist upon representation when there is some fault chargeable to the State, either in the election, or the appointment, or the certificate. There could be no complaint then by the State that it is deprived of representation by the refusal of the Senate to allow a Member elect to be sworn. But when there is a proposal to create some disqualification, of which a State had no notice, and thus deny a State representation, then we have another question involved. If the committee will report to the Senate on the constitutional question, as was done in the Stark case, leaving the other questions to be investigated later, I shall be very glad to agree to that kind of a procedure.

Mr. GLASS. Let me propound this question to the Senator: Suppose a man from Virginia should come here wtih credentials on their face entirely clear as to procedure and as to the right of the State of Virginia to send him here. Suppose it should be a notorious fact that the man is an undisguised criminal of the worst type. Would the Senator contend that under the constitutional provision which gives the Senate the right to judge the qualifications of its Members we could not intervene and prevent him taking the oath?

Mr. LENROOT. The remedy is provided in the Constitution itself by expulsion. May I say to the Senator from Virginia that upon the question which he now raises his own State has spoken, and I quote from the Supreme Court of the State of Virginia in the case of Black *v.* Trevor (79 Va. p. 125):

> It is a well-established rule of construction, as laid down by an eminent writer, that when the Constitution defines the qualifications for office, the specification is an implied prohibition against legislative interference to change or add to the qualifications thus defined.

Mr. GLASS. But not against the constitutional right to define the fitness of the man.

Mr. LENROOT. No.

Mr. GLASS. What does that provision of the Constitution mean which confides to the Senate of the United States the right to judge of the qualifications of its Members?

Mr. LENROOT. I shall be very glad to explain that to the Senator.

Mr. GLASS. Does it mean the right of the Senate to determine whether a man is 30 years of age and whether he resides in the State and whether he is a citizen of the State?

Mr. LENROOT. Exactly.

Mr. GLASS. And that is all?

Mr. LENROOT. Exactly.

Mr. GLASS. Then it is idiocy; that is all it is. [Laughter.]

Mr. LENROOT. Suppose that, without that provision of the Constitution, a man does come here 25 years of age, or who is not a citizen of the United States, or who is not an inhabitant of the State from which he is appointed or elected, who is to determine his qualifications?

Mr. GLASS. Of course, the Senate is to decide.

Mr. LENROOT. By virtue of this provision in the Constitution?

Mr. GLASS. A child would know that it was automatic.

Mr. LENROOT. Oh, no.

Mr. GLASS. Oh, yes!

Mr. LENROOT. If it were not for that provision of the Constitution, resort might be had to the courts to determine the question.

Mr. GLASS. Oh, no; the question determines itself.

Mr. WALSH of Montana. Mr. President, before the Senator passes from that question, I think in perfect fairness to the Senator from Virginia that the remark of the Senator from Wisconsin that the Supreme Court of the State of Virginia has settled contrary to his position ought not to pass unnoticed.

The Supreme Court of Virginia ruled that where the qualifications are prescribed by the Constitution, the legislature can not add to those qualifications. Nobody disputes that position. It was at one time contended that the State could add to the qualifications requisite for Representatives, but that question was decided a long time ago. It was also insisted that the Congress could add to the qualifications. Congress attempted to do so in the statute to which reference was made by the Senator from Tennessee [Mr. MCKELLAR] disqualifying a judge or other person guilty of bribery.

The State of New York enacted a statute making one guilty of dueling ineligible to sit as a member of the Legislature of the State of New York, although that was not a disqualification under the Constitution, and that statute was upheld by the courts of the State of New York. But that is an entirely different question. The question is not now whether the Congress could add qualifications. The question is, Can the Senate determine the qualifications of a Member elect or Member designate and refuse to seat him upon other grounds than those mentioned in the Constitution?

Mr. LENROOT. The language from the Virginia court to which I referred was not action by the legislature but was legislative interference upon the part of the legislature, as the action proposed here would be attempted legislative interference.

Mr. WALSH of Montana. It was a question of the validity of a statute enacted by the Legislature of Virginia.

Mr. GLASS. As a matter of course, it only would have applied to Virginia. The Court of Appeals of Virginia has no

right to render decisions affecting the validity of a Federal statute.

Mr. LENROOT. Upon this very point I want to read from the majority report in the Stark case, cited by the Senator from Montana this morning, and which was adopted by the Senate at that time. The Senator from Montana read what in court parlance would be in the nature of a dissenting opinion of certain eminent Senators.

Mr. WALSH of Montana. No; it was the argument of two eminent Republicans that I read.

Mr. LENROOT. But they were in the minority upon this question.

Mr. WALSH of Montana. They were in the minority, but I did not read from any report of the minority.

Mr. LENROOT. I understand.

Mr. WALSH of Montana. I read the views of those two eminent Republican Senators.

Mr. LENROOT. Yes; but they were in the minority and what they said stood in the nature of a dissenting opinion from the majority. Now, I want to read what the majority said on that occasion. May I say first that in the Stark case the credentials were referred to a committee on the motion of William Pitt Fessenden, of Maine, and in the debate upon his motion he said that his motion was unprecedented in the Senate up to that time, but he considered it justified by the papers which he presented. The Senator from Missouri [Mr. REED] this morning said that there was no case like the pending case, because in this case the Senate has certain information before it relative to Mr. SMITH. But in the Stark case the Senate had before it information alleging the disloyalty of Mr. Stark.

Mr. WALSH of Montana. If the Senator will permit an interruption, the Senator from Missouri [Mr. REED] is not here to speak for himself. The Senator from Missouri called attention to the fact that the Senate had official information before it given to it by one of its own committees. That is the distinction between the Smith case and the Stark case.

Mr. LENROOT. I will let the record speak for itself as to what the Senator from Missouri said.

Mr. WALSH of Montana. The only evidence the committee had in that case was in the form of ex parte affidavits.

Mr. LENROOT. They were ex parte affidavits. They were introduced by Mr. Fessenden, and the majority of the committee, without going into an investigation of the charge of disloyalty, reported back a resolution, not that he was entitled to his seat, but that he was entitled to take his oath of office. That is what the majority of the Committee on the Judiciary decided, and they declined to express any opinion upon the question of the charge of disloyalty or upon the merits of the case. That was debated at great length. From the majority report I quote as follows:

> The question submitted to the committee was whether or not evidence of this description [certain ex parte affidavits alleging treasonable declarations] could be allowed to prevail against his prima facie right to take his seat as a Senator. The committee were of the opinion that they could not. The Constitution declares what shall be the qualifications of a Senator. They are in respect to his age, in respect to his residence, in respect to his citizenship; and the committee were of opinion that the Senate were limited to the question, first, whether or not the person claiming the seat and presenting his credentials produced the requisite evidence of his election or appointment; and, second, whether there was any question as to his constitutional qualifications. * * * I do not understand that it is competent for the Senate, I think they step aside from their only jurisdiction when they attempt to punish a man for his crime or misbehavior antecedent to his election. If this were so, the Constitution ought to be amended so as to read that the legislature of a State or the governor of a State, in a certain contingency, shall elect or appoint a Senator, subject to the advice and consent of the Senate.

Mr. President, that is exactly what will happen if the precedent which is now proposed to be established shall be followed in the future. If the Senate shall now take the position that it can deny to a person holding proper credentials, a proper certificate, his oath of office and not permit him to take a seat until after they shall have investigated, and in addition shall assert the right to add qualifications or decree disqualifications not named in the Constitution of the United States, then hereafter no State can elect a Senator to this body except by and with the advice of the Senate of the United States.

I wonder if Senators realize what that may lead to? Is the Senate free to say that a man shall not have a seat in this body perchance because they do not like his politics, because he may be a radical or socialist? Ah, but, you may say, they would not go that far, but there has to be moral turpitude of some kind involved. Very well; suppose it be charged at the beginning of some session, when a change of one vote or the depriving of one Senator for the time being of his seat would mean the organization of this body by the other party, all we would have to do would be to charge, for instance, that some Senator on the other side of the aisle or some Senator on this side has failed to support the eighteenth amendment. That would be sufficient grounds for denying to him his oath of office under this reasoning.

Mr. GLASS. Was it ever done even in the days of reconstruction?

Mr. LENROOT. No.

Mr. GLASS. Has it ever been done?

Mr. LENROOT. No; and the reason is because until this time I know of no case where the Senate has solemnly and deliberately said they had the right to do it.

Mr. WALSH of Montana. Let me inquire of the Senator if that was not done in the Thomas case?

Mr. LENROOT. I have the Thomas case before me.

Mr. WALSH of Montana. The Senator will find it at page 470 of the first volume of Hinds's Precedents.

Mr. LENROOT. I do not find the Thomas case at page 470.

Mr. WALSH of Montana. I will read the resolution if the Senator will permit me:

> *Resolved*, That Philip F. Thomas, having voluntarily given aid, countenance, and encouragement to persons engaged in armed hostility to the United States, is not entitled to take the oath of office as a Senator of the United States from the State of Maryland or to hold a seat in this body as such Senator; and that the President pro tempore of the Senate inform the Governor of the State of Maryland of the action of the Senate in the premises.

The vote was 27 yeas and 20 nays.

Mr. LENROOT. I was about to refer to that case. I think there are several cases in the House of the same character.

Mr. WALSH of Montana. There are a number of cases of that character.

Mr. LENROOT. There were a number of such cases in the House.

Mr. ROBINSON of Arkansas. In this connection the Senator will also concede that the Roberts case, arising in the body at the other end of the Capitol, is an exact precedent for the present case.

Mr. LENROOT. So far as I know, outside of the Civil War and the passions and hostilities created by it, the Roberts case is the only case, and I admit it is a precedent the other way.

Mr. WALSH of Montana. The case of Whittemore, coming from the State of South Carolina, is another one. It was the case of a charge of having sold, while a Member of the House of Representatives, appointments to West Point, and proceedings were instituted to expel him. He thereupon resigned, went back to South Carolina, and was reelected.

Mr. LENROOT. To the same body?

Mr. WALSH of Montana. To the House of Representatives.

Mr. LENROOT. But to the same body, and to the same session. A distinction has been made upon that ground by all the authorities.

Mr. WALSH of Montana. He was stopped at the door and was not permitted to take the oath. That is exactly the case proposed by the Senator from Georgia [Mr. GEORGE]. But suppose a member of this body were expelled from the Senate because of some crime of particular atrocity and infamy, and he goes back to his State and is there reelected or appointed by the governor. According to the argument of the Senator from Wisconsin we must admit him. As indicated by the Senator from Pennsylvania [Mr. REED], his argument, driven to its ultimate conclusion, leads to something of an absurdity.

Mr. LENROOT. No, Mr. President. A distinction has been made by all the writers in the Whittemore case that he was reelected, and sought a seat in the same Congress from which he was expelled. The House had a right to expel him; he resigned to avoid expulsion, and sought to circumvent the constitutional right that Congress had by coming in in this way. Those were the facts in that case; but I call attention to the fact that in every comment that I have seen upon that by legal writers, mention has been made that he came back to the same Congress, making a distinction as to what might have been the case had it been a different Congress.

Mr. ROBINSON of Arkansas. What is the distinction as a matter of law? Of course, the discussion has hinged to-day upon the question of power; but I should like the Senator from Wisconsin to answer if he makes a distinction as a matter of law. I can conceive that questions of policy might be involved, but discussing now the question of the power of the Senate to exclude a Member for alleged disqualifications, what difference would it make in the case which the Senator

has cited whether the Member returned during the session of Congress from which he had resigned or at the beginning of the succeeding session of Congress?

Mr. LENROOT. There would be this about it: Supposing the Senate had expelled a man by a two-thirds vote, which made him no longer a Member of the body, and he went immediately back to his State and secured an appointment, I think it would be a very different question, because the Senate was exercising a right that it had under the Constitution in removing him from this body.

Mr. ROBINSON of Arkansas. But if he comes back with a regular and proper certificate, would it not, in the view of the Senator, be denying the State its right to equal representation to refuse him permission to qualify and be sworn in?

Mr. LENROOT. The State in that case would have had notice that the Senate, acting under the Constitution, had expelled him.

Mr. ROBINSON of Arkansas. Under the Senator's view of the matter, what right has the Senate to give the State notice that it will deprive that State of its right to equal representation? That is the very question.

Mr. LENROOT. Mr. President, the Constitution gives to the Senate of the United States and likewise to the House of Representatives power by a two-thirds vote to expel a Member.

Mr. WATSON. For any cause.

Mr. LENROOT. I am not going into the extent of the power, but that is the power. Certainly when this body or the other is acting under the express power of the Constitution, no State has any right to send back that same man who has been lawfully expelled.

Mr. GLASS. Where is there any limitation upon the right of the State to send such a man back?

Mr. LENROOT. If the State wants to go without representation, it can send him back as often as it chooses.

Mr. GLASS. But why should the State be deprived of representation because it sends such a man back?

Mr. LENROOT. Because the Senate, under the Constitution, has exercised its right to deprive him of a seat in this body.

Mr. GLASS. But the State has an equal right to send him back to this body under the Constitution.

Mr. LENROOT. Mr. President, the Senator from Virginia is now arguing for the right of a State far beyond that which I should ever think of arguing with relation to membership in this body.

Mr. GLASS. No. I am following the Senator's argument. He unconsciously has admitted that this body has the right to turn out an unfit man.

Mr. LENROOT. By a two-thirds vote.

Mr. GLASS. Yes; by a two-thirds vote. Then he contends for the right of this body to preclude that unfit man from coming back here even by the consent of a sovereign State.

Mr. LENROOT. Because the Senate has the right to give effect to its own constitutional exercise of power.

Mr. GLASS. So when the Senator admits that the Senate exerts the power the second time constitutionally he falls right into our contention.

Mr. PHIPPS. Suppose the man is only 25 years of age?

Mr. LENROOT. The suggestion has been made that it would be our duty to exclude a man who was only 25 years of age, and the State might send a man back who was only 25 years of age.

Mr. GLASS. But it would not be our duty, according to the Senator's contention, to exclude a man who proved to be a thief.

Mr. LENROOT. We could expel him; it would be our duty to expel him.

Mr. GLASS. But the State could send him back, and it would no longer be our duty to reject him because he was a thief.

Mr. LENROOT. Yes; we may reject him just as often as we please; but under the express provision of the Constitution it requires a two-thirds vote to expel a man.

Mr. President, I undertake to say that there is no writer on the Constitution, certainly none with whom I am familiar, who sustains the position taken by the Senator from Montana with regard to the interpretation of the Constitution upon this question. I think the Senator from Missouri [Mr. REED] quoted from Mr. Justice Story this morning in relation to another provision of the Constitution; I wonder why he did not quote him upon the one that is in issue in this case. Mr. Justice Story says:

> It would seem but fair reasoning upon the plainest principles of interpretation that when the Constitution established certain qualifications as necessary for office it meant to exclude all others as prerequisites. From the very nature of such a provision the affirmation of these qualifications would seem to imply a negative of all others.

Another of our greatest writers upon the Constitution was Cooley. Cooley, in his Constitutional Limitations, says:

> Another rule of construction is that where the Constitution defines the circumstances under which a right may be exercised, or a penalty imposed, the specification is an implied prohibition against legislative interference, to add to the condition, or to extend the penalty to other cases.

Cushing and other writers upon the Constitution says:

> The Constitution of the United States having prescribed the qualifications required of Representatives in Congress, the principal of which is inhabitancy within the State in which they shall be respectively chosen,, leaving to the States only to prescribe the time, place, and manner of holding the election, it is a general principle that neither Congress nor the States can impose any additional qualifications.

John Randolph Tucker——

Mr. McKELLAR. Will the Senator suffer an interruption there?

Mr. LENROOT. Just a moment. I should like to finish the quotation, and then I will yield.

John Randolph Tucker, in his work on the Constitution, says:

> Nor can the Congress nor the House change these qualifications.

I now call the attention of the Senator from Montana to the point that he made that it might apply to legislation by Congress or a legislative body, but did not apply to the House or the Senate.

The House—

Tucker says—

> Nor can the Congress nor the House change these qualifications. To the latter no such power was delegated, and the assumption of it would be dangerous, as invading a right which belonged to the constituent body, and not to the body of which the representative of such constituency was a member.

Mr. WALSH of Montana. Mr. President, if the Senator will allow me, I merely desire to say that I had no purpose of arguing the merits or demerits of the general legal proposition involved. At the proper time I shall say whatever I may feel justified in saying in relation to the comment by Story, but I may add here that the House has declared that Story stands alone in the position which he takes.

Mr. LENROOT. I would not have adverted to this question at all if the Senator himself had not done so in the first instance.

Mr. McKELLAR. Now, will the Senator yield?

Mr. LENROOT. I yield.

Mr. McKELLAR. The Senator did not read all of what Mr. Cushing said. Mr. Cushing adds this language:

> To a disqualification of this kind may be added those which may result from the commission of some crime which would render the Member ineligible.

The Senator omitted that.

Mr. LENROOT. But that does not change the situation.

Foster on the Constitution says:

> The principle that each House has the right to impose a qualification upon its membership which is not prescribed in the Constitution, if established, might be of great danger to the Republic. It was on this excuse that the French Directory procured an annulment of elections to the Council of Five Hundred, and thus maintained themselves in power against the will of the people, who gladly accepted the despotism of Napoleon as a relief.

Paschal's Annotated Constitution says:

> It is a fair presumption that where the Constitution prescribed the qualifications it intended to exclude all others.

Then, Mr. President, what did the framers of the Constitution have in mind? It seems to me that ought to be a very material question in this discussion. Let me read from James Madison, than whom there certainly can be no greater authority as to what was in the minds of the framers of the Constitution. He says:

> The qualifications of electors and elected—

Mark the words "and elected"—

> were fundamental articles in a republican government, and ought to be fixed by the Constitution, as otherwise the legislature might subvert the Constitution.

And so here, if it shall be held that the Senate may add any qualification that it chooses or create any disqualification that it desires, what becomes of the Constitution of the United States

so far as free government is concerned and the protection of the rights of the people and the rights of the States with regard to the election of their representatives in the Congress of the United States?

Mr. President, I wish to repeat that there is to my mind the clearest kind of a distinction. To refer to a committee, before allowing the Member elect to take the oath of office, the question of the regularity of his certificate or his qualifications under the Constitution of the United States, I concede, can be done, and has been done, many times; but to refer to a committee a question concerning the fitness of a man, imposing qualifications not required by and not named in the Constitution, and depriving a State of representation until such time as this body has declared such additional qualifications, can not, it seems to me, be defended under the Constitution of the United States.

Mr. BINGHAM. I ask unanimous consent that there be printed in the RECORD a portion of a speech delivered in 1862 by Senator Bayard, of Delaware, which bears very interestingly on this question.

The VICE PRESIDENT. Without objection, it will be so ordered.

The matter referred to is as follows:

(James Asheton Bayard, 2d, a Senator from Delaware, was born in Wilmington, Del., November 15, 1799; pursued classical studies; studied law; was admitted to the bar and began practice in Wilmington; was United States district attorney for Delaware 1838–1843; in 1851 was elected as a Democrat to the United States Senate; reelected in 1857 and again in 1863, and served from March 4, 1851, until January 29, 1864, when he resigned; was appointed a United States Senator to fill the vacancy occasioned by the death of George Read Riddle; was subsequently elected and served from April 5, 1867, to March 3, 1869; was a delegate to the Democratic National Convention in New York in 1868; died in Wilmington, Del., June 13, 1880.)

[From the Congressional Globe of January 10, 1862, pp. 265–267]

SENATOR FROM OREGON

Mr. BAYARD. On Monday last the honorable Senator from Oregon [Mr. Nesmith] presented the credentials of Mr. Stark as a Senator appointed from that State. The honorable Senator from Maine objected to Mr. Stark being sworn in as a Member of the Senate and presented certain papers which had been addressed to the Secretary of State, accompanied by affidavits, which he considered imposed a disqualification on Mr. Stark's right to be sworn in, and he moved the reference of the whole subject to the Committee on the Judiciary. My object will be to show that this is not in accordance with the Constitution of the United States and that Mr. Stark has the right to be sworn in, although it may be perfectly proper—and to that I have not the slightest objection—that the papers which have been presented by the honorable Senator from Maine shall be referred to the Committee on the Judiciary or to any other committee that the Senate choose to refer them to for the purpose of investigation and subsequent action by the Senate, if that investigation shall lead to subsequent action.

Now, sir, what is the state of facts? The gentleman's credentials are presented here by a Senator of the United States. According to the Constitution, each State—it is the right of the State—is entitled to two Senators; and if it happens that at any time a seat becomes vacant and a term is broken by the death or resignation of a Member of the body the executive of the State, in the recess of the legislature, has the right of appointment vested in him. In this case the credentials are presented showing an authority, under the great seal of the State, appointing Mr. Stark a Senator of the United States until the next meeting of the Legislature of Oregon. The authority is unquestioned; no one has objected to it. Next comes the clause of the Constitution which prescribes the qualifications of a Senator, and under that clause no one doubts that authority is given to a majority of this body to decide upon those qualifications. No one doubts that a majority decides on "the returns"—meaning the credentials—and "the qualifications" of the Member. That authority is vested by the Constitution in a majority of either House; and therefore, when an individual applies to be sworn in as a Senator, if objection is made either to the authority to appoint him or to the mode of appointment or to his qualifications beyond all question it is competent for the Senate, by a majority, judicially to decide that question, and that is what they always do. There may have been erroneous decisions made, but the presumption is that every Senator feels that he is acting judicially in deciding under the Constitution and on the credentials whether the party is entitled to a seat.

Among the qualifications prescribed by the Constitution you can find no ground for interposing an objection to a party being sworn in who is properly appointed no matter how debased his moral character may be, no matter though he lie under the stigma of an indictment and conviction for crime. Your remedy is not by rejecting him, if the proper authority of his State chooses to appoint him, because that power is not vested in the majority of this body, but you are protected, as I will show you by a subsequent clause, from anything of that kind. The question is left to the appointing power in the State as regards a Senator or Representative, the people or the people's agents in the State, to determine whether or not the individual is fit morally to represent them; and I suppose loyalty comes under the designation of moral character as well as under anything else. Even if there were a conviction for crime—forgery, if you please—it would afford no ground, it would give no warrant to the Senate of the United States in rejecting by a majority a person who presented himself as a Senator, legally appointed by the proper authority in his own State. The Constitution prescribes the qualifications, and it has not touched any question of that kind relating to the capacity or the morality of the party. If he was an idiot, you would not reject him. If he was a man, destitute of all moral character, such that you would feel disgraced by associating with him, you could not by a majority of this body reject him when his State chose to send him here by the properly constituted authority. You have some authority over the subject, to be sure, as I admit; but you are violating the Constitution if under the power which is given to you to decide by a majority on the returns and qualifications of a Member you undertake to usurp the power of adding qualifications which the Constitution has not prescribed.

I submit, therefore, that Mr. Stark has a right to be sworn in.

Mr. CURTIS. Mr. President, from information which has come to me I doubt if we can reach a vote to-night. I should like to ascertain if it is possible to arrive at some understanding about taking a recess at this time until 11 or 12 o'clock to-morrow.

Mr. ROBINSON of Arkansas. Mr. President——

Mr. CURTIS. I yield to the Senator from Arkansas, although I was about to move a recess.

Mr. ROBINSON of Arkansas. I hope the Senator will withhold the motion for a moment.

Mr. CURTIS. I withhold the motion.

Mr. ROBINSON of Arkansas. With respect to the suggestion of the Senator from Kansas, I wish to say early in the afternoon I conferred with him and with the Senator from Illinois [Mr. DENEEN] with a view to ascertaining, if possible, whether a vote could be taken to-day.

I am advised that a number of Senators expect to speak, and that it will be impossible to obtain a vote to-day. I inquire of the Senator from Kansas whether he can indicate about what time a vote may be reached to-morrow?

Mr. CURTIS. I hope it will be reached early; but there are three or four Senators on our side who desire to make short speeches, and I do not know how many there are on the other side.

Mr. ROBINSON of Arkansas. The Senator expects that a vote will be reached to-morrow?

Mr. CURTIS. I hope so, and I shall do all I can to bring about a vote to-morrow.

Mr. ROBINSON of Arkansas. I shall make no objection to taking a recess. I wonder if Senators would be willing to agree to a limitation on debate? I realize that it would not be proper to insist upon a limitation if any Senator objected, but this situation exists:

There are a large number of Senators who have other matters claiming their attention. Some of them desire to leave the city for a day or two; and it would be very convenient for them to know, if an agreement can be reached, when they may expect to get away.

Mr. CURTIS. Mr. President, so far as I am concerned, I should be perfectly willing to agree to vote not later than 4 o'clock to-morrow.

Mr. GEORGE. Mr. President, I hope that agreement will not be entered into. I had not expected to say a word on this question, but I think I shall discuss it; and while I imagine I shall not speak over 30 or 40 minutes, I should not want to enter into such an agreement.

Mr. ROBINSON of Arkansas. I realize that the subject matter under consideration is such that there ought not to be any attempt to restrict debate if Senators feel that it would deny them the privilege of expressing their views. I will not, therefore, insist upon any limitation.

PETITIONS AND MEMORIALS

Mr. WILLIS presented a petition of sundry citizens of Cincinnati, in the State of Ohio, praying for the prompt passage of legislation granting increased pensions to Civil War veterans and their widows, which was referred to the Committee on Pensions.

He also presented a petition of sundry citizens of Napoleon, in the State of Ohio, praying for the passage of the so-called alien deportation bill, which was referred to the Committee on Immigration.

LOWER COLORADO RIVER BASIN

Mr. ASHURST. Mr. President, I present and ask to have printed in the RECORD Senate Joint Memorial No. 1, adopted by the Senate and House of Representatives of the State of Arizona and signed by the governor. Under the rules of the Senate, I think, particularly under Rule VII and Rule XXIX, the memorial having been adopted by the State legislature, is entitled to be printed in the RECORD in full. I ask that the resolution may be printed not in the Appendix but at the appropriate place in the proceedings of to-day.

The VICE PRESIDENT. The resolution will be printed in the RECORD.

The joint memorial was ordered to be printed and lie on the table, as follows:

Senate Joint Memorial 1. Introduced by Mr. Winsor, January 11, 1927. Passed the senate January 12, 1927. Passed the house January 12, 1927. Signed by the governor January 13, 1927

To the Congress of the United States of America:

In the name and on behalf of the people of a sovereign State, albeit the youngest State of the American Union, and with assurance that this plea voices the views and commands the earnest support of practically all citizens, irrespective of political faith, financial interest, or occupation, your memorialist, the Eighth Legislature of the State of Arizona, in regular session assembled, respectfully but earnestly prays:

That the Congress of the United States do not pass the bill "to provide for the projection and development of the lower Colorado River Basin," commonly known and referred to as the Swing-Johnson bill (H. R. 9826), nor its companion measure of identical tenor (S. 3331).

In support of this prayer your memorialist represents:

1. That the passage of either of these measures in their present form and scope would constitute an attack upon, and their enforcement a serious and unwarranted infringement of the sovereign power of the arid Western States, as asserted in their water law since time immemorial, and recognized in every important item of Federal water legislation to date, to control the appropriation, use, and distribution of water within their respective borders.

2. That this attempted usurpation by the Federal Government of a political power which these arid States, dependent for their growth and prosperity upon the orderly, systematic control of their water resources, hold to be among their most important attributes of sovereignty, would shake the faith of the people in the fairness and justice of their National Government and their confidence in that Government's impartial and unvarying guardianship of the rights of the several States.

3. That it would necessarily force upon Arizona measures of legal defense which could only end with the final word of the highest courts of the land, and therefore not only would visit great expense upon the people and the government of this State but great and unnecessary delay, with its attendant inestimable economic losses in the inauguration of development of the Colorado River and in the conversion of that stream from a national menace into a national asset.

4. That the construction of the works proposed, as in the manner and under the terms and conditions proposed, would work irreparable injury to Arizona, prejudice its most vital interests, and offer up its growth and welfare as a sacrifice to the ambitions of a sister State.

5. That by authorizing, and under the plan of development proposed, making certain an inequitable division of the waters of the Colorado River, the constitutionality of these measures, or either of them, would become a proper subject of inquiry in the equity branch of the Supreme Court of the United States, which has jurisdiction in all matters of dispute between States, thereby further prolonging a determination of the vital issues involved and putting farther into the future the day when the development of the Colorado may be begun.

6. That the passage of either of these measures would violate and contravene both the letter and the spirit of the act of Congress approved August 19, 1921, "to permit a compact or agreement between the States of Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming, respecting the division and apportionment of the waters of the Colorado River."

7. That although the act of August 19, 1921, provides among other things "that any such compact or agreement shall not be binding or obligatory upon any of the parties thereto unless and until the same shall have been approved by the legislature of each said State and by the Congress of the United States," this solemn assurance would be repudiated, this just safeguard destroyed, by the proposal embodied in the said so-called Swing-Johnson bill and in its companion measure, to make effective and binding, without the approval of the Legislature of the State of Arizona, the compact drafted at Santa Fe, N. Mex., pursuant to the aforesaid act of Congress; and by the nature of the situation which would thus be created the sovereign State of Arizona would either be coerced into acceptance of the provisions of said compact—a course the very suggestion of which is repugnant to the ideals of American justice and fair play—or the validity of the protection which such compact is designed to afford to the States parties to it, would be placed in a very grave doubt and peril.

Your memorialist is not unconscious of the circumstance that the State of Arizona has been subjected to the accusation that its course has tended to retard the reaching of an amicable agreement between the States of the Colorado River Basin; that its policy has been indefinite and uncertain; that it has opposed such measures as have been proposed and offered no concrete, constructive proposals in their stead. To this accusation your memorialist offers neither full confession nor blanket denial, preferring to waive detailed discussion of a subject which could only create dissension within and invite provocative retort without this State, but in a spirit of justice would submit:

1. That Arizona's position has been misrepresented and distorted by news-disseminating agencies without the State whose interest lay in the direction of special legislation rather than that of an equitable agreement between the States of the Lower Colorado River Basin.

2. That this State has thereby become an object of adverse prejudice in the public mind to an extent wholly unjustified by the facts, and a tendency has developed to deny to her claims the fair consideration to which they are entitled.

3. That the arrogant attitude of the State of California, as reflected in its insistence upon and its evident determination to force special legislation for such development of the Colorado River as in the judgment of its spokesmen would best serve that State's interests, without regard or consideration for an equitable treaty between the States, not unnaturally aroused resentment on the part of Arizona's people and engendered a feeling of suspicion and distrust, if not of bitterness, which could not have proven otherwise than injurious to the cause of Arizona cooperation.

4. That whatever internal differences may have obstructed the path of agreement upon a constructive Arizona policy, they have been rendered immeasurably more difficult by the circumstances set forth in the preceding paragraph. Perhaps unwittingly, but none the less truly, the California attitude has lent itself more effectively than any other one thing, to discord and uncertainty in Arizona, over the Colorado River question.

5. Among the other and more important causes which have contributed to Arizona's hesitancy to become a party to an agreement between the States of the Colorado River Basin are: (a) The feeling, amounting to a conviction in the minds of many of Arizona's citizens, and given color by the policy which the State of California has persistently pursued, of a direct connection between the so-called Colorado River compact and the legislative proposal, embodied in the bills which are the subject of this protest, to construct a high dam at Black or Boulder Canyon, without due consideration or proper investigation given to claims advanced in behalf of other programs of Colorado River development, and to the serious and permanent impairment of Arizona's rights and vital interests; (b) disagreement and possible misunderstanding as to the meaning, purposes, and effect of certain provisions of the Colorado River compact, which would seriously affect the extent and availability of Arizona's water supply for the future reclamation of such of her arid lands as may practicably be rendered productive through the application of the waters of the Colorado River; (c) the belief, shared by many, that the facts with respect to Arizona's needs and requirements were not sufficiently known and understood to justify agreement upon the quantity of water to be allocated to the State under the terms of an agreement between the Colorado River States. Your memorialist submits that these questions constitute fundamental issues, which are entitled to fair and deliberate consideration and accurate determination.

In further substantiation of the assurance which here is given, that Arizona has not intentionally been derelict in the performance of the duty which it owes to itself, to the Southwest, and to the Nation, to contribute to a constructive solution of this great problem, your memorialist recites the following historical facts:

1. The Colorado River compact, signed by the representatives of the several States and of the United States, at Santa Fe, N. Mex., on the 24th day of November, 1922, was by the Governor of Arizona laid before the sixth Arizona Legislature at its regular session in January, 1925. It was given the most serious consideration, and was made the subject of earnest debate. Largely for the reasons enumerated in a preceding paragraph efforts to approve it were unsuccessful, and no conclusive action was had.

2. The compact at once became the subject of an intensely interested public discussion. Meetings were called at the instance of the State's chief executive; organizations of private citizens were effected; investigations, both official and private, of Arizona's irrigational possibilities, and of the resources of the Colorado within Arizona, were entered upon.

3. The Arizona engineering commission, composed of a representative of the United States Reclamation Service, a representative of the United States Geological Survey, and a representative of the State of Arizona, completed its labors, which had been authorized by act of the Arizona Legislature, of ascertaining the Arizona area irrigable from

the Colorado River, and reported to the governor in July, 1923. This report indicated the probability of the feasible reclamation from the Colorado River, including the lands already irrigated, of approximately 1,000,000 acres. Preliminary investigations and surveys by engineers representing the Arizona Highline Canal Association, aided to some extent by funds supplied by the State, were made the basis of claims that 3,000,000 or more acres of Arizona's lands could be watered from the Colorado. Thus the question of Arizona's water requirements became a moot and much disputed issue.

4. The possibility, if not the likelihood, that the combined requirements of California and Arizona might exceed the supply of Colorado River water available to the States of the lower basin, and the fear that California, with her superior financial resources and political power, might deplete that supply to the injury of Arizona, formed the basis of a strong demand that as a condition precedent to ratification of the Colorado River compact, a treaty should be effected between the lower basin States of California, Nevada, and Arizona. At the request of private citizens, the Governor of Arizona, on two occasions, suggested a conference between representatives of the three States, but the Governor of California failed to concur in the suggestion. At a later date conversations occurred between representatives of the Governor of Arizona and the Governor of Nevada, but California was not represented. This greatly intensified the demand upon the part of the people of Arizona for a supplemental treaty with California and Nevada.

5. The Governor of Arizona again laid the Colorado River compact before the seventh legislature, upon the convening of its regular session in January, 1925, but with the recommendation that it be not approved unless a satisfactory supplemental treaty could be effected with the States of California and Nevada.

6. This recommendation the Arizona Legislature endeavored to carry out, by the passage of a resolution, known as house concurrent resolution No. 1, which embodied: (a) The text of a proposed treaty providing for the division of the waters allocated by the Colorado River compact to the States of the lower basin, and upon the acceptance of which by the States of California and Nevada the Colorado River compact would be deemed to be approved by the Legislature of Arizona; and (b) the authorization of a legislative committee with authority to confer with like legislative committees of the States of California and Nevada and committees of Congress. The Governor of Arizona vetoed the resolution and did not recognize the legislative committee; but in acknowledgment of requests from California and Nevada for a river conference named a committee to represent Arizona. This difference of opinion as to procedure, between the legislative and executive departments, did not materially alter the course and in all likelihood did not affect the progress of negotiations, since it later developed that the California committee would not accept the treaty provisions embodied in the said house concurrent resolution No. 1. The Arizona committee has held meetings with the California and Nevada committees, beginning in July, 1925, and continuing at intervals up to the present time. No definite conclusions have been arrived at, which in any event would be subject to approval by the legislatures of the several States and by Congress, but the members of the Arizona committee have expressed the belief that progress has been made toward the effecting of an agreement.

That amicable understandings can be arrived at with all of the States at interest, and the ends of progress speedily served, is the confident belief of your memorialist, if all coercive and threatening measures may be laid aside, and negotiations permitted to proceed under the common rules of equity and American fair play. The State of Arizona seeks no undue advantage. It asks merely that protection of its rights and legitimate interests which is the just heritage of every American State, and which has been so fully accorded to the States of the Upper Colorado River Basin by the terms of the Colorado River compact. That the Congress of the United States and the people of the United States, through their Representatives in the National law-making body, may be authentically advised with respect to Arizona's claims and aspirations, your memorialist respectfully represents:

1. That the development of the Colorado River should be predicated upon a comprehensive plan by means of which the river's destructive floods may be curbed, and which ultimately will insure the utilization of all the river's flow for irrigation or domestic uses and every foot of the river's fall for the creation of hydroelectric power.

2. That the formulation of such a plan should be the work of eminent and impartial engineers, so chosen as to be representative of every interested section and to insure just consideration of the rights of each interested State.

3. That such a plan should contemplate and guarantee the use of all of the stored waters of the Colorado River on United States soil or for the use and benefit of American cities and towns, and if any rights to waters of the Colorado River shall hereafter be accorded to the Republic of Mexico, by treaty or otherwise, such rights should relate only to the unregulated normal flow of the main stream, and in amount not in excess of that which has been applied to beneficial use in that country.

4. That the right of the Colorado River States, as of all of the so-called "appropriation" States of the arid West, as enunciated in their water laws and recognized in the Federal reclamation act and the Federal water power act, to control the appropriation, use, and distribution of the waters within their respective borders, should not be impaired nor modified except with the consent and approval of such States.

5. That in whatever agreement may be reached respecting a division of the waters of the Colorado River, or of that portion of such waters available to the States of the lower basin, Arizona should be assured such amount as may be necessary to reclaim her arid lands which may be ascertained and determined, by competent investigation, to be susceptible of practical reclamation from the Colorado River.

6. That the States of the lower basin should have the right, respectively, to consume for beneficial purposes, such of the water in the tributary streams flowing in their several States as can be put to use prior to the water entering the main channel of the Colorado River.

7. That Arizona is entitled to the reasonable benefits that may be derived from such physical advantages as nature has bestowed upon her. The fall of the Colorado River within Arizona's boundaries, susceptible of utilization for the creation of vast stores of hydroelectric power, is a natural resource as truly as stores of oil or deposits of coal, to be employed for a similar purpose, would be, and the right of Arizona to derive a revenue from this resource—more particularly in view of the vast areas of reserved and therefore untaxed and untaxable Federal lands, within the State, constituting approximately one-half of its entire area—should be recognized.

These are principles concerning which the people of Arizona are practically a unit. With faith in their soundness and equitableness, and confidence that they will be recognized, your memorialist declares that the State of Arizona is earnestly desirous of an amicable understanding with the States of the Colorado River Basin and with the States of California and Nevada in the lower basin, which, in the words of the Colorado River compact, will "promote interstate comity; remove causes of present and future controversies, and secure the expeditious agricultural and industrial development of the Colorado River Basin, the storage of its waters, and the protection of life and property from floods." The State of Arizona recognizes and urges the great necessity for flood and silt control, and would place no impediment in the way of an enterprise so vital to humanity. It seeks simply justice and to that end earnestly requests that the Congress of the United States do not, by the enactment of a measure violative of its sacred rights, force upon it the alternative of an appeal to the courts.

And your memorialist will ever pray.

REPORTS OF COMMITTEES

Mr. MAYFIELD, from the Committee on Claims, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

A bill (H. R. 2229) for the relief of John Ferrell (Rept. No. 1261); and

A bill (H. R. 5264) for the relief of Ann Margaret Mann (Rept. No. 1262).

Mr. BAYARD, from the Committee on Claims, to which was referred the bill (S. 109) for the relief of the owner of Dry Dock No. 6, reported it without amendment and submitted a report (No. 1263) thereon.

He also, from the same committee, to which was referred the bill (S. 2899) for the relief of the owner of the American steamship *Almirante* and owners of cargo laden aboard thereof at the time of her collision with the United States steamship *Hisko*, reported it without an amendment and submitted a report (No. 1264) thereon.

Mr. TRAMMELL, from the Committee on Claims, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

A bill (H. R. 7849) for the relief of Ella Miller (Rept. No. 1266); and

A bill (H. R. 11586) for the relief of Fannie B. Armstrong (Rept. No. 1267).

He also, from the same committee, to which was referred the bill (S. 1743) for the relief of Albert Wood, reported it with an amendment and submitted a report (No. 1265) thereon.

Mr. RANSDELL, from the Committee on Agriculture and Forestry, to which was referred the bill (S. 4974) to amend and reenact an act entitled "United States cotton futures act," approved August 11, 1916, as amended, reported it without amendment and submitted a report (No. 1268) thereon.

ENROLLED BILLS PRESENTED

Mr. GREENE, from the Committee on Enrolled Bills, reported that on January 19, 1927, that committee presented to the President of the United States the following enrolled bills:

S. 1730. An act to authorize the payment of indemnity to the Government of Great Britain on account of losses sustained by the owners of the British steamship *Mavisbrook* as a result of collision between it and the United States transport *Carolinian;*

S. 3444. An act to amend the act of February 11, 1925, entitled "An act to provide fees to be charged by clerks of the district courts of the United States";

S. 3992. An act to provide for the purchase of land for use in connection with Camp Marfa, Tex.;

S. 4252. An act setting aside certain land in Douglas County, Oreg., as a summer camp for Boy Scouts;

S. 4533. An act extending to lands released from withdrawal under the Carey Act the right of the State of Montana to secure indemnity for losses to its school grant in the Fort Belknap Reservation; and

S. 5231. An act authorizing the sale of land at margin of the Rock Creek and Potomac Parkway for construction of a church and provisions for proper ingress and egress to said church building.

BILLS INTRODUCED

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

By Mr. CAPPER:

A bill (S. 5349) to amend section 7 (a) of the act of March 3, 1925, known as the "District of Columbia traffic act, 1925," as amended by section 2 of the act of July 3, 1926; to the Committee on the District of Columbia.

By Mr. JONES of Washington:

A bill (S. 5350) granting an increase of pension to Frank E. Wilson (with accompanying papers); to the Committee on Pensions.

LOAN TO FARMERS IN THE CROP-FAILURE AREA

Mr. TRAMMELL submitted an amendment intended to be proposed by him to the bill (S. 5082) authorizing an appropriation of $6,000,000 as a loan to farmers in the crop-failure area of the United States for the purchase of feed and seed grain, said amount to be loaned under the rules and regulations prescribed by the Secretary of Agriculture, which was ordered to lie on the table and to be printed.

CLAIMS AGAINST GERMANY AND THE UNITED STATES

Mr. McLEAN submitted an amendment intended to be proposed by him to the bill (H. R. 15009) to provide for the settlement of certain claims of American nationals against Germany and of German nationals against the United States, for the ultimate return of all property of German nationals held by the Alien Property Custodian, and for the equitable apportionment among all claimants of certain available funds, which was referred to the Committee on Finance and ordered to be printed.

HOUSE BILL REFERRED

The bill (H. R. 15653) to furnish public quarters, fuel, and light to certain civilian instructors in the United States Military Academy, was read twice by its title and referred to the Committee on Military Affairs.

RECESS

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

The motion was agreed to; and (at 4 o'clock and 32 minutes p. m.) the Senate took a recess until to-morrow, Thursday, January 20, 1927, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES

WEDNESDAY, *January 19, 1927*

The House met at 12 o'clock noon.

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

O God, give us a sweet and unmurmuring faith in all Thy providences. Eternal are Thy mercies, Lord, and He who watcheth over us neither slumbers nor sleeps. As we wait at the threshold of duty, give us a high and solemn sense of our obligations. Only through righteous and conscientious service can our Republic be a blessing to all men. In the recesses of our beings may there be the sense of obedience to divine authority. Prosper our country through the diligence and fidelity of all our fellow citizens. Bless all influences that are promoting greater unity, cooperation, and brotherhood. May Thy kingdom of Christian fraternity and good will reach to the ends of the earth. Amen.

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

BRANCH BANKING

Mr. STRONG of Kansas. Mr. Speaker, on request of Chairman McFADDEN I desire to present a conference report on the McFadden banking bill and ask that it be printed under the rules.

The SPEAKER. The Clerk will report the bill by title.

The Clerk read as follows:

An act (H. R. 2) to amend an act entitled "An act to provide for the consolidation of national banking associations," approved November 7, 1918; to amend section 5136 as amended, section 5137, section 5138 as amended, section 5142, section 5150, section 5155, section 5190, section 5200 as amended, section 5202 as amended, section 5208 as amended, section 5211 as amended, of the Revised Statutes of the United States; and to amend section 9, section 13, section 22, and section 24 of the Federal reserve act, and for other purposes.

The SPEAKER. Ordered printed.

The conference report and statement are as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill H. R. 2, entitled "An act to amend an act entitled 'An act to provide for the consolidation of national banking associations,' approved November 7, 1918; to amend section 5136 as amended, section 5137, section 5138 as amended, section 5142, section 5150, section 5155, section 5190, section 5200 as amended, section 5202 as amended, section 5208 as amended, section 5211 as amended, of the Revised Statutes of the United States; and to amend section 9, section 13, section 22, and section 24 of the Federal reserve act, and for other purposes," having met, after conference have been unable to agree.

LOUIS T. McFADDEN,
JAMES G. STRONG,
Managers on the part of the House.

GEORGE WHARTON PEPPER,
WALTER E. EDGE,
CARTER GLASS,
Managers on the part of the Senate.

