ment of that new political thought—the progressive element in our body politic—will serve as an inspiration in years to come to those who carry on this great work. It has a well-defined place in our political scheme; it has been advanced under Senator LA FOLLETTE until it is to-day the outstanding subject of conversation wherever politics is discussed. Its organization has become so powerful that it is found in control of that great legislative body, the United States Senate, in the forthcoming Congress. And its power for good—for the improvement of conditions for the common people—will be appreciated more fully as time goes on.

It ill behooves us to endeavor to erect a monument of words in outlining the achievements of ROBERT MARION LA FOLLETTE. The Senator has all too well accomplished this purpose in his life's work. As time goes on his deeds of greatness will shine the brighter; the inspiration derived from his successful labors here will reach into the hearts and the homes of the common people wherever they may be, and the devotion to that great duty that devolves upon us left to mourn his loss to carry on in the paths he has so clearly outlined will be the easier of accomplishment.

"Well done, thou good and faithful servant," can well be inscribed upon his tomb.

ADJOURNMENT

Mr. NELSON of Wisconsin. Mr. Speaker, I move that the House do now adjourn.

The SPEAKER pro tempore. The gentleman from Wisconsin moves that the House do now adjourn. The question is on agreeing to that motion.

The motion was agreed to.

Accordingly (at 1 o'clock and 55 minutes p. m.) the House adjourned until to-morrow, Monday, February 21, 1927, at 12 o'clock noon.

SENATE

MONDAY, *February 21, 1927*

(Legislative day of Thursday, February 17, 1927)

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

DEATH OF EX-SENATOR WILLARD SAULSBURY

Mr. BAYARD. Mr. President, yesterday Willard Saulsbury, of Delaware, who was a Senator from that State from 1913 to 1919, passed away. During his term as a Member of the Senate he occupied many important positions on committees, and during the last two years of his term—that is, for the years 1917–1919—he was President pro tempore of this body. In other words, he presided over this body during the trying war period. Be it said to his credit, and many Members of the present Senate will testify to the fact, he presided over this body with impartiality and fairness to such a degree that when he was through his service the Senate voiced its appreciation of what he had done.

He had an interesting career, Mr. President. He was a leading member of the bar of his State. Both his father and his uncle had been Senators in this body from the State of Delaware, and in every way he lived up to the traditions of the people of his State and the traditions of those in the Senate of the United States representing his State.

I submit the resolutions which I send to the desk.

The VICE PRESIDENT. The clerk will read the resolutions.

The Chief Clerk read the resolutions (S. Res. 363), as follows:

Resolved, That the Senate has heard with deep regret and profound sorrow the announcement of the death of Hon. Willard Saulsbury, late a Senator from the State of Delaware.

Resolved, That the Secretary transmit a copy of these resolutions to the family of the deceased.

Mr. BAYARD. I ask unanimous consent for the immediate consideration of the resolutions.

The Senate, by unanimous consent, proceeded to consider the resolutions.

Mr. ROBINSON of Arkansas. Mr. President, the late Senator Saulsbury served with distinction in this body for many years. He enjoyed the confidence, respect, and admiration of those who served with him. The Nation has lost a patriot and a statesman of renown.

The VICE PRESIDENT. The question is on agreeing to the resolutions.

The resolutions were unanimously agreed to.

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. 1640) authorizing the Secretary of Agriculture to establish a national arboretum, and for other purposes, with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had passed the following bill and joint resolution, in which it requested the concurrence of the Senate:

H. R. 16885. An act to amend section 563 of the tariff act of 1922; and

H. J. Res. 351. A joint resolution to provide for the expenses of the participation of the United States in the work of the economic conference to be held at Geneva, Switzerland.

PETITIONS AND MEMORIALS

Mr. MEANS presented the following joint memorial of the Legislature of the State of Colorado, which was ordered to lie on the table:

STATE OF COLORADO,
OFFICE OF THE SECRETARY OF STATE.

UNITED STATES OF AMERICA,
State of Colorado, ss:

Certificate

I, Chas. M. Armstrong, secretary of state of the State of Colorado, do hereby certify that the annexed is a full, true, and complete copy of House Joint Memorial 3, which was passed by the Twenty-sixth General Assembly of the State of Colorado and signed by the Governor of the State of Colorado on the 19th day of February, A. D. 1927.

In testimony whereof I have hereunto set my hand and affixed the great seal of the State of Colorado, at the city of Denver, this 19th day of February, A. D. 1927.