STATEMENT

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill H. R. 2, entitled "An act to amend an act entitled 'An act to provide for the consolidation of national banking associations,' approved November 7, 1918; to amend section 5136 as amended, section 5137, section 5138 as amended, section 5142, section 5150, section 5155, section 5190, section 5200 as amended, section 5202 as amended, section 5208 as amended, section 5211 as amended, of the Revised Statutes of the United States; and to amend section 9, section 13, section 22, and section 24 of the Federal reserve act, and for other purposes," submit the following statement:

That the managers have been unable to agree.

LOUIS T. McFADDEN,
JAMES G. STRONG,
Managers on the part of the House.

FIRST DEFICIENCY APPROPRIATION BILL

Mr. WOOD. Mr. Speaker, I wish to present a privileged report from the Committee on Appropriations for the first deficiency appropriation bill.

The SPEAKER. The Clerk will report the bill by title.

The Clerk read as follows:

A bill (H. R. 16462) making appropriations to supply urgent deficiencies in certain appropriations for the fiscal year ending June 30, 1927, and prior fiscal years, and to provide urgent supplemental appropriations for the fiscal year ending June 30, 1927, and for other purposes.

Mr. BYRNS. Mr. Speaker, I reserve all points of order.

The SPEAKER. Referred to the Committee of the Whole House on the state of the Union and ordered to be printed.

MATERNITY

Mr. PARKER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill H. R. 7555, which was amended in the Senate.

The SPEAKER. The gentleman from New York asks unanimous consent to take from the Speaker's table the bill which the Clerk will report by title.

The Clerk read as follows:

A bill (H. R. 7555) to authorize for the fiscal years ending June 30, 1928, and June 30, 1929, appropriations for carrying out the provisions of the act entitled "An act for the promotion of the welfare and hygiene of maternity and infancy, and for other purposes," approved November 23, 1921.

The SPEAKER. Is there objection?

Mr. GARRETT of Tennessee. Mr. Speaker, reserving the right to object, I ask that the Senate amendment be reported.

The SPEAKER. Without objection, the Senate amendment will be reported.

The Senate amendment was read.

Mr. GARRETT of Tennessee. Will the gentleman permit a question?

Mr. PARKER. Certainly.

Mr. GARRETT of Tennessee. Does the gentleman from New York construe the language of the Senate amendment to be a virtual repealer act?

Mr. PARKER. In answer to the gentleman I will say I do, judging from the discussion which took place in the Senate regarding this amendment, and I am going to move to concur in the Senate amendment.

Mr. GARRETT of Tennessee. Under that construction I shall not object.

Mr. PARKER. Mr. Speaker, I move to concur in the Senate amendment.

The question was taken, and the amendment was agreed to.

The SPEAKER. Without objection, the amendment to the title will be agreed to.

There was no objection.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Craven, its principal clerk, announced that the Senate had passed, with amendments, the following bill: H. R. 15959, entitled "An act making appropriations for the Executive Office and sundry independent executive bureaus, boards, commissions, and offices for the fiscal year ending June 30, 1928, and for other purposes," in which the concurrence of the House is requested.

INDEPENDENT OFFICES APPROPRIATION BILL

Mr. WOOD. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the independent offices appropriation bill, to disagree to all Senate amendments and agree to the conference asked for and that conferees be appointed.

The SPEAKER. The gentleman from Indiana asks unanimous consent to take from the Speaker's table the bill, which the Clerk will report by title.

The Clerk read as follows:

A bill (H. R. 15959) entitled "An act making appropriations for the Executive Office and sundry independent executive bureaus, boards, commissions, and offices for the fiscal year ending June 30, 1928, and for other purposes."

The SPEAKER. The gentleman moves to disagree to all Senate amendments and ask for a conference. Is there objection?

Mr. BYRNS. Mr. Speaker, reserving the right to object. I understand the Senate committee adopted an amendment increasing the salary of the Chief of the Bureau of Efficiency to $10,000. Is that true?

Mr. WOOD. I do not know.

Mr. BYRNS. That is my information. I want to say this to the gentleman and also to the House under this reservation, that we increased the salaries of the civil service commissioners in the bill which passed recently—in fact, in the gentleman's bill—to $7,500 on the theory that the Chief of the Bureau of Efficiency was getting $7,500, and that they were entitled to at least an equal amount, and I think it was very proper they should get it. I have no objection whatever to that salary, but now it is proposed in the Senate that the Chief of the Bureau of Efficiency shall get $10,000, and I seriously question the propriety of raising the salary of the chief of the bureau to that amount when the civil service commissioners and many salaried employees of this Government, who do just as important work, only get $7,500.

It simply means this, that when you promote this official to $10,000 and take him out from under the provisions of the reclassification law you are going to have next year a demand that others be given that salary. I want to suggest to the gentleman from Indiana that before he agrees to any amendment of that kind he should bring the bill back to the House and permit the House to express its views on the matter.

Mr. BLANTON. The gentleman no doubt has noticed in the press that there is to be a new policy established, to increase the salaries of all the bureau chiefs just before next year's election.

Mr. BYRNS. I read a notice in the papers of some proposed increases. I do not know when it is going to be done. But I think the Members of the House should have an opportunity to express themselves as to these unusual increases that are proposed to be made.

Mr. WOOD. I will say to the gentleman that if the Senate does not recede, I will bring it back to the House.

The SPEAKER. Is there objection?

There was no objection; and the Speaker announced as the conferees on the part of the House Mr. WOOD, Mr. WASON, and Mr. SANDLIN.

The SPEAKER. Pursuant to the order of the House, the Chair recognizes the gentleman from Texas [Mr. RAYBURN].

THE INTERSTATE COMMERCE COMMISSION

Mr. RAYBURN. Mr. Speaker and gentlemen of the House, I do not think those who have served with me here during the years I have been a Member of Congress believe that I ever indulge in criticism of those in authority, high or low, for criticism's sake alone. I only criticize and challenge the judgment of men when I believe that actions are being taken that are detrimental to the welfare of the country and the administration of laws that are upon the statute books. I am one of those who are very jealous of the good name of every commission under the Government. I was a member of the committee that considered the Federal Trade Commission act, and I was a member of the subcommittee that drew the act. I have been very much interested in its administration from that time until now.

I was also interested in the Tariff Commission, as other Members were. Being a member of the Committee on Interstate and Foreign Commerce of the House of Representatives for many years, I am vitally interested in the administration of that law, and being vitally interested in the administration of that law, which touches every part of our country, I am, of course, very deeply interested in the men who compose that commission. On account of an appointment made to the Interstate Commerce Commission recently, I have asked the privilege of your indulgence for 15 minutes in order that I might express my opinion with reference to it.

I take the position that Mr. Cyrus E. Woods, of Pennsylvania, recently appointed to the Interstate Commerce Commission, is not only disqualified under the law to sit as a member of that commission or be appointed as a member of that commission, but that he is incompetent and disqualified in fact. Allow me to read just a few lines from the law with reference to the appointment of Interstate Commerce Commissioners. After going on to state that the commission shall be composed of 11 members, the qualifications to some extent are set out, and they are in part:

No person in the employ of or holding any official relation to any common carrier subject to the provisions of this act, or owning stocks or bonds, or who is in any manner pecuniarily interested therein, shall enter upon the duties or hold such office.

Last night I read every word of the hearings before the Senate subcommittee considering the nomination of Mr. Woods, and I find this in the hearings: When asked if he owned any stock in railroad companies, he made this reply:

I do not have very much stock in any railroads. I have some bonds in railroads.

And then he goes on to answer questions, and states that he owns $50,000 worth of the bonds of the Pennsylvania Railroad and $25,000 of its stock; he owns $25,000 worth of the bonds of the Atchison, Topeka & Santa Fe; he owns $25,000 worth of the bonds of the Norfolk & Western; he owns $25,000 worth of the bonds of the Union Pacific; he owns also $25,000 worth of the bonds of the Northern Pacific Railroad. And note this significant fact in Mr. Woods's answers. Talking about the reason why he invested in railroad stocks and bonds, he says:

I have naturally invested and placed my investments in those places that I knew most about from my past railroad experience. I was able to analyze the reports of these various companies and see where was the best place to put my money, and then that was the reason that it went there.

The interstate commerce act goes on further, and makes this provision, so jealous were the men who framed the act under the leadership of John H. Reagan, of Texas, 40 years ago:

Said commissioners shall not engage in any other business, vocation, or employment—

And so forth. About a year ago I stood on this floor and challenged the appointment of another member of the Interstate Commerce Commission, for the reason that I believed that his appointment was doubly a violation of the law. In the first place, it was a Democratic appointment, or an appointment on this bipartisan commission of a man who was not a Republican. A man who was not a Democrat was appointed; also a man who owned at that time tremendous amounts of

securities of railroad companies all over the land. His appointment was made, and it was confirmed by the Senate.

This present appointment is in flagrant violation of the law; a violation of a law that nobody anywhere at any time can misunderstand has been made. It is up now for confirmation in the Senate, and if there are enough vacancies on other commissions or enough prospective vacancies in other fat governmental jobs to allow the same trading and trafficking that was done with reference to the confirmation of Mr. Woodlock a year ago, and an agreement to appoint anybody that certain interests in Pennsylvania recommended for the next vacancy upon that commission, then of course this man will be confirmed in a place on the Interstate Commerce Commission.

There was a time in this country when nobody in the Government of the United States, save the Supreme Court, held the faith and confidence of the American people like the Interstate Commerce Commission. It deserved it, because it had upon it men, broad minded and broad shouldered and big hearted, who did not owe their appointments to any interest anywhere. This man owes his appointment to the controversy that is raging in the Interstate Commerce Commission at this hour between the coal interests of Pennsylvania and the coal interests of West Virginia, Virginia, Kentucky, and Tennessee. That controversy has been going on for 20 years. Of course, this gentleman says before the committee that if he is appointed he will take no part in the rehearing of this case before the commission, but he does not make any statement with reference to what he will do if the question should be raised again in 12 months if Pennsylvania does not get the decision out of the Interstate Commerce Commission it has been trying to get for 20 years.

I fear that this thing of the Interstate Commerce Commission falling from the high state it once occupied in the estimation and confidence of the American people will be completed, and it will take its place alongside the Tariff Commission and the Federal Trade Commission with a few more appointments like this. Nobody in the Government has any confidence in or any respect for the actions or doings of the Tariff Commission or of the Federal Trade Commission now, simply because it has been destroyed by the appointive power of this Government.

I say that this man is not only disqualified under the law, but he is disqualified in fact, and why do I say that? He was put through a long grilling before the committee. There was not a question asked him that even touched the surface of any controversy that had ever pended before the Interstate Commerce Commission or any paragraph in the law covering that whole book about which he had or was willing to express an opinion nor about which he had any knowledge. His answers were, "I do not know; I will approach the question when it comes up with an open mind." A man who is ignorant of a question can not approach it in any other way except with a vacant and open mind. They asked this man what his ideas were with reference to the consolidation of railroads, one of the most important and tremendous questions before the people of the country to-day and now being considered in the Committee on Interstate and Foreign Commerce of the House. He knew nothing about it. They asked him about another question in which our American people are interested and about which there has been a controversy for many years, and that is the question of the long and short haul, in which the intermountain people of the West are vitally interested and on which they think their economic life depends. When that matter was put before him he had no opinion upon it whatever.

On top of that, going to this man's qualifications, I believe everybody knows the Pennsylvania mind. This man has it. Everybody in the land knows the scandals that have grown out of the recent campaign in Pennsylvania for the Republican nomination for United States Senator. Thousands of dollars were spent, and corruptly spent, to purchase the nomination for a seat in the United States Senate. What was the position of this man Woods in that campaign? The warring factions of PEPPER and Fisher, looking toward the same goal, were at each other's throat. I suppose they were suspicious that each would steal the money of the other, as they had joined their forces in the campaign. When every other source had failed and when every other remedy had been tried to bring about peace in these holy sanctuaries of PEPPER and Fisher, then they looked about for an umpire to take charge of the whole thing—one who could bring these warring factions together and, as it were, pour oil on the troubled waters. They went out and got this great servant of the people, Cyrus E. Woods, and made him the official umpire; they submitted all controverted questions that arose between the PEPPER and Fisher people to him and he decided them.

A man may go upon a commission of the Government, and a man may be appointed as a judge of a court of major or minor jurisdiction and develop later something in his acts or in his character that causes the people not to have faith or confidence in his actions. But that will not destroy the courts, and that must not reflect upon the appointing power. However, when the appointing power, responsible as he is, and when the Senate of the United States, responsible as it is, place upon these commissions men who in the beginning of their service have committed acts which cause the American people to have no faith whatever in their fitness, then there is just cause for criticism.

The SPEAKER. The time of the gentleman from Texas has expired.

Mr. GARRETT of Tennessee. Mr. Speaker, I ask unanimous consent that the gentleman from Texas may proceed for three additional minutes.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. RAYBURN. But when a man is appointed to a high and responsible position like membership upon the Interstate Commerce Commission, the decisions of which touch every avenue of business, and the American people look upon him with suspicion, that commission and its opportunity to serve the people is destroyed. That is what has happened in this case. This man says he intends to divest himself of his railroad holdings. Of course, he does, because he could not take the oath of office unless he did. If this man, holding these stocks and bonds of railroad corporations and the stocks and bonds of these tremendous coal corporations, whose matters are before the Interstate Commerce Commission, can be appointed as a member of the Interstate Commerce Commission and technically comply with the law by divesting himself of these ownerships before he takes the oath of office, then the president of any railroad in this land and the chairman of any board of directors of any railroad in this land, or anybody whomsoever from anywhere, it matters not what the provisions in the law may be, can legally be appointed upon any commission or to any court in this land.

I thought this was a matter which was important enough to be called to the attention of the membership of this House and probably to some other people who read the RECORD. Therefore, Mr. Speaker, I asked the indulgence of the House that I might make these few observations as one jealous of the reputation of every administrative commission in the Government and jealous also of every man, high and low, from whatever region and whatever party he may come, keeping the law the same as the humblest citizen in all the land.

I thank you. [Applause.]

THE MATERNITY BILL

Mr. TUCKER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the motion of the gentleman from New York [Mr. PARKER], made this morning, to concur in the Senate amendments to the maternity bill, which amendments repeal that law.

The SPEAKER. The gentleman from Virginia asks unanimous consent to extend his remarks in the RECORD on the subject of the amendments to the maternity bill. Is there objection?

There was no objection.

Mr. TUCKER. Mr. Speaker, I should be lacking in patriotism and loyalty to the Constitution of my country should I in any way attempt to impede or delay the motion of the gentleman from New York [Mr. PARKER] that the House concur in the Senate amendment to the maternity bill (H. R. 7555), for that amendment repeals the law which I have been fighting for years to get repealed.

The original maternity law was limited to a period of five years, and the bill which the Senate amended was a bill passed by the House last spring extending the law for two years more, and the amendment of the Senate in which we are asked to concur simply repeals the law on the 30th of June, 1929. It reads:

> That said act entitled "An act for the promotion of the welfare and hygiene of maternity and infancy, and for other purposes," approved November 23, 1921, shall, after June 30, 1929, be of no force and effect.

The extension of the bill for two years was asked for by the friends of the measure in order that the States that have been accepting this fund should have time to adjust themselves to the repeal of the law. The appropriations for two years, therefore, are of little importance in comparison with the great end attained in wiping from the statute books of the country

a law unconstitutional from the beginning, and which in its administration was teaching the baneful lesson of dependence upon the Federal Government for those things which alone the States, the counties, the municipalities, and local organizations should provide. Judge Marshall, in speaking of the powers reserved to the States, says they represent—

that immense mass of legislation which embraces everything within the territory of a State not surrendered to the General Government, all which can be most advantageously exercised by the States themselves. Inspection laws, quarantine laws, health laws of every description, as well as laws for regulating the internal commerce of a State.

Is not this law one affecting health? If so, where did the Federal Government ever get the power claimed under the law?

With the abolition of this law I confidently look forward to the ample fulfillment of their duty by the States and for an increase of those private hospitals that have for the last 25 years been springing up in nearly every community of the country for the amelioration of suffering women and children. In my own State, 25 years ago, between Winchester and Bristol, a distance of 300 or 400 miles, I recall but one hospital, and to-day there is not a county in that long stretch of territory whose people are not provided with hospital facilities. I rejoice that this law, humane in its intent but unjustified under the Constitution of the country, is at last repealed, and that the act of Congress repealing the same happened to be on the 19th of January, the birthday of Gen. Robert E. Lee, the great Confederate hero who fought the battles of the South for the great doctrine of local self-government and the rights of the States; for it brings out in striking form the announcement of President Coolidge in his Williamsburg speech, May 15, 1926, wherein he said:

No method of procedure has ever been devised by which liberty could be divorced from local self-government.

The preservation of liberty was one of the objects of the adoption of the Constitution. The preamble itself sets this forth; and the President says liberty can not be preserved without the maintenance of the doctrine of local self-government, for which the South fought, a great principle. But the North, as was claimed, fought for a principle no less great—the preservation of the Union. By the result of the war the Union was preserved and the North was proclaimed the victor; and now the President of the United States, in sympathy with his section of the country that fought for the maintenance of the Union, has the magnanimity to declare that that Union which was preserved by the results of the war and the liberty which it secures to the people can not be preserved *if the doctrine of local self-government, for which the Confederates fought, is not maintained.*

I also have an additional pleasure in the results of this bill—believing that the President, in signing it, will rejoice in an opportunity of carrying out the principles which he has enunciated—of upholding the rights and powers of the States against the aggressions of the Federal Government.

REJUVENATION OF THE BODILY AND SEXUAL POWERS OF MEN AND WOMEN

Mr. KINDRED. Mr. Speaker, in view of the announcement in the morning papers of the views of the celebrated Doctor Mayo on the important subject of the sexual rejuvenation of the aged of both sexes, I ask unanimous consent to extend my remarks in the RECORD upon the physical and sexual rejuvenation of the middle aged as well as the aged, both men and women.

The SPEAKER. The gentleman from New York asks unanimous consent to extend his remarks in the RECORD on the subject indicated. Is there objection?

Mr. KINDRED. With the expression of a ray of hope and a note of warning. [Laughter.]

Mr. BLANTON. Mr. Speaker, is this more of that monkey business? [Laughter.]

Mr. KINDRED. Only in the sense of the possible transplantation, in certain cases, of monkey glands.

There was no objection.

Mr. KINDRED. Because of the widespread misunderstanding and misinformation concerning rejuvenation I have been requested, as a regular physician, to contribute something to this interesting subject that might tend to give a clearer idea of it, both to the busy medical man and to the intelligent layman. It is not easy to satisfy the scientific, technical reader and at the same time to make perfectly clear and acceptable to the intelligent public the medical and surgical phraseology necessarily employed in presenting it. Unfortunately the term "rejuvenation" has become associated in the public mind almost exclusively with "monkey glands," or the transplantation of glands of the lower animals into the human body solely or chiefly for the purpose of artificially and unnaturally stimulating jaded sexual powers of worn-out persons of both sexes. The terms "regeneration," "reaclevation," "revivication" have been suggested as more appropriate than rejuvenation, because they may imply a broader application of the idea under discussion than the term "rejuvenation" as just defined.

I shall discuss "rejuvenation" as including any medical or surgical means to build up and restore the normal health and youth of an individual, including, as an incidental matter, the restoration and reestablishment of lost sexual powers.

I wish to emphasize that medical and surgical means other than the transplanting of monkey glands are constantly employed by physicians to arrest old age and restore bodily and sexual health and rejuvenate the individual. Among the agents that have been employed with more or less success are the medicinal extracts of the testicles, the ovaries, the thyroid gland, the pituitary gland, the pineal gland, and the suprarenal glands (known as organotherapy), electrical treatment (electrotherapy), radium, radiothor and applications of radium (radio therapy), and general hygienic and tonic treatment.

During recent years much research work has established the fact that the functions and disorders of the ductless glands are of vital importance to the health of the body and its functions and that the restoration of glandular functions may delay and even arrest bodily states that result in senile conditions or old age. Some of these bodily conditions that develop in some persons at a much earlier age than in others and accompany or constitute senility or old age are caused by changes in the structures and functions of the ductless glands to be referred to later; others are changes in the heart and arteries (arteriosclerosis); changes and atrophy in the brain and spinal cells; diminishing or loss of sexual powers, and so forth.

The age-long question in the minds of both physicians and others has been how to put off or arrest these changes and restore the individual's youth and normal bodily health.

The restoration of the sexual powers and functions might or might not follow the arresting of the symptoms of old age and the restoration of the normal health, but in many cases (perhaps in a small percentage) when the sexual function has been lost or markedly impaired the sexual power is restored as an incident to the restoration of the general bodily health.

Just as the idea of evolution in its roots reaches as far back as the Greek classical ages, the idea of rejuvenation—or the dream of rejuvenation—and restored bodily and sexual health is as old as mankind itself.

Even the beliefs revolving around the idea of resurrection, the transmigration of souls, and eternal life are in a way fundamentally manifestations of the one unquenchable desire to regain lost youth.

During all ages there have been claims, sincere and otherwise, to make this dream come true. In old China, the Taoisses gave for this purpose a secret potion called Kin-Tan, which was said to endow the drinkers with eternal life. In Europe, Saint Germaine in history offered the "elixir of life" and Ponce de Leon searched in Florida for the fountain of youth, and numberless quacks and charlatans and dreamers, through all time until the present moment, have claimed drugs or ways of restoring youth and sexual power.

Claude Bernard and Brown-Sequard, the latter a distinguished Paris physician (who was born in Richmond, Va.), were the first to lay a scientific foundation for the theory and practice of rejuvenation, but they did not consummate the work because they could not in a single lifetime prove their theories by the acid tests of laboratory proofs and practical experience. And so the idea of rejuvenation is not new. In the United States Lydston claimed priority in this work over Voronoff, of Paris, and Steinach, of Vienna, who are the outstanding research workers in rejuvenation, although the operations made famous by Steinach were introduced to biology by Bouin and Ancel, Shattock, Seligmann, Regaud, Palicard, and others.

There has been but little authoritative discussion of this subject even in medical journals, and discussion of it in newspapers and popular publications has been sensational and misleading.

Rejuvenation may be said to have developed into an important branch of medical science in Europe in recent years, particularly through the work of Voronoff, of Paris, Steinach and Kammerer, of Vienna, and Norman Haire, of England, and it has received more popular attention in America than in Great Britain.

In England and the United States rejuvenation is connected, even in the minds of educated people, only with the idea of sexual rejuvenation with "monkey glands" and possibly with

the thyroid gland, or other ductless glands, of whose important functions in the human body much of late years has been written both in medical and popular publications. As bearing on the vital importance of the ductless glands—the thyroid, the suprarenal, the pituitary, and the pineal on the body and their functions—I quote from a scientific article by Prof. Julius S. Huxley, appearing in the Century Magazine for February, 1922, in part, in this connection, as follows:

From studies on the lower animals we get two fundamental ideas: First, that old age depends on an internal state and not necessarily on lapse of time; second, that an organism can be thought of as a system in which, as in society, one part is dominant over the rest.

The thyroid is as the draft to the fire; more thyroid secretion, you burn up quicker; less, and you are sluggish in mind and body alike. The pituitary, in part, regulates growth, especially the growth of bones. Oversecretion of pituitary in childhood produces the lanky giants one sees at circuses. The pineal, the strange gland on the top of the brain, once supposed to be the seat of the soul, now shown to be derived from an original third eye, possibly determines the time at which sexual maturity begins. The secretion of the interstitial cells in the generative organs brings about the growth of most secondary sexual characters, such as deep voice and beard in men, and arouses the sexual instincts from their slumbering potentiality in the brain.

The higher animals, too, on the whole, are bigger and live a longer time than the lower; and instead of growing continuously, they reach a condition, the adult state, in which they continue for most of their life without notable changes of size or form. The adult state is a state of balance, in which the man or animal spins on its way like a sleeping top; but the balance is not a comparatively simple affair of mechanics, but a chemical balance, in which is involved the effect of a great many secretions of various tissues on the rest of the body and on one another. The analogy of the spinning top, however, helps in one respect. The top has a gyroscopic action, and efforts to tamper with it meet with resistance. So too, in the mammalian body every effort to tamper with the self-regulating machinery meets with resistance. Attempt to raise the body temperature, and the sweat glands bring it down; attempt to alter the chemical constitution of the blood, and the kidneys prevent it.

After puberty in the normal male, the testicular glands become active, producing both sperm cells and internal secretion, and sexual desire assumes an active form, continuing normally for some thirty or forty years and then declines. Steinach and his followers believe that with this sexual decline are connected the beginnings of the symptoms of old age which may and most often do, in most men, come on gradually and almost unnoticed for a shorter or longer period, after they first appear. In cases of castration of the male and in congenital deficiency of the internal secretory activity of the testicles, a condition of eunuchoidism (eunuch) occurs as a result.

STEINACH'S EXPERIMENTS

Steinach's investigations into the sexual characters of animals began in 1894 and have been carried on since. He commenced his work on the internal secretion of the gonads—the male and female sexual glands—in 1906 and began to publish his results in scientific journals in 1910, when his papers entitled: "Sexual impulse and genuine secondary sexual characters as results of the internal secretory function of the gonads" and "Experiments in early castration" appeared. Two years later these were followed by "Deliberate transformation of male mammals into animals with marked feminine sex characters and feminine psyche," and again in 1913 he published another communication entitled "Feminization of males and masculinization of females." In 1916 appeared his report on "Puberty glands and the production of hermaphrodites" and also a joint contribution (together with Holzknecht), and in 1920 appeared Steinach's "Artificial and natural hermaphrodite glands" and "Historical structure of the gonads in homosexual men," as well as his epoch-making book, "Rejuvenation by experimental revival of the aging puberty gland."

He claims to have shown conclusively that the phenomena of puberty and of sexual development, both physical and psychical, are governed by internal secretory elements of the sex glands.

From these experiments Steinach came to believe that the vigor of the individual depends on the sex or puberty glands and asked himself:

Is it possible by revivification of the aging puberty gland, to reproduce the attributes of youth in the individual; i. e., is rejuvenation possible?

He experimented for years on animals and finally answered this question affirmatively.

In rats, on which all Steinach's early results were based, it was impossible to adduce much evidence of psychic changes, but the physical improvement resulting from his experiments was very obvious and the sexual rejuvenation striking.

Many people suffer from sex repression or its opposite, and are therefore unduly interested in any sexual topic, so that an exaggerated importance was lent to this sexual aspect of his experiments by ascetics no less than by libertines. To both came a vision of a new path opened to wild excesses of unbridled lust.

In point of fact the sexual rejuvenation is, in human beings, by no means the most important or most striking result of any of these operations or efforts at rejuvenation operations. There are many cases in which the resulting improvement was manifested equally in the mental, physical, and sexual health; others in which marked improvement in mental and physical health was accompanied by little or no sexual regeneration, but no single case where the sexual function was benefited without an accompanying improvement in the general health.

Nor must it be thought that every patient who undergoes the treatment does so with a view to obtaining a revival of sexual desire or potency. On the contrary, many aging men are glad to be rid of what has been at times a disturbing element in their life, glad to have reached the age at which they are no longer troubled by the lusts of the flesh and yet are loath to lose their physical and mental efficiency. I have personal knowledge of some such cases.

Steinach has never claimed that the treatment is a cure for all the ills that flesh is heir to, or that it will restore an irreparably damaged organ to its original condition. He does claim that it removes, even in a large number of cases, some of the ravages of age or postpones the oncoming of senility.

It is frequently asked whether the rejuvenation operations actually prolong human life or not. It is impossible to answer this with a simple yes or no, because it is impossible to know what age any individual would have lived to without operation. But it is certain that a rat operated on by Steinach did live to the age of 37 months while three of his brothers and sisters, without an operation, died at the usual age of about 28 months. This is an increase of over 25 per cent on the average length of life and seems pretty conclusive, as to rats at least. Whether a similar prolongation of life will occur in the human subject it is still too early to decide. There is a great deal of evidence available from investigators in different countries of the world that the operation is usually followed by a considerable improvement in the patient's general health.

It is usually only necessary for the operation to be performed on one side of the body, so that if the effect begins to wear off after some years it can be repeated on the other side. Steinach believes that the effect may be expected to last in human beings for a period of from 3 to 10 years. Still later a sex gland may also be transplanted, and, indeed, theoretically this might be repeated indefinitely at necessary intervals until the patient at last succumbed to some disease or accident. But on this point we can not speak with any certainty. The whole subject is so recent that some years must elapse before we can arrive at final judgment.

If the Steinach operation is on both sides (bilateral), the graft causes the loss of reproductive function, but the interstitial cells continue vigorous and active. The internal secretion, accelerated by the operation, is poured out into the blood of the host, exerting its influence on his physical, mental, and sexual vigor, and at the same time stimulating his own testicles to renewed activity of both its spermatogenetic and internal secretory functions.

It was further found that if the sperm duct was cut and tied so that the sperm cells could no longer escape from the testicle the seminiferous tubules soon showed degeneration and loss of activity, which lasted for some time, while the interstitial cells increased in numbers. This change was accompanied in cases of senility by improvement in the health and sexual vigor, pointing to an increase in the quality or quantity of testicular hormone.

The ovary also has two functions. It produces the ova, or egg cells, which are conveyed to the uterus by the Fallopian tube; the ovary has no duct attached to it analogous to that of the testicle. In the Fallopian tube, or uterus, the ova are either fertilized to develop into new lives or are cast out unfertilized. In addition the ovary produces a very important hormone, which is poured directly into the blood and which governs the female secondary sexual characters.

Steinach's experiments further prove that in the senile female, however, the implantation of an ovary has very striking results. If an ovary is transplanted from a young into an aging female, it ceases to produce ova but continues to secrete hormones which are capable of stimulating the bodily and sexual powers.

The questions are frequently asked: Why is it that, in connection with a ligation of the spermatic duct performed on diseased persons and criminals, symptoms of unintentional rejuvenation

are never reported? Why is it that women who are treated with X rays for one reason or another do not develop symptoms of rejuvenescence, in spite of the fact that the X-ray treatment is comparatively old and well established in connection with the treatment of female disorders?

These questions are basically wrong, because they are asked in ignorance of real facts. To be sure, in all of those cases where vasoligature for men or X ray for women were resorted to, unexpected symptoms of rejuvenation were observed. But, as the possibility of rejuvenation was not established then, these symptoms were simply registered as proofs of a surprising recuperation. To-day, however, being better informed regarding the probabilities and possibilities of rejuvenation, we are able to see the real reason for these cases, in some of whom there is undoubtedly almost unbelievable recuperation. A general inquiry by Holznecht among his patients treated with X ray for certain female disorders brought out the same fact that was established by Lichtenstern, who investigated the old records of patients who had been subjected to vasoligature and prostatectomy to alleviate urinary complaints. Detailed information of cases where the X-ray treatment or the surgical treatment was followed by a reenergizing of the whole system, with regained youthfulness and renewed joy in life, offered themselves readily and in considerable numbers. Records reporting symptoms which we now are able to recognize as symptoms of rejuvenation had been communicated by Helferich and Isnardi as early as 1896. Later cases were reported by Chetwood, Payr, Kuemmell, and Haberer, the latter reporting that among his cases were no less than 40 per cent in which improvement appeared.

Of course, certain questions would seem fitting here: Why should there not have been an even higher percentage of such favorable cases reported; why did not other cases bring positive results; why was it that many physicians reported preponderately unfavorable results after the performance of vasoligature?—a simple operation to be described later. If these questions are asked, we have to remember that before Steinach introduced vasoligature for the purpose of rejuvenation, the ligation of the spermatic duct was not performed with the intention of bringing about effects of rejuvenescence. Not trying to achieve such a result and without performing the ligation of the spermatic duct, according to Steinach's advice, the operation was not performed in such a manner as to stimulate a regeneration of the generative gland.

STEINACH'S OPERATIONS AND THEIR PURPOSE

The theory of Steinach in his chief operation, vasoligature (vasectomy), the cutting and tying or ligaturing of each of the cut ends of the vas deferens prevents the leakage of the secretion of the generative gland and thus stops the waste of vital secretion from the sexual gland of the male which should be retained.

If this leakage is not prevented by employing careful technique in this operation, it is impossible to get the back pressure necessary to stimulate the generative tissue into new growth. A casual tearing of the spermatic gland would fail to prevent the secretion from leaking out and cause the operation to be a failure.

The success of the operation depends on storing up in the upper part of the seminal vesical for rejuvenation purposes the secretion which was, before the operation, leaking and wasting. Rejuvenation will only occur in this operation when the cutting or severing of the duct (vas deferens) results in the formation of a scar (cicatrix) tissue, which will close up the opening of the stump (the cut ends) and thus produce stimulating back pressure.

Dr. Harry Benjamin, of New York, the leading exponent of Steinach's work in America, has reported on more than 100 cases, in which he operated by Steinach's method, with what he claims to be gratifying results.

Chetwood, of New York, reports four favorable cases operated on by the Steinach method.

Having performed this operation over a period of 20 years—

Doctor Chetwood observes—

and having been in communication with all of the patients following operation, I am able to state without reserve that at no time have I observed any complication arising as a result of the operation, or any psychic disturbance develop thereafter.

This to my mind—

He says—

disposes of the fear of detrimental effect, a fear that would naturally delay decision upon any operative procedure, if not outweighed by other more important considerations.

He further says—

I would antagonize vigorously the notion that the chief consequences of vastigation are within the sexual sphere and would denounce the purpose of resorting to the operation solely with this end in view. Double ligature is seldom indicated in a young man, in which case single ligation may serve as a means to an end.

As to the effect upon the general vitality, there can be no doubt that there is preponderating evidence that a large number of the cases operated upon show remarkable response to some favorable influence, psychic, antitoxic, or endocrinic. This fact, together with the indications outlined in a certain class of cases, should serve at least to justify the claim that vasoligature is an expedient of proved value in the work of the urologist.

More cases (Steinach operation) from American sources are added yearly to the literature of rejuvenation. A. L. Wolbarst reports 11 cases to the American Urological Association. Of the 11 patients studied by Wolbarst, 7 were actually senile and 4 were prematurely senile.

The differentiation between senile and prematurely senile cases is to be determined by the age of the patient, his general physical condition, and his outstanding physiological disturbance. The premature cases deal with men varying in age between 40 and 52, prematurely gray, generally weak or "played out" and presenting the predominating symptom of sexual impotence.

Of these seven cases of actual senility, Wolbarst informs us, five of the men were in a home for aged men and were typical of the decrepit and hopeless inmates of such institutions. The operation was undertaken in the hope that it might result in a stimulation of such gonadal endocrines as still remained in their emaciated bodies. They were not informed at any time what effects were sought to be produced, but were persuaded to submit to this painless operation in the belief that it might strengthen them and relieve them of their predominant pains and infirmities.

REJUVENATION IN WOMEN

Little clinical information is available on the subject of rejuvenation in women. Doctor Fraenkel, of Berlin, has written a monograph on the subject. Some successful results—perhaps a few—have been attained both in the United States and in Europe, although the imagination of the popular novelists somewhat outstrips the reality, as is strikingly brought out in the case of the heroine of Gertrude Atherton's novel, Black Oxen.

The question of rejuvenating the fairer sex is of absorbing interest. To women, youth is even more precious than to men. Yet, for reasons intimately connected with her anatomy, woman's road to the goal of rejuvenation is more laborious than man's. The problem is more obscure, the technique more difficult, and the time at her disposal for this purpose more limited. Nevertheless, women have been successfully Steinached.

The female gonads, like the male, exercise a dual function. They produce egg cells to be expelled for the purpose of reproduction and an internal secretion, the female sex hormone. Steinach speaks of woman's interstitial cells as the female puberty gland. Its function and composition are, in part, still unsolved mysteries.

TRANSPLANTATION AND STIMULATION OF OVARIES

The transplantation experiments of Steinach and others with animals have been as successful in females as in males. But there is no operation in woman analogous to vasectomy and vasoligature in man. The Fallopian tube which serves to convey the egg cells from the ovary to the womb is not structurally connected with the ovary, and the operations of tubectomy and tuboligature provoke no change in the ovary corresponding to that which occurs in the male.

The transplantation of young ovaries brings about somewhat analogous results to those which occur after testicular grafting in men, but it entails a major operation for both the donor and the recipient, since the ovaries are situated in the abdominal cavity. It is thus not at all such a simple procedure as in men. Further, there is no supply of human ovaries comparable to the undescended testicles available for the male sex.

There is a considerable amount of literature on ovarian transplantation, but most of it refers to the influence of ovarian grafts in preventing the onset of the menopause after removal of a woman's own ovaries.

Sippel reports four cases in which previously sterile women conceived and passed through a normal pregnancy after the sluggish function of their otherwise normal ovaries had been roused and speeded up by transplantation into the abdominal wall of two disks of ovarian tissue, still warm from the body of another woman. The grafts were taken from women suffer-

ing with cancer, myoma of the uterus, or pulmonary tuberculosis.

Nattrass, of Melbourne, was able to prove that a transplanted ovary can persist in the tissues for over nine years. He operated for hernia on a woman into whose abdominal wall he had grafted her own ovaries more than nine years earlier. The ovaries were found to be about normal in size. A piece was examined microscopically, and found to contain perfectly formed Graafian follicles and corpora lutea in normal ovarian stroma, while the abundant blood vessels and nerves showed how completely the graft had been adopted by its new environment. The sexual life of the patient had been quite normal.

The stimulation of the interstitial tissue of the ovary by the ultra-violet ray and X ray has been used to some extent, and beneficial effects have sometimes been observed when the ovaries were X-rayed with a totally different object, for example, in order to check excessive menstrual hemorrhage, to inhibit the growth of uterine tumors, or to produce temporary sterility.

Moderate X-ray stimulation of the ovary tends to destroy the egg cells, but stimulates the interstitial tissue. An excessive dose may, as stated, destroy the interstitial tissue and at the same time cause permanent sterility.

Up to the present not very satisfactory work has been done in this field, and there seems to be little evidence available as to strength of dosage, and so forth.

Holznecht reported that in women whose ovaries were subjected to X-radiation, lassitude had disappeared and full mental and physical vigor had been restored, a decidedly more youthful appearance had been noticed, evidenced by better circulation and greater firmness of the skin.

In 1922 Benjamin began to have women treated with X rays to combat either incipient or pronounced symptoms of senility.

In reporting the six notable cases, he recommends as a "stimulation dose, one-seventh to one-tenth of the dose sufficient to cause erythema."

The female puberty gland can not be stimulated by surgical means, similar to vasoligature in men. It has no duct that can be severed. The transplantation of young ovaries is possible and has been accomplished, but the general use of this method meets with almost insurmountable obstacles. The ovaries are buried deep in the abdominal cavity. To obtain them from another woman requires a major operation.

In addition to the practical impossibility of acquiring a sufficient supply of female gonads, legal, ethical, and esthetic objections are raised. Transplantation of animal glands in women into the deeper abdominal muscles, near the groin is possible.

The X-ray method explained is unobjectionable ethically, esthetically, and legally. Although the beneficial results are not fully established. It may be effective, but great caution is urged in its application. It consists in the exposure of one or both ovaries, under certain conditions, to X rays. The penetrating power of these rays in female disorders encountered during the change of life, sometimes called "menopause" or "climacterium," is recognized. Bleedings and tumors have long been treated and sometimes cured by this method.

Physicians frequently noticed a remarkable restoration of health in certain female patients subjected to the X ray. They ascribe the result to the alleviation of local ailments. To-day we know that some of these patients were unintentionally Steinached. The X ray stimulated the female puberty gland to greater activity, while demolishing the egg-producing cells. In other words, the revitalizing effect achieved is analogous to the result of the Steinach operation in men.

However, only an experienced X-ray specialist, guided by a physician who is thoroughly familiar with the Steinach method and with the specific case, should undertake the task of revivifying the aging gland. An exposure of the X ray unduly prolonged or too powerful may destroy rather than stimulate the tissue.

Mild exposures, so-called stimulation doses, may involve little or no such danger. In the hand of a conscientious Roentgenologist the treatment, experts claim, may be absolutely safe. It need not induce permanent sterility. The reproductive tissue, shriveled under the X ray, is able under favorable circumstances to reconstitute itself. If the reproductive tissue is damaged irreparably, complete sterility results. The operation can not be repeated. That seems to be the experience of Mrs. Atherton's heroine in Black Oxen, who employed the temporary stimulation of the X ray to the ovaries for sexual and bodily rejuvenation.

Greater medical knowledge and skill and a more dextrous use of the X ray may attain more favorable results.

The X-ray method requires complicated machinery, frequent treatment, and a masterly physician, who, almost intuitively, regulates the strength of the X ray in accordance with the needs of the patient. In other words, the physician must work in the dark and take the utmost precaution already mentioned.

The duration of each exposure, the frequency of its repetition, and the decision whether one or both ovaries are to be treated depends on the circumstances in each individual case. The efficiency of the X-ray method may be accentuated by certain thermal applications, in accordance with experiments conducted by Steinach and Kammerer.

The menopause puts a stop to the activity of important functions. Eve can not afford to wait so long for her rejuvenation as Adam. Men of 70 and over have been successfully Steinached. In women of so mature an age the attempt would be almost hopeless. The most favorable time is the period immediately before, during, or shortly after the change of life.

In our climate woman's "dangerous age," her climacteric, is between 40 and 50. This is the time when women suffer most from the first symptoms of incipient old age. If the gonads still function normally, if the endocrine system is still responsive, the result is likely to be more or less beneficial. The effect in some cases has been very gratifying.

In several cases of women treated by the Steinach method described by the high priest of rejuvenation, Professor Steinach himself: "Lassitude and weariness disappeared. The physical and mental faculties of younger years were restored. A decidedly changed and more youthful appearance was noted. The facial expression became increased in vivacity. The entire attitude was more lively. The renewed tenseness of the skin ironed out the old wrinkles. The patients frequently avow a pronounced feeling of well-being and an increased joy in living."

Nevertheless, due to the intricacies of her structure, woman presents a more difficult problem than man, as has been stated, with greater uncertainty as to results. However, medical science is making strides. Our knowledge is daily increasing, and even with present limitations there are many women whose patience and daring have been greatly rewarded by X-ray treatments, under proper precautions.

It is not impossible that some endocrine change, similar to the effect achieved by the X ray, accounts for women who retain their vivacity and their beauty to a ripe old age. Some accident of this nature may explain the miracle of Sarah Bernhardt and Ninon l'Enclos.

The ductless gland, located in the "interstices" or "spaces between" the cells of the reproductive gland, is called the puberty gland by Steinach. It is also frequently designated interstitial gland.

The puberty or interstitial gland is Steinach's "Fountain of Youth." It was described by two French writers, Bonin and Ancell, in 1903. Steinach first demonstrated its vital importance experimentally. The interstitial tissue is composed of interstitial cells, first seen by Leydig, sometimes called "Leydig cells" after their discoverer. These cells produce the internal sex secretion of gonadal hormone. "Hormone" is the name given to internal secretions. Hormones are described as "chemical messengers, telegraph boys," sent from one organ to another through the public highway of the body, the blood.

Just as the reproductive gland insures the perpetuity of the race, so the puberty or interstitial gland establishes endocrine and psychophysical balance. Either directly or through its reaction on other glands, the puberty gland determines the masculine or feminine characteristics of an individual, the strength and direction of sex impulse, and, to a certain extent, the tone of the entire system. The very name bestowed by Steinach upon the gland, indicates its function. A decrease in its secretion is believed to be the primary cause of old age.

Steinach discovered that it is possible to stimulate the puberty gland at the expense of the reproductive gland.

The cells of the reproductive gland, being denied an outlet, shrivel up or "atrophy." Nature abhorring a vacuum, their place is taken by the puberty gland. Increasing in size and activity, it pours large amounts of its secretion into the blood with the result of bringing about what is sometimes described as a second blossoming, a new puberty. The success of the Steinach operation depends upon the reaction of the entire endocrine system to the new stimulus.

THE STEINACH OPERATION

The duct of the reproductive gland in the male is called the vas deferens. There are two such ducts, one from each testicle, leading to the external organ of generation.

The removal or cutting away of a portion of the vas deferens is called vasectomy. The constriction or strangulation of the vas deferens is called vasoligature. A combination of both constitutes the famous Steinach operation. In other words, the Steinach operation turns the sex gland from a mixed into a ductless gland, in order to stimulate its internal secretion.

Doctor Banting's cure for diabetes is based, in a measure, on the same principle as the Steinach operation. The pancreas, like the gonad, is a mixed gland. In order to stimulate the insulin—its internal secretation—its duct is severed or blocked by the surgeon in certain cases.

Steinach, to cite Doctor Benjamin, gives the patient a more or less massive and continuous dose of his gonadal hormone instead of the hormone of another human being or of a monkey or other animal.

The Steinach operation (vasoligature) has nothing in common with the transplantation of monkey glands advocated by Voronoff.

The operation does not, as many persons believe, render the male sterile if performed unilaterally. It merely blocks the passage of the life-giving element, the spermatozoa, from one testicle. The testicle remains unchanged in appearance. Unable to discharge its external secretion, it accelerates the output of its internal secretion, the gonadal hormone.

If the operation is performed on both sides, and thus may restore bodily and sexual health, sterility results, because the passage of the life-giving elements is entirely blocked on both sides. This element forms, however, only a small part of the fluid ejaculated. The secretion of several other glands, especially the prostate of the male, enter into the composition of the sexual discharge and function.

The Steinach operation does not interfere with potency or sexual enjoyment. In fact, both may be intensified. It merely interferes with the passage of the spermatozoa on one or both sides. The man who undergoes the Steinach operation bilaterally (on both sides), while renouncing fatherhood may still retain every attribute of masculinity. No one can tell that he has been Steinachized unless he himself gives away the secret.

The man who undergoes the operation on one side only, renounces nothing. His generative power may be favorably affected. Such, at least, has been the observation in animals and in a certain number of cases of men. The stimulation given to the entire system increases the production of both sex hormones and spermatozoa.

Much depends upon the skill of the surgeon, who, in severing the duct, must be careful not to mutilate the numerous vessels and nerves, carriers of blood and sensation, which abound in the spermatic cord. An inadequate technique, blunderingly applying the knife, may offset the stimulating effect of the operation and do infinite harm.

Bilateral vasectomy is the method prescribed in several States for the sterilization of criminals. The operation is not feasible in women, owing to differences in their anatomical structure.

In 1922 Dr. Peter Schmidt, of Berlin, published a book entitled "Theory and Practice of the Steinach Operation." Since October, 1920, according to last reports, he had performed vasoligature, uncomplicated by any other operation, in 30 cases. The ages of the patients varied between 24 and 71 years. In 19 of these the operation was performed for either premature or normal senility, with progressive loss of capacity for work; in five cases, physical impotence, in three cases, general neurasthenia; in one case, dystrophia adiposo-genitalis; in one case, insanity; and in one case, cachexia due to cancer. He recommends a double ligature with both thick and thin thread and stitching of the proximal end of the distal portions of the vas to the upper angle of the incision in the tunica vaginalis. He does not favor ligation between testis and epididymis, because it causes a temporary dislocation of the testicle, a sudden congestion, and perhaps a sudden change of blood pressure. Nor does he favor ligation close to the inguinal ring, because in old men with a feeble flow of semen, the effect on the tissues of the testicle would be too weak, while in young men there would be a danger of spermatocele of the vas. He recommends ligature of the vas near its junction with the epididymis.

A very thorough examination of the patient should be made before the operation, with special regard to the following points:

Photographs (both face and body).
Temperature and coloration of the ears and extremities.
Body weight.
Muscular strength, as measured by a dynamometer.
Blood pressure and pulse rate.
Urine albumen and sugar.
Organs, especially the prostate.
Nerves.
Vision.
Blood count.
Wassermann reaction for presence of syphilis.
Gonorrhea. (When? Complications?)

In recxamination there will be added:

Subjective feelings, e. g., mental vigor, initiative, memory, increase in capacity for physical and mental work, and change in any pains or disabilities which previously existed due to arteriosclerosis or the climacterium.

VORONOFF'S EXPERIMENTS (TRANSPLANTATION OF MONKEY GLANDS)

The Steinach operation is not the only road to rejuvenation. There are other methods to accomplish the same result, used on both men and women, involving the implantation, wholly or in part, of the sex glands of another human being or of an animal.

Sensational stories have gained circulation of millionaires paying fabulous sums for obtaining the glands of a healthy young person. One case has been reported where a wealthy man paid $100,000 for a healthy human testicle.

The implantation method has disadvantages. There is no guarantee that the alien tissue can be successfully ingrafted. It may be absorbed without taking root in the organism. The difficulty is enhanced if we attempt to borrow the glands needed for the operation from another species even if, Mr. Bryan to the contrary notwithstanding, it is as closely related to us as the ape. The glands of the young goat have also been used for implantation.

Steinach does not disavow the implantation of youthful glands recommended by Voronoff and others. In fact, he frequently uses the method in his experiments with animals.

Voronoff says of his own work—rejuvenation by grafting—that between the 12th of June, 1920, and October 15, 1923, he performed 52 testicular grafted operations. He gives an account of the first 43 grafts, which were all transferred from the ape to man, in which he claims fair results as to bodily rejuvenation and a small percentage as to sexual rejuvenation, including sexual rejuvenation in several cases advanced in symptoms of old age (senility) and general bad physical condition. He also describes some of the principles which guided him in his experiments in animals and his subsequent application of these results to man.

Voronoff's experiments left no doubt, he says, that testicles derived from an animal of the same species when grafted into the scrotum—the tunica vaginalis, meaning the outer cover of the testicle—react upon the organism in a manner similar to the normal testicles belonging to the animal itself.

The action of the testicular hormone is to stimulate, either directly or indirectly, by the agency of other endocrine glands, the cellular activity of all the organs and tissues. In order that it may perform its function, namely, thought (mentality), the cerebral cell requires that the internal secretion of the thyroid shall be conveyed to it by way of the blood stream. The victims of myxoedema are idiots, because their cerebral cells are deprived of this secretion; but it is practically certain that the secretion of the thyroid alone can not assure the intense and continuous activity of the nerve cells. In old men the cerebral function is retarded and becomes defective, in a manner precisely similar to that of young men in whom the testicular function is suppressed. Old men, senile and impotent, resemble young men without testicles. Consequently, and the theory is confirmed by the results of testicular grafting, though the cerebral function is to a degree dependent upon the thyroid hormone, its intensity and its continuity are assured by the testicular hormone, which possesses the property of stimulating psychic activity. This is the explanation of the fact that the period of greatest intellectual activity is coincident with the most intense period of sexual life.

The testicular hormone is also a stimulant of other organs and tissues. Increased energy of the muscular cells is shown as much by improved intestinal peristalsis and better ocular accommodation as by the readings of the dynamometer.

Although the hormone supplied by the testicular graft is a powerful organic stimulant, an activator of cellular energy in all its forms, it can not create that energy. Where the functional cells of an organ are destroyed by sclerotic or degenerative processes, as in some old subjects and in young subjects who have suffered from local inflammatory conditions, the hormone, having no material to work upon, remains inactive.

This explains the constant action of the testicular graft in increasing muscular power and cerebral activity, functions which have become enfeebled but not suppressed by old age. It also explains the failure of the graft in certain cases to promote sexual activity. Confirmation of this is supplied by the results of Voronoff's 43 grafts, he claims. He has seen old men of 70 to 73, in whom progressive genital debility bordered upon impotence, recover all their powers, and also men of 22, impotent as the result of orchitis following mumps, remain so after testicular grafting, in spite of the fact that in every other respect their energy had increased.

In the first class of cases the testicles still retained a certain proportion of functional elements, the activity of which was renewed by the gland, while in the second the epithelial cells of the gland were definitely destroyed, and no power on earth could restore them. The hormone from the graft is capable of stimulating sometimes to an extent which seems unbelievable the activity of debilitated cells, but these must be alive; the hormone can not wake the dead.

The testicular graft, then, brings to the economy an organic stimulant and an activator which, either directly or indirectly by way of the other endocrine glands, intensifies the reduced activity of all the organs and restores vital energy.

Regarded in this light, Voronoff says the graft is indicated in a number of pathological conditions. For example, the fact that testicular insufficiency reacts unfavorably upon the majority of organs and particularly so upon the brain, suggests the testicular graft as a reasoned measure in the management of dementia praecox, a common form of insanity among young people.

In his masterly study of this condition, Sir Frederick Mott (London) is inclined to regard congenital asexuality as the originating cause of dementia praecox, but I do not follow his reasoning in this after studying several thousands of cases of dementia praecox. The testicles in dementia praecox in some cases show atrophy of the seminiferous tubules with sclerosis of the interstitial tissue similar to that observed in senile decay and senile dementia. The similarity between the two conditions suggests that dementia praecox is accompanied by precocious senility of the genital organs, a sort of retrogression which, in the majority of cases, makes its appearance at puberty or during adolescence and becomes progressively more marked, culminating finally in complete genital impotence. Mott believes that the genital insufficiency, together with the cellular degeneration, may react upon the cortex cerebri, in this and other similar conditions.

The principal indications for testicular grafting are, briefly, according to Voronoff, as follows:

1. Anorchidism, whether congenital or acquired as the result of a pathological condition necessitating removal of both testicles.
2. Infantilism of the genitalia.
3. Congenital testicular insufficiency as shown by retarded puberty, feeble and infrequent sexual manifestations, and some asthenia.
4. Senile decay, expressed by general breaking up of the organism, decrepitude, and enfeeblement of the majority of functions; whether as the result of advanced old age with physiological involution of the genital gland; or premature, arising from pathological changes in the testicles of comparatively young men.

Voronoff says:

> The final problem is: Can the testicular graft, by stimulating the cellular activity of the organs, by increasing energy, endurance, and powers of resistance, can it appreciably prolong life? Where animals are concerned, I answer yes. My old rams have proved this to be the case. One still living has exceeded by four or five years—that is to say, by a third—the normal age of the species.
>
> It is probable that human life might be similarly prolonged if, after the graft, men were to conduct themselves with the same sagacity as do the beasts whose physiological expenditure is in proportion to their true needs and who do not kill themselves by various excesses.

THE OPERATION BY VORONOFF

He describes the various steps by which he ultimately arrived at what he believes to be the most rational method of grafting a testicle. The operative technique, however, is, like every method in surgical or medical science, susceptible of improvement, and this it will possibly receive as those who practice it become more numerous, and profit by experience. Valuable modifications have already been suggested by Baudet and Dartigues, assistants of Voronoff.

According to Voronoff, the operation is carried out simultaneously upon the man and the ape, who are placed on separate tables in the same operating theater. It is not possible to get the ape on the table while conscious, as even the gentlest subjects fight desperately when an attempt is made to tie their limbs. They are extremely suspicious and, in order to anesthetize them, it is necessary to resort to an ingenious device. A cage is employed, 80 centimeters long, 80 centimeters broad, and 80 centimeters high, which closes by means of a double trapdoor. One shutter of the trapdoor is an open trellis permitting free access of air to the ape, while the second shutter is solid. The latter is lowered just before the air of the cage is saturated with the anesthetic, a variety of ethyl chloride being employed.

The gas is admitted to the cage by a small orifice opposite the trapdoor, which permits of the introduction of a small metal tube connected with a reservoir which contains the anesthetic. Observation is effected by means of a small glazed window in the back wall, light being thrown into the cage by a hand lamp held to a similar small window in the roof. The ape is put into the cage and taken to the operating theater. About 50 grams of ethyl chloride are then introduced, and in the confined space they have a rapid effect, the ape becoming first quiet and then dazed. As soon as he is observed through one of the little windows to be in this condition, no time must be lost. He must be gotten out of the cage and onto the operating table as quickly as possible before he is sufficiently recovered to get his teeth into the hands which control them. While the anæsthesia is being administered, assistants securely fasten the four limbs of the ape.

The anthropoids tolerate chloroform very well. Ether is contraindicated on account of the extreme susceptibility of their air passages.

The ape is now prepared for operation. Owing to his uncleanly habits this demands great care. The scrotum, the lower part of the hypograstrium, and the upper portions of both thighs are shaved; they must be well scrubbed with soap and hot water, washed with plenty of ether or spirit, and carefully painted with tincture of iodine.

The man to be operated on is prepared for operation at the same time. A local anæsthetic—novocaine—is used for the man. The exceptions were a few physicians who were operated on and who preferred general anæsthesia. Local anæsthesia is quite sufficient to abolish the pain, especially if the tunica vaginalis is not opened. But the method has a drawback. In order to obtain complete anæsthesia it is necessary to inject a large quantity of the novocaine, and in several instances sloughing of the skin followed. This complication retarded the cacatrization of the wound by at least a month, and for that reason, wherever the conditions permit, general, in preference to local, anæsthesia should be employed.

The ape being now unconscious and the man anæsthetized, by whatever method, the two operations—that on the man and that on the ape—are performed simultaneously. The operation on the ape is short; it should be carried out by a second surgeon. The operation consists in the incision of the scrotum, but not of the tunica vaginalis, and the enucleation of the testicle inclosed in its tunica, the latter being opened later by the surgeon who is operating on the man. An incision on one side of the scrotum of the man along its entire length is made. The skin recedes, revealing the connective tissue covering the dartos muscle immediately beneath it. This tissue is destined to cover the grafts later before the skin is finally sutured; it should be caught with four Pean's forceps, two on each side, quite close to the median line. An incision is made between the forceps as far as the tunica vaginalis, but the latter is left intact for the moment. The sides of the incision gape apart and are kept in position by the forceps.

Now—

Says Voronoff—

> is the moment to decide whether the testicular graft to be placed in the man shall be extra or intra vaginal and this depends on whether the tunica can be felt to be distended with fluid, or whether the layers come closely together and the cavity is merely potential. If the graft is to be external, the incision is not carried further. The edges of the connective tissue are turned back; the membrane is dissected with extreme care as far as possible on each side, in such a manner as to lay bare the external surface of the tunica vaginalis without entirely going around it, thus forming a cul-de-sac on each side. The external surface of the parietal layer is then lightly scarified by means by small cuts with the scalpel and covered with a sterile swab.
>
> The bed of the graft being now prepared, the surgeon turns to the ape in order to prepare the grafts. By means of a dissecting forceps and scissors which have not been used on either the ape or the man, he opens the tunica vaginalis of the ape and lays the testicle, now completely bared, upon a sterilized pad.
>
> Glandular tissue only being used for the graft, the first proceeding is to cut away the epididymis with the scissors. The tunica albuginea is then lightly scarified. The testicle is next divided in half by a cut of the scissors; and one half is divided into three longitudinal slices, each of which must include the entire length of the testicle from the inferior pole to its insertion into the vascular pedicle, which has been kept intact. The second half of the testicle is also divided into three slices, and this may be done either now or later, when the second grafting into the other side of the scrotum is carried out. The slices bleed, because the testicle has not been separated from its vascular connections. They will remain attached until the end of the operation, in order that the grafts may be assured of nutrition until such time as they are definitely removed from the ape and implanted into the new host. If hemorrhage is very profuse, the surgeon arrests it from time to time by compressing the vascular pedicle with forceps, for it is important that the ape should not lose too much blood. The surgeon

now detaches a slice and conveys it to the man. The swab is removed from the scarified bed, the fibrous layer is turned back, and the graft is fastened into one of the cul-de-sacs previously described. This is done by applying the pulpy, glandular surface of the graft to the external face of the highly vascularized parietal layer, to which it should be fixed by its two extremities and without stretching it unduly, by means of catgut stitches.

The surgeon now removes a second slice from the testicle of the ape, and this he fixes in the second cul-de-sac, between the unopened tunica and the connective tissue, placing the graft in the same manner as the previous one, with its glandular surface toward the tunica vaginalis. The third slice is affixed to the most convex portion of the tunica, midway between the other two grafts. By this means adequate space between the grafts is assured. The spacing of the grafts is extremely important, and it is necessary, above all things, to guard against the slices touching one another. It is essential that new capillaries shall form all around each graft, and if two slices touch, neither can receive capillaries on the face which is in contact with the other. If this is not strictly carried out, the nutrition of the grafts is diminished and necrosis and total or partial failure may ensue.

The three grafts are now covered over with the connective tissue layer, which is extremely vascular. The edges of the incision, which are still held by the forceps, are brought together and secured with continuous catgut. By this means the pulpy glandular surface of each graft is closely applied to the external face of the parietal layer of the tunica vaginalis, while the external surface of the grafts, their tunica albuginea, is covered over and protected by the connective tissue. Thus the grafts are in contact on every side with vascular tissue, which has been irritated both by the fact of surgical intervention and by the intentional scarification, and is therefore in a condition to supply nutrition. All that now remains is to suture the skin with separate silk stitches or to close it with Michel's clips.

This was formerly Voronoff's method, but he later changed it so that it now consists of burying each graft in an external fold of the tunica vaginalis before finally covering them with the connective tissue. This, he says, is comparatively easy in the case of the two lateral grafts, which are placed in the two cul-de-sacs the external boundary of which is the connective tissue itself. But it is rarely possible in the case of the median graft, for the tunica vaginalis is here stretched taut over the testicle and it is not as a rule possible to depress it sufficiently to form a nest or pit in which to embed the graft. By burying each graft in this manner in a fold of the parietal layer it is probable that its chances of nutrition are increased, and for this reason the method is recommended, provided always that it does not tend to compress the grafts.

He in some cases fixes the median graft first, leaving the lateral grafts to the last. Petit pointed out that it is always preferable to place the median graft last, for in this way it is not exposed to the air during the time occupied in embedding the lateral portions.

The testicle of the ape should be cut into long, thin slices, in order that the extravasated serum may entirely permeate them and that the new capillaries may eventually invade the whole of their substance. The testicle of the chimpanzee, being small, it is cut into six fragments or slices, each of which is about 2 centimeters in length, half a centimeter in width, and a few millimeters thick. These are the ideal proportions. The testicle of the baboon is much larger, and if cut into six portions the slices would frequently be too thick and would run the risk of necrosis. The slices should in this case also be of the dimensions given above. If any material remains over it can be left in situ or used for a second operation, the testicle of a large baboon being sufficient for this operation on two men.

The idea that the larger the amount of glandular tissue employed the better will be the result is not true. The contrary is usually the case, for if the graft is too large there is the danger that a portion at least will become necrosed. On the other hand, if the grafts are too small they will be rapidly absorbed by the surrounding tissues and at the end of a few weeks nothing will remain. Thus the grafts must be neither too large nor too small; the dimensions given have proven to be the best.

The preliminary steps are the same, but where the graft is to be intravaginal it is not necessary to dissect out the connective tissue. The scrotum, with the structures immediately beneath it, is incised as far as the tunica, which is then opened and the parietal and visceral layers are scarified by small, discrete cuts with the scalpel. If the second half of the testicle of the ape has not already been divided, it is now cut into three longitudinal slices and these are fixed, one by one, onto the internal aspect of the tunica. As in the extravaginal operation, the slices of testicle are spaced out as far apart as possible from one another and are so placed that the glandular surface of each lies against the parietal fold, the tunica albuginea of the graft being thus in contact with the tunica albuginea of the host.

Voronoff used three kinds of grafts:

(1) The autograft or graft upon the same subject.

(2) The homograft or graft between individuals of the same species, as from man to man, monkey to monkey.

(3) The heterograft or graft between individuals of different species.

In this connection he says:

"The need of a fourth category, to include all grafts between individuals of allied species, is very apparent. It should be termed 'homeograft' (homios, like), as distinguished from the true homograft; and the clinical justification for the employment of the term is found in the duration and persistence of the phenomena observed in man as the result of such grafts. The heterograft is condemned to inevitable necrosis, absorption being accomplished in the course of weeks, or, at most, of a few months. Now, if the testicular graft from ape to man were a true heterograft, would my patients, several years after operation, still be in full enjoyment of its benefits? Yet this they undoubtedly are."

Some of Voronoff's patients left the hospital the next day, and even on the day of operation itself, by rail or by car, returning a week later to have their stitches removed. Their recovery was not in any way compromised. The operation on the recipient is considered of so slight a character that he is not, as a rule, inconvenienced by it. On the first day there is a slight sensation of pain, and occasionally there may be some edema. In view of possible imprudences on the part of some patients, it is deemed advisable to keep them in hospital for a few days. Voronoff performed his operation for the following conditions:

Two cases, loss of the testicles by castration.
Two cases, infantilism of the genitalia.
Three cases, double orchitis, the sequel to mumps.
One case, myopathy.
Two cases, chronic intoxication, due to the abuse of narcotics (general debility).
Five cases, retarded puberty with testicular insufficiency.
Three cases, neurasthenia.
Ten cases, arteriosclerosis with premature senility.
Fifteen cases, general debility and senile decay.

CLINICAL RESULTS OBSERVED OVER PERIODS VARYING FROM FOUR MONTHS TO THREE YEARS

The operative mortality was nil, the negative results were 5 to 12 per cent. These include one case of neurasthenia, one case of myopathy, one case of infantilism of the genitalia, the chimpanzee in this instance being too young, and one case of double orchitis following mumps. The positive results were as follows: Physical and mental restoration was absolute in 36 to 88 per cent of cases, while in 26 to 55 per cent the physical and mental rehabilitation was accompanied by complete restoration of sexual activity. In one instance death occurred at the age of 77, a year and seven months after grafting, as the result of delirium tremens.

AGE OF THE SUBJECTS OF THE GRAFT, BY VORONOFF

Three subjects were, respectively, 22, 22, and 23 years old.
Four subjects were, respectively, 30, 33, 38, and 39 years old.
Seven subjects were, respectively, 40, 40, 42, 45, 46, 49, and 49 years old.
Nine subjects were, respectively, 50, 50, 52, 56, 56, 57, 57, 58, and 59 years old.

OBSERVATIONS AND EXPERIMENTS OF VORONOFF LEADING TO HIS TRANSPLANTATION OF MONKEY GLANDS

Voronoff says—

In the year 1898 I was in Cairo, where for the first time I saw and examined eunuchs. I discovered that these people are castrated at the age of 6 or 7, thus well before the age of puberty, before growth and development are complete, and before the organism has experienced, even transitorially, the influence of virility. I was immensely struck by the appearance of these people. They are long in the leg, with small craniums and smooth, hairless faces. In the majority of instances these are obese, with pendulous cheeks, developed breasts, and enlarged pelves. They look, in fact, like old women, and the resemblance is enhanced by their characteristic high-pitched voices. The muscles are flabby, the walk and movements lethargic, the gums and sclerotics pallid. They present, in short, all the signs so characteristic of the anæmic, feeble, and flabby organism.

The intellectual and moral characters of eunuchs are entirely in accordance with the physical signs. The intelligence is slow, the memory bad; they are lacking in courage and enterprise. I found, too, that they grow old before their time. The senile arc appears prematurely, the hair grows white at an early age, and it is rare for them to attain old age.

This combination of facts excited in me the liveliest interest. I knew that it is the function of the testicle not only to elaborate the spermatozoa for purposes of fecundation and the propagation of the race but also to determine the secondary sexual characteristics of the male. By

this I mean those external characteristics which distinguish the male from the female—the growth of hair on the face, the narrower pelvis, the deeper and more measured voice, etc.

My observation of eunuchs now led me to infer that the internal secretion of the testicle also influences the development of the bones of the leg and cranium; that it either destroys adipose tissue or prevents its development; that it combats sclerosis, stimulates the intelligence, maintains courage, and prolongs life.

GLANDULAR GRAFTING EXPERIMENTS IN ANIMALS

Voronoff says further:

When grafting the new testicles into old rams I had left the old testicles in situ. The hormone, then, might be derived in part from their own testicles, upon which the improved conditions of living might be supposed to have acted favorably. Once again, I was faced with a new problem. If I removed the testicles from an animal, could I, by the grafting of extraneous testicles, restore to the castrate his secondary sex characteristics, his vigor, and his energy?

My further investigations were based on this hypothesis, and were encouraged, moreover, by a dictum of Claude Bernard: "The presentiment of truth justifies experiment." How much greater the justification when hypothesis is confirmed by a whole series of natural facts! But the scientist must beware of spiritual blindness; he must not seek for confirmation at any price; he must observe the results of experiment with impartiality; and he must be ready to abandon his theories if they are not borne out by facts. My first graft from the ape to man was made on June 12, 1920. My experience has extended over a period of three years and comprises 52 grafts. The number would have been doubled had I not experienced an extreme difficulty in obtaining apes, including baboons. In 1920 I could get only three, and I made six grafts. In 1921 only one great ape was obtainable, and my grafts were limited to two. In 1922 the situation improved somewhat, and I made six grafts. In 1923 the delivery of apes from Guinea became more regular, and in the first 10 months of that year I was able to make 38 grafts.

Practice and experience induced me considerably to modify my original technique, as I had applied it to animals. In several cases I encountered an unsurmountable difficulty in grafting the fragments of testicle into the tunica vaginalis. This is a comparatively easy proceeding when the serous cavity is distended by a small quantity of fluid, as is so frequently observed in men over 50. Without amounting to actual hydrocele the tunica vaginalis contains as much as a teaspoonful of extravasated serum, while the space between the parietal and visceral layers is sufficiently enlarged to permit the introduction of the grafts without unduly distending the serous cavity. But in a large number of instances I found the parietal layer in close contact with the visceral layer, the serous cavity being merely potential, thus affording no possibility of introducing even the smallest graft. In these cases I was obliged to fasten the grafts to the external surface of the parietal layer—that is to say, to its fibrous covering—and to cover them completely with vascular tissue.

Occasionally in the course of operation I found fluid in the tunica vaginalis of one testicle and not in that of the other. In such cases I fixed my grafts to the interior of the serous membrane of the one and to the exterior of the serous membrane of the other.

I had expected less satisfactory results from the external grafts, but this expectation was not justified. The grafts fixed to the external surface of the parietal layer lived as long as those introduced into the cavity. These results were confirmed in a large number of cases.

It is none the less true, however, that the most suitable site for testicular implantation is undoubtedly the tunica vaginalis, the site where the testicles have been placed by nature. Man can not hope to improve on nature, whose results have been evolved through thousands of centuries.

The site of each organ is determined by the physiological requirements of its nutrition and its function. The blood plasma is charged with the products elaborated by all the organs and by all the tissues, and the humoral formula varies in different parts of the body according to the predominance of individual secretions. Each organ is situated in such a relation to the blood stream as to best insure its provision with the material necessary to the harmonious life of its constituent elements. The placing of both external and internal grafts is justified.

The next question concerns the age of the anthropoid donor.

In the course of my experiments with rams, I had found that young testicles, taken well before the age of puberty, had a beneficial action in old subjects. The gland must have reached a degree of development which permitted the elaboration of an internal secretion and the contribution of this secretion to the blood stream, thus stimulating the vigor of the new host.

My first assumption was that the age of the ape would equally be a matter of indifference. Nevertheless, I found that the subjects of graft from apes that had not reached the age of puberty were in no way benefited. After due consideration, I arrived at the following conclusions:

The age at which puberty is reached varies in different species. In the case of the small mammals—rats, guinea pigs, rabbits—where the duration of life is short, it is a question of months or weeks. But in species where the process of growth takes longer the incidence of puberty will be proportionately delayed. The ram is sexually mature at a year or 18 months; hence it is readily conceivable that the testicle from a 6-months ram will effect the desired results, seeing that it is within a few months of sexual maturity. The great apes, and notably the chimpanzee, have a duration of life of certainly 30 years, and some believe it to be 50. In any case, it is much longer than that of the ram. Puberty is not delayed for 13 or 14 years, as in the case of man, but it may very well demand 5 or 6. Consequently, a graft from the testicle of an ape 2 or 3 years old would require another 3 or 4 years to arrive at puberty and to become a true endocrine gland in the full acceptation of the term. It is not surprising, then, that the immediate results of grafting such a gland should be negative.

It is evident, then, that the testicular graft in man does not conform in all its aspects to the testicular graft in rams. Although the testicles of quite young sheep may be grafted into rams, the testicles of quite young chimpanzees can not be grafted into man. This is the stumbling block in the path of experiment, and it is fatal to generalize from results obtained with cocks, guinea pigs, dogs, and rams.

Voronoff's method being so entirely without precedent, his first step was to study the negative findings; the physical and mental debility of the subjects of testicular insufficiency, in whom the function of the testicle had become diminished or suppressed as the result of local changes; the feebleness of the aged, castrated by nature either totally or in part.

As in all these instances the physiological phenomena depended upon either the partial or complete insufficiency of the genital gland, there was the possibility that they might be remedied by the grafting of a young gland. Voronoff, therefore, chose these "insufficients" as the subjects of his first grafts, with results which will be described later. There was a second class of cases which aroused his interest, namely, those people, young for the most part, who present symptoms of physical and mental depression, complicated by sexual impotence, and who are included in the general category of "neurasthenics." Neurasthenia is a vague term, usually employed to hide ignorance. The question to be decided was, Are these people debilitated and demoralized because of their impotence? Or are they impotent because of their demoralization and debility?

It is undeniably true that the entire organism may be influenced by its psychic condition and that this may react upon the sexual function, but the reverse is equally true. Impotence arising from testicular disease or insufficiency is always productive of melancholy in the young, which may even amount to despair, ending in suicide.

RESULTS OF VORONOFF'S OPERATIONS ON MEN

Voronoff says that those subjects in whom the neurasthenia was dependent upon the testicular insufficiency derived immense benefit from the graft. Those, however, in whom neurasthenia was not provoked by the condition of the genital glands, presented after operation a clinical picture of profound interest.

The first class of cases, in common with all those whose debility depended upon glandular insufficiency, were unaware of any sense of benefit for two, three, or even five months, during which time they deplored the unsuccessful results of operation. The true neurasthenics, on the other hand, were loud in acclaiming a renovation of all their functions from the very first day of operation, which certainly suggests a decided mental or psychic element.

But these results were definitely ephemeral in character. Autosuggestion, so apparent here, dominated the situation immediately after operation, but it is evident that its effects soon waned. The results in these cases were absolutely conclusive—so much so, that Voronoff never gives an opinion on the results of a graft before the third or fourth month after the operation.

If the patient announces a sudden and striking amelioration of his condition within a few days of operation, the prognosis is bad. If, on the contrary, he complains of negative results for the first month or two, there is more hope for results in about three or four months after the operation. But if at the end of this term positive signs have not made their appearance there is little chance of their later manifestation.

Voronoff says those patients who have derived benefit from the operation, do not owe that benefit to autosuggestion, because not only has their improvement been slow and progressive in character, but in the whole course of three years there has been no sign of retroaction. If the results of autosuggestion could be similarly prolonged, the testicular graft might well be em-

ployed by psychoanalysts in their management of neurasthenic cases of a certain type.

He also says that the human recipients of the graft have been affected in precisely the same way as his animal subjects, and it is obvious that autosuggestion played no part in the ameliorated conditions of the latter. Witness the ram upon which he operated in 1917, and which, after close upon six years, is still alive and active sexually.

Man, like the lower animals, has derived from the graft a general increase in his physical and mental energy, as well as, in many cases, a resumption of sexual activity. He says further he has operated upon several cases of hypertrophy of the prostate, so frequently observed in old men, which condition obliged them to get up five or six times in the night for micturition. In some patients this condition was entirely relieved by the graft; in others, their necessity was reduced to once or twice during the night.

He has been able to observe certain manifestations in man which for obvious reasons were excluded from his observations on animals and which were in no sense referable to autosuggestion. Such were: The constant reduction of blood pressure, which fell from 23/21 to 16/14 by Pachon's instrument; the diminution of adiposity, due to an improved metabolism brought about by better nutritional exchanges; the improvement of vision in the presbyopic, due to increased tonicity of the muscles of accommodation, and so forth. The most striking of the results claimed by Voronoff was that the effect upon the mental condition, impossible to verify in the case of animals, was very marked in man. Almost invariably the memory improved and the capacity for work increased. Those from whom their occupation demanded concentrated cerebral effort, such as men of letters, university professors, medical men, lawyers, and so forth, who had been forced to give up their work on account of loss of memory and impaired cerebral activity, found that they could resume their occupation and work for hours at a stretch, as in their youth. This brilliant research worker in so-called rejuvenation admits that while it is an interesting fact that the increase in physical energy and the improvement in mental capacity are not invariably accompanied in the recipient of a testicular graft by renewed sexual activity, it must be made quite clear, he says very justly—and it is essential that this fact should be appreciated—the testicular graft is not an aphrodisiac sex stimulant.

STANLEY'S 1,000 CASES

Stanley summarizes his results as follows:

The results of 1,000 implantations of testicular substance in 656 human subjects, including 7 females, are reported. Striking objective improvement was seen in numerous cases of general asthenia, acne vulgaris, asthma, and senility. Subjective or objective improvement was seen in various cases of rheumatism, neurasthenia, poor vision, and a few other conditions. In general, testicular substance in Stanley's cases seems often to have a beneficial effect in relieving pain of obscure origin, neurasthenia, and the promotion of bodily well-being.

The classification of Stanley's cases, in which he used the above methods, with more or less success, is as follows:

General asthenia	336
Rheumatism	58
Acne vulgaris	66
Neurasthenia	56
Poor vision	41
Asthma	21
Tuberculosis	17
Senility	34
Sex lassitude	95
Impotence	19
Psychopathic inferiority	8
Epilepsy	5
Dementia præcox	8
Paranoia	3
Diabetes	4
Locomotor ataxia	3
Drug addicts	32
Dead	11
Unclassified	28
No report	30

In 1920 Stanley, of San Quentin Prison, Calif., reported on the cases of 11 men who had, since 1918, been operated on for the implantation of human testicles taken from recently executed convicts and 21 men who had, in 1920, had implanted in them the testicular material taken from rams. I quote in part his report:

The first case, reported by Dr. Frank Lydston, operated on at San Quentin Prison in August, 1918, was a man aged 25 years, who, subsequent to a kick in the scrotum at the age of 20, had had atrophy of the testicles, with diminished sexual activity, as well as mental and physical languor.

Stanley also carried out a crude method of implantation of animal testicular substance in a series of 656 cases in the State prison at San Quentin, Calif. He cuts up the testicles into small fragments and injects these through a wide-bore needle into the subcutaneous tissue of the abdominal wall. This was rarely followed by any local disturbance, the health, he claims, was favorably influenced, and the grafts persisted for a few months, after which they appeared to be completely absorbed.

The following authentic case illustrates another method of gland transplantation mentioned by Voronoff and which is being somewhat extensively used in this country. This is a comparatively simple operation and not attended with the difficulties incident to the transplantation operation of Voronoff. If careful surgical precautions are taken against sepsis and infection that might result from the sloughing of the transplanted gland, which is transplanted into the muscle of the abdomen near the groin, in both men and women, there should be no particular danger in this operation.

I quote from the Journal of the American Medical Association, March 17, 1923, the following significant result of this method of transplantation:

TRANSPLANTATION OF GLANDS IN THE ABDOMINAL MUSCLE

Hammesfahr reports the case of a man aged 26 whose left testis had atrophied from unknown cause eight years previously, so that only a hard body of connective tissue the size of a peppercorn was left. Six years after the left testis had atrophied the patient injured the right testis by a blow with a hammer, whereupon also this testis atrophied in spite of all attempts to conserve it. Libido and interest in his work gradually decreased. By splitting the atrophied testis and embedding it in the abdominal musculature Hammersfahr sought to save part of the function, but histologic examination showed that there were no elements capable of functioning left—neither seminal tubules nor interstitial cells. He therefore transplanted half of a testis from a patient who had suffered a gunshot wound and embedded it in the abdominal musculature in accordance with Lichtenstein's method. Ten days later he noted over the transplant a slight swelling, which in a few days became soft. On opening the swelling he found the whole upper portion of the testis soft and necrotic. At the base he discovered a thin (3 mm.) layer of the transplant firmly adherent to the underlying tissue and plainly vascularized. Hammesfahr is almost certain that no appreciable portions of the testis implant became incorporated with the surrounding tissues, but that the adherent vascularized disk was also reabsorbed later. It was therefore all the more remarkable that within a few weeks libido became normal and had persisted to last accounts. It is hypothetically possible that the testicular tissue, though soon reabsorbed, exerted a stimulating effect on certain vicariously functioning endocrine glands, and that these glands, thus stimulated and metamorphosed, as it were, brought about the remarkable change. It is also possible that the result was due wholly to suggestion. Moreover, in judging the results of transplantation in man, we must not lose sight of the fact that sex function depends on purely psychic, imponderable factors to a greater extent than any other function of the human organism. Also, it must be remembered that we possess no definitely established general, normal measure by which to estimate such functioning. Hammesfahr does not wish to seem to oppose the idea of homoplastic transplantation of a testis, but urges the application of strict criticism to the results by the serologic control methods proposed by Stocker.

CONCLUSIONS

Steinach's operation, vasectomy (or vasaligation), for sterilization of epileptics, incurable insane cases, and criminals seems not to have proven highly objectionable to these classes; although the highest courts in several States have decided that laws compelling them to undergo the operation are unconstitutional, some criminals have requested physicians to perform this operation on them, although the bilateral operation of vasectomy results in complete loss of procreative ability but not loss of sexual function and potency.

While it is well established from all the evidence that I have personally investigated that Steinach, by vasectomy (vasoligature), and Voronoff, by transplantation of glands in animals, have, in a large number of experiments, actually lengthened the lives of these animals and restored their sexual activity, it can not be concluded that the operations of these two investigators have materially lengthened human life by these same operations; but it is equally well established that both Voronoff's and Steinach's operations have, in some cases (in a very small per cent of the total number of the several hundreds of men and women on whom, in Europe and the United States, these operations have been performed), restored the general bodily health, varying for a period of many months or several years, in cases where the health was impaired and the patient had actually begun to show unmistakable mental and bodily symptoms of senility or old age. In these same cases (in a very much smaller per cent) sexual power has been restored and for varying periods of time. It is also well established by these extensive experiments and by science and by common sense that there is a

limitation, in a physiological and biological sense, to which the organs, cells, and functions of the human body may be restored or repaired and artificially stimulated. And although medical science has in this country added, during the past 30 years, approximately eight years or more to the average expectancy of life and made old age infinitely more comfortable, yet the philosophy of Doctor Osler and the Psalmist still holds good as to the physical and sexual slowing down of the average man and woman after the age of 60.

With all the available scientific and other evidence before us, there is, in this connection, still a ray of hope and a note of warning.

ROBERT E. LEE

Mr. MOORE of Virginia. Mr. Speaker, I ask unanimous consent to address the House for not exceeding 10 minutes.

The SPEAKER. The gentleman from Virginia asks unanimous consent to address the House for 10 minutes. Is there objection?

There was no objection.

Mr. MOORE of Virginia. Mr. Speaker, always on this date, as we proceed with our accustomed work here, flowers are banked about the pedestal of the figure of Robert E. Lee in the near-by Statuary Hall as a tribute to his undying memory, this being the anniversary of his birth. [Applause.]

I have no thought of speaking now in any detail of Lee. Others have done that far better than would be possible for me, and in the time to come there will be others of many lands telling the story of his life.

With some knowledge of his career stretching from his boyhood until he passed away in his quiet home at Lexington, moved by no conscious bias of any kind, free, to use the words of Lord Bacon, of any idol of preconceived opinion, I hold the deliberate conclusion that there has been no more perfect product of our modern civilization. In hardly anyone else can there be found such a rare combination of all the essential qualities of real manhood and greatness. It has been stated, and it is true, that every dramatist has failed in the attempt to depict the nobility and dignity of his appearance and bearing. Equally is it true that the most minute examination has discovered no stain upon his public or private character; no sign of any yielding of his devotion to the loftiest standards of conduct; never the slightest turning away from his conception of what was the path of right and duty; no weakening, amid all the storm and stress of things, of his simple religious faith. Without personal ambition, without any egotism whatever, he performed great deeds, and all of his associations with his family, with his friends, with individuals outside of his own circle, with the thousands he led in war, were marked by the sweetness and light which glorify intellect and win the admiration that forever endures.

If such an estimate seems exaggerated, let us call from the great company of witnesses a Massachusetts writer of distinction. At the close of his work on Lee, the American, Gamaliel Bradford says:

> It is an advantage to have a subject like Lee that one can not help loving. I say, can not help. The language of some of his adorers tends at first to breed a feeling contrary to love. Persist, and make your way through this, and you will find a human being as lovable as any that has ever lived. At least I have. I have loved him, and I may say that his influence upon my own life, though I came to him late, has been as deep and inspiring as any I have ever known. If I convey but a little of that influence to others who will feel it as I have, I shall be more than satisfied.

In recent months to a remarkable extent writers on both sides of the ocean have been freshly treating of the lives of two Virginians who, let it be noted, were of the same ancestry, the ancestry to which also John Marshall belonged. Since 1924, 12 volumes have been published by Americans and foreigners discussing the career of Thomas Jefferson, and almost innumerable essays. Not less impressive have been the publications relating to Lee. One of them is the elaborate poem by Masters, of the midwest country which poured its sons into the armies of the Republic during the Civil War. It exalts the character of Lee. With rich imagination, it visualizes that sleepless night at Arlington, when, alone in his room, he sought an answer to the question as to what should be his course in the war that was then imminent. In those dark hours, when as a "silent court of justice in himself" he was striving almost in agony to arrive at a conscientious judgment, he is finally made to say:

> I can not draw my sword against my State, against my kinsmen, children, and my home!

Like his father, Light Horse Harry Lee, he doubted about secession, but in the end he did not doubt that in the approaching conflict, which he viewed as a revolution, his native State was entitled to his allegiance.

The commentators on his career as commander in chief of the forces of the Confederacy manifest an astonishing unanimity of opinion. In 1925, in his work on Lee the Soldier, the Englishman Sir Frederick Maurice wrote:

> "Read and reread," said Napoleon, "the 88 campaigns of Alexander, Hannibal, Cæsar, Gustavus, Turenne, Eugene, and Frederick. Take them as your models, for it is the only means of becoming a great leader and mastering the secrets of the art of war."
>
> To that select band of great commanders the name of Robert E. Lee must be added. His exact precedence among them I will not attempt to determine, but that they have received him as a soldier worthy of their fellowship I do not doubt.

Last year another Englishman, David Knowles, in his work on the American Civil War placed Lee high on the roll of the world's greatest captains, believing that he ranks "not far below" Cæsar, Hannibal, Cromwell, Condé, Turenne, Marlborough, and Frederick the Great. In another book, also published last year, entitled "Campaigns of the Civil War," an accomplished Massachusetts author, Walter Geer, ranks Lee even higher than Maurice and Knowles. He places him as one of the six great commanders of all history, the others being Alexander, Hannibal, Cæsar, Frederick, and Napoleon.

Thus he stands out in the estimation of those not of the South and not advocates of the cause for which Lee fought, who are best able to furnish a just estimate of the Virginia gentleman and soldier, the one hundred and twentieth anniversary of whose birth is this day in many places and by many people being celebrated. [Applause.]

Mr. RANKIN. Will the gentleman yield?

Mr. MOORE of Virginia. Yes.

Mr. RANKIN. When the first American newspaper reporter interviewed Hindenburg after the close of the World War, that great commander of the German Army turned to him and said:

> Permit me to say I have been a great admirer of one of your illustrious warriors, General Lee, both as a soldier and as a man.

Mr. MOORE of Virginia. I will say to my friend I might have cited, except I feared to tire the House, the testimony of almost numberless military critics not only of England but the other nations of Europe.

Mr. Speaker, I ask permission to have printed in the RECORD an address delivered on the 19th of January, 1926, by the Hon. Ross A. COLLIS, of Mississippi, at Alexandria, Va., before the Lee Camp of Confederate Veterans.

The SPEAKER. The gentleman from Virginia asks unanimous consent to extend his remarks in the RECORD by printing an address made by the gentleman from Mississippi [Mr. COLLINS]. Is there objection?

There was no objection.

Mr. MOORE of Virginia. Mr. Speaker, under leave granted me, I submit the following speech of the Hon. Ross A. COLLINS, of Mississippi:

> This is the natal day of Robert Edward Lee, foremost actor in the drama of the sixties. Here and in many other places to-day faithful followers of that lost cause will stand with bowed heads, basking their hearts in patriotic memories or raising voices in eloquent tribute to this departed hero. It should not be a day of sorrow, but a day of glorification. His life is an inspiration to every American and his memory worthy to be cherished by his Nation. I hope to add a few nuggets of language to the golden store of eulogy in an attempt to describe him.
>
> True it is that he was criticized and, as is always sorrowfully true, these criticisms have left their impress on the minds of many people. But with the passing of time this impress will wear away and gradually give place to the juster conception of the man, and only the lineaments of truth will show forth. The world usually judges men by their measure of success and, though Time hath his revenges and finally rights many wrongs, the man who fails of an immediate accomplishment of his aim appears to the body of his contemporaries and often to following generations to have been a failure. Yet from the seed of those who often seem to fail have sprung the richest fruits of civilization. In the divine economy of things appears a wonderful mystery. Throughout all the history of the exalted efforts of earnest men is found the strange truth enunciated by our Master that he who loses his life for the sake of the truth shall find it. Some writers, narrowly visioning but one side, and many readers ignorant of the complete facts of his life and history, consider Lee as a soldier who failed. While they admit his ability as a planner of defense, they contend that he failed in offensive warfare. He failed at Gettysburg and later on had finally to surrender, hence, they argue, he must have been a soldier of second rank. These statements repeated over and over again have made many believe that they were true. The public

accepts these pseudo facts as truth to such an extent that those of us who come from the Southland must accept the responsibility of a plain and honest presentation of the facts that will erase this unfair estimate of the great Lee from the minds of our people and the world.

Lee was but the embodiment of the spirit and civilization of his section. He was a true southerner. No foreign blood coursed through his veins. He was born in the South, reared and nurtured there, in line with the best traditions and principles of the South. If he failed to measure up to these, it was her fault. The history of Lee is the history of the South during the greatest crisis of her existence. The portrayal of his achievements is a picture of the army that he led. His administration of every place that he filled was a demonstration of his ability to grapple successfully with the problems that came to him.

He avoided always civil office, claiming that an officer in the military service of the country was unfit for civil duties. Senator B. H. Hill, of Georgia, in a conversation with him on one occasion, suggested that in the event the South was successful in the war he would probably be at once chosen by the people as a successor to Mr. Davis. General Lee replied, "Never, sir; I will never permit it. Whatever talents I may possess—and they are but limited—are military talents. My education and training are military. I think military and civil talents are distinct, if not different, and full duty in either sphere is about as much as one man can qualify himself to perform. I shall not do the people the injustice to accept high civil office, with whose questions it has not been my duty to become familiar."