[SEAL.] CHAS. M. ARMSTRONG,
Secretary of State,
By S. W. BROWN, *Deputy.*

House Joint Memorial 3

Concerning retirement of disabled emergency officers of the World War
(by Representative Robinson)

Be it resolved by the house representatives of the twenty-sixth general assembly (the senate concurring), That this general assembly favors the prompt enactment of legislation now pending before the Congress of the United States, known as the Tyson bill, in the Senate, and the Fitzgerald bill in the House of Representatives, which will remove the discrimination that now exists between disabled emergency officers of the World War and officers of the regular establishments, and that this general assembly believes that this will tend to bring about justice to these officers in accordance with the provisions of section 10, the selective service act of May 18, 1918, which provides as follows:

"All officers and enlisted men of the forces herein provided for other than Regular Army shall be in all respects on the same footing as to pay, allowances, and pensions as officers and enlisted men of the corresponding grades and length of service in the Regular Army": And be it further

Resolved, That the United States Senators and Members of the United States House of Representatives representing the State of Colorado are hereby earnestly requested and urged to exert their efforts to secure the passage of this legislation by Congress, and that copies of this resolution be sent to the President of the Senate of the United States, the Speaker of the House of Representatives of the United States, and to the Senators and Representatives of the State of Colorado in Congress.

JOHN A. HOLMBERG,
Speaker of the House of Representatives.
GEORGE M. CORBETT,
President of the Senate.
WM. H. ADAMS,
Governor of the State of Colorado.

Mr. GREENE presented the following joint resolution of the Legislature of the State of Vermont, which was referred to the Committee on Immigration:

Whereas the United States immigration act of 1924 and previous immigration legislation, limiting by quota immigrants from European nations and excluding orientals, has exposed our Vermont-Canadian border to organized alien smuggling operations of no mean proportions because our highways afford convenient passage from Canadian ports but a few miles north of our border to eastern United States labor markets, and the same method of surreptitious entry to all types of propagandists, illiterates, diseased, and feeble-minded aliens who are mandatorially excluded; and

Whereas the immigration border patrol in subdistrict No. 2, where 150 highways and trails cross the border, 45 of these being main-traveled highways, is grossly inadequate and is leading to the defeat of the purpose of our immigration acts; and

Whereas we believe our State and Nation are being exposed to great harm and danger by the situation cited above: Therefore be it

Resolved by the senate and house of representatives, That Vermont request remedial measures be taken forthwith to suppress alien smuggling across our Vermont-Canadian border; be it further

Resolved, That the secretary of state is hereby directed to forward forthwith to each Senator and Representative of Vermont in Congress and to the Bureau of Immigration, under the United States Department of Labor, a duly authenticated copy of this resolution.

S. HOLLISTER JACKSON,
President of the Senate.
LOREN R. PIERCE,
Speaker of the House of Representatives.

Approved February 18, 1927.

JOHN E. WEEKS, *Governor.*

STATE OF VERMONT,
OFFICE OF SECRETARY OF STATE.

I hereby certify that the foregoing is a true copy of joint resolution relating to alien smuggling across Vermont-Canadian border, approved February 18, 1927.

In testimony whereof I have hereunto set my hand and affixed my official seal at Montpelier this 18th day of February, A. D. 1927.

[SEAL.] AARON H. GROUT,
Secretary of State.

Mr. COUZENS. Mr. President, I send to the desk resolutions adopted by the American Legion at Lansing, Mich., in favor of Senate bill 3027, which I ask may lie on the table and be printed in the RECORD.

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

THE AMERICAN LEGION, DEPARTMENT HEADQUARTERS,
OFFICE OF DEPARTMENT ADJUTANT,
Detroit, Mich.

Resolutions urging support of Senate bill 3027

Resolved, That the eighth annual convention of the Department of Michigan, held at Lansing, Mich., September 5, 6, and 7, 1926, heartily indorse the stand taken by the national legislative committee in support of Senate bill 3027, making eligible for retirement under certain conditions emergency officers of the World War to entitle them to the same retirement privileges enjoyed by the other eight classes of officers commissioned during the war: Be it further

Resolved, That a copy of this resolution be forwarded to the national rehabilitation and legislative committees of the American Legion at their eighth annual convention.

Submitted by rehabilitation committee, Department of Michigan.

Unanimously passed by the American Legion, Department of Michigan, in eighth annual convention assembled at Lansing, Mich., September 5, 6, and 7, 1926.

Official proceedings transcript, pages 84 and 85.

ROBERT J. BYERS,
Department Adjutant.

Mr. GILLETT presented a petition of sundry citizens of the State of Massachusetts, 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.