"Well, but, General," said Hill, "history does not sustain your views; Cæsar, Frederick of Prussia, and Bonaparte were great statesmen as well as great generals."

"And great tyrants," said Lee, "and I speak of the proper rule in republics, where I think we should never have military statesmen nor political generals."

"Washington was an exception to all rules, and there are none like him," Lee said, smilingly.

This conversation with General Lee, it has been said, caused the eloquent Hill to say of him, "that he was Cæsar without his ambition, Frederick without his tyranny, Napoleon without his reward."

We often get the clearest pictures of public men from those who view them from a distance, either the distance of actual miles or down the vista of years. So from the able men of other nations, many of them his contemporaries, we get reliable opinions of the ability and greatness of the character of Lee, which we are scrutinizing to-day in loving memory. Thus, Lord Wolseley, of England, regarded by competent judges as standing at the head of the military profession at that time, wrote of Lee immediately after his death that he "was the greatest soldier of his age," and also "the most perfect man I ever met." Then, 40 years after this, in his memoirs, his judgments ripened and seasoned by years of meditation and wisdom, Lord Wolseley says of Lee, in comparing his campaign of 1862 with Napoleon's of 1796, that he was "the greatest of all modern leaders." And speaking of his visit to Lee, he writes: "* * * He was the ablest general and to me the greatest man I ever conversed with; and yet I have had the privilege of meeting Von Moltke and Prince Bismarck. * * * General Lee was one of the few men who ever seriously impressed and awed me with their natural and their inherent greatness. Forty years have come and gone since our meeting, and yet the majesty of his manly bearing, the genial, winning grace, the sweetness of his smile, and the impressive dignity of his old-fashioned style of address come back to me amongst the most cherished of my recollections. His greatness made me humble and I never felt my own individual insignificance more keenly than I did in his presence. His was, indeed, a beautiful character, and of him it might truthfully be written: 'In righteousness he did judge and make war.' * * * I have met many of the great men of my time, but Lee alone impressed me with the feeling that I was in the presence of a man who was cast in a grander mold and made of different and finer metal than all other men. He is stamped upon my memory as a being apart and superior to all others in every way." After Lee's death this wonderful man from the British Isles wrote to a friend: "I have known only two heroes in my life, and Gen. R. E. Lee is one of them. * * * I believe that when time has calmed down the angry passions, General Lee will be accepted in the United States as the greatest general you have ever had, and second as a patriot only to Washington himself."

Von Moltke himself placed Lee above Wellington.

Two more of Britain's soldiers place their glorious estimate on General Lee. Colonel Lawler said, "But after all the one name which in connection with the great American Civil War posteri narratum atque superstes erit (which the narration and tradition of posterity shall write as the highest) is the name of Robert Edward Lee." Colonel Chesney, another Britisher, pays this loving tribute, one which I am happy to quote to you, "The day will come * * * history will speak with a clear voice * * * and place above all others the name of the great chief of whom we have written. In strategy mighty; in battle terrible; in adversity and in prosperity a hero indeed; with the simple devotion to duty and the rare purity of the ideal Christian knight, he joined all the kingly qualities of a leader of men."

In those words, "simple devotion to duty," I find the motif, as it were, of the life of Robert E. Lee. Only with such a creed could any man go through success, bear criticism, endure adversity, and keep serene and helpful to his fellows as he did always. You all of you know the story of the old knapsack which had been used for many years by him. After his death there were discovered in it a few dried bread crumbs and one dingy slip of paper on which were these words: "There is a true glory and a true honor—the glory of duty done. The honor of integrity and principle." These words had supported him through the strife of battle and through the stress of life.

Of his greatness and ability as a soldier let some of those speak to us who have been at the forefront of life in this and other countries. General Alexander spoke of the "unparalleled audacity of his campaigns." Colonel Ivers ayers that "his name might be called audacity." Col. Evan Swift said, "Lee made five campaigns in a single year; no other man and no other army ever did as much."

The London Times: "His campaigns have much in common with those of Napoleon and fascinate the reader for the same reasons," while the London Standard said: "The fatherlands of Sidney and Bayard never produced a nobler soldier, gentleman, and Christian than Robert E. Lee." Colonel Henderson said, "Lee was undoubtedly one of the greatest, if not the greatest, soldier who ever spoke the English tongue." Morris Schaff wrote: "From the bottom of my heart I thank Heaven for the comfort of having a character like Lee to look at, standing in burnished glory above the smoke of Mammon's altars."

This profound and sacred devotion to his duty guided General Lee to accept the presidency of Washington College in the sunset time of his life. He felt bound to make all the returns he could to the sorrowed people of his Southland and realized that he could do this best through their sons. This same allegiance to duty that dictated his acceptance of this position marked his administration of it. He held the most profound convictions on the educational responsibilities of such an institution toward the individual and toward the Nation, and in line with this conviction he labored unceasingly, overcoming constant discouragements and nagging tasks, for the South was poor and opportunities limited. Yet he bore always to the course of making not only intellectuals out of his students, but true Christian gentlemen. "And as gradually the fruits of his labors began to be manifest, and the moral and intellectual results of his influence approved themselves even to his own modest self-estimate, his heart grew only warmer and his zeal more zealous in his work."

Thomas Nelson Page contributes this flower of praise and judgment of Lee: "History may be searched in vain to find Lee's superior, and only once or twice in its long course will be found his equal. * * * Had he been Regulus, we know that he would have returned to Carthage with undisquieted brow to meet his doom. Had he been Aristides, we know that he would have faithfully inscribed his name on the shell intrusted to him for his banishment. Had he been Cæsar, none but a fool would have dared to offer him a crown. Ambition could not have tempted him; ease could not have beguiled him; pleasure could not have allured him. * * * So to get his character as it is known to thousands, we must take the best that was in the best that the history of men has preserved. Something of Plato's calm was there; all of Sidney's high-mindedness; of Bayard's fearless and blameless life; of the constancy of William the Silent, tranquillus in arduis. But most of all, he was like Washington. Here in that great Virginian, and here alone, do we find what appears to be an absolute parallel. * * * As Washington was the consummate flower of the life of colonial Virginia, so Lee, clinging close to 'his precious example,' became the perfect fruit of her later civilization."

A few years ago the tattered remnants of the Blue and Gray met again at Gettysburg, this time not as adversaries, but as friends, not in battle array, but as citizens of a united country.

The Blue were lined up on one side of a street and the Gray on the other side of the same street. And as the two ranks stood at attention the order was given to "Forward march," and into each others' arms they marched.

This epitomizes the spirit all right-thinking persons hope for, the day when geography will not divide our people, the day when the sixties will be the heritage of all and the actors in that tragedy will be honored according to their talents by all men.

EDGAR ALLAN POE

Mr. RANKIN. Mr. Speaker, I ask unanimous consent to speak for three minutes.

The SPEAKER. The gentleman from Mississippi asks unanimous consent to address the House for three minutes. Is there objection?

There was no objection.

Mr. RANKIN. Mr. Speaker, I wish to call the attention of the House to the fact that to-day is not only the birthday of the illustrious leader of the Confederacy, Robert E. Lee, but it is also the anniversary of the birth of America's greatest poet, Edgar Allan Poe. Every year when these exercises have been held I have thought I would call the attention of the House to the fact that this great genius was also born on the 19th day of January, in the year 1809.

I think it not unfitting to call attention to it now, in this day, when we seem to be drifting so far from the literary moorings of this great man and his immortal contemporaries who contributed so much to the purity and the elevation of the literature of his time. As has been well and wisely said:

He was a devotee to beauty; but his large mind, illuminated with unusual intuition, apprehended the significance of creation in the appalling as well as in the beautiful, and to his mental touch these antipodal phases became interchangeable and were sometimes unified. His tuneful poems revived in America the dying notes of the Georgian era, and his wonderful stories lit the reading lamps of the world.

[Applause.]

THE CRISP-CURTIS BILL

Mr. BRAND of Georgia. Mr. Speaker, I ask unanimous consent to address the House for three minutes.

The SPEAKER. The gentleman from Georgia asks unanimous consent to address the House for three minutes. Is there objection?

There was no objection.

Mr. BRAND of Georgia. Mr. Speaker, on Monday last, Judge CRISP showed me a letter, and subsequently a telegram, which he had received from Mr. E. J. Conwell, who is the president of the Georgia Cotton Growers Cooperative Association. After reading these communications I asked the judge if he would let me have the same, my purpose being to put them in the RECORD. This is the letter referred to:

GEORGIA COTTON GROWERS CO-OPERATIVE ASSOCIATION,
Atlanta, Ga., January 14, 1927.

Hon. CHARLES R. CRISP,
House Office Building, Washington, D. C.

DEAR CONGRESSMAN CRISP: I have received a copy of the Crisp-Curtis bill which Mr. Fleming wired for you, and want to thank you for same.

I was in Washington last week but did not call on you as I did not know that you were going to introduce this bill. I was called there on a conference December 23 and some of these ideas were discussed, and had I known for certain that you were going to introduce this bill I would certainly have called on you.

Now I am confident that this bill will put agriculture on an equal basis with manufacture, the carriers of the country, organized labor, and the Federal reserve system. I can not see anything in it but what is sound.

I took it up with the board of directors of this association last Monday. They indorsed it 100 per cent and ask me, as the head of the organization, to get behind it.

I see that the McNary-Haugen bill was reported. But with a few amendments to the Crisp-Curtis bill, we favor it.

I am confident that you can get the support of both of our Georgia Senators, as I had a talk with each of them and they expressed themselves as favorable, or at least as favoring some sound legislation that would help agriculture.

I have talked to the bankers of Atlanta and all that I have been to see and talked to are for the Crisp-Curtis bill. I have not found a single one for the McNary-Haugen bill.

I am expecting to have a conference with the heads of the Atlanta daily papers within a day or two. I am satisfied that we can get their support. I am also confident that every farmer in the State will back you in this legislation—and I believe that all the farmers in the South will do so.

I am at your service and trust that you will not fail to call upon me if I can be of assistance in any way.

Yours very truly,

J. E. CONWELL,
President-General Manager.

This is the telegram referred to:

ATLANTA, GA., *January 17, 1927.*

Hon. CHARLES R. CRISP:

I want to congratulate you on speech you made before Agricultural Committee on farm-relief legislation. It expresses my views exactly. I believe it is soundest argument that has been put up in interest of American agriculture. I have faith in all of our Representatives as sincere and wanting to do something to help producers and am satisfied this bill will meet demand. Thanking you for your stand for producers of this country and offering you services and support of this association.

J. E. CONWELL.

Mr. Conwell is a constituent of mine, and when the Haugen bill was up for consideration at the last session of Congress he was in Washington several days for the purpose of lining up the Georgia delegation in behalf of the Haugen bill. He was very active in his efforts to have the Haugen bill passed. All of the Georgia delegation, including myself, except three Members, voted against the Haugen bill, chiefly because of the provision therein putting a tax on cotton, denominated as the equalization fee. So far as my vote is concerned, I am satisfied he was very much displeased with it.

Mr. Conwell's abandonment of the Haugen bill, so far as he is concerned as the head of the Cotton Growers' Association of Georgia, is a vindication of my vote as well as the votes of all the Members of the Georgia delegation who refused to vote for the Haugen bill because it put a tax on cotton.

Mr. Conwell is not only an active and enthusiastic supporter of the Crisp bill, for which I heartily commend him, but he says in his letter that all of his associates are likewise for the Crisp bill and every banker in Atlanta with whom he has talked.

M. Conwell's opposition to the Haugen bill and that of his associates I think reflects public sentiment in Georgia in regard to the propriety of enacting any farm-relief legislation which levies an equalization fee or puts a tax upon cotton.

I requested time to read this letter and telegram and make these few brief observations in order to call the attention of the House to the fact that the president and all the officers of the Cotton Growers' Cooperative Association of the State of Georgia have abandoned their support of the Haugen bill and are solidly and enthusiastically supporting the Crisp bill, and to the further fact that the officers of the farmers' institution have come around to our way of thinking and voting upon farm-relief legislation. [Applause.]

AGRICULTURE

Mr. GARNER of Texas. Mr. Speaker, I ask permission to extend my remarks in the RECORD in order to insert a statement by a group of Texas business men on the agricultural situation. These men are of such high type intellectually that I feel their views on this question would be of interest to the membership of the House.

The SPEAKER. The gentleman from Texas asks unanimous consent to extend his remarks in the RECORD in the manner indicated. Is there objection?

There was no objection.

Mr. GARNER. Mr. Speaker, under the permission granted me I submit the following memorial to Congress concerning the agricultural crisis and the policies proposed in the McNary-Haugen bill by a group of Texas business men:

To the honorable the Members of the Senate and House of Representatives of the Congress of the United States:

SIRS: Your petitioners respectfully represent that they have sought, in the preparation and presentation of this memorial, not to obtain the signatures of numerous voters but to offer the serious conclusions of a group of representative business men, who, from careful study and intimate contact, believe they have fair knowledge of the conditions underlying the farming problem of the South in particular and of the United States in general.

Your petitioners have full confidence in your faithful intent and your sense of responsibility, and they assume that you will welcome and weigh their suggestions for the amelioration of a manifest crisis.

CONTROL OF FARM SURPLUSES

The plight of agriculture is known to all men. It is not sectional or regional or temporary. The entire Grain Belt and the entire Cotton Belt are deeply involved and there is more or less of a like condition in every other agricultural region of the United States.

Agriculture represents a greater investment than the investment in manufacturing, mines, and railroads combined, and the decline in its investment value since 1921 represents a shrinkage of nearly one-third of its entire appraisal. The actual earnings of farmers for that period are lower than the earnings of laborers in manufacturing, workers in transportation, clerical workers, and Government employees. Agricultural products constitute nearly one-half of the total value of our exports; farmers and their families purchase nearly $10,000,000,000 worth of goods and services of other industries; the farm supplies material upon which depends the employment of nearly one-half of our industrial workers. The farm supplies about one-fifth of the total tonnage of freight carried by the railroads, pays one-fifth of the total

cost of government in the United States, and is the means of living of about one-third of the entire population. Therefore agriculture is a national concern and its decadence demands the serious thought of every man who is mindful of his own welfare and of the Nation's welfare.

RECURRENT CALAMITIES

That these conditions are not temporary, as many casual observers assume, is shown by the fact that agricultural distress recurs at more or less regular periods by reason of the surplus production which depresses market values below the cost of production. For example, the Cotton Belt experienced a long period of distress from overproduction in the early nineties and more or less distress in the first decade of the present century; it suffered severe losses in 1914, due in part to the World War but mainly to overproduction; it suffered a worse calamity in 1920 and 1921 and is now in the midst of the fourth serious case of distress from overproduction in the short space of 25 years. The Grain Belt has had somewhat similar experiences.

These facts demonstrate the inevitable recurrence of years and periods of agricultural distress to be expected under present practices, customs, and conditions which govern the value and earnings of an industry greater than any other single industry in the United States.

SELF-HELP FAILS

Self-help has failed. All efforts to prevent these recurring disasters in agriculture have failed except as temporary expedients. The sheer loss occasioned by overproduction from time to time impels reduced acreage both by the limitations of credit and by the elimination of the less resourceful producers, but that process has led immediately or soon to high prices, stimulated by scarcity of supply, and overproduction has ensued again. This is the vicious circle in which agriculture finds itself.

Cooperative marketing during the last five years has made a valiant effort to overcome these difficulties and has been potential in modifying excessive fluctuations in prices; it has also eliminated or reduced many evils of trade in the marketing of farm products, and it has been a wholesome influence in both rural life and in the commerce of agricultural commodities, but cooperative marketing as an adequate means of conserving a surplus and merging it into a reduced supply in the subsequent years without a calamitous decline in values has proved ineffective in a large way, and the small success which is to be credited to it has been obtained at the expense of the members of the associations, who have borne the burden of carrying a part of the surplus, while other farmers not members of the association have obtained the benefit of the steadying influences in trade exercised by the cooperatives.

SURPLUSES INEVITABLE

It is inevitable that there will be weighty surpluses of agricultural products because weather and pests are uncontrolled and more or less uncontrollable factors affecting yield. For example, the acre yield of cotton lint in 1921 was 124.5 pounds per acre and in 1926, 181.4. If the yield in 1926 had been at the same rate per acre as the yield of 1921, the production would have been less by more than 5,000,000 bales and there would have been no surplus. With fluctuations in acre yield varying as much as 50 per cent, it is absolutely impossible dependably and accurately to provide a volume of production well within demand without incurring the risk of precipitating a shortage amounting to famine.

It is for these reasons that farmers are incompetent to adjust supply to demand, as manufacturing is able to do, and the difficulty is still further increased by the fact that the number of producers of any given agricultural commodity, as distinguished from the number of producers of any manufactured commodity, is so large that concert and unity of action are utterly impracticable, as has been repeatedly shown by efforts to affect uniform reduction of acreage. For example: There are approximately 2,000,000 producers of cotton. They are of all classes and all grades of financial and mental resources. There can be no common plane of concept or activity between the city dweller owning large tracts of cotton land and the impoverished and ignorant share cropper. Moreover, generations of practice of individualism and the exaggerated appraisal of the right of each man to conduct his own affairs in his own way, together with inheritance and habits of method which have become fixed and governing characteristics of operation, all conspire to render the regulation of supply by concert an utterly impossible accomplishment.

WHAT HAS BEEN DONE FOR OTHER INDUSTRIES

Those who recoil from suggestions of relief of the agricultural situation by governmental activity or agency are strangely unmindful of historical facts concerning other great industries that have been rescued by governmental interposition from similar disorder and recurring distress.

It is only about a third of a century ago that the railroad business of the United States was in a state of confusion, reaching at times the proportions of chaos, due to the buccaneering of railroad operators and wreckers, to the favoritism and insidious practices of railroad managers, and to the nagging of political demagogues. When it was proposed to set up State and interstate agencies of regulation there was a loud protest of paternalism by the owners of railroads and the traditionally minded citizens who gave extreme and illogical application to the otherwise sound doctrines of political economy resting upon the principle of individualism as opposed to the doctrine of governmental overlordship. At length, however, the people of the United States, grown weary of the hurt to their own business by the disorder in railroading, set up State commissions and the Interstate Commerce Commission. The owners and the operators of the railroads were quick to discover in these agencies the means of protecting themselves from their own bad practices of cut-throat competition and manipulation and became the most ardent advocates of railroading by governmental regulation. From time to time the powers of the Interstate Commerce Commission, which at first was a mere bureau of information, have been enlarged until now that powerful body has so encroached upon private property rights that even a new railroad can not be built without its consent. Whatever may be thought of the wisdom of certain late phases of the policy of regulation of railroads by the Government, it can not be denied that that regulation has brought the railroads to the most efficient and most prosperous condition ever known in the history of transportation.

In like manner, until a few years ago, the business of the United States was upset and injured by bank panics. For more than 100 years communities, States, and the entire Nation had been embarrassed, thousands of individual failures had been caused among banks and among businesses dependent upon banks, and various and sundry expedients of emergency currency, of public accounting, and of guaranteed deposits had been devised, with wholly inadequate results. At length the people of the United States grew weary of bank panics, and over the protest of the greatest banking minds of the United States they set up the Federal reserve system, which served almost miraculously in the emergency of the World War and which has since maintained the most stable and the most prosperous condition of banking ever known in our history.

In both these outstanding examples of the efficient use of the powers of Government the people chiefly concerned proved their utter incapacity to stabilize their own business, and it was stabilized for them by the Government. Those who now are inclined to reproach farmers for entertaining the notion that some kind of governmental agency should be provided whereby with their own funds their products may be somewhat stabilized are respectfully reminded that in this respect farmers are in precisely the same category that railroad owners and bankers were a few years ago, and should realize that the statesmanly point of view in considering proposals of governmental relief is not what the Government may do to favor farmers by class legislation, but what the Government may do to help the people who suffer from the distress of farmers. The governmental policy in regulating railroads and in regulating banks was not to enact legislation for the benefit of railroads and banks, but to enact legislation for the welfare of the people imperiled by the distress and the disorder prevalent in railroading and banking which railroads and bankers themselves were unable to correct.

BOARD OF AGRICULTURAL CONTROL

Many thoughtful and patriotic men, who have given intelligent and patient study to the agricultural problem, have reached the conclusion that the situation calls for the establishment by the Federal Government of a board of agricultural control, with powers comparable to the powers exercised over railroads by the Interstate Commerce Commission and the powers exercised by the Federal Reserve Board over the banking system. These men, who include the leaders of the principal cooperative undertakings, a large number of eminent economists and a considerable number of Senators and Representatives in the Congress of the United States, after repeated conferences and painstaking deliberations, have reached a general concert of view in favor of the policies embodied in those measures commonly designated as the McNary-Haugen bill. The essential features of this legislative proposal are as follows:

1. A Federal farm board is to be constituted of 12 men, one from each Federal farm bank district, selected by the President of the United States from three nominees in each district submitted by representatives of the outstanding cooperative associations and farmers' organizations.

2. The Federal farm board will be empowered to furnish information in a general way concerning the economic status and the world trade conditions affecting the value of agricultural commodities from time to time, and upon the approval of representative cooperative associations and farm organizations will be empowered to take cognizance of the existence of a surplus of any given basic agricultural commodity, and thereupon to enter into business arrangements with cooperative associations or with other agencies which the Federal farm board may select or may constitute to segregate the surplus of such basic agricultural commodity from the quantity needed for domestic supply, and to finance the disposition of the surplus by levying an equalization

fee or assessment upon each unit of the commodity produced in the United States.

3. The initial activities and operations of the Federal farm board are to be financed by an appropriation of $300,000,000 as a revolving fund, which may or may not be returned to the Treasury of the United States accordingly as the Federal farm board is successful or unsuccessful with its undertakings. It will be observed that no subsidy or outright grant is involved in the proposed legislation. Precedents are ample for the policy of advancing funds by the Government for the development of an undertaking entirely beyond the capacity of private capital or personal effort. The Government incurred liabilities amounting to billions of dollars in the development of transcontinental railways, in the fostering of an American merchant marine, in the reclamation of arid lands, and in the establishment of the Federal farm land banking system. Certainly the development of the transcontinental railways, the maintenance of an American merchant marine, the reclamation of arid lands, and the establishment of the Federal farm land banking system were praiseworthy objects, but they can not be rated as more important to the general welfare than the maintenance of agricultural stability. Therefore no argument can properly lie upon the policy of governmental encouragement by the advancing of $300,000,000, but argument properly lies only upon the single point of the efficacy of the proposed system.

A VOICE IN AGRICULTURE

It is obvious that the proposed Federal farm board would give agriculture a voice in the economic councils of the world which it can not raise on its own account. The board, as proposed in the McNary-Haugen bill, would consist of men of intelligence, ability, and intimate knowledge of agricultural affairs. The board would be vested with all the dignity of an authorized agency of the Government of the United States, and its outgivings would unquestionably exercise a tremendous influence both upon the minds of traders and the minds of farmers.

The board would have a power of action in any given emergency, like the present cotton emergency, which no group or aggregation of farmers and their sympathetic banking and commercial friends can possibly have. Commercial values are not altogether a matter of calculation and statistical figures of supply and demand, but are in a very considerable degree matters of judgment. It will be recalled that in the depression of 1921 the expressions of confidence uttered by the War Finance Corporation and its activity in financing surpluses of cotton and cattle contributed as much as decreased supplies to the rapid recovery of values.

PROPOSED EQUALIZATION FEE

Since the producers of a given basic agricultural commodity are to receive the direct benefit of the expected stabilization of values to be accomplished by the operations of the Federal farm board, it is equitable that those producers should incur the risk of the board's undertakings. The equalization fee is designed to effect that purpose, and the bill provides that in the event a profit accrues from the operations of the Federal farm board, the increment may be returned ratably to the producers against whom assessments of the equalization fee were made.

EFFECT UPON ACREAGE

There is apprehension that producers will accept the benefits of the operations of the Federal farm board, and if those operations result to their profit will proceed in the ensuing year to increase their acreage, and therefore that the operations of the board will not serve the general purpose intended.

It is our opinion, after careful reflection based upon observations and experiences in similar situations, that the equalization fee may not only be employed wisely to restrain undue increase of acreage but that the producers themselves, upon the first instance of unsuccessful operation or upon the first instance of increased production following successful operation, will be most earnest in demanding an equalization fee that will effectually penalize and thereby prevent efforts to increase production or to take selfish advantage of a situation in which the board counsels reduced acreage.

If, for example, the Federal farm board were now in existence it would be able to segregate the estimated 4,000,000 bales of surplus cotton, and that segregation would in the very act have an appreciable effect upon present values, because there would be 4,000,000 bales of cotton actually withdrawn from commerce and current demand would readily absorb the remainder at considerably higher prices than now prevail. We can not imagine such a board functioning in such a way that would not issue a solemn warning to the producers of cotton substantially to this effect:

"We have retired, or caused to be retired, 4,000,000 bales of your excess production of 1926. We can not consume this cotton; we must ultimately sell it. If by the 1st of next July the Department of Agriculture of the United States reports that the total acreage in cotton in 1927 is not at least 25 per cent lower than the acreage of 1926, we will have reason to expect at least an average yield and we will know that the surplus of cotton has not been decreased. We will then proceed expediently to sell the 4,000,000 bales which have been retired, and that cotton will of necessity come into destructive competition with the cotton which you will produce in 1927."

We can not imagine the cotton producers of the South ignoring such a warning and such a prospect. It will be the most potential influence yet devised for affecting uniform acreage reduction.

Under the terms of the pending bill the equalization fee to be assessed after two years is limited to $2 a bale, and that would hardly reimburse the board for the losses to be sustained in such a transaction as the retirement of 4,000,000 bales followed by another large crop. In such a situation, with the experience that the producers themselves had defeated the objects of the Federal farm board, we believe that those producers would be the first and the most insistent to demand that the equalization fee be increased from $2 to such an amount as would cover the loss, and thereby to an amount which would be an effective penalty upon subsequent overproduction. Our views on this particular point are fortified by the experience of the Interstate Commerce Commission, which at first was a mere bureau of information but which has since become, by the demand of railroad owners themselves, as well as by the demand of railroad patrons, an all-powerful agency of complete control.

A BEGINNING AND A PROBABLE DEVELOPMENT

It is our opinion that if a Federal farm board be established as proposed in the McNary-Haugen bill, its initial activities will demonstrate such marked improvement in agriculture, or in the status of any particular basic agricultural commodity, that the producers themselves and the sympathetic business interests related to their operations will proceed progressively, step by step, somewhat experimental at first, but gaining wisdom by experience, to develop the agency into an effective method of control. It is not to be expected that complete success will result from the first undertaking. The field is new and there is no background of experience in this particular undertaking, but American statesmen and American citizens have not failed in any great undertaking to which they gave their best thought and their patient effort, and they will not fail in this, or if they do fail, the experiment will have been well worth while. It may come to pass that experience may prove that something new and an altogether different method is needed, or perchance it may come to pass that all effort will have failed. In that case we will have demonstrated that agriculture stands alone in the category of industries of national concern as wholly impossible of intelligent control. To our minds this is an inconceivable possibility, or if conceivable, it presents a prospect of unspeakable despair, because it points to continued decadence, to agricultural peasantry, and to all the social and political ills to follow from the financial and social decay of those who till the soil and furnish the world with its food and raiment.

In these views we make no mention of details and we omit discussion of some questionable provisions. We respectfully submit also that cottonseed products, including cottonseed oil, the most valuable of all vegetable oils, should be included in the act.

We do not venture otherwise criticism of particular features of the bill or of the proposed system. These are all matters that can be safely trusted to the deliberations of the American Congress upon the testimony and advice of the leaders of farm organizations and others experienced in the production and commerce of agricultural commodities. We seek only to call attention to the outstanding factors of the problem involved, and we appeal to the American Congress for some constructive effort in good faith to use proper powers of Government to stabilize agriculture, as railroading, banking, manufacturing, and labor have been stabilized by acts of Government.

We submit, in conclusion, this pitiful paradox which rebukes the justice which is supposed to inhere in Government and in organized society. The farmers of the United States have produced more grain, which is bread; more cotton, which is raiment; with more by-products for livestock, which furnish milk and meat, than the world at once needs. They have made the sustenance of the world safe and its people comfortable and for that service they are penalized in being compelled to sell their products far below the cost of production. Every concept of fair dealing between man and man cries out against the monstrous wrong imposed upon producers under a system of commerce which rates two suits of clothes and two loaves of bread of less value than one suit of clothes and one loaf of bread.

We believe with all our minds that the salvage of agriculture from the impending wreck means the salvage of the Nation from impending ruin, because we can not believe that the Nation can endure unless it is rooted in the prosperity, comfort, and culture of those who alone operate with the processes of nature. A condition of prosperity and of civilization that rests solely upon manufacture and trade is an artificial thing. It has never survived in all the world's history, and it will not survive even in this land of seeming miracles.

We have full faith, based upon repeated national experiences, in the capacity of American statesmen and leaders of American agriculture to

construct an effective measure of relief, and we have equal faith in the fair-mindedness of the American people to approve such a measure. Therefore we look with confidence to early action by the American Congress and we hail the present opportunity for faithful servants and representative citizens to add another great achievement to the long and proud list of constructive American policies.

J. A. Kemp, chairman of the board, City National Bank, Wichita Falls, Tex.; Nathan Adams, president American Exchange National Bank, Dallas, Tex.; Ike T. Pryor, cattle raiser and capitalist, San Antonio, Tex.; Leonard Tillotson, president Sealy State Bank, Sealy, Tex.; W. F. Pendleton, general manager Farmersville Cotton Oil Co. and Munday Oil Co., Dallas, Tex.; John E. Owens, vice president Republic National Bank, Dallas, Tex.; Frank N. Drane, banker and merchant, Corsicana, Tex.; W. M. Williams, president Farmers' National Bank, Hillsboro, Tex.; R. L. Warren, lawyer and land owner, Dallas, Tex.; A. M. Frazier, lawyer and land owner, Hillsboro, Tex.; W. C. Wear, lawyer, Hillsboro, Tex.; Ed C. Lasater, cattle raiser, Falfurrias, Tex.; Cato Sells, retired banker, Fort Worth, Tex.; O. B. Colquitt, former governor, oil operator, Dallas, Tex.; Chas. M. Campbell, president City National Bank, Temple, Tex.; H. W. Ferguson, president Dallas Joint Stock Land Bank, Dallas, Tex.; Ed Woodall, president Colonial Trust Co. and Hillsboro Cotton Oil Co., Dallas, Tex.; C. M. Smithdeal, lawyer and land owner, Dallas, Tex.; John T. Fortson, banker and merchant, Corsicana, Tex.; Clarence Ousley, vice president Globe Laboratories, Fort Worth, Tex.

JANUARY, 1927.

Mr. I. H. Kempner, banker and cotton merchant, Galveston, Tex., in correspondence with the foregoing petitioners made the following suggestions:

"Your own plan suggests to me the possibility of a plan by which 'an equalization fee' can be collected on every bale of cotton raised or every acre planted to cotton. This equalization fee, say $2 per bale, to be collected and to be used in any year deemed best by the Federal farm board, or agency created under its auspices, to buy up, at a price not exceeding an amount representing rent of the land to the owner (at a fixed basis, say $4 per acre), and a similar amount to be paid to the tenant to pay for all cotton planted but not in any part picked in any one year by the 1st of December. In this way, whenever the price of cotton should be below 18 cents a pound for middling at the ports, this board could order acreage not picked to be abandoned and use the total equalization fees collected to reimburse the growers of cotton for the actual use of their time and labor on such cotton as was not picked by December 1. In years when the price exceeds 18 cents a pound for middling cotton this equalization fee would not be used, but would be stored up, invested in Government securities, and held as a reserve for the contingency of overproduction that may arise. This equalization fee to be based not on the bales produced any year but on the acreage planted, and proper penalties could be provided against a false statement of acreage, the same as is provided for false returns of income taxes as at present. Such cottons are always low grades, and payment of $8 per acre should equal $25 per bale (at approximately one-third of a bale to the acre), which is as much as a grower would likely net after paying picking, hauling, and ginning for low grades. Two dollars per bale collected on 15,000,000 bales will pay $8 per acre over 3,000,000 acres. A deficit may have to be made up at the start, but within 10 years the plan will be self-sustaining; and in the meantime, with the Government interested, there will no doubt be a constant effort on their part to increase consumption of cotton to bring to the public the advantage of using cotton in order that prices may be maintained at a figure where the income from this equalization fee will be a source of revenue and profit rather than expense to the Treasury."

PERMISSION TO ADDRESS THE HOUSE

Mr. GREEN of Florida. Mr. Speaker, I ask unanimous consent to address the House for four minutes.

Mr. TILSON. May I ask the gentleman upon what subject?

Mr. GREEN of Florida. I wanted to make a few remarks in behalf of the World War veterans.

Mr. TILSON. We have gone on for nearly an hour now with addresses, and I wish the gentleman would withdraw his request for the present.

Mr. GREEN of Florida. I will withdraw my request, Mr. Speaker.

Mr. TILSON. Later on we will see if we can not take care of the gentleman.

WAR DEPARTMENT APPROPRIATION BILL

Mr. BARBOUR. Mr. Speaker, I move that the House resolve itself into Committee of the Whole House on the state of the Union for the further consideration of the bill H. R. 16249, the War Department appropriation bill.

The motion was agreed to.

Accordingly the House resolved itself into Committee of the Whole House on the state of the Union, with Mr. TILSON in the chair.

The Clerk read the title to the bill.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

Subsistence of the Army: Purchase of subsistence supplies: For issue as rations to troops, including retired enlisted men when ordered to active duty, civil employees when entitled thereto, hospital matrons, applicants for enlistment while held under observation, general prisoners of war (including Indians held by the Army as prisoners, but for whose subsistence appropriation is not otherwise made), Indians employed by the Army as guides and scouts, and general prisoners at posts; for the subsistence of the masters, officers, crews, and employees of the vessels of the Army Transport Service; hot coffee for troops traveling when supplied with cooked or travel rations; meals for recruiting parties and applicants for enlistment while under observation; for sales to officers, including members of the Officers' Reserve Corps while on active duty, and enlisted men of the Army: *Provided*, That the sum of $12,000 is authorized to be expended for supplying meals or furnishing commutation of rations to enlisted men of the Regular Army while competitors in the national rifle match: *Provided further*, That no competitor shall be entitled to commutation of rations in excess of $1.50 per day, and when meals are furnished no greater expense than that sum per man per day for the period the contest is in progress shall be incurred. For payments: Of the regulation allowances of commutation in lieu of rations to enlisted men on furlough, enlisted men when stationed at places where rations in kind can not be economically issued, including retired enlisted men when ordered to active duty and when traveling on detached duty where it is impracticable to carry rations of any kind, enlisted men selected to contest for places or prizes in department and Army rifle competitions when traveling to and from places of contest, applicants for enlistment, and general prisoners while traveling under orders. For payment of the regulation allowances of commutation in lieu of rations for enlisted men, applicants for enlistment while held under observation, civilian employees who are entitled to subsistence at public expense, and general prisoners while sick in hospitals, to be paid to the surgeon in charge; advertising; for providing prizes to be established by the Secretary of War for enlisted men of the Army who graduate from the Army schools for bakers and cooks, the total amount of such prizes at the various schools not to exceed $900 per annum; and for other necessary expenses incident to the purchase, testing, care, preservation, issue, sale, and accounting for subsistence supplies for the Army; in all, $17,676,923, and, in addition, unobligated balances under the following appropriations for the fiscal year 1925 are reappropriated in amounts not to exceed those set after each of such appropriations: Mileage of the Army, $65,000; finance service, $200,000; Organized Reserves, $75,000; regular supplies of the Army, $150,000; incidental expenses of the Army, $275,000; Army transportation, $1,500,000; water and sewers at military posts, $50,000; pay of National Guard for armory drills, $200,000; pay of Military Academy, $148,000; arms, uniforms, equipment, etc., for field service, National Guard, $28,039; in all, $2,691,039.

Mr. LAGUARDIA. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 16, line 17, after the figures "$17,676,923," strike out the balance of the line, all of lines 18 to 25, inclusive, and on page 17 strike out lines 1 and 2.

Mr. LAGUARDIA. Mr. Chairman, it may be contended by the committee that the reappropriation of $2,691,039 is on account of the changes in the rations and that that change will necessitate this amount. I do not believe that to be the fact. If there is to be a change in the rations making the Army rations equal to that of the Navy, if the bill passes the Senate, then that can be taken care of in the next deficiency bill.

This $2,691,039 over and above the budgetary recommendation will take care of the several purposes lumped in this section under the Quartermaster Corps.

Now, it may be stated that the sum total agrees with the budgetary recommendation; that is so; but by reappropriating the unexpended balance contained on page 16 it makes a difference of $2,691,039.

I want to point out that last year you had a surplus of $1,500,000 for Army transportation. If it is going to be the custom of the Appropriations Committee to appropriate $1,500,000 a year and $200,000 in some other item, more than is really required, and then the next year reappropriating the unexpended balances in the general fund, then your appropriation bills will mean absolutely nothing.

That is what is being done all through this bill, and I charge that the estimates presented by the War Department last year to the Budget Bureau for the present fiscal year were studiously and purposely so padded as to create the very surplus which

they now come and ask the Appropriation Committee to reappropriate.

Under ordinary circumstances that might have gone through unobserved, but that is the old Army game. You can not beat it. If these fellows spent as much time drilling for military purposes as they do on appropriation bills, perhaps we could save a few million dollars and have a more efficient Military Establishment.

Now it will be argued that that is solely for the purpose of the changed rations. Let me say that I am in complete accord with the change of rations in order to make the rations of the Army the same as the Navy. But we ought not to appropriate in anticipation of legislation. The provision for the increase of rations is not yet a law, so you are not justified in now appropriating for something that may not become a law.

I want to say while I am on the subject of rations that it is not only the amount of money appropriated for rations that will secure a company a good mess. It is the kind of supervision you have. An incompetent mess sergeant, without proper supervision, will not be able to give the men any better food at 50 or 60 cents than at 39 cents. A great deal depends on the management.

I say again if more time was spent by these officers at their posts in looking out for the men they would not receive the poor kind of food that they are now getting. And with all of that we have passed a law to take care of that situation, and after it passes the Senate and becomes a law it is time enough to make the necessary appropriations.

Mr. BARBOUR. Mr. Chairman, if we strike out the $2,691,039, as proposed in the amendment of the gentleman from New York, we will reduce the size of the Army, so far as subsistence is concerned, from 118,750 to 115,000.

Mr. LAGUARDIA. Will the gentleman yield?

Mr. BARBOUR. Yes.

Mr. LAGUARDIA. In the event that the increase provision passed the Senate, does the gentleman say that we need no further appropriations?

Mr. BARBOUR. The gentleman refers to the bill which passed the House a day or two ago?

Mr. LAGUARDIA. Yes.

Mr. BARBOUR. That would come in a deficiency appropriation bill.

Mr. LAGUARDIA. Exactly.

Mr. BARBOUR. Then it can not do any harm if we include it in this bill, because if the other bill does not become a law then it will be increased to this extent in this bill.

Mr. LAGUARDIA. And we are not providing for that now in this bill.

Mr. BARBOUR. No.

Mr. LAGUARDIA. This is to take care of the added 3,700 men?

Mr. BARBOUR. And also to increase the ration for the men; $2,193,086 of the $2,691,039 is for the rations and $497,873 is to provide subsistence for the additional 3,750 men.

So far as the unexpended balances are concerned, the War Department did not come down and influence the committee to reappropriate these unexpended balances. We asked the War Department to supply us with a list of the unexpended balances, and in response to that request we were advised as to these balances which are now reappropriated in this bill.

Mr. HILL of Alabama. Mr. Chairman, I move to strike out the last word. I hope the amendment of the gentleman from New York [Mr. LAGUARDIA] will not prevail. This amount of $2,691,039 provides for an increase of 5 cents in the ration of the enlisted personnel of the Army. It raises the ration from approximately 35 cents to approximately 40 cents. Yesterday the gentleman from South Carolina [Mr. MCSWAIN] made an able speech on the question of desertions from the Army, calling to the attention of the House the fact that last year 13,644 men of the Regular Army deserted from the Army. Over 10 per cent of the enlisted personnel of the Army deserted last year. The gentleman from South Carolina stated that in his opinion these desertions were due largely to the fact that the enlisted man has so slight an opportunity to become an officer—so slight an opportunity for promotion. That opinion of the gentleman from South Carolina may be correct in part, but I believe that more than any lack of opportunity for promotion this meager, paltry ration that the enlisted personnel of the Army has been receiving is the prime cause for the great number of desertions.

Mr. BRIGGS. Mr. Chairman, will the gentleman yield?

Mr. HILL of Alabama. Yes.

Mr. BRIGGS. Does the gentleman, in the legislation recommended by his committee the other day, take care of that situation? Does it provide legislative authority for a more adequate allowance?

Mr. HILL of Alabama. Absolutely. Not only does this appropriation bill provide an increase of 5 cents, but the Committee on Military Affairs of the House reported a bill giving to the Army enlisted personnel the same ration that the Navy and the marine personnel get. That bill was passed by the House on Monday last.

Mr. LINTHICUM. Does not the gentleman think that the miserable housing condition has a great deal to do with the desertions?

Mr. HILL of Alabama. I think that is one element, but I think that of the two the ration is the more important. The ration allowance has been miserably small during the last few years, and it is during these years that we have had so many desertions from the Army. It is astounding when you read the record to see the paltry sum that we have been allowing the enlisted man in our Army for his ration. In the year 1923 the allowance was 29.78 cents; in 1924, 31.65 cents; in 1925, 31.50 cents; and in 1926, 36.12 cents. Nowhere does the ration allowance exceed 37 cents, and in 1923 the allowance was just a little over 29 cents. This amount has been so paltry, so meager, so insufficient, that the company commanders have been forced to raise supplemental sums to properly feed the soldiers in their companies. The company commanders have been forced to raise funds from the post exchanges. In other words, the price placed on articles in the post exchanges which were purchased by the enlisted men had to be fixed so that sufficient profit would come out of the articles to help pay for the food of the men. The barber shops and the billiard rooms have had to be run on the same basis. In many instances the company commanders have had to maintain gardens, keep cows, raise chickens, and do like things in order to get enough food to properly feed the men of the Army. It is quite easy to understand why men desert. A man joins the Army to be a soldier, to play the war game, not to take a hoe and work in a garden or to be chambermaid to a cow or to raise chickens.

The CHAIRMAN. The time of the gentleman from Alabama has expired.

Mr. HILL of Alabama. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. LAGUARDIA. Mr. Chairman, will the gentleman yield?

Mr. HILL of Alabama. Yes.

Mr. LAGUARDIA. Does the gentleman know how many men are used to do menial work around the officers' quarters?

Mr. HILL of Alabama. I could not enlighten the gentleman on that.

Mr. LAGUARDIA. Quite a large number of them.

Mr. HILL of Alabama. I would be pleased if the gentleman would put the figures in the RECORD. I would like to have that information.

Mr. VINSON of Kentucky. Is it not true that the Budget allowance for the present year for the enlisted personnel of the Army was approximately 33 cents a day?

Mr. HILL of Alabama. Yes; that is true. We find the Army feeding its men with this paltry sum running from 29 to 36 cents, while the Navy has had 55 cents for its men and the marines have had 50 cents for their men. Often we find the Army quartered with the Navy or quartered with the marines. You gentlemen can imagine the effect upon the morale of the soldier when he is getting 35 cents' worth of food each day while his buddy in the Navy, who is quartered with him, is getting 55 cents' worth of food. Napoleon once said that an Army marches on its stomach. No man can question the fact that nothing enters more into the morale of the Army than the food of the Army. Nothing makes for the satisfaction and the contentment of the men as giving to the men three square meals a day. In this connection I want to say this: It seems to be popular in this country, whenever any condition exists that should not, to charge it right away to Congress and lay it at the doors of Congress. Congress has absolutely not been at fault in the matter of the Army ration. Under the law to-day the Army ration is fixed by Executive order of the President of the United States, and the record shows that Congress has never yet failed or refused to give to the Army just the amount asked for by the Army for the ration.

Mr. VINSON of Kentucky. Will the gentleman yield?

Mr. HILL of Alabama. I will.

Mr. VINSON of Kentucky. Is it not true that the components are the same as laid down in 1908?

Mr. HILL of Alabama. That is true. The War Department was derelict, in my opinion, in not going to the President and

asking for an increase in the Army ration. In the year 1924 the Quartermaster General of the Army asked the War Department to do that very thing. This request only met with disapproval on the part of the War Department. The condition we find to-day of the failure properly to feed and ration the Army lies at the doors of the War Department and not at those of the Congress. Let me say that on yesterday when the gentleman from South Carolina spoke about the Chief of Staff as a gallant, knightly, and scholarly soldier he voiced my estimate of Gen. Charles P. Summerall. It is largely due to the efforts of General Summerall that the ration has been increased by the Appropriations Committee of the House and that the Military Affairs Committee of the House brought in the bill which passed this House Monday providing for an Army ration equal to the ration of the Navy and Marine Corps. I only hope that as General Summerall pursues his duties as Chief of Staff, if other conditions similar to this where the enlisted personnel has been neglected and the War Department has been derelict exist, he will bring those matters to the attention of Congress as he did in the case of the ration.

Mr. O'CONNELL of New York. Is it not due largely to the fact that the Military Affairs Committee of this House has nothing to do with it, but the Bureau of the Budget?

Mr. HILL of Alabama. No; I can not say that. The ration is fixed by Executive order, and I take it the President would fix any ration within reason that the War Department asked of him, but the War Department has never requested any change in so far as the ration is concerned.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

None of the funds appropriated in this act shall be used for the payment of expenses of operating sales commissaries other than in Alaska, Philippine Islands, and China, at which the prices charged do not include the customary overhead costs of freight, handling, storage, and delivery, notwithstanding the provisions of the act of July 5, 1884.

Mr. BLANTON. Mr. Chairman, I make a point of order against the language contained in lines 3, 4, 5, 6, 7, 8, and 9 just read, because the same is legislation unauthorized on an appropriation bill, and it seeks to change existing law. The Chairman will note it proposes to do away with the act of July 5, 1884.

The CHAIRMAN. Does the gentleman from California wish to be heard on the point of order?

Mr. BARBOUR. Will the gentleman reserve the point of order?

Mr. BLANTON. Well, it is subject to the point of order.

Mr. BARBOUR. Oh, yes; but the gentleman has been very enthusiastic about saving money on this bill and here is the case where it saves money, and now the gentleman proposes to strike it out——

Mr. BLANTON. I am interested in two propositions; one is the saving of money, and the other is to let the legislative committees function once in a while and not permit the Committee on Appropriations to take all of their powers and duties away from them.

Mr. JAMES. I will say to the gentleman this is one of the bills the gentleman objected to the other day that came from our committee. We believe with the gentleman from Texas that everything regarding legislation should come out of our committee.

But the gentleman evidently had not looked into the matter at that time.

Mr. BLANTON. No. The gentleman had looked into it, and that is the reason why he asked the question. He wants measures of this kind to come up under the ordinary rules of the House, where they can be debated and passed upon intelligently. The Members of the House can not pass intelligently upon a piece of legislation where it is called up and considered in gross and passed and a motion to reconsider and lie on the table agreed to and all done in about a second.

Mr. BARBOUR. This provision has been carried in the bill for many years. Even if it is subject to a point of order, why not let it go through until the military bill comes in in the regular way?

Mr. BLANTON. I am not doing it antagonistically against the committee, because I want to see this committee preserved. I want to see one committee of the House making appropriations. But if you want the committee preserved and its functions and powers preserved, you had better stop legislating, because the membership is getting tired of it, and they are going to overturn the present régime and the present regulations if——

Mr. BARBOUR. The committee will be glad to have the House legislate on these matters.

Mr. BLANTON. Mr. Chairman, I insist on the point of order.

The CHAIRMAN. The Chair sustains the point of order. The Clerk will read.

The Clerk read as follows:

None of the funds appropriated in this act shall be used for payment of expenses of operating any utility of the War Department selling services or supplies at which the cost of the services or supplies so sold does not include all customary overhead costs of labor, rent, light, heat, and other expenses properly chargeable to the conduct of such utility.

Mr. BLANTON. Mr. Chairman, a point of order; I reserve a point of order, in order to ask the gentleman from California a question.

This provision, while skillfully drawn, apparently in the shape of a limitation, is nevertheless an authorization for the Military Establishment to encourage in commercial pursuits so long as they get a profit large enough to pay all expenses. That is the purpose and intention of this provision, and it is undoubtedly legislation. Why should the Military Establishment engage in commercial pursuits?

Mr. LAGUARDIA. At many posts, located far away from the cities, they have to have what is called the canteen, and then they have to bring them in, and unless we provide for them in this way I will tell you what will happen: They will have to have officers in charge of it paid at Government expense.

Mr. BLANTON. These concessions to sell certain things at Army posts are granted by Army officers to certain particular friends of theirs in the post, and the boys in the Army who get these things have to pay two or three times their value and get inferior stuff.

Mr. LAGUARDIA. Take, for example, the post near Mineola, N. Y. It is 4 miles from Mineola.

Mr. BLANTON. Does the gentleman think this is a salutary policy?

Mr. LAGUARDIA. It takes money.

Mr. BLANTON. Mr. Chairman, I withdraw the reservation.

Mr. GREEN of Florida. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Florida moves to strike out the last word.

Mr. GREEN of Florida. I ask unanimous consent to proceed out of order for five minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. GREEN of Florida. Mr. Chairman and gentlemen of the committee, this morning we have had eulogies upon the heroes of yesterday from the gentleman from Mississippi [Mr. RANKIN] and the gentleman from Virginia [Mr. MOORE]. I think it is time for us to say something of the heroes of to-day.

In reading over the papers last night my pride as an American citizen was humiliated when I read a headline which ran something like this, "Police disperse vets after bonus." Has the time come here in America when our ex-service men, who have fought to defend our country in its hour of need, when they go down with their certificates, obligations of the Government, and ask that they be cashed at a bank or that they receive a loan thereon, are to have the police called out to disperse them? Only about 10 years ago, when the shot and shell were bursting, when the Nation was filled with patriotism and these gallant heroes were passing down the streets and avenues of our Capital City, at that time were the police called out to disperse them? To-day, when they come in and ask for their reward, then the police are called out to disperse them for claiming their right to have a loan upon a certificate, a piece of paper granted to them through the efforts of the Congress of the United States.

My friends, I believe it is time for the Committee on Ways and Means to devise some method by which the ex-service men who have these certificates may present them to the Veterans' Bureau or some other place and receive loans thereon. They go to the various bankers of the country and the banks are not prepared to take care of these loans at the minimum rate of interest, and our Government, which can secure money for a little more than 3½ per cent, it seems to me, should surely take care of these veterans' loans, and then it would not be necessary for the bankers of the country to call out the police to disperse them.

Gentlemen, is it possible that we, composing the House of Representatives of the American Congress, should sit here and permit these conditions to go on? Is it possible that these men

who fought to defend our country must go around now waving in their hands their Government obligations and begging the banks of the country to give them a loan on them and receive the treatment that they are receiving? The bankers of the country would like to take care of these loans, but the low rate of interest is prohibitive, in some instances at least.

Mr. KINDRED. Will the gentleman yield?

Mr. GREEN of Florida. Yes.

Mr. KINDRED. Rather than compel the veterans to undergo such disgraceful proceedings, the United States Government should make loans to them directly from the Veterans' Bureau on their converted insurance certificates at 4 per cent.

Mr. GREEN of Florida. I believe, with the gentleman from New York, that that is the absolute solution of it.

Mr. BLANTON. Will the gentleman yield?

Mr. GREEN of Florida. Yes.

Mr. BLANTON. The gentleman will remember that just last week I offered an amendment to an appropriation bill authorizing and directing the Director of the Veterans' Bureau to do that very thing.

Mr. GREEN of Florida. I recall that the gentleman from Texas did that, as he is always working for the veterans of the World War.

Mr. BLANTON. My amendment authorized and directed the Director of the Veterans' Bureau to make loans to the veterans on their certificates out of the insurance fund at 4 per cent, and this great Committee on Appropriations, which does not want legislation in bills except when it puts it there, made a point of order against it.

Mr. GREEN of Florida. There is over $300,000,000 in the Treasury, and the veterans are waving their certificates in their hands asking for loans. I think the President and the Secretary of State, instead of courting war with Nicaragua and wanting to overrun Mexico, should first show their gratitude and recognize the needs of those who have already defended the American flag. We do not need war with Nicaragua or Mexico; America wants peace. America wants her World War veterans to secure their rights. Many of these veterans need money now and should have it now instead of their beneficiaries at the veteran's death. Mr. Speaker, provisions for the loan on or the redemption of these adjusted service certificates should now be made; daily I am receiving distressful letters from veterans wanting loans. This matter should be attended to. [Applause.]

The CHAIRMAN. The time of the gentleman from Florida has expired.

The pro forma amendment was withdrawn.

The Clerk read as follows:

Regular supplies of the Army: Regular supplies of the Quartermaster Corps, including their care and protection; construction and repair of military reservation fences; stoves and heating apparatus required for the use of the Army for heating offices, hospitals, barracks and quarters, and recruiting stations, and United States disciplinary barracks; also ranges, stoves, coffee roasters, and appliances for cooking and serving food at posts in the field and when traveling, and repair and maintenance of such heating and cooking appliances; authorized issues of candles and matches; for furnishing heat and light for the authorized allowance of quarters for officers, enlisted men, and warrant officers, including retired enlisted men when ordered to active duty, contract surgeons when stationed at and occupying public quarters at military posts, officers of the National Guard attending service and garrison schools, and for recruits, guards, hospitals, storehouses, offices, the buildings erected at private cost, in the operation of the act approved May 31, 1902, and buildings for a similar purpose on military reservations authorized by War Department regulations; for sale to officers, and including also fuel and engine supplies required in the operation of modern batteries at established posts; for post bakeries, including bake ovens and apparatus pertaining thereto and the repair thereof; for ice machines and their maintenance where required for the health and comfort of the troops and for ice for issue to organizations of enlisted men and offices at such places as the Secretary of War may determine, and for preservation of stores; for cold storage; for the construction and maintenance of laundries at military posts in the United States and its island possessions; authorized issues of soap, toilet paper, and towels; for the necessary furniture, textbooks, paper, and equipment for the post schools and libraries, and for schools for noncommissioned officers; for the purchase and issue of instruments, office furniture, stationery, and other authorized articles for the use of officers' schools at the several military posts; for purchase of commercial newspapers, market reports, etc.; for the tableware and mess furniture for kitchens and mess halls, each and all for the enlisted men, including recruits; for forage, salt, and vinegar for the horses, mules, oxen, and other draft and riding animals of the Quartermaster Corps at the several posts and stations and with the armies in the field, for the horses of the several regiments of Cavalry and batteries of Artillery and such companies of Infantry and Scouts as may be mounted, and for remounts and for the authorized number of officers' horses, including bedding for the animals; for seeds and implements required for the raising of forage at remount depots and on military reservations in the Hawaiian, Philippine, and Panama Canal Departments, and for labor and expenses incident thereto, including, when specifically authorized by the Secretary of War, the cost of irrigation; for the purchase of implements and hire of labor for harvesting hay on military reservations; for straw for soldiers' bedding, stationery, typewriters and exchange of same, including blank books and blank forms for the Army, certificates for discharged soldiers, and for printing department orders and reports, $12,925,279, of which amount not exceeding $2,500,000 shall be available immediately for the procurement of fuel for the service of the fiscal year 1928.

Mr. LaGUARDIA. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from New York offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. LaGUARDIA: Page 19, line 24, strike out "$12,925,279" and insert in lieu thereof "$12,771,093."

Mr. LaGUARDIA. Mr. Chairman, my amendment simply provides the figures recommended by the Budget Bureau. I will not take any more of the time of the committee just now because I may want more time on some of the amendments I intend to offer later. This gives the committee an opportunity to stand by the Budget estimate.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from New York.

The question was taken, and the amendment was rejected.

Mr. FISH. Mr. Chairman, I move to strike out the last word. I want to speak under that part of this paragraph which includes United States Disciplinary Barracks, and also refer to the next paragraph, which provides for an organist in these barracks.

I received this morning a letter from one of my constituents asking me what I could do to help a private soldier of the Regular Army who had been court-martialed and sent to one of these disciplinary barracks for a period of 10 years. I have not had time to investigate the case or find out the facts. I do not pretend now to discuss it on its merits, but I am interested, of course, in seeing that these disciplinary barracks are provided with organists or, at least, for sake of my constituent until I have had an opportunity to ascertain all the facts in this amazing case.

These are the charges that were sent to me to-day for which this young American, who is an orphan, and who went into our Army probably for patriotic reasons, is to be confined in a disciplinary barracks for 10 years:

Paul V. Alverson, formerly a private, Tenth Signal Company, Signal Corps, was tried by a general court-martial jointly with five other members of the same organization and was convicted of (a) burglary; (b) larceny of property of the value of about $1.80; (c) unlawfully, wrongfully, and willfully destroying private property of the value of about $15; and (d) violating standing orders by taking a horse out of camp. He was sentenced to be dishonorably discharged from the service, to forfeit all pay and allowances due or to become due, and to be confined for the period of 10 years, the Atlantic Branch, United States Disciplinary Barracks, Governors Island, N. Y., being designated as the place of confinement. The sentence became effective April 1, 1926.

Those are the charges that were sent to me to-day by one of my constituents, who asked me to investigate the case in order to submit a request for clemency. I thought this might be an opportunity to get a little help out of the subcommittee and that they might be good-natured enough to advise me how to proceed to obtain justice for this young fellow, who is about to spend 10 years of his life in the disciplinary barracks because he took a horse out of the barracks, destroyed $15 worth of Government property, and is charged with stealing $1.80.

Mr. O'CONNELL of New York. Will the gentleman yield?

Mr. FISH. Yes.

Mr. O'CONNELL of New York. If he stole $25 would he get 25 years for it?

Mr. FISH. That is a very pertinent question. According to this boy's sentence for taking $1.80, he would probably be hanged. You gentlemen of the committee have just added a large amount to the appropriations for courts-martial, and as one who served in the Army I think I know something about the general attitude of Army officers and marine officers in these general court-martial cases. It is a perfect outrage that in time of peace young boys who have gone into the service for patriotic reasons and have been nourished by the Government at the rate of 35 cents a day should be sent to jail for 10 years because of the charges I have submitted to you. I can not dis-

cuss their merits, because I have not had time to get a report of the case from the War Department; in fact, my constituent writes that he was refused a copy of the record of the trial by The Adjutant General's office. I am going to take up the case, but, of course, I do not know how I am going to come out. I know what I am up against, because these Army officers generally stand together and uphold each other in court-martial sentences. Once a man is court-martialed, they say, "Well, they did that and they know more about it than we do." The trouble in this case, as in so many other cases, is the fact that there were five soldiers concerned, and they probably were tried under blanket charges and received blanket sentences.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. FISH. Mr. Chairman, I ask unanimous consent to proceed for three additional minutes.

The CHAIRMAN. The gentleman from New York asks unanimous consent to proceed for three additional minutes. Is there objection?

There was no objection.

Mr. FISH. I am not one of those who is at all fearful of there being any war between this country and Mexico or between this country and Nicaragua. I think the American people know the peaceful tendency of the President of the United States and know that he is the last man in the world that desires war with either Mexico or Nicaragua. But there is danger of another race riot in Nicaragua, and it is just as apt to occur now as it did five years ago, when our marines in Nicaragua got into some kind of a race riot with the local constabulary. Some 30 of our marines were court-martialed under blanket charges, and they all went up before the same court and received all kinds of sentences—from life down to a few years.

In this outfit I had a constituent, a young soldier. It was just after the World War, and he had the war fever and wanted to get into the Army to do his duty toward his country. He was sentenced to eight years by this court. He protested that he was never at this race riot where a couple of the Nicaraguan constabulary were killed, and claimed that he was absolutely innocent, but nevertheless he was sentenced to eight years in jail. I went down to see Admiral Latimer and General Lejeune and pretty nearly everybody else in the department, including the Secretary of the Navy. Fortunately for him this marine had a rich uncle, who was a constituent of mine, and he said, "Now, if you will take this case up, I will provide you with a lawyer who will read the evidence and get up the briefs, who will send telegrams all over the country to find the Army officers who were on this court-martial, and will get affidavits from people in Nicaragua." With this backing I went as far as I could, and finally was able to prove that this young fellow was not in the race riot at all, and the sentence was changed and he was let out of the disciplinary barracks.

This is what happens when a general court-martial sits upon a great many cases at the same time and rushes them through wholesale. Although I have no fear that we might go to war, I am fearful that a race riot such as occurred five years ago may occur down there again. I am not concerned so much about the lives of the Nicaraguans, but I am concerned about the lives of these young American boys who went into the Army from patriotic motives.

Mr. STEVENSON. Will the gentleman yield?

Mr. FISH. Yes.

Mr. STEVENSON. Was it because this gentleman had a million dollars to spend on the evidence, or was it because the evidence really was there; which was it?

Mr. FISH. Let me answer the question. This young boy whose case I am presenting here is an orphan. He has not any rich uncle, and the gentleman and every other Member of Congress knows that we are pretty busy with the different duties of a Congressman and we have not the time to prepare and write long briefs or to go through 400 or 500 pages of court-martial proceedings or to find where these Army officers are located who served on a court-martial five years ago. What a man is worth has not anything to do with the merits of the case, but the backing that the boy has has a great deal to do with being able to get all the evidence together to present it here to Members of the House or of the Senate to be presented by them to the Navy Department.

I have just brought this up so that in passing upon this bill the members of the subcommittee may know how these young boys in the Army are treated. If these facts are so, and if this man was sent to jail for 10 years on the charges stated here, it is an outrage. We are going to take it up and do what we can, not only to get him out but to find out who is responsible. If such a thing was done in Nicaragua five years ago, it can be done in the United States Army to-day, and such things ought to be stopped. Such things were done during war times constantly, and we did not have the time then to stop and remedy the situation, but it is now our duty to see that there is an end to things of this kind in time of peace, and I hope the subcommittee will back me up and advise me and help me in every way they can, if I can present the facts to them and show the real merits of the case.

Mr. BLANTON. Will the gentleman yield?

Mr. FISH. Yes.

Mr. BLANTON. The gentleman will not stop these injustices of courts-martial in the Army and the Navy until we take away from the Army and the Navy the right of court-martial in peace times. That is the only way to stop it.

Mr. LaGUARDIA. We increased the appropriation yesterday.

Mr. FISH. I submit the full text of the letters I have referred to, as follows:

SUPERVISORS' CHAMBERS, DUTCHESS COUNTY,
Poughkeepsie, N. Y.

Hon. HAMILTON FISH, Jr.

DEAR FRIEND: I am again taking the liberty to impose on you and your friendship. You will find inclosed two letters, which are self-explanatory. I am going to add that, knowing this boy personally and by personal knowledge and by the speech of people, he has always led a good, clean life. I personally know his folks; in fact, I am at present rooming with his uncle and aunt. My judgment may be all wrong, but I think 10 years is a long stretch for a small offense. I served six years in the Queen's Own Rifles, Second Battalion, and know what army life is without being in jail. The carbon copy spoken of in letter leads one to believe that he had it for his personal use. That's not as I understand it. One copy was made for the five soldiers charged with this offense. This boy is an orphan, and his relatives, while respectable people, are in moderate circumstances. This appeal to you is one that interests me personally; and if you feel that you can do anything, I can assure you that I will be more than grateful to you.

Kindly let me have these letters back when you get through with them.

Yours respectfully,

FRANK R. ABERCROMBIE.

JANUARY 17, 1926.

WAR DEPARTMENT,
THE ADJUTANT GENERAL'S OFFICE,
Washington, September 24, 1926.

Mr. WILLIAM F. WELCH,
85 Garden Street, Poughkeepsie, N. Y.

DEAR SIR: I am furnishing you the following information in response to your letter of the 18th instant, relative to Paul Alverson, confined at the Atlantic Branch, United States Disciplinary Barracks, Governors Island, N. Y.:

Paul V. Alverson, formerly a private, Tenth Signal Company, Signal Corps, was tried by a general court-martial jointly with five other members of the same organization, and was convicted of (a) burglary, (b) larceny of property of the value of about $1.80, (c) unlawfully, wrongfully, and willfully destroying private property of the value of about $15, and (d) violating standing orders by taking a horse out of camp. He was sentenced to be dishonorably discharged from the service, to forfeit all pay and allowances due or to become due, and to be confined for the period of 10 years, the Atlantic Branch, United States Disciplinary Barracks, Governors Island, N. Y., being designated as the place of confinement. The sentence became effective April 1, 1926.

The case of Alverson was recently carefully investigated with a view to the possible extension of clemency, with the result that clemency was denied September 14, 1926. Under a rule of the War Department governing the subject, the cases of general prisoners are not subject to clemency reconsideration except at annual periods, unless there be submitted new and material reasons therefor. Under this rule the case of Alverson will not be due for reconsideration until September 14, 1927.

Very truly yours,

ROBERT C. DAVIS,
Major General, The Adjutant General.

WAR DEPARTMENT,
THE ADJUTANT GENERAL'S OFFICE,
Washington, October 25, 1926.

Mr. WILLIAM F. WELCH,
85 Garden Street, Poughkeepsie, N. Y.

DEAR SIR: I am furnishing you the following information in response to your letter of October 13, 1926, requesting a copy of the record of trial by general court-martial of Paul V. Alverson, who is confined at the Atlantic Branch, United States Disciplinary Barracks, Governors Island, N. Y.

It is not the policy of the War Department to furnish a copy of the record of trial by general court-martial to any person except the soldier who was tried, unless such soldier authorizes that a copy be furnished.

It will be necessary, therefore, that you obtain the consent of Alverson before a copy of the record of trial can be furnished.

It appears from the record of trial on file in the War Department that a carbon copy was furnished Alverson and, such being the case, there is no authority of law for furnishing another copy at Government expense. However, an additional copy can be made at the expense of the prisoner, or those interested in his case, providing the latter obtain his consent. In such cases the record of trial is turned over to a reliable photographer in this city for photostating, which work is done at the rate of 20 cents a page. The record of trial and exhibits in this case comprise 183 pages, making the cost of photostating $36.60. The War Department is not interested in who makes the additional copy but acts as an intermediary for the convenience of those desiring records. In case Alverson consents to the furnishing of a copy of his record of trial, a check should be made payable to Leet Bros. (Inc.), and not to the War Department.

Very truly yours.

LUTZ WAHL,
Brigadier General,
Acting The Adjutant General.

The pro forma amendment was withdrawn.

Mr. BLANTON. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 19, lines 3 and 4, strike out the words "for purchase of commercial newspapers, etc."

Mr. BLANTON. Mr. Chairman, I want to call the attention of the committee to the bad practice of using that language in an appropriation bill, "and so forth." That embraces everything. We ought to stop it. The Appropriation Committee in many bills has eliminated that language.

Mr. BARBOUR. Will the gentleman allow me to state what this is for?

Mr. BLANTON. I know what it is for. I want to state what can come in under that language. I hold in my hand an article printed in pamphlet form that has appeared in certain newspapers. Let me read the following excerpts from it:

A series of most un-American measures are before the United States Congress proposing the registration, etc., of foreign-born workers.

President Coolidge and Secretary of Labor Davis are vigorous champions of these vicious antilabor laws.

One of these bills, bill No. H. R. 5583, introduced by Congressman ASWELL, of Louisiana, and now pending before Congress, provides for the registration of aliens and for other impositions.

Section 2 of this bill states that every alien in the United States shall, within the time fixed by the President in a proclamation made by him, within 90 days after the enactment of this act, register as provided in this act. An alien under 16 years of age may be registered by parent or guardian.

The foreign born constitute a majority of the workers employed in the basic industries. The low wages they receive and the oppressive conditions under which they labor have in the past and will again in the future drive them to strikes.

This legislation is a direct threat against the entire working class of this country. It is a threat against the trade-union movements.

Answer the attack of the open shoppers by organizing councils for the protection of the foreign born or join the councils already in existence.

That is signed by an organization that fosters communism in the United States. Talk about communism being dead! This article is published in pamphlet form in six different languages and scattered throughout the Union, and I hold in my hand here the six pamphlets printed in six different languages.

It is an attack on your President; it is an attack on your Secretary of Labor; it is an attack on Congressman ASWELL, and says that "the foreign born constitute a majority of the working men of the country in basic industry." Is that so? Here is one pamphlet published in the English language, another published in the German language, another published in the Italian language, another published in the Yiddish language, another published in the Polish language, and a sixth one published in the Croats-Serbian language, and these pamphlets are scattered throughout the United States.

Mr. LINTHICUM. Are there any stock quotations in it?

Mr. BLANTON. It is an appeal in favor of the foreign born against the interests of the native born of this country. I agree with the gentleman from Louisiana [Mr. ASWELL] and I agree with the President of the United States and with the Secretary of Labor that there should be proper registration of every foreign-born citizen in the United States. It is the only way we can properly check them up and it is the only way we can protect the American citizen. [Applause.]

Mr. BARBOUR. The gentleman presents these publications in Yiddish and other languages to show what can be done under these words "and so forth."

Mr. BLANTON. Yes; but I used the words "and so forth" merely to obtain the floor and put this before the country. Mr. Chairman, I ask unanimous consent to withdraw the pro forma amendment.

The CHAIRMAN. Without objection, the pro forma amendment is withdrawn.

The Clerk read as follows:

Clothing and equipage: For cloth, woolens, materials, and for the purchase and manufacture of clothing for the Army, including retired enlisted men when ordered to active duty, for issue and for sale; for payment of commutation of clothing due to warrant officers of the Mine Planter Service and to enlisted men; for altering and fitting clothing and washing and cleaning when necessary; for operation of laundries; for the authorized issues of laundry materials for use of general prisoners confined at military posts without pay or allowances, and for applicants for enlistment while held under observation; for equipment and repair of equipment of dry-cleaning plants, salvage and sorting storehouses, hat repairing shops, shoe repair shops, clothing repair shops, and garbage-reduction works; for equipage, including authorized issues of toilet articles, barbers' and tailors' materials, for use of general prisoners confined at military posts without pay or allowances and applicants for enlistment while held under observation; issue of toilet kits to recruits upon their first enlistment, and issue of housewives to the Army; for expenses of packing and handling and similar necessaries; for a suit of citizen's outer clothing and when necessary an overcoat, the cost of all not to exceed $30, to be issued to each soldier discharged otherwise than honorably, to each enlisted man convicted by civil court for an offense resulting in confinement in a penitentiary or other civil prison, and to each enlisted man ordered interned by reason of the fact that he is an alien enemy, or, for the same reason, discharged without internment; for indemnity to officers and men of the Army for clothing and bedding, etc., destroyed since April 22, 1898, by order of medical officers of the Army for sanitary reasons, $6,571,995, of which amount not exceeding $60,000 shall be available immediately for the procurement of fuel for the service of the fiscal year 1928.

Mr. LAGUARDIA. Mr. Chairman, I offer the following amendment:

The Clerk read as follows:

Page 21, line 8, strike out "$6,571,995" and insert "$6,337,018."

Mr. LAGUARDIA. Mr. Chairman, the amount that I have presented in my amendment is sufficient for the needs of this section.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

Army transportation: For transportation of the Army and its supplies, including retired enlisted men when ordered to active duty; of authorized baggage, including that of retired officers, warrant officers, and enlisted men when ordered to active duty and upon relief therefrom, and including packing and crating; of recruits and recruiting parties; of applicants for enlistment between recruiting stations and recruiting depots; of necessary agents and other employees, including their traveling expenses; of dependents of officers and enlisted men as provided by law; of discharged prisoners, and persons discharged from St. Elizabeths Hospital after transfer thereto from the military service, to their homes (or elsewhere as they may elect): *Provided*, That the cost in each case shall not be greater than to the place of last enlistment; of horse equipment; and of funds for the Army; for the purchase or construction, not exceeding $81,000, alteration, operation, and repair of boats and other vessels; for wharfage, tolls, and ferriages; for drayage and cartage; for the purchase, manufacture (including both material and labor), maintenance, hire, and repair of pack saddles and harness; for the purchase, hire, operation, maintenance, and repair of wagons, carts, drays, other vehicles, and horse-drawn and motor-propelled passenger-carrying vehicles required for the transportation of troops and supplies and for official military and garrison purposes; for purchase and hire of draft and pack animals, including replacement of unserviceable animals; for travel allowances to officers and enlisted men on discharge; to officers of National Guard on discharge from Federal service as prescribed in the act of March 2, 1901; to enlisted men of National Guard on discharge from Federal service, as prescribed in amendatory act of September 22, 1922; and to members of the National Guard who have been mustered into Federal service and discharged on account of physical disability; in all, $14,681,153, of which amount not exceeding $1,000,000 shall be immediately available for the procurement and transportation of fuel for the service of the fiscal year 1928.

Mr. LAGUARDIA. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 23, line 12, strike out the figures $14,681,153 and insert $13,947,678.

Mr. LAGUARDIA. Mr. Chairman, this item is for Army transportation. The Budget, after very careful investigation of the matter, found that $13,947,678 was all that was required. That is the amount in my amendment. I want to call the attention of the committee to the fact that the last appropriation bill in this very same item contained $1,200,000 more than was needed. What happened to that surplus? Did they permit it to go back into the general fund in order to reduce taxes? Not at all. It is reappropriated in this bill in another section which we took up this morning. Yet, in face of the fact that there was a surplus of $1,200,000 last year, we are reappropriating that amount for other purposes this year. The committee goes nearly a million dollars over and above the requirements for this purpose, according to the testimony and showing made by the representatives of the Army before the Budget Bureau. There is nothing in the hearings to justify this increase, and you gentlemen who will be here at the next session of Congress, during the consideration of the next Army appropriation bill, will find in it a surplus of $1,000,000, which they will reappropriate for other purposes. I believe we should use common sense and reasoning before we swallow every provision that is contained in an Army appropriation bill. I can not do any more than merely submit these facts and figures to you gentlemen who are here to support and approve the President's financial program. Here is your opportunity.

Mr. BARBOUR. Mr. Chairman, the increase which the gentleman's amendment would strike out goes to several different items in the bill. For instance, a part of it goes to the increase in the size of the Army. It also provides that 200 officers may attend the service school at Fort Leavenworth instead of 100 as the estimates of the Budget provided. It enters into the purchase of 125 new motor cars for the Army, 725 additional pack mules, and an additional 1,500 horses. Also in this item is $400,000 for the reconditioning and converting to an oil burner of the transport *Grant*, so that it can be made serviceable and be run economically. Then there is $10,300 in it for the joint maneuvers of the Army and Navy off the New England coast this coming fall.

Mr. LAGUARDIA. Ten thousand dollars is a long way from a million dollars.

Mr. BARBOUR. All of these items I have mentioned go to make up the whole increase. With that statement I submit the matter.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from New York.

The amendment was rejected.

The Clerk read as follows:

None of the funds appropriated or made available in this act shall be used for the purchase of motor-propelled freight-carrying vehicles for the Army except those that are purchased solely for experimental purposes, nor shall any of such funds be used for the purchase or exchange of more than 125 motor-propelled passenger-carrying vehicles (at a cost not to exceed $1,000 each, including the value of a vehicle exchanged) for the Army in excess of those that are purchased solely for experimental purposes.

Mr. LAGUARDIA. Mr. Chairman, I offer the following amendment which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. LAGUARDIA: Page 23, line 25, before the word "freight," insert the words "passenger or."

Mr. LAGUARDIA. Mr. Chairman, the words "passenger or" were in the last year's appropriation bill, and were contained in the recommendations of the Budget Bureau. I am informed by the Budget Bureau that there is no real urgent need for more passenger automobiles. In the small town where I reside—New York City—around the theater districts and the shopping districts, one can always see the large khaki-colored limousines with "U. S. A." on them, taking the ladies from Governors Island and other near-by places to do their shopping and theater going. When General Lord tells us that the Army does not need any more passenger automobiles during the next fiscal year, you can be pretty sure that he knows what he is talking about.

There is a provision here which I shall move to strike out, which is not contained in the Budget recommendation, about buying 125 motor-propelled passenger-carrying vehicles. It would not do some of these Infantry officers any harm if they did a little walking, and it surely would do some Cavalry officers some good if they would get on a horse once in a while. You are making tenderfeet out of these men, coddling and humoring them. I wish I could make the kind of a speech that the gentleman from Texas [Mr. BLANTON] makes on a subject of this kind. Of course, I might not be any more successful in having the amendment adopted, but I submit in all seriousness to the small but select representation of the membership of the House that happens to be present right now that it is absolutely absurd to provide these machines. General Lord says that these machines are not necessary, but you are running wild in the purchase of classy sport models to carry warriors and their ladies around the theater district of my town.

Mr. BARBOUR. Mr. Chairman, the word "passenger" was stricken out of the bill at this place, because later on we provide for the purchase of 125 passenger-carrying vehicles. It was necessary to strike out the word at this point so that there would not be any conflict in the language. The 125 automobiles which it is proposed to purchase will not supply anybody with any very elaborate car, because they are limited to an expenditure of $1,000 each, which also includes any exchange value they may get from automobiles on hand.

Mr. LAGUARDIA. You could exchange a half dozen of these cars and get a pretty nice-looking car.

Mr. BARBOUR. I have had some experience lately in trying to exchange a car. The present Army automobiles, if offered for exchange, will not bring very much in exchange value. Practically all of the cars of the Army to-day are of the old war-time supply, and by looking at them one can see that they are ancient models. They are wearing out, and many of them are not worth repairing. The Army would like to have a whole lot more automobiles than are provided in this bill. They have a 10-year program of supplying automobiles, which will turn the entire number over every 10 years. This contemplates that the life of a car in the Army will be 10 years. The 125 that we are providing for here will not begin to permit them to carry out the 10-year program.

Mr. LAGUARDIA. Does the gentleman know where the 125 will be used?

Mr. BARBOUR. No. They will be scattered all over the country.

Mr. LAGUARDIA. In the large centers?

Mr. BARBOUR. No; at the Army posts.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York.

The amendment was rejected.

The Clerk read, as follows:

HORSES FOR CAVALRY, ARTILLERY, ENGINEERS, ETC.

For the purchase of horses within limits as to age, sex, and size to be prescribed by the Secretary of War for remounts for officers entitled to public mounts, for the United States Military Academy, and for such organizations and members of the military service as may be required to be mounted, and for all expenses incident to such purchases (including $150,000 for encouragement of the breeding of riding horses suitable for the Army, in cooperation with the Bureau of Animal Industry, Department of Agriculture, including the purchase of animals for breeding purposes and their maintenance), $480,000: *Provided*, That the number of horses purchased under this appropriation shall be limited to the actual needs of the mounted service, including reasonable provision for remounts. When practicable, horses shall be purchased in open market at all military posts or stations, when needed, within a maximum price to be fixed by the Secretary of War: *Provided further*, That no part of this appropriation shall be expended for the purchase of any horse below the standard set by Army Regulations for Cavalry and Artillery horses, except when purchased as remounts or for instruction of cadets at the United States Military Academy, except that not to exceed $100 of this appropriation shall be available for the purchase of native Chinese horses of specifications to be approved by the Secretary of War for the actual needs of the American forces in China: *And provided further*, That no part of this appropriation shall be expended for polo ponies except for West Point Military Academy, and such ponies shall not be used at any other place: *And provided further*, That the Secretary of War may, in his discretion, and under such rules and regulations as he may prescribe, accept donations of animals for breeding and donations of money or other property to be used as prizes or awards at agricultural fairs, horse shows, and similar exhibitions, in order to encourage the breeding of riding horses suitable for Army purposes.

Mr. LAGUARDIA. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Page 24, line 20, strike out $480,000 and insert in lieu thereof $232,500.

Mr. LAGUARDIA. That is in keeping with the budgetary recommendation, and I submit it to the House for its action.

The question was taken, and the amendment was rejected.

Mr. DICKINSON of Iowa. Mr. Chairman, I move to strike out the last word. Mr. Chairman, I do this in order to call the attention of the committee to a little sentiment I find is

being created in certain sections of the country in reference to the equalization fee in farm relief legislation. A letter has just come into my hands dated "Batesburg, S. C., January 17, 1927," signed by J. Graves Cooner, in which he cays:

DEAR SIR: I am inclosing you the first installment of a petition, which I framed and worked on a few hours last Saturday.

This was not a herding process but a man-to-man canvass. The significant fact about this canvass is that of those whom I approached only seven refused to sign, and I made it my business to call particular attention to the equalization fee.

This petition is signed by 80 men, and I would like to have the heading of this petition read in my time by the Clerk for the information of the House.

The CHAIRMAN. Without objection the Clerk will read.

There was no objection.

The Clerk read as follows:

WASHINGTON, D. C.

To our National Representatives in Congress and Senate:

HONORABLE SIRS: We understand that the fundamental purpose of the proposed McNary-Haugen farm-relief measure, so far as the South is concerned, is to organize and control the marketing of cotton so that the farmer will be placed on an equal footing with other highly organized and protected groups. We also consider it a reflection on the intelligence and honesty of southern farmers for our Representatives to suspect that we would object to the equalization fee or tax on each bale of cotton which would enable our board to name and sustain a profitable price for the product, and to prorate a possible surplus to each farmer, thus making it a factor in production control. The farmer knows that every one who is in a position to name a price on his own goods, service, or labor is in better shape to pass the burden of taxes to the shoulder of him who does not enjoy this privilege. Most especially is this true of those who are organized. Therefore, it is our conviction that the farmer would more likely and more justly kick at every other tax rather than this. We who believe that we represent a fair sample of the farmers, their friends, and their desires throughout the State, respectfully petition you to support this measure.

Mr. DICKINSON of Iowa. Mr. Chairman, I withdraw the pro forma amendment.

The Clerk read as follows:

BARRACKS AND QUARTERS

For construction, repair, and rental of barracks, quarters, stables, storehouses, magazines, administration and office buildings, sheds, shops, garages, reclamation plants, and other buildings necessary for the shelter of the Army and its property, including retired officers and enlisted men when ordered to active duty; for rental of grounds for military purposes, of recruiting stations, and of lodgings for recruits and applicants for enlistment; for repair of such furniture for Government-owned officers' quarters and officers' messes as may be approved by the Secretary of War; for wall lockers, refrigerators, screen doors, window screens, storm doors and sash, window shades, and flooring and framing for tents, $4,501,837: *Provided*, That this appropriation shall be available for rental of offices, garages, and stables for military attachés: *Provided further*, That $13,917, or so much thereof as may be necessary, shall be used for completing the repair of buildings within the old fort at Fort Ontario, N. Y., and placing them in habitable condition: *Provided further*, That not to exceed $15,000 of this appropriation shall be expended for continuing work incident to and of repairing the old building known as the "Castle" at Fort Niagara, N. Y. In addition to this amount, the Secretary of War is authorized to expend such sums as may be contributed from private sources for the rehabilitation of such old building.

Mr. LAGUARDIA. Mr. Chairman, I offer the following amendment.

The CHAIRMAN. The Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. LAGUARDIA: Page 26, line 14, strike out "$4,501,837" and insert in lieu thereof "$4,498,337"; and strike out, in line 16, after the word "attachés," the balance of the line and all of lines 17 to 22, both inclusive, and the words "the 'castle' at Fort Niagara, N. Y.," in line 23.

Mr. LAGUARDIA. Mr. Chairman, the purpose of my amendment is in keeping with my attempt to make this bill conform to the recommendation of the Budget, and I also desire to call the attention of the committee that this does not by any means provide for any expenditure for repair and construction of barracks. There will be about 5,000,000 more coming in in the next few days in the military affairs bill authorizing that amount, which will be presented to the House, so, in addition to this item, you can figure on at least five or six million dollars more. I submit the amendment for the consideration of the House.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from New York.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

ROADS, WALKS, WHARVES, AND DRAINAGE

For the construction and repair by the Quartermaster Corps of roads, walks, and wharves; for the pay of employees; for the disposal of drainage; for dredging channels; and for care and improvement of grounds at military posts and stations, $1,007,000: *Provided*, That none of the funds appropriated or made available under this act shall be used for the permanent construction of any new roads, walks, or wharves connected with any of the National Army cantonments or National Guard camps.

Mr. STEVENSON. Mr. Chairman, I move to strike out the last word. Mr. Chairman, I want to say just a word about roads generally which this Government is constructing, and while it may not be strictly in order, it is not often I speak, and I take it for granted the membership will not be very critical as to whether it is in order or not. I just want to call attention to the fact that the justification for the appropriation annually of $75,000,000 recommended for the public highways of this country by the Federal Government is that clause of the Constitution which provides for the establishment and maintenance of post offices and post roads. That was the clause upon which this authority was hung in the beginning. Just in reference to a few things down in my own district I call attention to the fact that the money is not being spent on post roads to any considerable extent. The district which I represent has 160 rural free delivery routes and I have figures for 129 of them. I find 3,424 miles that are traveled by these 130 rural free delivery carriers. There are 638 miles of highway that is maintained and constructed out of the Federal appropriation. In the last seven years there has been spent in my district $999,996, practically a million dollars, and all has been spent on the 638 miles of highway which is used by the postal carriers, while there is something like 2,900 miles of highway used by the rural carriers that does not get a dollar of it. Now, that is the proposition that we are going to have to meet. I have introduced a bill to require the road authorities of my State to use 20 per cent at least of this fund upon the postal routes that are not through highways. A great majority of the people live on those roads. A great majority of the people are using those roads that are not being improved by the Federal funds which are being appropriated, and it ought to be corrected. It is no accident that the people live on these cross-country roads. The routes are laid out to serve the population, and the population is found gathered along the cross-country rural routes in just about the per cent that the routes demonstrate.

For instance, in my district, as I say, out of the rural routes there, there is only 12.8 per cent of them that get a dollar of the Federal appropriation. Eighty-seven and two-tenths per cent have not had a dollar out of the million dollars that has been spent in that district. And that is the case all over the United States. The Federal fund that is appropriated to take care of the postal routes of this country is being used for great commercial through highways and diverted entirely from the population that is gathered along the routes all through the country and gathered there to be served by the roads and the mail carriers.

Mr. BURTON. Mr. Chairman, will the gentleman yield there for a question?

Mr. STEVENSON. Yes.

Mr. BURTON. What is the gentleman's explanation of the policy adopted in his own district? Why is it that it is on the nonfree rural delivery routes that the money is expended?

Mr. STEVENSON. The explanation of it is this: That the great automobile industry and the American Automobile Association are all the time right at the door of the highway commission that is portioning out these funds, and they are clamoring for a great through boulevard for the through interstate highway. That is all right, but they ought to spend enough on the rural routes to make them passable and to serve at least 75 per cent of the population all over this country. [Applause.]

The CHAIRMAN. The time of the gentleman from South Carolina has expired. Without objection, the pro forma amendment is withdrawn. The Clerk will read.

The Clerk read as follows:

RENT OF BUILDINGS, QUARTERMASTER CORPS

For rent of buildings and parts of buildings in the District of Columbia for military purposes, $14,400: *Provided*, That this appropriation shall not be available if space is provided by the Public Buildings Commission in Government-owned buildings.

Mr. LAGUARDIA. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from New York moves to strike out the last word.

Mr. LAGUARDIA. I do so for the purpose of congratulating the committee in going $12,000 below the Budget recommendation in this item. Surely the committee ought to be congratulated. I withdraw the pro forma amendment.

The CHAIRMAN. The pro forma amendment is withdrawn. The Clerk will read.

The Clerk read as follows:

AIR CORPS

AIR CORPS, ARMY

For creating, maintaining, and operating at established flying schools and balloon schools courses of instruction for officers, students, and enlisted men, including cost of equipment and supplies necessary for instruction, purchase of tools, equipment, materials, machines, textbooks, books of reference, scientific and professional papers, instruments and materials for theoretical and practical instruction; for maintenance, repair, storage, and operation of airships, war balloons, and other aerial machines, including instruments, materials, gas plants, hangars and repair shops, and appliances of every sort and description necessary for the operation, construction, or equipment of all types of aircraft, and all necessary spare parts and equipment connected therewith and the establishment of landing and take-off runways; for purchase of supplies for securing, developing, printing, and reproducing photographs in connection with aerial photography; improvement, equipment, maintenance, and operation of plants for testing and experimental work, and procuring and introducing water, electric light and power, gas and sewerage, including maintenance, operation, and repair of such utilities at such plants; for the procurement of helium gas; salaries and wages of civilian employees as may be necessary, and payment of their traveling and other necessary expenses as authorized by existing law; transportation of materials in connection with consolidation of Air Corps activities; experimental investigation and purchase and development of new types of aircraft, accessories thereto, and aviation engines, including plans, drawings, and specifications thereof, and the purchase of letters patent, applications for letters patent, licenses under letters patent and applications for letters patent; for the purchase, manufacture, and construction of airships, balloons, and other aerial machines, including instruments, gas plants, hangars and repair shops, and appliances of every sort and description necessary for the operation, construction, or equipment of all types of aircraft, and all necessary spare parts and equipment connected therewith; for the marking of military airways where the purchase of land is not involved; for the purchase, manufacture, and issue of special clothing, wearing apparel, and similar equipment for aviation purposes; for all necessary expenses connected with the sale or disposal of surplus or obsolete aeronautical equipment, and the rental of buildings, and other facilities for the handling or storage of such equipment; for the services of not more than four consulting engineers at experimental stations of the Air Corps as the Secretary of War may deem necessary at rates of pay to be fixed by him not to exceed $50 a day for not exceeding 50 days each and necessary traveling expenses; purchase of special apparatus and appliances, repairs and replacements of same used in connection with special scientific medical research in the Air Corps; for maintenance and operation of such Air Corps printing plants outside of the District of Columbia as may be authorized in accordance with law; for publications, station libraries, special furniture, supplies and equipment for offices, shops, and laboratories; for special services, including the salvaging of wrecked aircraft, $20,396,300: *Provided*, That not to exceed $2,781,908 from this appropriation may be expended for pay and expenses of civilian employees other than those employed in experimental and research work; not exceeding $200,000 may be expended for the procurement of helium from the Bureau of Mines, which may be transferred in advance, in amounts as required, to that bureau; not exceeding $2,200,000 may be expended for experimental and research work with airplanes or lighter-than-air craft and their equipment, including the pay of necessary civilian employees; not exceeding $275,000 may be expended for the production of lighter-than-air equipment; not exceeding $1,062,935 may be expended for improvement of stations, hangars, and gas plants for the Regular Army and for such other markings and fuel supply stations and temporary shelter as may be necessary, of which $775,000 shall be available immediately; not less than $9,492,550 shall be expended for the production and purchase of new airplanes and their equipment, spare parts, and accessories, of which $975,000 shall be available immediately and of which not to exceed $3,000,000 shall be available for the payment of obligations incurred under the contract authorization for these purposes carried in the War Department appropriation act for the fiscal year 1927, approved April 15, 1926; not more than $6,000 may be expended for settlement of claims (not exceeding $250 each) for damages to persons and private property resulting from the operation of aircraft at home and abroad when each claim is substantiated by a survey report of a board of officers appointed by the commanding officer of the nearest aviation post and approved by the Chief of Air Corps and the Secretary of War: *Provided further*, That section 3648, Revised Statutes, shall not apply to subscriptions for foreign and professional newspapers and periodicals to be paid for from this appropriation: *Provided further*, That none of the funds appropriated under this title shall be used for the purpose of giving exhibition flights to the public other than those under the control and direction of the War Department, and if such flights are given by Army personnel upon other than Government fields a bond of indemnity, in such sum as the Secretary of War may require for damages to person or property, shall be furnished the Government by the parties desiring the exhibition: *Provided further*, That in addition to the amount herein appropriated and specified for expenditure for the production and purchase of new airplanes and their equipment, spare parts, and accessories, the Chief of the Air Corps, when authorized by the Secretary of War, may enter into contracts prior to July 1, 1929, for the production and purchase of new airplanes and their equipment, spare parts, and accessories to an amount not in excess of $4,495,000, and his action in so doing shall be deemed a contractual obligation of the Federal Government for the payment of the cost thereof.