Mr. DENEEN presented petitions of sundry citizens of Chicago and other cities and towns, in the State of Illinois, praying for the prompt passage of legislation granting increased pensions to Civil War veterans and their widows, and for the removal of the limitation on the date of marriage of Civil War widows, which were referred to the Committee on Pensions.

Mr. COPELAND presented petitions of sundry citizens of the States of New York and New Jersey, 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. ERNST presented a memorial of sundry citizens of the State of Kentucky, remonstrating against the passage of bill (S. 4821) to provide for the closing of barber shops in the District of Columbia on Sunday, or any other legislation religious in character, which was referred to the Committee on the District of Columbia.

Mr. FLETCHER presented a memorial of sundry citizens of Bartow, Lake Wales, Alturas, Eagle Lake, and Moore Haven, all in the State of Florida, remonstrating against the passage of the bill (S. 4821) to provide for the closing of barber shops in the District of Columbia on Sunday, or any other legislation religious in character, which was referred to the Committee on the District of Columbia.

EDUCATION AND VOCATIONAL TRAINING OF WAR ORPHANS

Mr. HARRIS. Mr. President, the American Legion and American Legion Auxiliary at their annual conventions unanimously adopted the resolutions which I send to the desk and call to the attention of the Senate. I ask that the resolutions may be read and referred to the Finance Committee.

The resolutions were read and referred to the Committee on Finance, as follows:

Resolution adopted by American Legion at the eighth annual convention, Philadelphia, Pa., October 13, 1926

Whereas all the great European powers associated with the United States in the World War furnish material assistance in the collegiate education and vocational training of the sons and daughters of those who were killed in action, or died from other causes, during or as a result of the war; and

Whereas these boys and girls are, or should be, treated as wards of the Nation and be given as good an education and as thorough a business or professional training as they would have received had the war not deprived them of the support and assistance of their fathers; and

Whereas this convention heartily approves and indorses the bill introduced in the United States Senate on June 15, 1926, by Senator HARRIS, of Georgia, to amend the World War veterans' act, 1924, so as to continue the payment of compensation after the age of 18 years and until completion of education or training; and

Whereas death compensation terminates under existing law when the children reach the age of 18 years, just when they should be ready to enter college or begin learning a trade to make themselves self-supporting: Therefore be it

Resolved, That death compensation now being paid to minor children of deceased veterans be continued to the age of 21 instead of 18 years.

Resolutions adopted by American Legion Auxiliary at the sixth annual convention, Philadelphia, Pa., October 14, 1926

Whereas all the great European powers associated with the United States in the World War furnish material assistance in the collegiate education and vocational training of the sons and daughters of those who were killed in action, or died from other cause, during or as a result of the war; and

Whereas these boys and girls are, or should be, treated as wards of the Nation and be given as good an education and as thorough a business or professional training as they would have received had the war not deprived them of the support and assistance of their fathers; and

Whereas the compensation now paid under the World War veterans' act to or for children—$10 per month for one child, and $6 for each additional child—is not sufficient to support a boy or girl in college or pursuing a course of vocational training; and

Whereas this meager compensation terminates under existing law when the children reach the age of 18 years, just when they should be ready to enter college or begin learning a trade to make themselves self-supporting: Therefore be it

Resolved, That this convention heartily approves and indorses the bill introduced in the United States Senate on June 15, 1926, by Senator HARRIS, of Georgia, to amend the World War veterans' act, 1924, so as to continue the payment of compensation after the age of 18 years, and until completion of education or training, in the case of war orphans who are apprentices receiving not more than nominal wages, or are being educated at a secondary school, college, technical institute, or university; and be it further

Resolved, That the legislatures of the several States be requested to establish a definite number of scholarships for war orphans at State educational institutions; and that appeals be made to patriotic and philanthropic citizens to establish such additional scholarships at secondary schools, colleges, technical or training institutes, and universities, State, denominational, and private, as may be necessary to provide for the education or vocational training of all of these boys and girls who need or desire such assistance.

Mr. HARRIS. Mr. President, the bill referred to in the resolutions was intended as an amendment to the House bill (H. R. 12175) to amend the World War veterans' act, 1924, but that bill was disposed of by the Senate before consideration could be given to my amendment. I therefore reintroduced my proposed amendment as a separate bill, S. 5046, on January 4, and it has been referred to the Committee on Finance.

As is stated in the preamble to the resolutions of the American Legion Auxiliary, the compensation paid under the World War veterans' act to or for children amounts to only $10 per month for one child and $6 per month for each additional child, when there is more than one in a family, and these small payments terminate when the children reach the age of 18 years.