Mr. LANHAM. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Texas moves to strike out the last word.

Mr. LANHAM. Mr. Chairman, I do this for the purpose of making an inquiry of the committee with reference to its action concerning the provision touching helium. It seems that in the Budget estimate $250,000 was recommended for this purpose, and in the bill that item has been cut to $200,000. The purpose of my inquiry is this—to determine whether or not that sum will be sufficient to provide the requisite helium for the Army service during the period of time covered by this bill.

Heretofore the appropriations for helium production and development were made on the 50-50 basis in the Army appropriation bill and the naval appropriation bill. Since the extraction of helium has been placed in charge of the Bureau of Mines, the Bureau of Mines has been carrying on the project, and the Army and Navy have had their appropriations for the purpose of purchasing from the Bureau of Mines the volume of helium necessary for their operations. I understand it is contemplated that action will be had, in all likelihood, before the close of this session to provide for building a pipe line over to the Nocona field, about 30 miles distant from the present Government pipe line, and thereby add greatly to our production. The production of the plant has decreased in the last year from 1,000,000 cubic feet per month to approximately 400,000 cubic feet, due to the fact that the gas is reduced in the Petrolia fields; and as that production has gone down, the cost of production per cubic foot has necessarily gone up. It costs now about 5 cents a cubic foot to produce helium, whereas about a year ago it cost 2½ cents.

I understand the amount here is reduced to $200,000 by reason of the fact that it is contemplated the funds will be forthcoming for the purpose of tying on to this field at Nocona, thereby increasing our helium extraction to such volume that the cost will be practically cut in two, and that under the circumstances $200,000 will be sufficient for the year's work during the time covered by this bill. I simply wanted to make inquiry to see if it was on that assumption that the reduction to $200,000 was made in this bill.

Mr. BARBOUR. The amount allowed for 1927 was $250,000. The Bureau of the Budget this year recommended $200,000. General Patrick said that would be sufficient, for the reasons the gentleman has stated.

Mr. LANHAM. Of course, if we connect with this additional field the cost of the extraction of helium will be so reduced that $200,000 will get much more of it for the Army than under present conditions. I was wondering whether it was contemplated that the committee would bring in a recommendation to build that pipe line and tap that field.

Mr. BARBOUR. That is correct.

The CHAIRMAN. The pro forma amendment is withdrawn. The Clerk will read.

The Clerk read as follows:

For maintenance and repair of searchlights and electric light and power equipment for seacoast fortifications, and for tools, electrical and other supplies, and appliances to be used in their operation, including the purchase of reserve lights, $55,640.

Mr. BRIGGS. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Texas moves to strike out the last word.

Mr. BRIGGS. I would like to ask the chairman of the subcommittee what action, if any, is being taken toward providing

the coast defenses with antiaircraft guns? Is there any action along that line at all, or is that awaiting experiments to be conducted to find out the efficiency of this weapon?

Mr. BARBOUR. I will say to the gentleman from Texas that this bill provides for finishing the antiaircraft project at the Panama Canal. We are also providing in this bill for carrying on experiments.

Mr. BRIGGS. I was referring to the experiments with antiaircraft guns. I know, of course, that most of the coast defenses are equipped with modern rifles—those artillery posts that are still being maintained. I understand that last fall there were experiments to test out the effectiveness of the new antiaircraft weapon. What has the Ordnance Department been doing along those lines?

Mr. BARBOUR. They are doing some very fine work along those lines and perfecting some very efficient antiaircraft guns. We have a supply of them in the United States at this time. This bill will complete the project in the Panama Canal Zone, and the bill also provides for carrying on experimental work in antiaircraft fire.

Mr. BRIGGS. I was wondering whether the developments along those lines in any way correspond with the rapid development of the airplane itself and its effectiveness.

Mr. BARBOUR. I think they are making some very satisfactory progress, both with regard to the antiaircraft gun itself and with the device for locating the target or finding the range.

Mr. BRIGGS. That was my impression; that the results of experiments show very much more efficiency at certain altitudes.

Mr. BARBOUR. A great deal more efficiency, and the committee thought it advisable to carry on those experiments, and we have provided for them in the bill.

Mr. BRIGGS. You have a provision in this bill for carrying on those experiments?

Mr. BARBOUR. Yes.

Mr. LAGUARDIA. I want to say that last summer I attended some of this practice at Fort Tilden. The gentleman knows, I presume, that the antiaircraft guns shoot at a sleeve target towed by an airplane. One morning we flew over there for about three-quarters of an hour and there was no shooting. We finally asked what was the matter and why they were not shooting, and they said they could not see us, that the fog was too thick to see us; and then one time we flew over there at night, and they did not shoot because they could not see. That is the progress they are making with antiaircraft guns.

Mr. BARBOUR. The gentleman really shows the progress that is being made. That was a year ago last summer, while last fall tests were held at Aberdeen, and 15 targets were shot down.

Mr. BRIGGS. My recollection is from what I have heard and from what I have read in the hearings that the efficiency has improved very greatly and that the percentage of hits at certain altitudes has increased very materially because of the kind of weapons they have and the character of the explosives they are using and better range finders.

Mr. BARBOUR. That is the fact.

The CHAIRMAN. The time of the gentleman from Texas has expired.

The pro forma amendment was withdrawn.

The Clerk read as follows:

AUTOMATIC RIFLES

For the development, purchase, manufacture, test, repair, and maintenance of automatic machine rifles, or other automatic or semiautomatic guns, including their mounts, sights, and equipments, and the machinery necessary for their manufacture, to remain available until June 30, 1929, $221,500.

Mr. LAGUARDIA. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from New York offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. LAGUARDIA: Page 51, line 10, strike out "$221,500" and insert in lieu thereof "$175,000."

Mr. LAGUARDIA. Mr. Chairman, I submit the amendment.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from New York.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

TANKS

For the development, purchase, manufacture, test, maintenance, and repair of tanks and other self-propelled armored vehicles, to remain available until June 30, 1929, $237,500.

Mr. LAGUARDIA. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from New York offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. LAGUARDIA: Page 51, line 15, strike out "$237,500" and insert in lieu thereof "$200,000."

Mr. LAGUARDIA. I submit the amendment, Mr. Chairman.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from New York.

The amendment was rejected.

The Clerk read as follows:

FIELD ARTILLERY ARMAMENT

For development, purchase, manufacture, and test of mountain, field, and siege cannon, including their carriages, sights, implements, equipments, and the machinery necessary for their manufacture, $505,500.

Mr. LAGUARDIA. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from New York offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. LAGUARDIA: Page 51, line 20, strike out "$505,500" and insert in lieu thereof "$385,500."

Mr. LAGUARDIA. Mr. Chairman, I submit the amendment.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from New York.

The amendment was rejected.

The Clerk read as follows:

GAUGES, DIES, AND JIGS FOR MANUFACTURE

For the development and procurement of gauges, dies, jigs, and other special aids and appliances, including specifications and detailed drawings, to carry out the purpose of section 123 of the national defense act, approved June 3, 1916, as amended by the act approved June 4, 1920, $75,000.

Mr. BRIGGS. Mr. Chairman, I move to strike out the last word. I would like to ask the chairman of the subcommittee with regard to an item that is in the bill with reference to the expenditures for the erection and improvement of stations, hangars, and so on, at air fields. As I understand it, that is in accordance with the recommendation of the Chief of the Air Service, and it meets the full requirements of that service does it?

Mr. BARBOUR. The Chief of the Air Service advised the subcommittee that the provisions in this bill would enable him to very satisfactorily carry on the first year's work under the five-year program.

Mr. BRIGGS. The provision for this work of the improvement of stations, and so on, is in accordance with the provision mentioned in the hearings at page 531, where they are itemized and set forth at the various air fields of the United States?

Mr. BARBOUR. Yes. A lot of these fields have got to be prepared for this program; hangars and buildings must be erected in order to take care of the increased increment of airplanes and airships.

Mr. BRIGGS. And the account provided, does it in full comply with the recommendations of the Chief of the Air Service?

Mr. BARBOUR. The Chief of the Air Service is very well satisfied with it.

Mr. BRIGGS. And it also provides for the number of airplanes needed and necessary in carrying on the five-year program?

Mr. BARBOUR. That is true.

The pro forma amendment was withdrawn.

MESSAGE FROM THE SENATE

The committee informally rose; and the Speaker having resumed the chair, a message from the Senate, by Mr. Craven, its principal clerk, announced that the Senate insists upon its amendments to the bill (H. R. 15959) entitled "An act making appropriations for the Executive office and sundry independent executive bureaus, boards, commissions, and offices for the fiscal year ending June 30, 1928, and for other purposes," and had appointed as conferees on the part of the Senate Mr. WARREN, Mr. SMOOT, and Mr. OVERMAN.

WAR DEPARTMENT APPROPRIATION BILL

The committee resumed its session.

The Clerk read as follows:

CHEMICAL WARFARE SERVICE

For purchase, manufacture, and test of chemical warfare gases or other toxic substances, gas masks, or other offensive or defensive materials or appliances required for gas-warfare purposes, including all necessary investigations, research, design, experimentation, and operations connected therewith; purchase of chemicals, special scientific and technical apparatus and instruments; construction, maintenance, and

repair of plants, buildings, and equipment, and the machinery therefor; receiving, storing, and issuing of supplies, comprising police and office duties, rents, tolls, fuels, gasoline, lubricants, paints and oils, rope and cordage, light, water, advertising, stationery, typewriting and adding machines, including their exchange, office furniture, tools, and instruments; for incidental expenses; for civilian employees; for libraries of the Chemical Warfare Service and subscriptions to periodicals which may be paid for in advance; for expenses incidental to the organization, training, and equipment of special gas troops not otherwise provided for, including the training of the Army in chemical warfare, both offensive and defensive, together with the necessary schools, tactical demonstrations, and maneuvers; for current expenses of chemical projectile filling plants and proving grounds, including construction and maintenance of rail transportation, repairs, alterations, accessories, building and repairing butts and targets, clearing and grading ranges, $1,304,780.

Mr. BURTON. Mr. Chairman, I move to strike out the figures "$1,304,780" and substitute therefor the figures "$700,000."

The CHAIRMAN. The gentleman from Ohio offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. BURTON: Page 57, line 2, strike out the figures "$1,304,780" and insert in lieu thereof the figures "$700,000."

Mr. BURTON. Mr. Chairman, I ask unanimous consent to address the committee for 15 minutes.

The CHAIRMAN. The gentleman from Ohio asks unanimous consent to proceed for 15 minutes. Is there objection?

There was no objection.

Mr. BURTON. Mr. Chairman, I am compelled to express the fear that in our treaty negotiations we are drifting away from those policies which the United States should strenuously maintain and from the best traditions of this Republic. Those policies should be characterized by a spirit of amity, by helpfulness, by reasonable concessions, and compromise, for these must always be made when conflicting claims are asserted, and, above all, by that consistency and sincerity which are necessary for the maintenance of good faith.

I shall not dwell at this time on the refusal of the Senate to advise and consent to the Versailles treaty, which included adherence to the League of Nations, nor to a like refusal to join in the treaty of security for France, under which it was proposed that England, France, and the United States should join. I make only brief reference to the pending Lausanne treaty; so far as my own personal opinion is concerned, it is strongly in favor of the negotiation of that treaty with Turkey, but unfortunately the national Democratic platform of 1924 condemned this pact, and yesterday it was rejected. In all these cases the Senate had an undoubted right to refuse its approval. Nor shall I refer to the present controversies relating to Mexico and Nicaragua. An unnecessary amount of agitation has been aroused in this regard, coupled with what I verily believe is an absolutely groundless fear of war. No one would condemn more than I the habitual attitude of an aggressive and sometimes noisy element in our population which, whenever a controversy arises with a foreign nation, immediately takes sides against our own country. Nor would I for a moment advocate the framing of any treaties which do not square with the interests of the United States, our safety and prestige in the world.

But on this occasion I wish to refer to opposition to a treaty for the prohibition of the use of poisonous gases in warfare, which is a most striking example of departure from consistency and principles which have become thoroughly established in our international policies with the distinct approval of the President, the Senate, and every branch of our Government. Let us briefly review the action of the United States in relation to this subject. Such a review will clearly disclose that if we fail to ratify this treaty or protocol we shall have departed far from consistency and, I may also say, fairness in our relations with other countries. Why should we ratify this treaty? Why should we join in the prohibition of this new and frightful element of warfare?

A most compelling reason is found in our treaties of the year 1921 with Germany, Austria, and Hungary. The Versailles treaty contained an article, No. 171, in this language:

The use of asphyxiating, poisonous, or other gases and all analogous liquids, materials, or devices being prohibited, their manufacture and importation are strictly forbidden in Germany.

Similar articles were included in the treaties between the Allied Powers and Hungary and Austria in the treaties of Trianon and St. Germain, respectively. While the treaties differed slightly in language from the treaty of Versailles, their purport was the same. In our own treaties with all three of these countries in November, 1921, we included and incorporated these provisions, thus making the prohibition binding upon them.

Thus it appears that we have imposed by treaties on these three countries—Germany, Austria, and Hungary—a prohibition not merely of the use of poisonous or other gases in war but even upon their manufacture and importation. A refusal to agree upon a similar provision binding upon ourselves means that we seek to treat these three countries as servile nations, upon whom we impose an obligation which we are not willing to accept ourselves. If the pending treaty is not adopted, in all sincerity and fairness we should enter into negotiations with these countries and say that we relieve them from an obligation which we are unwilling to accept.

This, however, was but the beginning of a declaration of policies on our part. In September, 1921, Mr. Hughes, Secretary of State, suggested a tentative agenda for the Conference on the Limitation of Armament, which met at Washington in November of that year. On this agenda was an item, "Rules for control of new agencies of warfare."

At a meeting of the Conference on November 23, 1921, Mr. Hughes proposed that a subcommittee representing the various nations at the Conference should be constituted to study and report on the utilization of poisonous gases. The subcommittee made a report that the only limitation practicable was wholly to prohibit the use of gases against cities and other large bodies of noncombatants. With this opinion the representatives of the United States were not satisfied, and after this report had been presented Mr. Hughes submitted to the conference the conclusions reached by the advisory committee of the American delegation upon this subject. This advisory committee recommended the total abolition of chemical warfare, whether in the Army or in the Navy, whether against combatant or against noncombatant. The committee further pointed out that the United States was perhaps best equipped of all nations to use chemical warfare effectively, but that an indication of the willingness to refrain from the use of this method of warfare would be a true expression of the sentiment of the American people.

A subcommittee of the advisory committee of the American delegation, under the chairmanship of General Pershing, submitted a report embodying the following recommendation:

Chemical warfare should be abolished among nations as abhorrent to civilization. It is a cruel, unfair, and improper use of science. It is fraught with the gravest danger to noncombatants and demoralizes the better instincts of humanity.

The General Board of the Navy submitted a report on the subject of chemical warfare, the conclusion of which was as follows:

The General Board believes it to be sound policy to prohibit gas warfare in every form against every objective, and so recommends.

Mr. Hughes, on behalf of the American delegation, in the light of advice from its advisory committee and the concurrence in that advice by General Pershing, the head of the American land forces, and of the specific recommendations of the General Board of the Navy, stated that the delegation from the United States would present a recommendation that the use of asphyxiating or poison gas be absolutely prohibited. The Hon. Elihu Root accordingly presented a resolution in the following terms:

The use in war of asphyxiating, poisonous, or other gases and all analogous liquids, materials, or devices, having been justly condemned by the general opinion of the civilized world, and a prohibition of such use having been declared in treaties to which the majority of the civilized powers are parties:

Now, to the end that this prohibition shall be universally accepted as a part of international law, binding alike the conscience and practice of nations, the signatory powers declare their assent to such prohibition, agree to be bound, especially between themselves, and invite all other civilized nations to adhere thereto.

The Italian delegation immediately gave unqualified support to this resolution.

M. Sarraut, of the French delegation, supported the resolution, but pointed out the difficulties, fearing that it was impossible to prevent any country from arming itself in defense against the unfair use of poison gas by an unscrupulous enemy which might secretly prepare for a sudden gas attack upon an unprotected opponent, in violation of solemn undertakings, but further said that the proposed resolution was most useful because it formed a bond of union between the powers represented at Washington, and their example might be such as to bring about the adherence of all nations to the same principles.

The remarks of Mr. Balfour, representing the English Government, are significant. He stated that the use of poisonous gases in warfare was contrary to the law of nations,

but no nation could forget it was open to attack by unscrupulous enemies. He went on to ask whether the above obvious fact justified the nations assembled at Washington in saying that they would do nothing. Were they therefore to say that the resolution before them was useless? Were they therefore to say that it was an empty form solemnly to repeat rules which were already accepted although they were not in a position, by the establishment of new sanctions, absolutely to prevent their use by any nation unscrupulous enough to desire to use them? These questions he answered in the negative. He believed that if by any action of theirs on such an occasion the nations could do something to bring home to the consciences of mankind that poison gas was not a form of warfare that civilized nations would tolerate, they would be doing something important towards discouraging it.

Baron Kato, of the Japanese delegation, supported Mr. Root's resolution.

The resolution was adopted unanimously by the committee and was later incorporated as Article V of the treaty signed by the five powers on February 6, 1922, in the following form:

The use in war of asphyxiating, poisonous, or other gases, and all analogous liquids, materials, or devices, having been justly condemned by the general opinion of the civilized world and a prohibition of such use having been declared in treaties to which a majority of the civilized powers are parties,

The signatory powers, to the end that this prohibition shall be universally accepted as a part of international law binding alike the conscience and practice of nations, declare their assent to such prohibition, agree to be bound thereby as between themselves and invite all other civilized nations to adhere thereto.

The United States Senate on March 29, 1922, unanimously advised and consented to the ratification of this treaty. The British Empire, Italy, and Japan have ratified it, although it has not yet gone into effect because France, objecting to certain provisions contained therein in regard to the use of submarines, has refrained from ratification.

Article VII of this treaty imposes the following duty on the United States:

The Government of the United States will further transmit to each of the nonsignatory powers a duly certified copy of the present treaty and invite its adherence thereto.

The plain intention of this Article VII, incorporated in a treaty proposed by the United States, and which has received the unanimous approval of the United States Senate, has been to place a moral obligation upon the United States to endeavor to secure for the principles contained therein universal acceptance by the nations of the world.

The prohibitions contained in Article V of the Washington treaty have profoundly influenced the conclusions of two important conferences in which Latin-American countries have participated. At the conference of Central American Republics, held at Washington and presided over by Secretary Hughes, a Convention for the Limitation of Armaments was signed on February 7, 1923, by the Republics of Guatemala, Salvador, Honduras, Nicaragua, and Costa Rica, Article V of which is as follows:

The contracting parties consider that the use in warfare of asphyxiating gases, poisonous or similar substances, as well as analogous liquids, materials, or devices, is contrary to humanitarian principles and to international law, and obligate themselves by the present convention not to use said substances in time of war.

The Fifth International Conference of American States, held at Santiago, Chile, March 25 to May 3, 1923, adopted a resolution, the pertinent portion of which is as follows:

FIFTH AGREEMENT

The Fifth International Conference of American States:

Resolves, * * * To recommend that the governments reiterate the prohibition of the use of asphyxiating or poisonous gases and all analogous liquids, materials, or devices, such as are indicated in the treaty of Washington, dated February 6, 1922.

In furtherance of the policy adopted at the Washington conference of 1921–22, and steadfastly maintained thereafter, the instructions to the American delegation to the International Conference on the Traffic in Arms, which met in Geneva on May 4, 1925, contained certain instructions, which were elaborated in consultation with delegates chosen by the War and Navy Departments:

In connection with the definition of categories, or wherever in the convention it might be considered most appropriate, the department would desire to see an article inserted absolutely prohibiting international trade in asphyxiating, poisonous, or other gases for use in war. In this connection you will recall that the treaty between the United States, Great Britain, France, Italy, and Japan, signed on February 6, 1922, contained, in article 5, a prohibition against the use of such gases. This treaty, it may be noted, is not yet effective, as it has not been ratified by France. However, as this Government and various other governments are clearly committed to the principle that poisonous gases should not be used in warfare, there is every reason for you to press for the inclusion of an article prohibiting the shipment of such gases in foreign trade for possible use in time of war.

The provision of the treaty of February 6, 1922 was added with instructions to seek an agreement in accordance therewith.

The American delegation at Geneva, on May 7, 1925, brought forward this provision. To this there was opposition on the ground that states not equipped with chemical industries would be placed at a disadvantage, but, nevertheless, there was a general disposition on the part of the delegates at Geneva—representing some 42 nations—to subscribe to a general prohibition of chemical warfare.

This fact was reported to the Department of State by the chairman of the American delegation. After consultation with the Acting Chief of the Army and with a member of the General Board of the Navy designated for this purpose, the Secretary of State, with the approval of the President, authorized the chairman of the American delegation to propose that there be prepared and signed at Geneva a protocol based on article 5 of the Washington treaty of February 6, 1922, as a definite step toward the universal prohibition of gas warfare. Such a proposal was presented by the American delegation immediately after a report had been received from the technical military committee of the conference at Geneva on the subject of chemical warfare.

The members of this military committee had consulted scientists throughout the world, and in particular bacteriological experts, physiologists, and chemists. The replies received had been considered in the formulation of this report, which was presented by General DeMarinis, of Italy, who stated that such a prohibition as that first proposed by the American delegation would place nonproducing countries in a dangerous position of inferiority as against producing countries, and that the radical solution of the terrible problem would be found in a solemn and universal undertaking on the part of all the peoples of the world to regard chemical warfare as prohibited by the law of nations, amounting, in substance, to asking the States of the whole world to accede to Article V of the treaty concluded at Washington on February 6, 1922.

The resolution favoring such an agreement or protocol was unanimously adopted.

The Traffic in Arms Conference, after further deliberation, agreed upon a protocol in language identical with that of the Washington treaty. This was signed on June 17, 1925. In the discussions leading up to the signature of this protocol there was no dissenting voice among the delegates as to the desirability of abolishing chemical warfare. Special support was given to it by delegates from Italy, Japan, England, Germany, and France.

M. Paul-Boncour, chairman of the French delegation, said:

I desire to say that France gives her spontaneous, immediate, and whole-hearted adhesion to anything which can be done to prohibit chemical warfare. * * *

I had no intention of taking part in this discussion. I thought that the last word on chemical warfare had been spoken when the delegate of the United States took the generous and noble initiative of bringing this question before our conference, a question which, as a matter of fact, was not included in its program. I thought that everything had been said after he had spoken and his words had been received with unanimous approval. * * *

The military regulations of France on the conduct of the larger units begin with these words: "Faithful to the international undertakings which France has signed, the French Government will, on the outbreak of war, and in agreement with the Allies, endeavor to obtain from enemy governments an understanding that they will not employ gas as a weapon of war."

That is set out not in a vague proclamation, not in a political manifesto, but in the forefront of our military regulations. It is the doctrine which the French Government intends to guide the action of its superior commanders, its officers, its noncommissioned officers, and its common soldiers.

The Japanese delegate, M. Matsuda, said:

* * * I at once supported the United States proposal, because it is of very great value for mankind and the cause of peace. It was this humanitarian view, and not any political, military, or strategical idea, which led me to give my adhesion * * *.

The prohibition of the use in war time of asphyxiating gases is, as Colonel Lohner has very justly pointed out, an injunction which is

almost universally recognized. This prohibition is to be found in the solemn declaration made at the peace conference of 1899, and it appears again quite recently in the treaties of peace, e. g., in article 171 of the treaty of Versailles, where the use of asphyxiating gases and all analogous liquids, materials, or devices is condemned. I need hardly mention that in the treaty of Washington the same prohibition expressed in categorical terms is agreed to by all the five signatory powers—the United States, British Empire, France, Italy, and Japan. The desire was even expressed in this treaty that every effort should be made to secure universal acceptance of this prohibition as a part of international law. The treaty goes even further. It is the duty of the signatories to invite all other civilized nations to adhere to this agreement. Japan is therefore under an obligation to press this view strongly.

To summarize, this, then, is the plain, bald situation: The United States imposed upon three countries—Germany, Austria, and Hungary, with which our relations should be of a most friendly nature—a binding obligation not to use poisonous gases. We followed that in the same year by bringing forward by our Secretary of State, reinforced by the efforts of Mr. Root, after distinct approval by the Army and the Navy, a proposition for prohibition of gases, which was embodied in a treaty. This treaty was approved by the unanimous vote of the United States Senate and ratified by Great Britain and Italy. The refusal to ratify by France was not because of any desire to retain poisonous gases as an implement of warfare, but because the same treaty included a prohibition on submarines.

Acting on our advice, Central American Republics framed a treaty containing a similar provision. We participated in a Pan American conference at Santiago in 1923, in which we maintained the same contention, and, finally, in pursuance of a uniform policy, initiated by the United States with lofty professions that it was in the interests of humanity and peace, a protocol was presented by our delegation at the Geneva conference for the Control of Traffic in Arms. It was there enthusiastically received by other nations, in no small degree because the respective delegations welcomed the participation of the United States and thought they were following our example.

If we are to be thoroughly honest, we must notify Germany, Austria, and Hungary that they are released from the provisions of the treaties with those countries unless we confirm the Geneva protocol.

Is it just or wise for us to change our policy in this year 1927 from that which was initiated in 1921? It is much less justifiable to change international policies than domestic policies, and might not every foreign nation which deals with us rightly say, "What is the use of making treaties with the United States? Whether from fickleness or some incomprehensible motive, that country rejects her past policies and her promises." I must say most solemnly that this is placing us in an attitude which must cause us to pause.

But it is said that other nations even after they join in the treaty will, in the emergency of war, violate it. The same is true of every treaty that has ever been framed; there is the possibility of bad faith. The whole framework of international relations rests upon mutual confidence. I commend for your attention the words of President Coolidge in his Trenton address:

> Nations rejoice in the fact that they have the courage to fight each other. When will the time come that they have the courage to trust each other?

It must be noted that the contracting parties to the protocol agree only among themselves. There is reason for maintaining preparation for chemical warfare, though not on an extravagant scale, in order that we may meet the contingency of a contest with some power outside the treaty which makes use of this very offensive weapon, or against a nation which might violate the agreement, as did one of the nations in the late war; but that country, dominated then by a military dynasty, incurred widespread condemnation and suffered far more from the violation of the agreement than they profited by it.

It is not true that agreements for amelioration of methods of warfare are disregarded. Treaties concerning hospitals and Red Cross activities have been very generally observed. There have been agreements against the use of poison and against the poisoning of wells which have been carefully observed, certainly by all civilized nations; also prohibition of dum-dum bullets.

Again, it is said by a considerable number that the use of poisonous gases is less inhuman than any other agencies of warfare. The defense of poisonous gases has been carried by some experts to ridiculous limits. It has even been said that one who is gassed may be relieved of tuberculosis rather than subjected to that frightful disease. To read some of the literature in defense of this dreadful weapon, one might think that it was similar to confetti scattered at a picnic or a wedding, but a decent respect for the opinion of mankind prevents us from acceptance of such views.

The overwhelming sentiment of the civilized world is against the use of poisonous gases. The tens of thousands in our own country who are still suffering from its effects bear witness to its terrible nature.

Without any regard to partisanship of either view, I will give a brief summary of some opinions on the effects of poisonous gases and their future:

SUMMARY OF EFFECTS OF POISON GAS AND ITS FUTURE

1. CASUALTIES

American Army (references: Medical Department of the United States in the World War, Vol. XIV; The Medical Aspects of Gas Warfare, pp. 273–293): Thirty-one per cent of the total number of casualties due to gas, total number 70,552; 8.9 per cent of total number of deaths due to gas, total number 1,221.

British Army (reference: The Medical Aspects of Chemical Warfare, by Lieut. Col. Edward B. Vedder, United States Army): Total number of gassed casualties, 180,983; total number of deaths due to gas, 6,062.

2. COMPENSABLE DISABILITY

American Army (reference same as above): Six hundred and sixty-two ex-service men now drawing compensation because of disabilities due to gassing, of whom 174 have tuberculosis.

British Army (reference same as above): Nineteen thousand, or 12 per cent of total, gas casualties, now drawing compensation from British Government for war disabilities.

3. SERIOUSNESS OF DISABILITY

From a British study of 150 cases, 40 per cent suffering pulmonary diseases were unlikely to improve and would tend to get worse in later life. From a study of 700 Canadian cases, 134 at the end of four years were suffering from bronchitis and irritable heart. (Reference: History of the War Based on Official Documents, Medical Service, Diseases of the War, vol. 2, pp. 387–388. This is a British publication.)

Opinion—(References: History of the War, based on official documents, Medical Service, Diseases of the War, volume 2, pages 367, 401, 406; "The remote results of gassing," in Medical Journal of Australia, by Dr. Andrew Stewart, 1924, volume 2, page 554.)

From the majority of reports one gathers that the usual symptoms are chronic lack of oxygen and irritable heart. Many cases have resulted in prolonged inability for serious muscular effort or even moderate exercise, giddiness on standing, headaches, and the like.

Opinion dissentient from the majority—(References: Dr. Z. I. Sabshin in New York Medical Journal, volume 114, page 232; "Some late effects of the war gases on the organic structure," by Dr. Lucien Dautrebande, in Archives Medicales Belges, 1924, volume 77, page 16.)

A dissentient minority are of the opinion that the results are more serious, and that many of the patients who were not so immune to the poisoning have become easily disposed to tuberculosis and bronchial troubles of a serious nature.

4. FUTURE OF GAS WARFARE

(References: Mr. D. C. Walton, chief, department of toxicology, Edgewood Arsenal, in "American Medicine, 1925," pages 525–528; Maj. Gen. Amos Fries, Chemical Warfare; General Feuville in "La France Militaire," volume 31, page 1, 1922.)

Mr. Walton thinks that many compounds exist which may be introduced into warfare with fearful consequences, producing death very quickly and terrible skin burns from contact. A much more extensive use of gas in war is certain, according to General Fries, by the use of aircraft bombs and sprinkling devices already tried out; by the use of hand grenades, smoke candles, and concealed bombs already being made. The battle fields of the future will be saturated with gas, says General Feuville.

It should be borne in mind that dreadful as was the destruction accomplished by poisonous gases in the late war, which were used for the bombing of hospitals and the peaceful homes of civilians, indiscriminately employed against combatants and noncombatants alike, the last invention in this terrible agent has not yet been developed. The chemical known as Lewisite, it is maintained, is 2.8 as destructive as any ever yet devised. Chemicals were in process of manufacture just at the close of the late war which it was believed would destroy a city at one fell swoop. Even General Fries, a defender of poisonous gases, says that a much more extensive use of gas in war is certain by the use of aircraft bombs and sprinkling devices already being made, and, as stated by General Feuville, the battle field of the future will be saturated with gas.

I deeply regret that the American Legion at its recent convention at Philadelphia condemned this treaty, and that prominent officials of that organization are active in supporting the use of asphyxiating gases and chemicals. For this organiza-

tion we all have the utmost respect, but I can not believe that their action expresses the sentiment of the rank and file of the members or of the soldiers who took part in the late war. A distinguished Senator stated to me that he had met 15 members of this organization returning from the Philadelphia convention, 14 of whom condemned the use of poisonous gas. I shall await with interest expressions from members of the American Legion who are Members of this body. I call attention to a propaganda on behalf of chemical warfare which is evidently very heavily financed and very active. The facts in regard to this are set forth in an article appearing in the Washington Post of Sunday, November 28, 1926, from which I quote as follows:

A barrage of propaganda designed to defeat American approval of the Geneva protocol outlawing poisonous gas in warfare is being fired over the country from this city. Those who are behind it confidently predict that it will prevent Senate ratification of the protocol.

The propaganda is being sent out in the name of the American Legion, but not by the Legion. Its dissemination is in the hands of a private publicity firm employed by an organization of manufacturers and chemists. Col. John Thomas Taylor is the liaison between the American Legion and the manufacturers and chemists, and it is he who is sponsor for most of the propaganda aimed at the gas protocol.

Colonel Taylor is director of the American Legion's national legislative committee, a job that takes him before congressional committees in the interest of Legion affairs. He also is listed as treasurer of the National Association for Chemical Defense, the organization financing the propaganda campaign.

* * * * * * *

The first gun in the propaganda campaign against the protocol was fired here October 11, when the Shipp publicity firm released a story announcing that the American Legion was out to defeat ratification. The article quoted arguments by Colonel Taylor and embodied the resolution adopted by the American Legion at its Omaha convention deprecating any movement to interfere with the Chemical Warfare Service.

I accept the statement made to me by Colonel Taylor that he is not receiving any salary as treasurer of this association, but it seems to me a most unnatural relation that the legislative agent of the American Legion should also handle the finances of an association engaged in the distribution of propaganda against a settled policy of the Government. It has been one of the main contentions of some peace advocates that war is powerfully promoted by the activities of those engaged in the manufacture of ordnance and munitions of war.

I have been loath to believe that the manufacturers of powder, arms, and other implements of destruction exercised any considerable influence in this regard; but I am compelled to say that it is the duty of Members of this body, and those who have official positions, to maintain a careful watch upon the activities of those whose business would be aided by furnishing supplies for war. It must be said that any organization which is formed for such purpose as the National Association for Chemical Defense should be subjected to the closest scrutiny. There have been numerous investigations emanating from committees in this Capitol, and while I am not generally in favor of the appointment of such committees, there certainly is as much ground for an investigation of this organization as for many of the investigations which have been conducted.

There is one conclusive argument against the use of poisonous gas. Any country which really desires peace would limit rather than enlarge the means for human slaughter. This applies with special force to a destructive agency which has such frightful possibilities. In the consideration of legislation for chemical supplies and of the treaty now pending, it must be conceded that the consistency, may I not say, the sincerity, of the American Nation in its advocacy of peace will be tested. Will we assume leadership in this great cause? Are we for peace? Are we for making the horrors of war, if war must come, as humane as possible? In the disposition of treaties such as that now pending, are we moving forward or backward?

These are the searching questions which are before us, and which, in all our legislation and in our international relations, should have our most earnest consideration.

Mr. Chairman, I withdraw the amendment, but I give notice that when the item comes up another year it will be very closely scrutinized. [Applause.]

The Clerk read as follows:

SEACOAST DEFENSES, UNITED STATES

For construction of fire-control stations and accessories, including purchase of lands and rights of way, purchase and installation of necessary lines and means of electrical communication, including telephones, dial and other telegraphs, wiring and all special instruments, apparatus, and materials, coast signal apparatus, subaqueous, sound, and flash ranging apparatus, including their development, and salaries of electrical experts, engineers, and other necessary employees connected with the use of coast artillery; purchase, manufacture, and test of range finders and other instruments for fire control at the fortifications, and the machinery necessary for their manufacture at the arsenals, $148,500.

Mr. LAGUARDIA. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 60, line 24, strike out the figures "$148,500" and insert "$68,500."

Mr. LAGUARDIA. Mr. Chairman, I would like to ask the chairman of the subcommittee how he justifies this increase of $90,000 over what the Budget recommended.

Mr. BARBOUR. It provides for the installation of fire control at seacoast defenses. There are three places at which the work should be continued. It will require in the neighborhood of $700,000 to complete the installation of fire control at Sandy Hook, Chesapeake Bay, and Los Angeles.

Mr. LAGUARDIA. Does the gentleman know that the seacoast defenses are just about as effective as my efforts to reduce the appropriations in this bill?

Mr. BARBOUR. Oh, I would not agree to that. [Laughter.]

Mr. LAGUARDIA. It is absolutely useless with the long-range guns and you are simply throwing the money away. We have spent millions on disappearing guns. It is a waste. They know where the guns are and they get the range and destroy the forts. With the heavy guns and long range a stationary defense has absolutely no chance. We have spent millions of dollars in constructing defenses at Corregidor, and everybody knows that the defenses there are a joke. So I think when the hearings were held at the Budget Bureau the Budget Bureau knew what they were doing when they held them down to $58,000.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York.

The question was taken, and the amendment was rejected.

The Clerk read as follows:

For expenses of enlisted men of the Regular Army on duty with the National Guard, including the hiring of quarters in kind, $448,720.

Mr. LAGUARDIA. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 66, line 25, strike out "$448,720" and insert "$419,940."

Mr. LAGUARDIA. Mr. Chairman, I shall only offer one or two more amendments, because I am beginning to realize that I will have to acknowledge defeat before long. But I deem it my duty to call the attention of the House to what we are doing, at least to prepare for the next year. This year we have increased the appropriations over the Budget Bureau. The bill increases the Army from 115,000, recommended by the President, to 118,750. No sooner than our efforts here yesterday were overwhelmingly defeated, than the Chief of Staff appeared before the Committee on Military Affairs, and a bill was prepared by the Secretary of War and sent to the Committee on Military Affairs fixing the Army at 170,000 men and 14,000 officers. That is to prepare for next year. That is the present policy of the department. The committee has increased the Army 3,750 men, and next year they will come along and hope to get more, and they hold the 170,000 men as the crest and hope to get three or four thousand increase each year.

Mr. Chairman, I call the attention of the committee to the appropriation before us now and in the next item, where we appropriate $9,498,000 for the National Guard. The National Guard is not the original American institution that it used to be before the enactment of the national defense act. There was a time when service in the National Guard was a duty that young men performed willingly, attending their drills without pay. Since the enactment of the national defense act men are paid to attend drills. For attending four drills each month each man gets a dollar a drill. What has happened? It has resulted in the most vicious system of pay-roll padding with which we have ever been confronted. The officers get their pay if they keep up 50 per cent of attendance. One company will have a full attendance and another company will be deficient. There are transfers from the company that has a little over 50 per cent to companies that have less than 50 per cent, and everybody is happy. Of course, no actual transfer takes place; it is simply a paper transfer.

In the hearings it is stated that this money is paid only after the company is checked up by a Regular Army officer, but all that he checks up are paper reports and nothing else. We

have enough Regular Army officers in these various centers to personally attend these drills, but they do not. Once a month they make an inspection of paper reports, that naturally check up, and that is why we are paying $9,288,000.

Mr. TEMPLE. Mr. Chairman, will the gentleman yield?

Mr. LAGUARDIA. Yes.

Mr. TEMPLE. Is that transfer possible in country places where there is only one company in a town or perhaps in a county, or is it possible only in the large city regiments?

Mr. LAGUARDIA. There must be a regiment.

Mr. TEMPLE. In a city.

Mr. LAGUARDIA. Yes.

Mr. WAINWRIGHT. Mr. Chairman, will the gentleman yield?

Mr. LAGUARDIA. Yes.

Mr. WAINWRIGHT. Do I understand the gentleman is now accusing the responsible officers of the National Guard of falsifying their returns?

Mr. LAGUARDIA. I charge that that is the practice; that it is almost universal in every armory.

Mr. WAINWRIGHT. That is a very serious charge.

Mr. LAGUARDIA. You bet it is.

Mr. WAINWRIGHT. I do not believe the gentleman has any justification for it.

Mr. LAGUARDIA. I have.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. LAGUARDIA. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. Is there objection?

There was no objection.

Mr. LAGUARDIA. Mr. Chairman, I say to my colleague from New York that I have the justification. I have spoken with National Guards men and officers who told me this, and you can check it up. The amount suggested here will provide for 48 drills. I do not believe the National Guard will stop drilling if we did not appropriate this money. General Lord informs me that the amount recommended of $9,288,000 is sufficient for 48 drills, and I believe he knows what he is talking about.

I am going to make another charge. I show you a picture here of a chateau which the State of New York built at Peekskill to quarter our major general of the National Guard when he is on duty with troops. He lives there and lives there with his family, and properly so, and there is no objection to that, but while he is living in this State building he puts in every year a voucher for quarters allowance for $440.25.

Mr. WAINWRIGHT. Mr. Chairman, will the gentleman yield?

Mr. LAGUARDIA. Yes.

Mr. WAINWRIGHT. I am very familiar with this chateau. I lunched there during the camp of instruction season last year. It is an ordinary wooden bungalow which was not built for the present commanding general of the New York Guard.

Mr. LAGUARDIA. Oh, no.

Mr. WAINWRIGHT. And it has been there for a number of years, occupied by other officers, occupied at times by the adjutant general, and it is simply occupied as camp headquarters, as residential headquarters of the general during the time of the drill or the camp season of the National Guard.

Mr. LAGUARDIA. It exists, does it not? It is there, is it not?

Mr. WAINWRIGHT. A comparatively inexpensive wooden bungalow.

Mr. LAGUARDIA. But the gentleman misses my point entirely. My point is that the State has furnished this building—call it a bungalow or a shack or what you will—and that while he is living there he puts in a voucher for $440.25 for quarters allowance. The major general of the State of Massachusetts puts in one for $158, but I say this for the major general of the National Guard of the State of Massachusetts, that while he is on field duty in the Federal service he does not draw his State pay.

Mr. CONNERY. Mr. Chairman, will the gentleman yield?

Mr. LAGUARDIA. In a moment. While the major general of Pennsylvania is on duty, under canvas, according to his own report, he puts in a voucher for a quarters allowance of $330, and that runs all through your whole system. While these National Guards men are encamped during the 15-day period, living under canvas, they have acquired the bad habit of the Regular Army officers, and they put in vouchers for quarters allowance. I yield to the gentleman from Massachusetts.

Mr. CONNERY. I say to the gentleman that if the major general commanding at Devens does not put in for that amount, he should, because of all places for a commanding officer or anybody else to live in, those shacks at Devens are the worst. They are not fit for a dog to live in.

Mr. LAGUARDIA. But the gentleman does not get my point. The point is that when you certify for these quarters allowance you have got to state that this money has been expended for that purpose. That is my point I am seeking to make. I am not blaming the National Guard for it. They have acquired this habit from Regular Army officers. Take the major general of the State of New York, who is paid by the State, who receives $7,500 or $10,000 a year while he is on duty for the 15-day period and as long as he stays there; he puts in an additional voucher for $2,777.

Mr. WAINWRIGHT. Do I understand the gentleman to say he puts in some voucher to the Federal Government? Is not his pay received on that account entirely a matter that comes out of the State treasury and not out of the Federal Treasury?

Mr. LAGUARDIA. The point I desire to make is that the major general of the State of New York puts in a voucher for $2,777 Federal pay in addition to his salary being paid by the State. He was so paid in 1923, 1924, 1925, and in all likelihood in 1926.

The CHAIRMAN. The time of the gentleman has again expired.

Mr. SCHAFER. I ask that the gentleman's time be extended one minute.

The CHAIRMAN. Is there objection to the request? [After a pause.] The Chair hears none.

Mr. SCHAFER. If the gentleman will yield, has not the Comptroller General the authority to refuse to allow payment on these vouchers?

Mr. LAGUARDIA. No; for the reason that prior to the time that the Comptroller General passed upon such vouchers it had been held by the Judge Advocate General of the Army, I believe, that there is sufficient technical compliance with the requirements of the law to justify the payment.

Mr. SCHAFER. Then really the National Guard officers are paid money in violation of law under false pretenses.

Mr. LAGUARDIA. They have been paid quarters allowance while they were living under canvas and had no disbursements to meet for which they had received the money.

Mr. CONNERY. Mr. Chairman, right in opposition to the remarks of the gentleman from New York [Mr. LAGUARDIA] comes a letter from Massachusetts from a newspaper man who is a member of the National Guard of that State and has been a member of it for the past 25 years. First I desire to read the following, which is from a newspaper of my district:

NATIONAL GUARD NEEDS RECRUITS TO MEET LOSSES

With a loss of 578 enlisted men during the period of January 1, 1926, to January 1, 1927, the Massachusetts National Guard faces a serious situation, and every effort is being made to induce recruits to join the 170 and more units composing the organization. The Twenty-sixth (YD) Division is the principal portion of the guard in this State, and every branch of the service necessary to complete a division is represented, even to the Air Service, tanks, transport units, and combat engineers. There are some 8,000 officers and men in the division, the remainder of the nearly 10,000 men being divided among separate Infantry battalions, Coast Artillery units, and antiaircraft batteries.

Lynn has three units of the Twenty-sixth Division, Companies F and D, One hundred and first Engineers, and Battery E, One hundred and second Field Artillery, all of which need many men to fill the ranks to the full extent allowed in peace times. Recruits are being enlisted Tuesday nights in Company D, Wednesday nights in Company F, and Thursday nights in Battery E.

There has been considerable of a turnover in the enlisted ranks of the guard during the past. The losses were 4,890 and the gains 4,312, or a total loss of 578. Many of the losses are through what are termed "natural causes," such as by death, 21; desertions, 55; to take commissions or warrants, 59; for disability, 51; for enlistment in the Regular Army, Navy, and Marine Corps, 147; and for minority, 281. Removal from the State and other reasons accounts for the remainder of the total loss.

Reports from the adjutant general's office show that 53 per cent of the men whose time expired in 1926 reenlisted, whereas in 1925 it was 56 per cent, a slight falling off in 1926. War Department officials, however, have expressed the feeling that if reenlistments are in the vicinity of 50 per cent each year, that the service is doing nicely. The record of reenlistments in Massachusetts is understood to be very high. In some States the percentage runs as low as 30 in relation to reenlistments.

And now we have this letter, gentlemen of the committee, which I have received from a newspaper man who knows what he is writing about, a man very much interested in the National Guard, a fine soldier. The letter is as follows:

COMPANY F, ONE HUNDRED AND FIRST ENGINEERS,
MASSACHUSETTS NATIONAL GUARD,
State Armory, Lynn, December 29, 1926.

Subject: Condition of National Guard.

To Congressman WILLIAM P. CONNERY, Jr.

DEAR CONGRESSMAN: Some time ago I talked with you about the condition of the National Guard, so here's some of the things I want to get off my chest.

Needs of the National Guard can be summed up quickly; yet, if those things which are needed can be supplied, the results will be far-reaching. Much could be gained for the Nation and the guard could be put back on its feet again. It is now almost on its back, believe me! The spirit of some of the officers and many of the enlisted men is waning. If certain things can be accomplished, the recruiting will become easier.

First of all, the guard needs the whole-hearted support of authorities at Washington. They are responsible for its creation and should likewise be equally as responsible for its welfare. As it is, the situation is analogous to a child and its unwilling parents, the child being the National Guard and the parents those authorities at Washington responsible for the birth of the guard since the World War. Those "parents" are responsible for the presence of the "child," but have evidently turned a deaf ear to the cries for the very things needed to allow the child—the guard—to grow to healthy manhood and become a man of whom the Nation would be proud. The guard certainly has been neglected.

What it needs right off is better equipment, mostly in relation to uniforms; and it needs authority for more drills each 12-month period. The material of which the enlisted men's uniforms are made is absolutely a disgrace. The campaign hats are even worse, and the barrack caps are shameful. All these things, too, are just the things which the public sees. The public forms its opinion of the guard, in a great measure, on what it sees; and it sees some terribly shabby and ill-fitting uniforms. Recruiting is difficult enough under normal conditions, and when uniforms are plentiful and of good material, but really, Billy, when a new recruit is introduced to his uniform for the first time, he gets a terrible shock, that's all, and I don't blame him. He has been led to believe that this Nation is rich and that it can afford good uniforms at least for the men who volunteer to be "the first to go." They have been led to believe—and rightly, too—that the khaki uniform they are to wear is the symbol of Uncle Sam. It is the irony of fate, however, that at the very outset of a man's service with the red, white, and blue he takes one look at the shoddy, and its poor tailoring, and his interest begins to wane before he has even started to serve; and yet, by oath, he must continue to serve for three long years, laying himself liable to be called for instant service in the defense of his country.

It is with pardonable pride that I make this next statement. It is this—I feel competent to judge the needs of the National Guard. I feel amply qualified when I tell you that I joined it in 1902, almost 25 years ago, and here I am still playing the game.

Now then, here's something to think about. I played the game away back when we carried the .45-caliber Springfield, which weighed a "ton" or more. I served when we wore that good old blue uniform; and here's a point: I feel that the guard needs it again, or something equally as attractive. For myself I have gotten away past that stage, but there is a psychology to the thing, and it is this—the young men certainly like the glint and the glitter that goes with a snappy uniform, and for that reason the guard—and the Regular Army also—should have one.

Then, again, here's another thing: Before the World War recruiting was brisk, and company commanders had little difficulty in keeping their ranks filled with good men. The snappy uniforms had something to do with it, but there's something else the matter. To-day we have the jazz dances, the cheap automobile, and the radio. So, you see, the guard has competition, and that competition must be met. We must "sell the guard" to the young men. The cheap auto, "fleet of foot," takes the young men to one, two, and even three different dances in a night. In the old days the guard was not confronted with such competition. Then, again, here we are in Lynn, serving in an armory now 32 years old and which has had no improvements since, with the exception of the addition of a cellar with a rifle range and two bowling alleys, which we keep in condition ourselves. The uniforms of shoddy, or worse, are not the answer to the situation. The cutting of drills from 60 paid drills a year to 48 paid ones has raised merry Hades.

Now, Billy, please don't get me wrong. I am not squawking! If I was, I wouldn't be here, attempting, at least, to be a patriot, but I would quietly drop out and forget it. But I can't forget it. Things are just terrible, that's all; and if some one don't tell some one else, we'll never get anywhere.

Here's the one real, unpardonable offense committed by somebody somewhere at Washington. They authorized the organization of the National Guard. Men volunteered to serve their country, and that service, according to the very law which that somebody or other at Washington created, is such that those brave young lads, true Americans that they are, can be called upon at a moment's notice to give their lives for their country. They did it in 1916 on the Mexican border and in 1917–18 overseas, and they may have to do it again. Yet, that somebody at Washington causes the guard to be formed, but almost forgets it. They allow this present condition to come about—a condition almost beyond belief. Those somebodys have the power to call the guard for action, but yet won't allow it the necessary funds with which to properly clothe and train itself for action. The guard, like the Regular Army, is to-day in a deplorable condition. Anybody else can think what they like, but I know! And so do all other company commanders. They are the fellows behind the scenes and know what's going on inside. We all know that the guard at its best can be only 60 per cent efficient at peace strength. So, then, what would be its efficiency if called into action and suddenly increased to war strength? Let some of the swivel-chair artists at Washington "laff" that off! Billy, we have come to believe that some one at Washington just don't give a darn!

So it is with no apologies whatever that we say:

Shame on men at Washington who are responsible for present conditions.

Shame on those who are responsible for the birth of this child—the National Guard—and who have left it on the back steps, like some unwilling parents!

Shame on those who can sit idly by at Washington and let matters go on as they now are.

Shame on them for being able to hold a straight face and at the same time call these young men into service, half clothed and half trained!

Shame on those responsible for the terrible materials of which the uniforms are made. It is such that self-respecting citizens of the admittedly richest Nation of the world are ashamed to be seen wearing it in public. No wonder the guard has been called "tin soldiers" and "mudguards"!

Shame on those responsible for cutting down the drills from 60 a year to 48, thus making it impossible for the guard to even become 60 per cent efficient and remain there. They drill one and one-half hours a week. Think of calling men into the field with that amount of training a year—48 drills!

Shame on whoever is responsible for housing men in such wretched barracks as those at Camp Devens; for instance, where a half dozen burned to the ground at last summer's encampment and nearly took the soldiers along with them.

Congressman, something must be done, and done quickly. The whole thing is shameful. I am not unduly excited over the matter, and I have not lost my head. I have played the game too many years to get that way. I know you will take this right and I know you will do the right thing when and where you can, because you yourself served in this same old outfit—the YD—which the guard in this State now wears as its shoulder insignia. We are trying to perpetuate it, too, in memory of your buddies and mine now over there.

Respectfully yours,

CHARLES G. FROST,
Captain, One hundred and first Engineers,
Massachusetts National Guard, Commanding Company F.

The CHAIRMAN. The time of the gentleman has expired.

Mr. CONNERY. Mr. Chairman, I ask for five additional minutes.

The CHAIRMAN. Is there objection? [After a pause.] The Chair hears none.

Mr. CONNERY. I desired to read that letter so as to show what kind of men are appealing to the Congress in the interest of real Americanism.

Mr. LAGUARDIA. Will the gentleman yield?

Mr. CONNERY. I shall be glad to yield.

Mr. LAGUARDIA. Does not the gentleman agree it would be a good plan to take this money and build good quarters rather than to pay it out for a purpose for which it is not used?

Mr. CONNERY. No; the men in the guard want the guard taken care of, and they want to have 60 drills a year and pay men for their drills, and in addition to the 60 drills they want the men to have decent uniforms so when they come into the guard they will look fairly decent and have a proper esprit de corps.

Mr. LAGUARDIA. Is there any good reason in the world why that money that is appropriated ought not to be used?

Mr. CONNERY. It should be used for that purpose, but they are not using it. It is like the man in jail. His attorney said, "They can not put you in jail for doing that." "But," he replied, "no, they can not, but I am in jail just the same."

Mr. LAGUARDIA. If that money was to be expended to build quarters they would not have shabby shacks.

Mr. BARBOUR. Then the gentleman's amendment seeking to reduce the amount of the appropriation would not help that situation.

Mr. CONNERY. No; I am against the amendment of the gentleman from New York. I am willing to do anything that will help the national defense. I have been watching the newspapers of the United States lately, and have read them carefully, and I am convinced that we have a strong pacifist sentiment in the country, and I am surprised at it. I have heard men in this House fighting against national defense and fighting against granting adequate appropriations for the Army, Navy, Marine Corps, and air force.

It was my honor and privilege to serve in the American Expeditionary Forces. I am not boasting of that merely to speak of my war record. But in God's name, I do not want to see these young fellows who are coming along now and perhaps may be sent into a war to go into such a war unprepared. I do not want to see them go in as unprepared as we were sent unprepared into the World War. I asked my colleague from Indiana [Mr. UPDIKE] the other day if he remembered about conditions when we marched up in the Argonne Forest and the German airplanes would come over and leave a trail of smoke over our Infantry, so that their artillery could ascertain our position and wipe out our boys, and he agreed with me that there were no American planes over our heads to fight the enemy back. As a result hundreds of our men were needlessly sacrificed. Those conditions would not have occurred in the World War if Congress, back 10 years or 15 years before, had seen fit to have the country adequately prepared when war came. It was only the tender mercies of God that saved thousands of our young men in the American Army.

The CHAIRMAN. The time of the gentleman from Massachusetts has expired.

Mr. CONNERY. May I have five minutes more?

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. CONNERY. I asked for time to speak in general debate because I have felt very strongly on this proposition, but I understood all time was taken up. However, gentlemen, I will take but little more time now. When we got over to France, as I say, it was only through the mercy of God and good luck that many of our men were saved from death. I remember Colonel Logan, of the One hundred and first Regiment of Infantry, my own regiment, when we were on the front line and they had sent us replacements, many of whom had never had a rifle on their shoulders, I remember how the colonel quickly sent them to the rear to be trained, considering it practically slaughter to send them into the line.

Our men at times went into battle with their equipment worn out, with old hats, no socks, worn-out shoes, and with nothing to protect them in the front line.

You will remember sugar. I have always laughed when the matter of sugar was mentioned. Nobody ever saw any sugar in the Twenty-sixth Division, up in the front-line trenches. I could not name a man who ever saw any of it. We never had any of the things which the folks at home were giving up in order that we might have them. I do not want to see those things repeated. I would be the last man in the world who wanted to see another war, whether a war with Mexico or any other country.

It is all very fine when the bands begin to play and the men march off down to the dock or the trains, going to war, from all over the country, but it is another story when the war is over—for example, when service men in Congress went before the Committee on Ways and Means and asked for a proper adjusted compensation bill and they gave us the undertaker's bill. And now when the veterans go to the bank to borrow on their certificates, to get a loan, they say, "Oh, no; the war is over; there is no money to be made in loaning you boys anything out of the bank. All you did was to go to war and save our millions for us. Go back to the Veterans' Bureau and try to get an accommodation." And then we have the spectacle of the administration cutting down the Johnson veteran legislation bill $30,000,000, and hear the administration's supporters go before the country and say, "We are doing everything in the world to take care of our disabled, gassed, and insane soldiers." It is rank hypocrisy.

In conclusion, I want to say that, so far as I am concerned, if we must have another war, I want those young fellows who have to go to that war to be properly taken care of, whether in the Army or in the Navy or in the Marine Corps or the air force, and furnished with every bit of equipment which this Government, the Government of the richest country in the world, can furnish in order to take care of them properly; a Government which, to my mind, is not now adequately protecting these men nor giving a proper national defense to the country. I am for the United States of America first, last, and all the time against any country in the world, and I am in favor of adequate national defense, because it is the best insurance against war. [Applause.]

Mr. WAINWRIGHT. Mr. Chairman, I rise in opposition to the amendment, simply for the purpose of answering in some way the rather serious charge that has been made by my colleague [Mr. LAGUARDIA] against Major General Haskell——

Mr. LAGUARDIA. I am referring to his predecessor.

Mr. WAINWRIGHT (continuing). The commanding general of the National Guard of New York. The charge is that the commanding general of the guard during the drill season gets his quarters allowance or commutation of quarters, notwithstanding the fact that during the summer encampment, or drill season, he occupies quarters at the State camp at Peekskill. He is entitled to commutation of quarters. The commutation of quarters allowance in addition to pay is granted in lieu of providing quarters, not only in the Army but by the State for the full-time officers of the National Guard.

Now, of course, during the drill season the officer can not occupy his permanent quarters or the residence where he maintains his family, and the inference given us by the gentleman from New York is that if during the drill season he is provided with a tent or a shack, or some kind of a habitation to live in while he is in camp, the requirements as to quarters should be dispensed with during the time he occupies such temporary quarters.

Now, as a matter of fact, this so-called chateau is nothing more than a wooden shack or bungalow, as the photograph shows, the same kind of a structure that all of you were familiar with at the cantonments during the war. The major general simply occupies that during the drill season and I am not sure he even stays there over Sunday, but it is simply the quarters he occupies when his duties require him to be at the camp of instruction. Surely the fact that he very properly occupies a shack or bungalow upon the drill ground during the summer camp season should not deprive him of the very proper allowance which the law accords him for permanent quarters.

The CHAIRMAN. The question is on agreeing to the amendment offered by the gentleman from New York.

The amendment was rejected.

The Clerk read as follows:

For pay of National Guard (armory drills), $9,498,000.

Mr. LAGUARDIA. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The gentleman from New York offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. LAGUARDIA: Page 67, line 1, strike out "$9,489,000" and insert in lieu thereof "$9,288,000."

Mr. LAGUARDIA. Now, Mr. Chairman, I want to point out that there is a vast difference between seeking to prevent the useless waste of public funds and that of supporting a pacifist movement. The gentleman from Massachusetts says the National Guard in his State is poorly equipped, poorly drilled, and in an inefficient state of service. If that is so, gentlemen—and I think it is—then my contention that you are wasting $9,400,000 a year is absolutely sustained.

The gentleman from Massachusetts suggests that the victory of the American forces in the World War was due to luck. I say it was due to the personal and individual courage of the volunteer and citizen soldiers who were not paid $1 a drill. Our National Guard did not receive $1 a drill previous to the World War. I do not believe that the efficiency of the National Guard depends upon paying a man $1 to go to his armory to drill. If that is what we depend upon we might as well know it, and determine whether we are going to abandon the American principle of citizen soldiers, the American institution of the National Guard, and have a professional Army. Seeking to prevent these abuses, seeking to prevent the padding of pay rolls, and seeking to prevent the bad habits of an Army officer who puts in a voucher as true on a technicality is not sustaining a pacifist movement.

The gentleman from Massachusetts is not the only one in this House who served in the World War. There are others. The gentleman from New York, my colleague [Mr. WAINWRIGHT], does not know all about the National Guard of his own State or he would not have made the statement that he made. His own argument falls when he says the major general lives in this State-owned house, and then he admits that he puts in a voucher for quarters allowance. That is not giving a good example to the men of the National Guard.

You talk about efficiency depending upon appropriations. I deny it. I do not want to believe that the National Guard of this country has sunk to such a low level that they will go on strike against drilling if we do not pay them a dollar a drill.

Are you ready to admit that? I am not. I do not believe it; and if the Massachusetts regiments are clad so poorly, as described by the gentleman from Massachusetts, where is all the money going to? We have officers, we have inspector generals, and we have Regular Army officers detailed to the National Guard. What are they doing? What a confession of inefficiency to make.

The Director of the Budget Bureau says that $9,288,000 will provide for 48 drills. I say we could put zero there and still have the drills. I do not know why this amount has been increased by the committee, but it has been increased.

I am not apologizing for my stand on this bill. I say you could increase the efficiency of the Army 25 per cent if you would reduce this bill 20 per cent, and I stand for that.

Mr. UPDIKE. Will the gentleman yield?

Mr. LAGUARDIA. Yes.

Mr. UPDIKE. If I understand the gentleman correctly, he is opposing this because the officers who live in these houses put in vouchers for their subsistence?

Mr. LAGUARDIA. We have passed that item.

Mr. UPDIKE. I would like to make this observation: The gentleman is in favor of an officers' retirement bill which puts the officers on two-thirds pay the rest of their lives?

Mr. LAGUARDIA. The emergency officers.

Mr. UPDIKE. Officers who are employed in the Veterans' Bureau drawing from $3,000 to $5,000 a year?

Mr. LAGUARDIA. They would not draw two pays if my amendment were adopted. But I am in favor of the emergency officers. I served with them and I know they were up in the air while Regular Army officers were sitting in swivel chairs.

The CHAIRMAN. The time of the gentleman from New York has expired. The question is on agreeing to the amendment offered by the gentleman from New York.

The amendment was rejected.

The Clerk read as follows:

For continuing the work of furnishing headstones of durable stone or other durable material for unmarked graves of Union and Confederate soldiers, sailors, and marines, and soldiers, sailors, and marines of all other wars in national, post, city, town, and village cemeteries, naval cemeteries at navy yards and stations of the United States, and other burial places under the acts of March 3, 1873, February 3, 1879, and March 9, 1906; continuing the work of furnishing headstones for unmarked graves of civilians interred in post cemeteries under the acts of April 28, 1904, and June 30, 1906; and furnishing headstones for the unmarked graves of Confederate soldiers, sailors, and marines in national cemeteries, $200,000.

Mr. WATSON. Mr. Chairman, I offer an amendment, which I send to the desk.

The CHAIRMAN. The gentleman from Pennsylvania offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. WATSON: On page 82, line 22, after the word "cemeteries," strike out "$200,000" and insert in lieu thereof the following: "$210,000, of which amount $10,000 shall be expended by the Secretary of War in erecting a fitting marking of the burial place at Washington Crossing Park of 40 soldiers of the Revolutionary War."

Mr. HARRISON. Mr. Chairman, I reserve a point of order on the amendment, although I do not intend to press it.

Mr. WATSON. Mr. Chairman, in December, 1776, Washington camped his army on the west bank of the Delaware. On Christmas Eve of that same year he marched his army to Trenton. You all know the history of that battle and its result. The day before Christmas 40 soldiers died and were buried on the banks of the Delaware; the only markings are the stones from the adjoining field.

There is a commission authorized by the State of Pennsylvania, called the Washington Crossing Park Commission. The Commonwealth has expended several hundred thousand dollars to purchase land and maintain the park, which is to be a permanent one. Recently the State procured the plot of land where these 40 soldiers are buried and is part of the park. I am asking an appropriation to mark their burial place. They were buried within a space of 40 square feet. I feel that the Congress should make some recognition of the soldiers who gave their lives, their gift, that the American people might enjoy independence.

I realize the gentleman's right to make a point of order. But I am appealing not to law; I am appealing to the patriotism of the Members of this House. [Applause.]

Mr. HARRISON. Mr. Chairman, I withdraw the point of order.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Pennsylvania.

The amendment was agreed to.

Mr. HARE. Mr. Chairman, I offer an amendment, which I send to the desk.

The CHAIRMAN. The gentleman from South Carolina offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. HARE: On page 82, line 21, after the word "national," add a comma and insert the following: "post, city, town, and village."

Mr. BARBOUR. Mr. Chairman, I make the point of order that the amendment is legislation.

Mr. HARE. Mr. Chairman, I will be glad if the gentleman will reserve the point of order.

Mr. BARBOUR. I reserve the point of order, Mr. Chairman.

Mr. HARE. Mr. Chairman, I would like to have the attention of the chairman of the subcommittee. I offer this amendment for the purpose of clarifying the idea expressed in lines 13 and 14. It appears that under the acts of 1873, 1879, and 1906 it was provided that the graves of Confederate soldiers should be marked in the national, post, city, town, and village cemeteries. When the bill was under discussion a few days ago I understood the chairman of the subcommittee to say that it was his understanding that this appropriation provided for the marking of all these graves in all classes of cemeteries; but under a ruling of the War Department I understand the marking of these graves has been confined to national cemeteries, and I have introduced this amendment to make the matter more definite and certain.

I feel this is in accord with the statement made by the chairman of the subcommittee a few days ago, because, as I understand, he stated it was his understanding and his interpretation of the law that it provided for the marking of all graves of this character, and I am offering this amendment purely for the purpose of making clear and certain this point.

Mr. BARBOUR. Mr. Chairman, I make the point of order that this is legislation.

The CHAIRMAN. Unless the gentleman from South Carolina can produce some authorization for this appropriation, the Chair will be compelled to sustain the point of order.

Mr. HARE. Mr. Chairman, I was relying wholly on the statement of the chairman of the subcommittee when he stated a few days ago with reference to lines 13 and 14, which provides for continuing the work of furnishing headstones for graves of Confederate soldiers, sailors, and marines of all other wars in national, post, city, town, and village cemeteries, that there was authority for this legislation.

If there is authority for the legislation embodied in lines 10 to 14, then I think it would be entirely pertinent to add in line 21 these additional words, because it is simply a repetition of the words found in lines 12, 13, and 14, and if those lines are in response to law, I feel sure that adding these words at the end of line 21 would not be new legislation but would only be clarifying and making definite and certain the legislation above referred to.

Mr. BARBOUR. The question was asked me the other day about this language, and it appeared to me that the language in the first part of the paragraph was sufficiently broad to cover the furnishing of headstones for the unmarked graves of Union and Confederate soldiers, sailors, and marines in village cemeteries and naval cemeteries at navy yards. I thought it took in all the cemeteries. But the gentleman's amendment, it seems to me, by adding similar language to the last clause, would broaden its scope beyond that of the present language of the bill.

Mr. HILL of Alabama. If the gentleman will yield, why would not this amendment arrive at the same thing that the gentleman from South Carolina is seeking? That is, to strike out in lines 20 and 21 the words—

and furnishing headstones for the unmarked graves of Confederate soldiers, sailors, and marines in the national cemeteries.

Mr. HARE. I would accept any amendment that attained the result. My only purpose was to make it certain and clear, because I understood the gentleman's interpretation was that it was intended to cover all the graves, but under the practice it does not prevail.

Mr. BARBOUR. Will the gentleman from South Carolina accept the suggestion offered by the gentleman from Alabama?

Mr. HARE. I am not particular as to the form of the amendment if it only accomplishes the result.

Mr. BARBOUR. I do not think there would be any objection to adopting the suggestion of the gentleman from Alabama. It would not then tend to broaden the language of the paragraph as I think the amendment of the gentleman from South Carolina would do.

Mr. HARE. Mr. Chairman, I will accept the substitute.

The CHAIRMAN. A point of order has been reserved against the gentleman's amendment.

Mr. BARBOUR. I will withdraw the point of order.

Mr. HARE. I withdraw the amendment and accept the substitute.

Mr. HILL of Alabama. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 82, line 20, after the semicolon, strike out the following language: "And furnishing headstones for the unmarked graves of Confederate soldiers, sailors, and marines in national cemeteries."

Mr. BARBOUR. There is no objection to that.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Alabama.

The question was taken, and the amendment was agreed to.

The Clerk read as follows:

VICKSBURG NATIONAL MILITARY PARK

For continuing the establishment of the park; compensation of civilian commissioners; clerical and other services, labor, iron gun carriages, mounting of siege guns, memorials, monuments, markers, and historical tablets giving historical facts, compiled without praise and without censure; maps, surveys, roads, bridges, restoration of earthworks, purchase of lands, purchase and transportation of supplies and materials; and other necessary expenses, $23,826.

Mr. McSWAIN. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Battle of Cowpens: To enable the Secretary of War to acquire by purchase or condemnation not more than 20 acres of land of the Cowpens battle field in South Carolina at not to exceed $200 per acre and to pay the incidental expenses of such acquisition, $5,000.

Mr. BARBOUR. Mr. Chairman, I reserve a point of order on the amendment.

Mr. McSWAIN. Mr. Chairman, it is true that there is no authorization in law for this provision. The House last year on unanimous-consent day passed a bill creating a national park but struck out of the bill an authorization for $25,000 and cut it down to $2,000. Action upon that has not been taken in the Senate, but we believe when the Senate comes to act upon it they will put it back to $25,000.

A hundred and forty years ago on the day before yesterday, to wit, on the 17th day of January, 1781, Gen. Daniel Morgan with about 900 American patriots from the backwoods completely routed and either killed or wounded or captured practically the entire force of about a thousand British Regulars under Maj. Banastre Tarleton. Beginning there the tide of fortune turned. For two years previous it had been one disaster after another—the fall of Savannah, the fall of Charleston, the fall of Camden, the draw at Brandywine—with all of the series of misfortunes that seemed to darken the hopes of the American patriots seeking independence. All that changed on the 17th of January, 1781, at Cowpens. Yet in spite of that, not one single nickel has ever been spent by this Government or by the government of the State of South Carolina to preserve that sacred spot and commemorate the event in the history of our Nation. Cotton and corn are growing over the battle fields. I wish to conserve the Treasury of the United States by putting a limitation upon it of not to exceed 20 acres of land at not to exceed $200 an acre. I submit that is a conservative price for land situated as that is situated, as I believe the gentleman from New York, Colonel WAINWRIGHT, who was in camp at Spartanburg, within 12 miles of this battle field, for one year, will testify. In any event, it is up to the Secretary of War.

If he thinks it is not worth $200 an acre he can dicker for it for less. If he can not get it by negotiation, then he can take it by condemnation. That is only $4,000 for 20 acres of land and $1,000 to defray the incidental expenses of acquisition.

We ought to start this, because it is on the great highway for automobile tourists from here to Florida. The people of our country, in passing to and fro, ought to have notice that we revere the memory of such heroes as those who made possible the independence of this Republic and the glorious privileges that we enjoy.

I frankly say that as yet the authorization does not exist, but I assert that for the cause it stands for, for the cause it seeks to promote, the request is modest, indeed insignificant.

Mr. Chairman, I know the War Department has made a study of these matters; and do you know what the War Department recommends for Cowpens? It recommends a monument—just some stone and mortar put up out there in the fields, with no land around it. Representing the people of that section, understanding, I believe, the sentiments of the Daughters and the Sons of the American Revolution and of the citizens of that country, I say that we do not want just a mere monument. We want about 20 acres of land which can be made a place of resort, which will be kept up and beautified by the Daughters of the American Revolution as a shrine of liberty.

Off yonder at Kings Mountain this Government 20 years ago spent $35,000 for a monument. There is no road to it—there is no land around it. If you should go there to look at that monument you would be ashamed of the fact that this Government owns no land. The consequence is that you will find there old pasteboard boxes of all kinds, newspapers, trash, litter strewn about everywhere. There is no protection for the shrubbery. People cut walking sticks and all sorts of souvenirs anywhere. The monument is out in the woods, with no road to it, not a marker to indicate the positions on the battle field, nothing but a pile of stone at the bottom of the hill to indicate where Colonel Ferguson lies—not a single thing else. Our people know about that. That is just about 35 miles from Cowpens. Our people do not want a mere monument; they do not want something like that sticking up in the woods by itself. We want 20 acres of land that will be properly sodded, with some gravel roads through it, so that the people can come from a hundred miles distant in their automobiles, with their families and lunches, and picnic in a proper way on this sacred, historic spot. This is the last chance at this session to do something for this purpose; and in the name of patriotism I ask it after the lapse of 146 years and 2 days.

Mr. BARBOUR. Mr. Chairman, I am willing to join with the gentleman from South Carolina [Mr. McSWAIN] in his demonstration of patriotism, but I am compelled to make the point of order that this is not authorized by law, and would be legislation on an appropriation bill.

Mr. STEVENSON. Mr. Chairman, may I be permitted to make a suggestion to the chairman of the subcommittee? Under the act of June 11, 1926, there is authority of law for making a provision for a survey of a battle field. If the gentleman who has proposed this amendment will join with me, I think we can get a provision for a survey of this, which is all that is necessary for an appropriation. The act has been passed and the appropriation has been exhausted. I ask the gentleman to join with me and with my friend, Mr. BULWINKLE, who are cooperating to get this done for this place and also for Kings Mountain.

Mr. BULWINKLE. Mr. Chairman, I offer the following amendment, which I send to the desk.

The CHAIRMAN. There is one amendment already pending with a point of order made against it.

Mr. McSWAIN. I recognize that the point of order is good, and that I am at the mercy of the gentleman from California if he makes the point of order.

The CHAIRMAN. The Chair sustains the point of order. The gentleman from North Carolina offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. BULWINKLE: Page 88, line 19, insert a new paragraph as follows:

"KINGS MOUNTAIN BATTLE FIELD

"For commencing a study and survey, or other field investigations, in accordance with the act entitled 'An act to provide for the study and investigation of battle fields in the United States for commemorative purposes,' approved June 11, 1926, of the battle field of Kings Mountain, $1,500."

Mr. BULWINKLE. Mr. Chairman, some years ago the Government of the United States erected on this noted battle field a monument costing $30,000 or $35,000. There should be a national park established at this place, for it was one, if not the chief battle, of the Revolution in the Southern States. Last year I introduced and passed through the House, after being reported from the Committee on Military Affairs, a bill asking for a survey, but it could not pass the Senate, as the general law had passed. I asked for a survey from the Secretary of War, but on account of the lack of appropriation it could not be made, and $1,500 is the estimate made by the Assistant Secretary of War for the cost of one of these surveys. This amendment will authorize the Secretary of War to make a survey and investigation in order that the battle field may be commemorated.

Mr. WAINWRIGHT. Mr. Chairman, personally I believe this proposition of the gentleman from South Carolina to commemorate the battle field of Cowpens is a most meritorious one. I do not think we have begun to do half enough for the commemoration and preservation of the Revolutionary battle fields. We have very well taken care of the Civil War battle fields, but there are many Revolutionary War battle fields for which

the Government has done little or nothing to preserve or commemorate them. I can state a little experience I have had. Last year I secured an authorization of $2,500 for markers to mark the battle field of White Plains in my district, one of the important events of the Revolutionary War. The entire army, practically, of the colonists was there in battle under the personal command of General Washington. When I went before the Committee on Appropriations the authorization of $2,500 was cut down first to $1,500 and then as a concession, possibly to me as an individual, it was raised to $2,000. A beggarly $2,000 properly to mark a battle field of this importance!

Last fall we had a dedication, or rather some ceremonies, incident to the designation of the points where these markers are to be placed, at this huge expense of $2,000, and I wish you gentlemen could have seen the patriotic demonstration in the city of White Plains for which it was the occasion. It brought out all the old spirit of other days—the spirit of '76. [Applause.] And I say that if the gentleman from South Carolina will come with the proposition to his own committee, to the Committee on Military Affairs, I believe we can give him the authorization that he wants there, even though it is out of order here; and if he gets it, all I can say is I hope he will have a little better luck with the Committee on Appropriations than I had in getting the full amount of my little appropriation for my Revolutionary battle field.

Mr. McSWAIN. Mr. Chairman, I sincerely appreciate the generous offer on the part of the gentleman that the committee of which he is a distinguished member will do all it can. This House has "done" me right, but the Senate is the body that has got my bill tied up.

The CHAIRMAN. The question is on the amendment offered by the gentleman from North Carolina.

The question was taken, and the amendment was agreed to.

Mr. STEVENSON. Mr. Chairman, I move further to amend by putting at the end of the words already in the amendment the words "Cowpens battle field, $1,500," which gives a survey in each instance and comes within the law.

The CHAIRMAN. The other amendment has been agreed to.

Mr. STEVENSON. I want to amend the bill by inserting after——

Mr. BARBOUR. I reserve a point of order on that. May I ask, is there any authority in law for it?

Mr. STEVENSON. Yes, sir; surely; the general law which was adopted last year providing for these surveys. They have exhausted the appropriation, and I want an appropriation providing for the same amount. That is exactly why we are asking for this. The act of June 11, 1926, provides:

> That the Secretary of War is hereby authorized to have made studies and investigations, and, when necessary, surveys of all battle fields within the continental limits of the United States, whereon troops of the United States or the thirteen original Colonies have been engaged against the common enemy, with a view of preparing a general plan and such detailed projects as may be required for properly commemorating such battle fields or other adjacent points of historic and military interest.

Now, under this authorization, an appropriation was made which has been exhausted by these surveys which have been made, but they have not reached either Kings Mountain or the Cowpens, and it is necessary to get an appropriation——

Mr. BARBOUR. Mr. Chairman, I withdraw the reservation. [Applause.]

Mr. STEVENSON. Mr. Chairman, I move further to amend the bill by adding the words "and for the battle field of Cowpens, S. C., $1,500."

The CHAIRMAN. Without objection the language of the gentleman from South Carolina may be added to the other amendment which has just been adopted. Is there objection? [After a pause.] The Chair hears none.

Mr. BARBOUR. Mr. Chairman, I ask unanimous consent to make another change in the amendment, and that is in the title. Instead of "Kings Mountain Revolutionary Park" insert "Revolutionary Battle Fields."

The CHAIRMAN. Without objection, the title will be changed to correspond with the text.

Mr. STEVENSON. And change the word "survey" to the word "surveys."

The CHAIRMAN. Is there objection?

There was no objection.

The amendment as finally agreed to reads as follows:

KINGS MOUNTAIN AND COWPENS BATTLE FIELDS

> For commencing a study and surveys, or other field investigations, in accordance with the act entitled "An act to provide for the study and investigation of battle fields in the United States for commemorative purposes," approved June 11, 1926, of the battle fields of Kings Mountain and Cowpens, $1,500 each, $3,000.

Mr. SCHAFER. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from Wisconsin moves to strike out the last word.

Mr. SCHAFER. I ask unanimous consent, Mr. Chairman, to speak out of order for five minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin to speak out of order for five minutes?

There was no objection.

Mr. SCHAFER. Mr. Chairman and gentlemen of the committee, we will soon reach that portion of the bill which carries appropriations for the National Homes for Disabled Volunteer Soldiers. I intend at that time to offer an amendment on page 94, line 10, providing that no money shall be expended for the purchase of oleomargarine or butterine or any other butter substitute to be used in lieu of butter. I hope that no Member will raise a point of order against this amendment, although if it is made I believe the point of order could not be sustained. My amendment is clearly a limitation on the appropriation.

The testimony of the Board of Managers at the committee hearings is conflicting. Page 258 of the hearings show that Mr. HARRISON asked General Wood this question:

> Mr. HARRISON. What is the situation in the hospitals with respect to supplying oleomargarine instead of butter? We went into that last year.
>
> General WOOD. Well, sir, answer your question, we are furnishing butter to a certain extent, but our experience in the past has been that in buying the large quantities that we have to buy in competitive bidding we really believe—and on this point Colonel Wadsworth is better posted than I am—that we are furnishing a better article than we would get if we furnished all butter. But we are furnishing butter in a good many cases.
>
> Mr. BARBOUR. You will furnish oleomargarine also?
>
> General WOOD. Yes, sir.
>
> Major WADSWORTH. I want to say that when I was chairman the branch hospitals adopted oleomargarine in place of butter. The Bureau of Chemistry of the Agricultural Department have always said that it was just as wholesome and just as good as butter, and you get a better quality and it stands up better.
>
> Mr. HARRISON. How about the sick people?
>
> General WOOD. They have butter.

Now, in the Northwestern Branch of the National Home for Disabled Soldiers we have a tubercular-hospital mess, a general-hospital mess, and the general mess, and the menus submitted by the board of managers for the week ending December 18, 1926, clearly indicate that the general-hospital mess is furnished butterine instead of butter. Anyone who knows anything about the general-hospital mess knows that sick veterans at that general hospital are furnished butterine. The menu submitted by the board of managers appearing on page 232 is unmistakable proof, as said menu states that butterine is served at all meals.

Mr. CONNALLY of Texas. In what part of the bill does the gentleman's amendment come?

Mr. SCHAFER. It will come in on page 94, line 10.

Mr. CONNALLY of Texas. I thank the gentleman.

Mr. SCHAFER. The board of managers tell the committee that oleomargarine is better, and they can buy it better, and it stands up better than butter. If that is the case, why do not they advocate furnishing butterine or oleomargarine instead of butter in all hospital messes? Is there any Member of this House who believes that oleomargarine or butterine is a good substitute for butter and better than butter? I do not believe any Member does so believe or has butterine served in place of butter on his own table at home. No one can argue that butterine or oleomargarine is as healthy or is of as much food value as butter. Butter contains a high percentage of vitamins which are essential to supply growth and life itself. Butterine and oleomargarine contain little if any of those essential vitamins.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. SCHAFER. Mr. Chairman, may I have a little more time? I ask unanimous consent to proceed for five additional minutes.

Mr. BARBOUR. Could not the gentleman postpone his further remarks until we reach that item?

Mr. SCHAFER. I desire only five additional minutes.

The CHAIRMAN. The gentleman from Wisconsin asks unanimous consent to proceed for five minutes more. Is there objection?

There was no objection.

Mr. SCHAFER. It is strange indeed for the Board of Managers to tell Congress and the American public that butterine

is just as good if not better than butter for a hospital patient. Medical authority clearly shows that butterine and oleomargarine do not contain the health-giving essential vitamins that butter does.

Mr. WEFALD. Can the gentleman tell us if the officers of the Army eat oleomargarine?

Mr. SCHAFER. It is my belief that they do not.

Mr. CONNALLY of Texas. The gentleman can not complain that the food he had while in the Army was not nutritious?

Mr. SCHAFER. Some of it was, and some of it was not. The greater part of it was not. Anyway, what I had in the Army is not material to the question I am discussing.

It is regrettable that many of the Nation's war veterans—some lying on their death beds—should be served butterine as a substitute for butter. Especially regrettable that this butterine substitute is served at the National Home, Northwestern Branch, which is located in the greatest dairy State in the Union—the great State of Wisconsin. Gentlemen of the House, the Wisconsin statutes prohibit the serving of butterine as a butter substitute to the prisoners in our penal institutions.

Mr. HARRISON. Did General Wood state that this oleomargarine and butterine were served to sick patients?

Mr. SCHAFER. He speaks of three messes and mentions that two messes are furnished with butterine.

Mr. HARRISON. That is for the inmates generally.

Mr. SCHAFER. No; that includes the main hospital.

Mr. HARRISON. I think the general stated otherwise.

Mr. SCHAFER. The menu for the general hospital, appearing on page 232 of the hearings, states:

Sugar, sirup, catsup, bread, butterine, coffee, and milk served at all meals.

Mr. HARRISON. It is for the inmates of the home that are not ill.

Mr. SCHAFER. No. The inmates of the National Home at the Northwestern Branch who are not ill do not eat in the general hospital mess but in the general mess. This branch has three messes—general hospital, hospital annex No. 1, and a general mess.

Mr. HARRISON. I think General Wood stated that sick men are furnished with butter.

Mr. SCHAFER. He does, but the menus he filed with the committee, which I previously mentioned, clearly indicate otherwise.

It is well known that butterine is served in lieu of butter in the general hospital mess as well as in the general mess. The menus which the board of managers submitted to the committee confirms my statement.

Therefore General Wood's statement that the sick people have butter is not based on fact, but is a careless, reckless handling of the truth. The general hospital mess is a mess for veterans who are hospitalized and these veterans are sick. Many are on their death bed.

It is about time that the use of butterine, which does not contain vitamines essential to the human body, ceases to be used as a substitute for butter, which contains these vitamines. We know that butter costs more than butterine, but why practice economy at the expense of our disabled veterans? As previously stated, the prisoners in Wisconsin's penal institutions can not be fed butterine as a substitute for butter. Yet disabled veterans, who have fought and bled for America, are fed this inferior substitute at the National Home general hospital mess.

The CHAIRMAN. Without objection, the pro forma amendment is withdrawn, and the Clerk will read.

The Clerk read as follows:

For every expenditure requisite for and incident to the construction of a Government wharf at Juneau, Alaska, as authorized by the public resolution entitled "Joint resolution authorizing the construction of a Government dock or wharf at Juneau, Alaska," approved May 28, 1926, $22,500.

Mr. SHREVE. Mr. Chairman, I move to strike out the last word. I wish to ask the chairman of the committee whether the appropriation carried in this item for Alaska is for the purpose of completing the road between Fairbanks and Circle?

Mr. BARBOUR. The only increase made in this item was made for that purpose. Two hundred thousand dollars was added.

Mr. SHREVE. I am very glad to hear that. I want to say it was my pleasure to visit Alaska during the last summer. I traveled about 75 miles on this highway. I learned that one of the great mining companies in the United States is spending $9,000,000 in that Territory, $6,000,000 of which will be spent before a single dollar is taken out. It is a wonderful development, and it will last for 25 or 30 years. The manager of the Fairbanks Development Co. told me that the company never would have been able to undertake that development if it had not been for the Alaska Railroad and this highway. It should be completed; and as I understand the situation this item of appropriation will complete a link that is lacking, and it will complete a main highway all the way from the Pacific Ocean to the Yukon River. It is an improvement that is very much needed, and I am very pleased to know that the committee has carried it in this bill.

The pro forma amendment was withdrawn.

Mr. BARBOUR. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. TILSON, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill H. R. 16249, the War Department appropriation bill, and had come to no resolution thereon.

AMENDMENT OF CERTAIN SECTIONS OF THE REVISED STATUTES

Mr. GREEN of Iowa, from the Committee on Ways and Means, by direction of that committee, presented a privileged report on the bill (H. R. 8997) to amend sections 2804 and 3402 of the Revised Statutes, which, with the accompanying papers, was referred to the Committee of the Whole House on the state of the Union and ordered printed.

Mr. GARNER of Texas. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. The gentleman will state it.

Mr. GARNER of Texas. Is it necessary at this time to reserve a point of order as to the question of whether or not this is a privileged bill? If it is, I desire to reserve that point of order, so that the question of its privileged character may be determined at the time it may be called up.

The SPEAKER. The gentleman from Texas reserves a point of order as to the privileged character of this bill.

AGREEMENTS OF INDEMNITY

Mr. GREEN of Iowa, from the Committee on Ways and Means, by direction of that committee, presented a privileged report on the bill (H. R. 16391) to authorize the Secretary of the Treasury to execute agreements of indemnity to the Union Trust Co., Providence, R. I., and the National Bank of Commerce, Philadelphia, Pa., which, with the accompanying papers, was referred to the Committee of the Whole House on the state of the Union and ordered printed.

Mr. GARNER of Texas. Mr. Speaker, I am in favor of this bill, and my understanding is there was not a member of the Committee on Ways and Means opposed to it, but, perhaps, in the interest of the Members of the House, I ought to make the same reservation of a point of order with reference to this bill that I have made as to the other bill, although, as I say, the entire membership, as I recall, of the Ways and Means Committee is in favor of the last bill reported.

The SPEAKER. At first glance the Chair would be in doubt as to whether this is privileged, and the Chair will note the gentleman's reservation of a point of order.

THE RIVERS AND HARBORS BILL

Mr. MANSFIELD. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the rivers and harbors bill by inserting an article from the Washington Post of yesterday, written by the gentleman from New York [Mr. DEMPSEY], the chairman of the Rivers and Harbors Committee.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. MANSFIELD. Mr Speaker, under the leave granted I desire to extend my remarks in the RECORD on the river and harbor bill by inserting an article appearing in the Washington Post January 18, 1927, written by the gentleman from New York [Mr DEMPSEY], chairman of the Committee on Rivers and Harbors It is as follows:

RIVER AND HARBOR NEEDS—CHAIRMAN DEMPSEY EXPLAINS AND DEFENDS THE MEASURE JUST PASSED

To the EDITOR OF THE POST.

SIR: I have read the editorial in your issue of to-day quoting Representative CHALMERS as saying that he considers the rivers and harbors bill the worst ever passed, and stating that it carries authorizations of over $110,000,000, but that the total expenditures under it will be more.