It is evidently assumed that a child should be self-supporting when he or she becomes 18 years old. No one will deny that the average boy is physically able to do manual labor at this age, and girls of 18 also can be put to work of some kind; but is it right to arrest their education at this immature age and deprive them of the training they will sorely need to make a living for themselves and to assist in providing for their

widowed mothers, as well as younger brothers and sisters, in many cases? Are we doing our duty by the gallant soldiers, sailors, and marines who sacrificed their lives for the country when we force their young children to begin the battles of life uneducated and untrained, handicaps they will never be able to overcome?

My bill, which is heartily indorsed and approved by the American Legion and American Legion Auxiliary, would continue payment of compensation—

after the age of 18 years and until completion of education or training, in the case of children who are apprentices receiving not more than nominal wages, or are being educated at a secondary school, college, technical institute, or university, and whose fathers were killed in action or died prior to July 2, 1921, of wounds or injuries received or disease contracted in line of duty during the World War.

July 2, 1921, the date here mentioned, is the legal termination of the World War, so the beneficiaries of the bill are all true war orphans.

It is impossible to state definitely the total number of war orphans in the United States, but the records of the Veterans' Bureau indicate that not more than 12,000 of this class of dependents are now receiving compensation from the United States Government.

A large percentage of the boys and considerably more than half of the girls will not be able or care to continue their education or training after they reach the age of 18, and these will not be entitled to further compensation under the provisions of my bill. It is safe to say that not more than half of the 12,000 war orphans will take advantage of the assistance offered by this bill, so for the purpose of calculating the appropriations required the beneficiaries may be taken as 6,000 and their ages will range from 5 to 18 years.

These 6,000 boys and girls will pursue courses of instruction and training varying in length from one to four years. The majority of them will complete the course or drop out in one or two years. Two years may be taken as the average length of the course, or the period for which the payment of compensation will be continued after the age of 18 years under the provisions of my bill.

Some of the children, as has been stated, receive from the Government $10 per month, or $120 per year, while others, in case of families of more than one child, receive only $6 per month, $72 per year. The average annual compensation paid to or for a child is not far from $100.

If we assume two years as the average period of instruction, the average amount to be paid to each child will be $200. The total amount for the 6,000 beneficiaries of the bill will thus be not more than $1,200,000, and this amount will be spread over a period of 15 or 16 years, since the children concerned are now of all ages from 5 to 18. The annual appropriation required to meet the payments of compensation contemplated by my bill will, therefore, be one-fifteenth or one-sixteenth of the total, or $75,000 to $80,000.

The Government compensation—$10 or $6 per month—which it is proposed to continue after the age of 18 for those who are being educated or trained will not, of course, be sufficient to support a boy or girl in college or while receiving vocational training, but it will help and may make it possible for the child to accept one of the scholarships established for war orphans by the States or patriotic and philanthropic citizens. A movement to provide such scholarships is supported by the American Legion and American Legion Auxiliary, and it is hoped something may be accomplished along this line before the beginning of the next scholastic year. By passing my bill we will cooperate with those who are working to give these unfortunate boys and girls an education or to train them to be self-supporting.

In the preambles to the resolutions of the American Legion and American Legion Auxiliary, to which I have called attention, it is stated that—

all the great European powers associated with the United States in the World War furnish material assistance in the collegiate education and vocational training of the sons and daughters of those who were killed in action or died from other causes during or as a result of the war.

Great Britain, for instance, does for these children exactly what is contemplated in my bill; in fact, in preparing my bill I have followed very closely the wording of the British royal warrants for the pensions of disabled veterans and families of deceased officers and soldiers, which corresponds to our World War veterans' act.

If Great Britain, with her tremendous financial burden resulting from the war, can afford to assist in the education and training of hundreds of thousands of children left fatherless by the World War, the United States, the richest and most prosperous nation on the face of the earth, should be willing to do as much for 6,000.

About a year ago I called attention to the fact that other nations were more liberal in providing for their war orphans than the United States and introduced a bill, which was passed by Congress, to increase the number of cadets and midshipmen at the United States Military and Naval Academies, respectively, by 40 at each institution.

Under this new law approximately 400 sons of men who were killed or died during the World War will not only receive a splendid education but will after graduation be given commissions as officers of the Army, Navy, or Marine Corps, and will thus be well provided for.

While our National Government has very properly assisted the disabled veteran to reestablish himself in his trade or profession, it has made absolutely no provision for the vocational training or collegiate education of the helpless war orphans other than the increase in the number of appointments to our two great national academies, under my bill passed by Congress last session.

In conclusion, Mr. President, permit me to invite attention to another paragraph in the preambles to the resolutions of the American Legion and American Legion Auxiliary, which I am sure will appeal to every patriotic American citizens. It proclaims that—

These boys and girls are or should be treated as wards of the Nation and be given as good an education and as thorough a business or professional training as they would have received had the war not deprived them of the support and assistance of their fathers.

Let us do our part and promptly pass this bill, which, as I have stated, calls for an annual appropriation of only $75,000 to $80,000.

REPORTS OF COMMITTEES

Mr. ODDIE, from the Committee on Naval Affairs, to which was referred the bill (S. 4731) for the promotion and retirement of William H. Santelmann, leader of the United States Marine Band, reported it without amendment and submitted a report (No. 1542) thereon.

Mr. FRAZIER, from the Committee on Pensions, to which was referred the bill (H. R. 16389) granting pensions and increase of pensions to certain soldiers and sailors of the Regular Army and Navy, and certain soldiers and sailors of wars other than the Civil War, and to widows of such soldiers and sailors, and so forth, reported it with amendments and submitted a report (No. 1543) thereon.

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

A bill (S. 4754) to allow credits in the accounts of Harry Caden, special fiscal agent, Bureau of Reclamation, Department of the Interior (Rept. No. 1544); and

A bill (H. R. 13143) for the relief of the Charlotte Chamber of Commerce and Capt. Charles G. Dobbins, Army disbursing officer (Rept. No. 1545).

ALLOCATION OF WATERS OF COLUMBIA RIVER

Mr. JONES of Washington. Mr. President, from the Committee on Irrigation and Reclamation I report back favorably without amendment the joint resolution (S. J. Res. 154) extending the provisions of the acts of March 4, 1925, and April 13, 1926, relating to a compact between the States of Washington, Idaho, Oregon, and Montana for allocating the waters of the Columbia River and its tributaries, and for other purposes.

The joint resolution simply extends the time within which the States named may enter into a compact with reference to these waters. I ask that it may be considered at this time.

The VICE PRESIDENT. Is there objection to the present consideration of the joint resolution?

There being no objection, the joint resolution was considered as in Committee of the Whole and it was read, as follows:

Resolved, etc., That the provisions of the act of March 4, 1925, entitled "An act to permit a compact or agreement between the States of Washington, Idaho, Oregon, and Montana respecting the disposition and apportionment of the waters of the Columbia River and its tributaries, and for other purposes," and the act of April 13, 1926, entitled "An act authorizing the Secretary of the Interior to cooperate with the States of Idaho, Montana, Oregon, and Washington in allocation of the waters of the Columbia River and its tributaries, and for other purposes, and authorizing an appropriation therefor," be continued and extended in all their provisions to December 31, 1930.

The joint resolution was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

STATUE OF HENRY CLAY

Mr. FESS. Mr. President, from the Committee on the Library I report back favorably without amendment the bill (H. R. 11278) authorizing the erection of a statue of Henry Clay, and I ask unanimous consent for its immediate consideration. If it should take any time, I will withdraw the request.

The VICE PRESIDENT. Is there objection to the request of the Senator from Ohio?

There being no objection, the Senate, as in Committee of the Whole, considered the bill, and it was read as follows:

Be it enacted, etc., That the Secretary of State is authorized and directed to procure, to present to the Republic of Venezuela, and to erect in the city of Caracas, Venezuela, a bronze statue of Henry Clay. Such statue shall be prepared and erected only after the plans and specifications therefor have been submitted to, and approved by, the Commission of Fine Arts, and shall be the work of an American artist.

SEC. 2. There is authorized to be appropriated the sum of $41,000, or so much thereof as may be necessary, to carry out the provisions of this act, including the cost of such statue, of transportation, of grading the site, and of building the pedestal, expenditures for architectural services, and traveling expenses of the persons employed in erecting such statue, and of the persons delegated by the Secretary of State to present, on behalf of the United States, such statue to the Republic of Venezuela.

The bill was reported to the Senate without amendment, ordered to a third reading, read the third time, and passed.

CLAIM OF FRANKLIN ICE CREAM CO.

Mr. ROBINSON of Arkansas. Mr. President, I report back favorably with an amendment from the Committee on Military Affairs the bill (S. 4330) authorizing the Secretary of War to make settlement of the claim of the Franklin Ice Cream Co., and I submit a report (No. 1541) thereon. I ask consent for its present consideration.

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill.