It is unnecessary to refute the general statement of Mr. CHALMERS. To say that a bill is bad does not carry conviction unless it is bad by nature of the bill or because of bad provisions which are pointed out. To improve the rivers and harbors of the country so as to develop waterway transportation is as commendable work as Congress

and the Executive can do. So the question is whether the projects embraced in this bill are good or bad projects.

The bill authorizes expenditures to the amount of $71,871,900, and no more. Our railroads spend about $600,000,000 a year on maintenance and improvements. Thirty-eight per cent as much freight is carried by water as is carried by rail, and on the basis of railway expenditures we should expend $200,000,000 a year on our waterways. We actually expend about $50,000,000 a year. So no charge of extravagance in waterway expenditures can be honestly made. Mr. Hoover, Secretary of Commerce, has pointed out on numerous occasions lately that we have traffic facilities now inadequate at the peak for our existing population; that at the end of 25 years we will have 40,000,000 additional population for whom we have no transportation facilities, and that if we are to supply our people with food and fuel we must provide new traffic facilities for this additional population; that such facilities can be provided more cheaply and more easily by water than by rail; and that with the facilities once provided water transportation costs much less than that by rail. So the size of the bill can not be urged as an objection to it, provided the projects are proper ones.

Your editorial urges that $12,000,000 should not have been authorized for the upper Missouri River. This item was adopted on the recommendation of the engineers—the district engineer recommending that the section between Sioux City and Kansas City be systematically improved, securing a channel 6 feet deep, at a cost of $46,000,000; the division engineer concurred in general, but recommended that the present improvement be limited to the section between Kansas City and Omaha, costing $28,000,000, in which the Board of Engineers for Rivers and Harbors concurred, and the Chief of Engineers recommends an expenditure of $6,000,000. Congress, in view of the engineers differing in opinion and variously recomending from $6,000,000 to $46,000,000, struck a happy medium and authorized the expenditure of about one-quarter of the highest amount recommended—$12,000,000.

It surely is no objection to the project that, beside providing navigation, it will result in reclaiming 40,000 acres of land worth $1,200,000, and in increasing the value of other low lands $6,400,000; or that the cost of maintenance of railroad lines, highways, and levees will be greatly reduced, all of which benefits are pointed out by the Chief of Engineers as advantages resulting from the adoption of the project. The engineers show, too, that the direct savings of the improvement of the river from Kansas City to Sioux City will be $4,978,000 annually.

In the face of these facts the Missouri River project can not be successfully attacked. Nor is it an objection to it to say that some future Congress may at some uncertain time appropriate more money for this project; it will be completed as far as the expenditure now authorized will go, and if found to be as highly useful as the engineers estimate, and the facts make reasonably certain that it will be, everyone will favor the continuance of the work.

The Missouri is the only item which your editorial attacks, but you state that many other items are indefensible.

I challenge any one to name a single item in this bill which is not worthy and which will not increase the usefulness of water transportation in the country, I will refer very briefly to the larger items in the bill, viz.

The waterway connecting Gravesend Bay with Jamaica Bay is really the Federal part of the Barge waterway through the State of New York, and that State is to make large expenditures in connection with this improvement. No waterway in the vicinity of New York City, as this is, has ever failed, or ever will fail, to have a large traffic, much more than justifying any reasonable expenditure upon it.

The intracoastal waterway from New Orleans to Corpus Christi, Tex., will cost $7,000,000. This will connect the oil wells and sulphur mines of Texas with the Mississippi system as well as with the gulf and the two coasts, securing the distribution of these two basic commodities expeditiously and at a very low transportation rate.

St. Marys River, Mich., is a point through which 90,000,000 tons of freight passes annually. If either one of the two existing channels should become blocked, as it is liable to be, the loss would be enormous and there would be great danger as well. Additional width is provided in one of the channels at an expense of $4,921,000.

After the Government had attempted to secure the Cape Cod Canal through litigation, resulting in a verdict of nearly $17,000,000, the Secretaries of War, of the Navy, and of Commerce, in pursuance of authority from Congress, negotiated a contract for the purchase of this waterway for $11,500,000. This bill authorizes the carrying out of that contract. The price paid for the property is exceedingly reasonable and the canal is most useful in shortening the distance between New England and all the country south of it, 140 miles on the round trip, and is a safe way and avoids the great danger to life and property of navigating outside the cape.

Some five or six years ago the Rivers and Harbors Committee adopted a project for the survey of the Tennessee River and its tributaries, resulting in the discovery of 3,000,000 horsepower, aside from Muscle Shoals, which can be developed at so low a cost that the power can be placed on the market for $15 per horsepower. In view of this very wonderful result, a project for the survey of all of the greater rivers of the country for navigation, power, and other purposes is included in the bill, at a cost of $7,322,400. This is the electric age, and there has never been a provision inserted in any rivers and harbors bill in the history of the country which promises so great advantages to the country as this survey item.

The commerce on the Great Lakes is the greatest in volume and is carried at the lowest rate of any in the history of transportation. Owing to a variety of causes there has been a shoaling of the channels of the Great Lakes of 40 inches in depth. This bill starts a project for deepening the channels and constructing regulatory works by which we will regain the needed depths in the channels. There can be no more important work than this. While this shoaling has been known for a considerable time and we have known that it could be remedied, nothing has been done until the passage of the present bill to apply the obvious remedy to this obstacle to the full usefulness of this great transportation system.

Both parties in their national platforms have long been committed to the improvement of the Illinois River, and it has been repeatedly urged in presidential messages. It has long been recognized that the great Mississippi system, with its 6,000 miles of navigable waters, improved at a cost of hundreds of millions of dollars, would never reach anything like its maximum of usefulness until Chicago, the metropolis of the system, was connected with it by a 9-foot channel in the Illinois River. There was much controversy over this project, because some Members of both Houses feared it might involve the diversion at Chicago. However, in the end this question was so successfully eliminated by an amendment to the bill that the project was adopted unanimously in the Senate. The $3,500,000 authorized for this project could not be more usefully spent.

The uniting of the Mississippi system with the Great Lakes will increase the traffic on both waterway systems and be of infinite value to both and to the country.

Two intracoastal waterways are adopted, one from Beaufort, N. C., to the Cape Fear River, at a cost of $5,800,000; and the other, the intracoastal waterway from Jacksonville, Fla., to Miami, at a cost of $4,221,000. It has long been the settled policy of the country to have a complete intracoastal waterway from Maine to Florida, and by adopting these two projects we add two necessary links to what is certain to be one of the most useful waterways in the world.

This constitutes a review of the more important items in the bill. Every other item is as meritorious as any of those reviewed, and the improvement provided will be equally useful.

All of our river and harbor improvements have cost to date but $1,250,000,000; in other words, we have spent in over 100 years considerably less than the railroads spend in maintenance and improvement in three years. The annual savings in freight bills through water transportation are over $500,000,000. Customs receipts of $500,000,000 more come in through the harbors.

To complete the projects adopted before the passage of the present bill will require $225,000,000. This bill will make the total about $300,000,000. At the present rate of appropriating, $50,000,000 per year, all the improvement will be completed in six years, which is about as short a time as that in which the work can be properly done. The funds will be used by the engineers in pushing the work which is the most needed and which will bring the largest returns. The prosperity of the city of Washington depends upon the prosperity of the country as a whole, and nothing can be done to promote and increase wealth and prosperity more than the development of our waterways. The Post, therefore, a great factor in the life of Washington, is vitally interested in the passage of river and harbor bills, and there has been no river and harbor bill in the history of such legislation more meritorious than that which has just passed both Houses by overwhelming majorities—277 to 82 on the conference report in the House, and with only 9 votes against the bill in the Senate.

S. WALLACE DEMPSEY,
Chairman of Rivers and Harbors Committee,
House of Representatives.

JANUARY 17.

POST-OFFICE SITUATION IN CAMDEN, N. J.

Mr. PATTERSON. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by publishing a letter on the post-office situation in Camden, and also making the suggestion to the Supervising Architect that landing places be provided for airplanes carrying the mails at the new post offices to be erected under the Elliott bill.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. PATTERSON. Mr. Speaker, in accordance with the unanimous-consent privilege extended me by the House of Representatives regarding the need for an enlarged or new post office in Camden, N. J., I beg leave to submit to the House copies of recent correspondence I have had with Postmaster General New and Assistant Secretary of the Treasury Schueneman regarding the situation.

Under date of January 17, 1927, I wrote the above officials as follows:

MY DEAR SIR: A copy of the report of Mr. O'Brien, construction engineer in the office of Supervising Architect Wetmore, under date of January 10, 1927, regarding the conditions of the postal situation in Camden, N. J., and the needs and possibilities for a new building in that fast-growing city, has just reached me.

While I am not opposed to securing a new post-office building for Camden, it looks to me as if an attempt was being made to throw a monkey wrench into the machinery just when the prospects were bright for securing relief of the acute situation that exists in the postal affairs of that city.

Personally I want a new post office in Camden and the finest that can be secured. So do a great majority of the business men and residents of Camden.

But if a new post office means delay or postponement of relief of the congestion that now exists, then I am emphatically against any postponement.

As I understand the situtaion a recent survey indicated that additional ground and enlargement of the present post-office building could be secured within the appropriation of $500,000 contained in my bill for remedying the terrible conditions that exist in handling the mail and other Government activities in Camden. This survey, I understand, has been approved by both the Post Office and Treasury Departments, and Camden was scheduled to be among the first cities to be considered under the provisions of the Elliott bill appropriating $100,000,000 for new Government buildings outside of Washington.

If the new survey proposing a new building in Camden does not mean a postponement of the relief promised, I will enter no objection to the scheme. But if the recent move has been made to block the relief promised, then I shall vigorously fight it and insist upon the term of the original survey being carried out.

As I have already said, if the plan is to substitute a new building in place of enlargement of the old building, I will enter no objection if assurance is given that it is the intention to include Camden in the list of those cities to receive first aid.

Engineer O'Brien in his report lists six possible sites that can be procured at a probable cost of $450,000 each. They are as follows. Sixth Street between Market and Cooper Streets, Seventh Street (both sides) between Market and Cooper Streets, Federal Street and Haddon Avenue, Market Street from Seventh to Eighth Street, and Eighth Street from Cooper to Carpenter Street. They are all good, available sites, but none of them is over eight squares from the present location of the post office at Third and Arch Streets. Besides the sites mentioned are among the most valuable real-estate parcels in Camden and will command $2,000 a front foot. This would permit a frontage of 225 feet only at an estimated cost of $450,000.

A much better deal, from the Government standpoint, would be to treat with the city commissioners for a site at the so-called new civic center. Here the city has acquired a tract of 57 acres at an approximate cost of $1,000,000, and they are now arranging to sell off part of these holdings at a price sufficient to pay the original cost and leave the city in the position of acquiring the balance at no cost to the taxpayers. Undoubtedly an arrangement could be made with the city commissioners to either donate a site for a new post office or, if that were not possible, exchange a site at the civic center with the United States Government for the present post-office site and the buildings thereon. The Government could thus get a site for a new building free and the city could utilize the present post office for municipal purposes or sell it at an advantage to the taxpayers.

As to erecting a new post office at any of the sites suggested by Engineer O'Brien, I doubt the wisdom of it at this time. Ten years from now I expect to see Camden extend from Pensauken Creek on the north to Big Timber Creek on the south, and eastward as far as Berlin, a distance of 15 miles from Camden. Nearly all that section is now built up and several of the municipalities adjacent are branches of the Camden post office and served from that center. When greater Camden arrives, as it undoubtedly will, the civic center will be located at Haddonfield, Collingswood, Merchantville, or Haddon Heights; and if the convenience of all is to be considered, the new post office should be erected in one of those places.

When the present post office was built it was expected to take care of the needs of Camden for 50 years. But Camden has doubled in population since then and its postal and other Government demands have far outgrown the facilities provided. As yet no one knows where the heart of the community will be located. Ten years from now we may be able to determine that fact. In the meantime the present facilities can be doubled on the present site at a cost less than the estimated expenditure for a new site.

As it is, the present building is in the heart of Camden as it exists to-day. It is adjacent to the two largest industries in the city—the Victor Talking Machine plant and the Campbell Soup Co. plant, both of which cover many acres. The half-million-dollar plant of the Daily Courier and Daily Post is directly across the street, the Delaware River bridge is but six squares away, and the largest banks in the city are within two or three squares, as are the largest department stores and the Pennsylvania and Reading Railroads and ferries. No advantage can be gained by removing the site a few squares. If a change is to be made, it should be a drastic one with a vision of the future. No harm can come by letting the post office remain where it is for the present, especially if a new post office means delay in relieving the present acute situation.

On January 21, 1927, I received the following answer to my letter from Postmaster General New:

OFFICE OF THE POSTMASTER GENERAL,
Washington, D. C., January 19, 1927.

Hon. F. F. PATTERSON, Jr.,
House of Representatives.

MY DEAR MR. PATTERSON: I have your letter of the 17th instant relative to the Federal building situation at Camden, N. J.

The recommendation for the sale of the present building and the purchase of a new site and the erection of a new building was made in order that the business of the Government in Camden might be conducted in an economical and efficient manner. It was not felt that this end could be as well attained by the erection of an extension to the present building.

I do not think that the time within which relief may be afforded will be materially affected by the recommendation for a new building rather than an extension.

No priority list has yet been established and I am unable to say at this time in just what order the needs of the various cities will receive attention.

The selection of a suitable site for a new building is, of course, a matter that will require careful study before definite action is taken. Your views in this respect will have our serious consideration.

Sincerely yours,

HARRY S. NEW,
Postmaster General.

During the past six years that I have represented the first district of New Jersey in the House of Representatives I have made strenuous efforts to better the postal facilities of the residents of that district, and I have been uniformly successful. In that time a new post office has been erected at Woodbury, N. J., the county seat of Gloucester County, at a cost of $50,000 under the terms of an old appropriation granted before the war. Bills have also been introduced by me for a new post office at Salem, N. J., the county seat of Salem County, on a site secured many years ago and now used as a public square, but which I hope to see graced with a public building in the near future, as such a structure is sadly needed there; for new post offices at Haddonfield and Gloucester City in Camden County, and a bill appropriating $500,000 for enlargement of the present post office in Camden. The latter bill was being favorably considered when the Elliott bill was passed, and in the first survey made Camden was included in the list of cities that were to be given first aid.

The reasons for this were obvious. The present post office in Camden was erected 30 years ago to last for 50 years. But in the last quarter of a century the city has doubled in population, and the Government activities have grown in proportion. In the next 10 years this growth will be duplicated on account of the erection of the new bridge between Camden and Philadelphia, the tolls on which show receipts of $1,000,000 for the first six months of operation.

The present conditions in the Camden post office are terrible. Although an annex has been leased and a branch post office established in South Camden, the clerks and carriers in the main office at Third and Arch Streets are so crowded for space that they can not do efficient work. The congestion is awful, especially at the holiday season.

The Internal Revenue office of the first New Jersey district occupies the second floor of the post-office building, and since the advent of the income tax there is no room for the clerks except in the corridors, where they carry on the work of this important branch of the Government's business.

Last year I succeeded in having a bill passed calling for sessions of the United States courts to be held annually in Camden. These sessions were inaugurated last month, and as they had no home the county of Camden had to come to the relief of the Government officials and provide space for the United States courts in the county courthouse.

Therefore, the need for enlargement of the present Government building or a new one is not only imperative, but it is urgent. That is the reason that I am opposed to any delay in this matter. My letter to Postmaster General New clearly sets forth my views on this matter, and I trust that when the question reaches Congress that Camden will be among the cities to be first considered. While I asked for only $500,000 for immediate necessary extension, I do not want to be sidetracked or put off with a glittering future promise of $1,000,000 for a new building when the funds will warrant it.

I ask immediate authorization of a new building at Camden, N. J., or extensive extension of the present Government structure. As the Elliott bill provides that the $100,000,000 to be spent should be spread out over several years, it will not be necessary to appropriate all the money required in any one year, but the necessary amounts can be provided annually as the work of construction goes on throughout the country for the hundreds of buildings to be authorized.

While this question of new post offices throughout the country is being considered, it would seem to me to be the part of wisdom for the Post Office and Treasury Departments and Supervising Architect Wetmore to take into consideration the rapid growth and probable extension of the air mail service and provide lighting facilities and landing places for airplanes carrying the mails. Airplanes now take off and land on battleships and airplane carriers, and the plans for the new post-office buildings should provide for landing platforms on their roofs. These buildings in the largest cities will undoubtedly be large enough to permit the taking off and landing of airplanes and sufficient lighting facilities could be devised and provided to have the mail planes land by night as well as day. The success of the air mail service is undoubtedly assured and it will not be many years before al the lighter and more valuable mail will be carried in that manner. Then I suppose they will be menaced by air mail bandits and we will have to provide marines in flying machines to protect the mail carriers of the air. While I have not given this matter much thought or study, it would seem to me that the experts of the Post Office Department and the office of the Supervising Architect could develop the thought along practical lines and save enormous expense to the Government in the way of hangars and landing fields.

ENROLLED BILLS SIGNED

Mr. CAMPBELL, from the Committee on Enrolled Bills, reported that that committee had examined and found truly enrolled the following bills, when the Speaker signed the same:

H. R. 16164. To amend the act entitled "An act to amend the Panama Canal act and other laws applicable to the Canal Zone, and for other purposes," approved December 29, 1926;

H. R. 7555. An act to authorize, for the fiscal years ending June 30, 1928, and June 30, 1929, appropriations for carrying out the provisions of the act entitled "An act for the promotion of the welfare and hygiene of maternity and infancy, and for other purposes," approved November 23, 1921.

S. 2301. An act authorizing the Shoshone Tribe of Indians of the Wind River Reservation in Wyoming to submit claims to the Court of Claims; and

S. 4537. To amend the Harrison Narcotic Act of Congress approved December 17, 1914, as amended, and for other purposes.

BILL PRESENTED TO THE PRESIDENT

Mr. CAMPBELL, from the Committee on Enrolled Bills, reported that this day they presented to the President of the United States for his approval the following bill:

H. R. 16164. To amend the act entitled "An act to amend the Panama Canal act and other laws applicable to the Canal Zone, and for other purposes," approved December 29, 1926.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mr. SPROUL of Illinois for an indefinite period, on account of illness.

ADJOURNMENT

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

The motion was agreed to; accordingly (at 5 o'clock and 5 minutes p. m.) the House adjourned until to-morrow, Thursday, January 20, 1927, at 12 o'clock noon.

COMMITTEE HEARINGS

Mr. TILSON submitted the following tentative list of committee hearings scheduled for Thursday, January 20, 1927, as reported to the floor leader by clerks of the several committees:

COMMITTEE ON AGRICULTURE

(10 a. m.)

To amend the packers and stockyards act, 1921 (H. R. 11384).

COMMITTEE ON APPROPRIATIONS

(10.30 a. m.)

District of Columbia appropriation bill.

COMMITTEE ON FOREIGN AFFAIRS

(10 a. m.)

Requesting the President to enter into negotiations with the Republic of China for the purpose of placing the treaties relating to Chinese tariff autonomy, extraterritoriality, and other matters, if any, in controversy between the Republic of China and the United States of America upon an equal and reciprocal basis (H. Con. Res. 45).

COMMITTEE ON THE JUDICIARY

(10 a. m.)

To prohibit the United States from prosecuting or convicting any person in any of the United States courts of America who has been convicted or acquitted in any of the State courts of the United States of America for the same offense, whether it be for a crime or misdemeanor, of which both the United States and State courts have jurisdiction (H. R. 16166).

To prohibit the prosecution under laws of the United States of a person for an act in respect of which he has previously been put in jeopardy under State law (H. R. 15840).

Prohibiting in the courts of the United States of America a further jeopardy for an act in violation of criminal laws of both State and United States, where jeopardy therefor by prosecution has been already inflicted for such act in the courts of any of the States (H. R. 16118).

To amend section 215 of the Criminal Code (H. R. 15912 and 16256).

COMMITTEE ON NAVAL AFFAIRS

(10.30 a. m.)

To authorize the Secretary of the Navy to proceed with the construction of certain public works (H. R. 11492).

COMMITTEE ON WAYS AND MEANS

(10.30 a. m.)

To conserve the revenues from medicinal spirits and provide for the effective Government control of such spirits, to prevent the evasion of taxes (H. R. 15601).

EXECUTIVE COMMUNICATIONS, ETC.

889. Under clause 2 of Rule XXIV, a letter from the Secretary of the Interior, transmitting a copy of the annual report covering work accomplished at the Five Civilized Tribes Superintendency, Oklahoma, during the fiscal year ended June 30, 1926, was taken from the Speaker's table and referred to the Committee on Indian Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. WOOD: Committee on Appropriations. H. R. 16462. A bill making appropriations to supply urgent deficiencies in certain appropriations for the fiscal year ending June 30, 1927, and prior fiscal years, and to provide urgent supplemental appropriations for the fiscal year ending June 30, 1927, and for other purposes; without amendment (Rept. No. 1797). Referred to the Committee of the Whole House on the state of the Union.

Mr. GRAHAM: Committee on the Judiciary. H. J. Res. 332. A joint resolution to correct an error in Public, No. 526, Sixty-ninth Congress; with an amendment (Rept. No. 1798). Referred to the House Calendar.

Mr. COOPER of Ohio: Committee on Interstate and Foreign Commerce. H. R. 14841. A bill granting the consent of Congress to the Ohio & Point Pleasant Bridge Co., its successors and assigns, to construct, maintain, and operate a bridge across the Ohio River at or near the city of Point Pleasant, W. Va., to a point opposite thereto in Gallia County, State of Ohio; with an amendment (Rept. No. 1799). Referred to the House Calendar.

Mr. COOPER of Ohio: Committee on Interstate and Foreign Commerce. H. R. 14842. A bill granting the consent of Congress to the Pomeroy-Mason Bridge Co., its successors and assigns, to construct, maintain, and operate a bridge across the Ohio River at or near the town of Mason, Mason County, W. Va., to a point opposite thereto in the city of Pomeroy, Meigs County, Ohio; with amendment (Rept. No. 1800). Referred to the House Calendar.

Mr. COOPER of Ohio: Committee on Interstate and Foreign Commerce. H. R. 14920. A bill to amend an act entitled "An act granting the consent of Congress to the Weirton Bridge & Development Co. for the construction of a bridge across the Ohio River near Steubenville, Ohio," approved May 7, 1926; with amendment (Rept. No. 1801). Referred to the House Calendar.

Mr. COOPER of Ohio: Committee on Interstate and Foreign Commerce. H. R. 14930. A bill granting the consent of Congress to the H. A. Carpenter Bridge Co., its successors and assigns, to construct, maintain, and operate a bridge across the Ohio River, at or near the town of St. Marys, Pleasants

County, W. Va., to a point opposite thereto in Washington County, Ohio; with amendment (Rept. No. 1802). Referred to the House Calendar.

Mr. GRAHAM: Committee on the Judiciary. H. R. 16222. A bill to change the title of the United States Court of Customs Appeals, and for other purposes; with amendment (Rept. No. 1803). Referred to the Committee of the Whole House on the state of the Union.

Mr. LEAVITT: Committee on the Public Lands. H. R. 15603. A bill authorizing the Secretary of the Interior to enter into a cooperative agreement or agreements with the State of Montana and private owners of lands within the State of Montana for grazing and range development, and for other purposes; without amendment (Rept. No. 1807). Referred to the Committee of the Whole House on the state of the Union.

Mr. ELLIOTT: Committee on Public Buildings and Grounds. H. R. 9265. A bill to authorize the construction of three cottages and an annex to the hospital at the National Home for Disabled Volunteer Soldiers at Marion, Ind.; without amendment (Rept. 1808). Referred to the Committee of the Whole House on the state of the Union.

Mr. HAUGEN: Committee on Agriculture. H. R. 15973. A bill authorizing an appropriation of $6,000,000 for the purchase of feed and seed grain to be supplied to farmers in the crop-failure areas of the United States, said amount to be expended under the rules and regulations prescribed by the Secretary of Agriculture; with amendment (Rept. No. 1809). Referred to the Committee of the Whole House on the state of the Union.

Mr. HAUGEN: Committee on Agriculture. H. R. 16172. A bill to amend section 10 of the plant quarantine act, approved August 20, 1912; with amendment (Rept. No. 1810). Referred to the House Calendar.

Mr. GRAHAM: Committee on the Judiciary. S. 227. An act to provide for the appointment of an additional district judge for the district of Connecticut; without amendment (Rept. No. 1812). Referred to the Committee of the Whole House on the state of the Union.

Mr. GRAHAM: Committee on the Judiciary. H. R. 16206. A bill to provide for one additional district judge for the northern district of California; without amendment (Rept. No. 1813). Referred to the Committee of the Whole House on the state of the Union.

Mr. GRAHAM: Committee on the Judiciary. S. 3418. An act to create an additional judge in the district of Maryland; without amendment (Rept. No. 1814). Referred to the Committee of the Whole House on the state of the Union.

Mr. WILLIAMSON: Committee on Indian Affairs. H. R. 16212. A bill to authorize per capita payments to the Indians of the Cheyenne River Reservation, S. Dak; without amendment (Rept. No. 1815). Referred to the Committee of the Whole House on the state of the Union.

Mr. GREEN of Iowa: Committee on Ways and Means. H. R. 8997. A bill to amend sections 2804 and 3402 of the Revised Statutes; without amendment (Rept. No. 1816). Referred to the Committee of the Whole House on the state of the Union.

Mr. GREEN of Iowa: Committee on Ways and Means. H. R. 16391. A bill to authorize the Secretary of the Treasury to execute agreements of indemnity to the Union Trust Co., Providence, R. I., and the National Bank of Commerce, Philadelphia, Pa.; without amendment (Rept. No. 1817). Referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. SWOOPE: Committee on Invalid Pensions. H. R. 16461. A bill granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war; without amendment (Rept. No. 1795). Referred to the Committee of the Whole House.

Mr. THOMAS: Committee on Claims. H. R. 9804. A bill for the relief of the Pacific Steamship Co., of Seattle, Wash.; with amendment (Rept. No. 1804). Referred to the Committee of the Whole House.

Mr. MORROW: Committee on Claims. H. R. 15108. A bill for the relief of Capt. Ellis E. Haring and E. F. Batchelor; without amendment (Rept. No. 1805). Referred to the Committee of the Whole House.

Mr. BOX: Committee on Claims. H. R. 11064. A bill for the relief of R. W. Hilderbrand; with amendment (Rept. No. 1806). Referred to the Committee of the Whole House.

Mr. REECE: Committee on Military Affairs. H. R. 14794. A bill for the relief of Daniel Mangan; without amendment (Rept. No. 1811). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

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

By Mr. SWOOPE: A bill (H. R. 16461) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war; committed to the Committee of the Whole House on the state of the Union.

By Mr. WOOD: A bill (H. R. 16462) making appropriations to supply urgent deficiencies in certain appropriations for the fiscal year ending June 30, 1927, and prior fiscal years, and to provide urgent supplemental appropriations for the fiscal year ending June 30, 1927, and for other purposes; committed to the Committee of the Whole House on the state of the Union.

By Mr. DALLINGER: A bill (H. R. 16463) to require the Director of the United States Veterans' Bureau to send by registered United States mail adjusted-compensation certificates to veterans; to the Committee on World War Veterans' Legislation.

By Mr. DENISON: A bill (H. R. 16464) to permit the granting of Federal aid in respect of certain roads and highways; to the Committee on Roads.

By Mr. LEATHERWOOD: A bill (H. R. 16465) granting certain lands to the Layton water system of the city of Layton, Utah, to protect the watershed of the water-supply system of said city; to the Committee on the Public Lands.

By Mr. AUF DER HEIDE: A bill (H. R. 16466) to authorize and direct the sale of certain lands, docks, piers, warehouses, wharves, and terminal equipment and facilities, including easements, rights of way, riparian rights, and all other rights, estates, and interests therein, or appurtenant thereto, situate in the city of Hoboken, N. J.; to the Committee on the Merchant Marine and Fisheries.

By Mr. HUDSON: A bill (H. R. 16467) to amend section 88 of the Judicial Code, as amended; to the Committee on the Judiciary.

By Mrs. KAHN. A bill (H. R. 16468) authorizing an appropriation for the repair and resurfacing of roads in the Presidio Military Reservation, San Francisco, Calif.; to the Committee on Military Affairs.

By Mr. LEA of California: A bill (H. R. 16469) authorizing an appropriation for the repair and resurfacing of roads on the Fort Baker Military Reservation, Calif.; to the Committee on Military Affairs.

By Mr. O'CONNOR of Louisiana: A bill (H. R. 16470) to amend and reenact an act entitled "United States cotton futures act," approved August 11, 1916, as amended; to the Committee on Agriculture.

By Mr. ROBSION of Kentucky: A bill (H. R. 16471) to amend section 83 of the Judicial Code, as amended; to the Committee on the Judiciary.

By Mr. ENGLEBRIGHT: A bill (H R. 16472) granting certain lands to the State of California; to the Committee on the Public Lands.

Also, a bill (H. R. 16473) to provide for the protection of timberlands within the Shasta National Forest; for the protection of the McCloud River as a salmon-propagating stream; for the protection of the domestic water supply of the city of Redding, Calif.; for the protection of the Anderson irrigation district; and for the protection of the navigable channel of the Sacramento River, Calif.; to the Committee on Agriculture.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. ARNOLD: A bill (H. R. 16474) granting an increase of pension to Elvira J. Bartley; to the Committee on Invalid Pensions.

By Mr. BULWINKLE: A bill (H. R. 16475) granting a pension to Mellir Bennett; to the Committee on Invalid Pensions.

By Mr. CANNON: A bill (H. R. 16476) for the relief of Olivia Mary Miller; to the Committee on World War Veterans' Legislation.

By Mr. DAVEY: A bill (H. R. 16477) granting an increase of pension to Lizzie W. Smith; to the Committee on Invalid Pensions.

By Mr. ENGLEBRIGHT: A bill (H. R. 16478) for the relief of F. G. Baum; to the Committee on Claims.

By Mr. ROY G. FITZGERALD: A bill (H. R. 16479) for the relief of certain members of the National Home for Disabled Volunteer Soldiers, Southern Branch, Hampton, Va.; to the Committee on Military Affairs.

By Mr. GARBER: A bill (H. R. 16480) granting an increase of pension to Mary E. Johnson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16481) granting an increase of pension to Hattie M. Pay; to the Committee on Invalid Pensions.

By Mr. GIFFORD: A bill (H. R. 16482) for the relief of Pocahontas Fuel Co. (Inc.); to the Committee on Claims.

By Mr. HILL of Washington: A bill (H. R. 16483) granting an increase of pension to Mary A. Miller; to the Committee on Invalid Pensions.

By Mr. HADLEY: A bill (H. R. 16484) granting an increase of pension to Lizzie Young; to the Committee on Invalid Pensions.

By Mr. JACOBSTEIN: A bill (H. R. 16485) granting an increase of pension to Emma M. Carpenter; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16486) granting an increase of pension to Lura A. Sweeting; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16487) granting an increase of pension to Charlotte A. King; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16488) granting an increase of pension to Mary A. Murphy; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16489) granting an increase of pension to Alice Montondo; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16490) granting an increase of pension to Lucy A. Hodges; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16491) granting an increase of pension to Flora D. Caring; to the Committee on Invalid Pensions.

By Mr. JENKINS: A bill (H. R. 16492) granting an increase of pension to Josephine V. Walker; to the Committee on Invalid Pensions.

By Mr. JOHNSON of Indiana: A bill (H. R. 16493) granting an increase of pension to Carrie J. McClure; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16494) granting an increase of pension to Orphy E. Oldham; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16495) granting a pension to Annie Hinsey Lanagan; to the committee on Invalid Pensions.

By Mr. KNUTSON: A bill (H. R. 16496) granting a pension to Bentley A. Worden; to the Committee on Invalid Pensions.

By Mr. PHILLIPS: A bill (H. R. 16497) granting an increase of pension to Annie Barrickman; to the Committee on Invalid Pensions.

By Mr. SPEAKS: A bill (H. R. 16498) granting a pension to Hannah Phillips; to the Committee on Invalid Pensions.

By Mr. STALKER: A bill (H. R. 16499) granting an increase of pension to Catherine E. Keck; to the Committee on Invalid Pensions.

By Mr. STRONG of Kansas: A bill (H. R. 16500) for the relief of certain officers and former officers of the Army of the United States, and for other purposes; to the Committee on War Claims.

By Mr. VINCENT of Michigan. A bill (H. R. 16501) granting an increase of pension to Matilda Aldrich; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16502) granting an increase of pension to Esther A. Wilson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 16503) granting a pension to Janet Murphy; to the Committee on Invalid Pensions.

PETITIONS, ETC.

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

5157. By Mr. ADKINS: Petition of citizens of Mattoon, State of Illinois, urging that immediate steps be taken to bring to a vote the Civil War pension bill; to the Committee on Invalid Pensions.

5158. By Mr. ARENTZ: Petition of certain residents of Sparks, Nev., urging the passage of the Civil War pension bill; to the Committee on Invalid Pensions.

5159. Also, petition of Truckee River Water Users Association, requesting investigation and report on the operating conditions of Truckee River under restraining order in suit known as United States *v.* Orr Ditch & Water Co. et al.; to the Committee on Irrigation and Reclamation.

5160. By Mr. ARNOLD: Petition from citizens of Mount Carmel, Ill., recommending the passage of the Civil War pension bill; to the Committee on Invalid Pensions.

5161. By Mr. BEERS: Petition from citizens of McCoysville, McAlevys Fort, and Mifflinburg, Pa., urging passage of House bill 10311, to secure Sunday as a day of rest in the District of Columbia; to the Committee on the District of Columbia.

5162. By Mr. BOYLAN: Resolution of the Maritime Association of the Port of New York, protesting against the United States Government entering into any arrangement for the construction of the St. Lawrence River waterway which would be constructed almost wholly in foreign territory; to the Committee on Rivers and Harbors.

5163. By Mr. CHALMERS: Petition urging an increase in the pensions of Civil War veterans and widows, signed by several constituents from Toledo, Ohio; to the Committee on Invalid Pensions.

5164. By Mr. COCHRAN: Petition of Mutual Benefit Society of St. Louis, Mo., protesting against the persecution of the Jewish people in Rumania and Poland; to the Committee on Foreign Affairs.

5165. By Mr. DOWELL: Petition of citizens of Winterset, Iowa, urging enactment of legislation increasing the pensions of veterans of the Civil War and their widows; to the Committee on Invalid Pensions.

5166. By Mr. ROY G. FITZGERALD: Petition of 65 voters of Montgomery and Butler Counties, Ohio, praying for the passage of a bill to increase the pensions of Civil War veterans and their widows; to the Committee on Invalid Pensions.

5167. By Mr. FRENCH: Petition of citizens of Coeur d'Alene, Idaho, for Civil War pension bill; to the Committee on Invalid Pensions.

5168. By Mr. GALLIVAN: Petition of the League of Catholic Women, Mrs. Frances E. Slattery, president, 1 Arlington Street, Boston, Mass., protesting against extension of the so-called maternity act; to the Committee on Interstate and Foreign Commerce.

5169. By Mr. GARDNER of Indiana: Petition of W. J. Hawkins and 124 other citizens of Crawford County, Ind., urging immediate action and support of Civil War pension bill granting relief to needy and suffering veterans and their widows; to the Committee on Invalid Pensions.

5170. By Mr. GARBER: Petitions from the citizens of Deer Creek, Enid, Ringwood, Kingfisher, and Fairview, Okla., urging enactment of legislation for relief of Civil War veterans and their widows; to the Committee on Invalid Pensions.

5171. By Mr. HERSEY: Petition of J. Edward Foley, of Bangor, Me., and 23 other residents of Bangor, Me., urging passage of legislation to aid the veterans of the Civil War and their widows; to the Committee on Invalid Pensions.

5172. By Mr. HILL of Washington: Petition of I. N. Stephens and 57 others, of Spokane, Wash., urging prompt action by Congress on pending bills to increase pensions of Civil War veterans and their widows; to the Committee on Invalid Pensions.

5173. By Mr. HOOPER: Petition of Almeda C. Anderson and 94 other residents of Charlotte, Mich., in favor of pending legislation to increase the present rates of pensions of Civil War veterans, their widows, and dependents; to the Committee on Invalid Pensions.

5174. By Mr. JOHNSON of Texas: Petition of Journeyman Barbers' International Union of America, Local 584, of Mexia, Tex., L. L. Wilkey, president; J. M. O'Neal, secretary-treasurer, favoring legislation to close the barber shops in the District of Columbia on Sundays; also petition of Master Barbers' Association of Mexia, Tex., G. W. Hopson, president; E. M. Hitt, secretary-treasurer, favoring legislation to close the barber shops in the District of Columbia on Sundays; to the Committee on the District of Columbia.

5175. By Mr. KVALE: Petition of Railway Mail Association Branch, Willmar, Minn., W. F. Kelly, secretary, urging enactment into law of House bills 3840 and 5697; to the Committee on the Post Office and Post Roads.

5176. By Mr. LANHAM: Petition of G. W. Winn, Mrs. Mary Knudson, S. A. Smith, and others, protesting against the enactment of House bill 10311 and Senate bill 4821; to the Committee on the District of Columbia.

5177. By Mr. LEA of California: Petitions of 409 residents of Healdsburg, Oroville, and Butte County, Calif., protesting against compulsory Sunday observance bill (H. R. 10311); to the Committee on the District of Columbia.

5178. By Mr. MAJOR: Petition of citizens of Sedalia, Mo., urging immediate passage of Civil War pension bill for the relief of needy and suffering veterans and widows; to the Committee on Invalid Pensions.

5179. By Mr. MAPES: Petition of 17 residents of Grand Rapids, Mich., advocating the enactment by Congress of additional legislation for the benefit of veterans of the Civil War and their widows; to the Committee on Invalid Pensions.

5180. By Mr. MURPHY: Petition of 65 citizens of Belmont County, opposing the amendment to the Wadsworth bill; to the Committee on Immigration and Naturalization.

5181. Also, petition of citizens of Glencoe, Ohio, urging that immediate steps be taken to bring to a vote a Civil War pension bill benefiting the soldiers of the Civil War and their widows; to the Committee on Invalid Pensions.

5182. By Mr. O'CONNELL of New York: Petition of the Ladies' Auxiliary of the Federation of Post Office Clerks, Local 251, Brooklyn, N. Y., favoring the passage of House bill 5041 and Senate bill 2309; to the Committee on the Post Office and Post Roads.

5183. Also, petition of the Maritime Asociation of the Port of New York, protesting against the United States Government entering into any arrangement for the construction of the St. Lawrence waterway; to the Committee on Rivers and Harbors.

5184. By Mr. PHILLIPS: Petition of citizens of Lawrence County, Pa., urging Congress to take immediate steps to bring to a vote a Civil War pension bill in order that further relief may be accorded to needy and suffering veterans and their widows; to the Committee on Invalid Pensions.

5185. By Mr. REED of New York: Petition of citizens of Alfred, N. Y., urging action on a Civil War pension bill; to the Committee on Pensions.

5186. By Mr. ROWBOTTOM: Petition of Mrs. Nancy E. Ulen and others, of Fort Branch, Ind., that the bill increasing pensions of Civil War widows be enacted into law at this session of Congress; to the Committee on Invalid Pensions.

5187. By Mr. SWING: Petition of certain residents of San Diego, Calif., urging the passage by Congress of a bill granting increase of pensions to Civil War veterans and the widows of Civil War Veterans; to the Committee on Invalid Pensions.

5188. By Mr. THATCHER: Petition of sundry citizens of Louisville, Ky., praying for the passage of legislation granting increased pensions to Civil War veterans and their widows; to the Committee on Invalid Pensions.

5189. By Mr. VINCENT of Michigan: Petition by residents of Edmore and Portland, Mich., in favor of increases in pensions for Civil War veterans and their widows; to the Committee on Invalid Pensions.

5190. By Mr. WOODYARD: Petition of citizens of Spencer, W. Va., relative to pension legislation; to the Committee on Invalid Pensions.

5191. Also, petition of citizens of Williamstown, W. Va., relative to pension legislation for soldiers of the Civil War and their widows; to the Committee on Invalid Pensions.

5192. Also, petition of citizens of Point Pleasant, W. Va., favoring pension legislation relative to soldiers of the Civil War and their widows; to the Committee on Invalid Pensions.

5193. By Mr. WURZBACH: Petition of J. H. Savage, Charles W. Swain, P. A. Rollett, and 28 other residents of San Antonio, Tex., favoring pending legislation to increase the rates of pension of Civil War veterans, their widows, and dependents; to the Committee on Invalid Pensions.

5194. Also, petition of A. Zimmerle, J. F. Combs, J. T. Jackson, and 1,292 residents of San Antonio, Tex., opposing the compulsory Sunday observation bills; to the Committee on the District of Columbia.

5195. Also, petition of A. E. Richey, R. C. Cahill, Otto O. Brown, and 467 other residents of San Antonio, Tex., opposing the compulsory Sunday observation bills; to the Committee on the District of Columbia.

SENATE

THURSDAY, *January 20, 1927*

(Legislative day of Tuesday, January 18, 1927)

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

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

The VICE PRESIDENT. The clerk will call the roll.

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

Ashurst	Copeland	Fess	Greene
Bayard	Couzens	Fletcher	Hale
Bingham	Curtis	Frazier	Harris
Blease	Dale	George	Harrison
Borah	Deneen	Gerry	Hawes
Bratton	Dill	Gillett	Heflin
Broussard	Edge	Glass	Howell
Cameron	Edwards	Goff	Johnson
Capper	Ernst	Gooding	Jones, N. Mex.
Caraway	Ferris	Gould	Jones, Wash.
Kendrick	Neely	Reed, Pa.	Stewart
Keyes	Norbeck	Robinson, Ark.	Swanson
King	Norris	Robinson, Ind.	Trammell
La Follette	Nye	Sackett	Tyson
Lenroot	Oddie	Schall	Wadsworth
McKellar	Overman	Sheppard	Walsh, Mass.
McLean	Pepper	Shortridge	Walsh, Mont.
McNary	Phipps	Smith	Warren
Mayfield	Pine	Smoot	Watson
Means	Pittman	Steck	Wheeler
Metcalf	Ransdell	Stephens	Willis

Mr. GERRY. I wish to announce that the Senator from Maryland [Mr. BRUCE] is necessarily detained from the Senate by illness. I ask that this announcement may stand for the day.

The VICE PRESIDENT. Eighty-four Senators having answered to their names, a quorum is present. The Senate will receive a message from the House of Representatives.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Chaffee, 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. 2301. An act authorizing the Shoshone Tribe of Indians of the Wind River Reservation in Wyoming to submit claims to the Court of Claims;

S. 4537. An act to amend the Harrison Narcotic Act of December 17, 1914, as amended, and for other purposes; and

H. R. 7555. An act to authorize for the fiscal years ending June 30, 1928, and June 30, 1929, appropriations for carrying out the provisions of the act entitled "An act for the promotion of the welfare and hygiene of maternity and infancy, and for other purposes," approved November 23, 1921, and for other purposes.

PUEBLO LANDS BOARD (S. DOC. NO. 197)

The VICE PRESIDENT laid before the Senate a communication from the Secretary of the Interior, reporting relative to the operations of the Pueblo Lands Board and transmitting certain reports of that board, which, with the accompanying papers, was referred to the Committee on Indian Affairs and ordered to be printed.

THE FIVE CIVILIZED TRIBES

The VICE PRESIDENT laid before the Senate a communication from the Secretary of the Interior, reporting, pursuant to law, relative to expenses of the administration of the affairs of the Five Civilized Tribes in Oklahoma ("the reports in question, which are voluminous in character, have been forwarded to the Speaker of the House of Representatives"), which was referred to the Committee on Indian Affairs.

DISBURSEMENT OF PUBLIC MONEYS

The VICE PRESIDENT laid before the Senate a communication from the Attorney General relative to the practice of deputies drawing official checks on the Treasury of the United States signed in the name of the marshal or disbursing officer by the deputy who has been designated and authorized by the disbursing officer so to do, and commending certain proposed legislation to be recommended by the Treasury Department to be included in a general bill applicable to all disbursing officers or officers, persons, or agents who may be charged with the custody or disbursement of public moneys of the United States or funds held in trust by the United States, exclusive of officers or employees of the Post Office Department, which was referred to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

Mr. DILL presented a memorial of sundry citizens of the State of Washington, remonstrating against the passage of the bill (S. 4821) to provide for the closing of barber shops in the District of Columbia on Sunday, which was referred to the Committee on the District of Columbia.

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

Mr. JONES of Washington presented memorials of sundry citizens of Bellingham and Vancouver, in the State of Washington, remonstrating against any modification of the existing immigration law, which were referred to the Committee on Immigration.

He also presented a memorial of sundry citizens of Bellingham, in the State of Washington, remonstrating against the passage of the so-called Wadsworth-Perlman bill or any other measure tending to void the provisions of the existing immigration law, which was referred to the Committee on Immigration.

Mr. OVERMAN presented a memorial of sundry citizens of Wilmington, N. C., remonstrating against the present policy