The amendment was, on page 2, line 2, after the word "amount," to insert "if any," so as to make the bill read:

Be it enacted, etc., That the Secretary of War be, and he is hereby, authorized to reopen and make such settlement as he thinks just and proper of the claim of the Franklin Ice Cream Co., a lessee, who erected buildings under a five-year lease with renewal clauses on or in the immediate vicinity of the zone of Camp Funston activities and amusements at Camp Funston, Kans.; the buildings having been erected under the authority of the War Department and at the invitation of the department of Camp Funston activities under leases which were properly approved but which were canceled before the expiration of any of such leases and over the protest of the holders. In no case shall the amount, if any, paid in settlement exceed the losses sustained as established or shown by credible evidence. If the original books or papers have been lost or destroyed without the wrongful act of the claimant, the Secretary of War in making his findings shall consider secondary evidence, if it be credible and convincing.

The amendment was agreed to.

The bill was reported to the Senate as amended, and the amendment was concurred in.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

Mr. ROBINSON of Arkansas. I ask that the report of the committee may be printed in the RECORD.

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

[S. Rept. No. 1541, 69th Cong., 2d sess.]

AUTHORIZING SETTLEMENT OF CLAIM OF FRANKLIN ICE CREAM CO.

Mr. ROBINSON of Arkansas, from the Committee on Military Affairs, submitted the following report (to accompany S. 4330):

The Committee on Military Affairs, to which was referred the bill (S. 4330) authorizing the Secretary of War to make settlement of the claim of the Franklin Ice Cream Co., having considered the same, reports thereon favorably with the recommendation that it pass with the following amendment:

On page 2, line 2, after the word "amount," insert the words "if any."

This bill simply authorizes the Secretary of War to reopen the claim of the Franklin Ice Cream Co. and to make such settlement as he shall determine is just and proper. The incident occurred during the late war, and an attempt to settle the claim was made under the so-called "Dent Act," which provided for the validation of informal war contracts. Owing to at least one technicality, the case was held up in the War Department and was never settled. The time limit under the prior statute has expired. It is understood that the War Department has no objection to reopening and reconsidering this matter.

This company established a Pasteurized milk plant and warehouse on the Camp Funston reservation at the urgent request of Maj. Gen. S. M. Williams, executive officer of the camp, who stated in letter dated September 30, 1918, the need of the camp, as follows:

"* * * the camp surgeon and the sanitary inspector reported to the commanding general that the milk products in Army City were dangerous to such a degree that they recommended soldiers from Camp Funston be barred from Army City for sanitary regions. This recommendation was approved by the commanding general * * * he sent for the manager of the Franklin Ice Cream Co. * * * and requested that they deliver their products to Army City. * * * The company did not really desire to do so * * * but they did put their products in Army City, and the quarantine was lifted."

* * * * * * * *

"* * * the Franklin Ice Cream Co. * * * were really persuaded to put their products in Army City by the officials of this camp solely for the purpose of preserving the health of this command."

At the close of the war the Government canceled this company's lease. Such action was taken generally against companies and business houses furnishing the camps. Losses were suffered by reason of these cancellations. The War Department held that these cancellations were in accordance with law and that the lessees had no legal right for redress.

Congress thereupon passed the act of February 26, 1923, directing the Secretary of War to make such settlement as he thought just and proper with the several lessees, "*Provided*, That in no case the amount paid in settlement shall exceed the actual losses sustained."

When the claim of the Franklin Ice Cream Co. was submitted to the Secretary of War in accordance with the terms of the act above quoted it was impossible for the company to establish its actual losses by its books, because of the following circumstances:

After the cancellation of the lease and notice was given the company to cease operation and vacate the premises, and while the premises which the company had used were under the general military guard of the camp, on or about November 19, 1919, soldiers from the camp broke into the claimant's premises and carried off practically everything moveable and stripped the building. The records and books of the claimant were stored in a locked closet in one of the buildings. This was broken into, and the purchase and sales invoices and all books and papers were carried out and dumped on the middle of the floor, mutilated, and scattered. Later, on or about December 1, 1919, when a representative of the claimant company arrived on the scene, he found all the doors and windows open, the papers and books scattered and exposed to the elements and rendered almost useless.

Because of this fact the company was unable to submit to the Secretary of War its actual losses by its books and had to rely almost entirely upon estimates made from other records. The Secretary of War ruled that he was without power to allow the claim of the company, because the act expressly limited his power to claims for actual losses, and, as interpreted by him, the books were the only proper proof.

The purpose of claimant's bill is to allow the Secretary of War to reopen and review and allow the claim, based upon such evidence as the claimant is able to present and which appears to the Secretary of War reasonable and just.

BILLS INTRODUCED

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

By Mr. BRUCE:

A bill (S. 5778) for the relief of James M. E. Brown; to the Committee on Claims.

By Mr. HALE:

A bill (S. 5779) granting a pension to Maud D. Davis (with accompanying papers); to the Committee on Pensions.

By Mr. WHEELER:

A bill (S. 5780) granting a pension to John Moursette; to the Committee on Pensions.

By Mr. SHIPSTEAD:

A bill (S. 5781) granting an increase of pension to Mary E. Devine; to the Committee on Pensions.

By Mr. MEANS:

A bill (S. 5782) to consolidate the Bureau of Pensions of the Department of the Interior, the National Home for Disabled Volunteer Soldiers, and the United States Veterans' Bureau, and for other purposes; to the Committee on Pensions.

By Mr. STEPHENS:

A bill (S. 5783) authorizing the Secretary of the Interior to sell and patent certain lands in Louisiana and Mississippi; to the Committee on Public Lands and Surveys.

By Mr. McMASTER:

A bill (S. 5784) for the relief of Olof Nelson; to the Committee on Claims.

By Mr. CAPPER:

A bill (S. 5785) to provide books and educational supplies free of charge to pupils of the public schools of the District of Columbia; to the Committee on the District of Columbia.

By Mr. RANSDELL:

A bill (S. 5786) to amend and reenact the tariff act of 1922; to the Committee on Finance.

A bill (S. 5787) to enable private individuals to make the United States Government a party to foreclosure proceedings when said Government holds a junior lien of some kind; to the Committee on the Judiciary.

By Mr. SCHALL:

A bill (S. 5788) to extend the time for constructing a bridge across the Mississippi River between the city of Anoka, in the county of Anoka, and the village of Champlin, in the county of Hennepin, State of Minnesota; to the Committee on Commerce.

HOUSE BILL AND JOINT RESOLUTION REFERRED

The following bill and joint resolution were each read twice by their titles and referred as follows:

A bill (H. R. 16885) to amend section 563 of the tariff act of 1922; to the Committee on Finance.

A joint resolution (H. J. Res. 351) to provide for the expenses of the participation of the United States in the work of the economic conference to be held at Geneva, Switzerland; to the Committee on Foreign Relations.

NATIONAL ARBORETUM

The VICE PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 1640) authorizing the Secretary of Agriculture to establish a national arboretum, and for other purposes.

Mr. McNARY. I move that the Senate disagree to the amendment of the House, ask for a conference with the House on the disagreeing votes of the two Houses, and that the Chair appoint the conferees.

The motion was agreed to, and the Vice President appointed Mr. McNARY, Mr. NORRIS, and Mr. SMITH conferees on the part of the Senate.

ADMISSION OF CANDIDATES TO NAVAL ACADEMY

Mr. OVERMAN. Mr. President, there is on the calendar a bill which I am very anxious to have passed at this time. It is for the benefit of a young man who was appointed to the Naval Academy at Annapolis, but was born 24 hours too soon to come within the provisions of the law relating to admissions to the academy. It has passed the House, is recommended by the Senate committee, and is also recommended by the Navy Department.

The VICE PRESIDENT. Is there objection to the present consideration of the bill (S. 5699) relating to the admission of candidates to the Naval Academy?

There being no objection, the Senate, as in Committee of the Whole, proceeded to consider the bill and it was read, as follows:

Be it enacted, etc., That the act entitled "An act to fix the age limits for candidates for admission to the United States Naval Academy," approved May 14, 1918, be amended by the addition of the following proviso:

"*Provided further*, That the foregoing shall not be held to exclude the admission of a candidate the twentieth anniversary of whose birth occurs on the 1st day of April of the calendar year in which he shall enter."

Mr. KING. Mr. President, may I inquire of the Senator from North Carolina if this is special or general legislation?

Mr. OVERMAN. It is general. There are several cases of the sort.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

LAND IN HARRISON COUNTY, MISS.

Mr. STEPHENS. Mr. President, I ask unanimous consent for the present consideration of Calendar No. 1535, the bill (S. 4782) to remove a cloud on title.

Mr. CURTIS. Let the bill be read.

The Chief Clerk read the bill.

Mr. KING. Mr. President, may I inquire of the Senator from Mississippi if the bill applies to public land?

Mr. STEPHENS. Yes; it does. The bill was favorably reported by the Interior Department and also by the Department of Justice.

There being no objection, the bill was considered as in Committee of the Whole, as follows:

Be it enacted, etc., That the United States hereby relinquishes all the right, title, and interest, of the United States, acquired by virtue of a marshal's deed dated August 21, 1848, in the following described property situated in Harrison County, Miss., to wit:

The west half of the southwest quarter of section 30, township 7, south of range 10 west, and east half of southeast quarter of section 25, township 7, south of range 11 west, lying south of Bernards Bayou and containing about 150 acres.

The bill was reported to the Senate without amendment, ordered to be engrossed for a third reading, read the third time, and passed.

CALL OF THE ROLL

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

The VICE PRESIDENT. The clerk will call the roll.

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

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

Mr. JONES of Washington. I desire to announce that the Senator from Oregon [Mr. STANFIELD] is attending a hearing before a subcommittee of the Committee on Public Lands and Surveys.

Mr. McMASTER. I desire to announce that my colleague, the senior Senator from South Dakota [Mr. NORBECK] is unavoidably absent, due to injuries received in an automobile accident.

Mr. PITTMAN. I wish to announce that the Senator from Rhode Island [Mr. GERRY] is necessarily detained from the Senate by a death in his family.

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

HOUR OF MEETING TO-MORROW

Mr. CURTIS. Mr. President, I ask unanimous consent that when the Senate completes its work to-day it shall adjourn until 11 o'clock to-morrow. I make this request for the reason that under the standing order of the Senate it is necessary to have Washington's Farewell Address read to-morrow immediately after the approval of the Journal, and I understand it will take about an hour to read the address. Then the Senate will have time to proceed to the Hall of the House of Representatives for the joint meeting of the two Houses.

The VICE PRESIDENT. Is there objection to the request of the Senator from Kansas?

Mr. HEFLIN. The Senator means that we shall adjourn to-night?

Mr. CURTIS. I ask for an adjournment.

The VICE PRESIDENT. Without objection, the unanimous-consent agreement is entered into.

RATE-FIXING POWERS OF INTERSTATE COMMERCE COMMISSION

Mr. WALSH of Massachusetts. Mr. President, as many Senators are doubtless aware, the Supreme Court has recently handed down a decision in the Indianapolis water-rate case, so-called, which in the opinion of many lawyers in effect abolishes the rate-fixing powers of the Interstate Commerce Commission and leaves the railroads free to raise rates and fares to any figure that their managers think the traffic will bear.

In view of this fact, and because the next session will no doubt witness attempts to remedy the situation by new legislation, I ask to have printed in the RECORD the critical analysis of the Supreme Court's ruling that appears in the current number of the Harvard Law Review by Donald R. Richberg, the general counsel for the National Conference on Valuation of American Railroads.

The PRESIDING OFFICER (Mr. ODDIE in the chair). Without objection, the analysis referred to will be printed in the RECORD.

The matter referred to is as follows:

VALUE—BY JUDICIAL FIAT

If the opinion of Mr. Justice Butler in McCardle against Indianapolis Water Co. (47 Sup. Ct. 144 (U. S. 1926)) represents the well-considered

views of a majority of the Supreme Court of the United States, the regulation of public utility rates, according to standards heretofore prevailing, is at an end. The opinion, generously disregarding former decisions of the court (the opinion wholly fails to consider the public interest in property devoted to public service, though the court has frequently adverted to the necessity of weighing this factor. Thus, in the Minnesota Rate cases, 230 U. S. 352, 454 (1913), the court said: "But still it is property employed in a public calling subject to governmental regulation, and while under the guise of such regulation, it may not be confiscated, it is equally true that there is attached to this use the condition that charges to the public shall not be unreasonable." And in Smyth *v.* Ames, 169 U. S. 466, 544 (1898), the court condemned as unsound any proposition of rate regulation which omitted to consider "the rights of the public to be exempt from unreasonable exactions"), makes "spot" reproduction cost practically decisive of "value" for purposes of rate making. (This holding is in direct conflict with Smyth *v.* Ames; and the Minnesota Rate cases, both supra, note 2, and with Georgia Railway & Power Co. *v.* Railroad Comm., 262 U. S. 625, 630 (1923), in which the court, by a majority of 8 to 1, said: "The refusal of the commission and of the lower court to hold that for rate-making purposes the physical properties of a utility must be valued at the replacement cost less depreciation was clearly correct.") The effect which such a rule, if adhered to, will have upon all problems of public regulation and particularly upon the pending railway valuations, is so far-reaching that a careful analysis of the case is demanded.

The Public Service Commission of Indiana established rates for water service, having valued the property of the water company as of May 31, 1923, at not less than $15,260,400, and fixed 7 per cent as a reasonable rate of return. Evidence was presented in behalf of the city of Indianapolis, the State commission, and the company. The cost of reproducing the physical properties was estimated by the various witnesses on the basis of average prices over a period of years and on the basis of prices prevailing at the date of valuation. The commission expressed the opinion that "the average of prices for the 10-year period ending with 1921, the last full 10 years available, most nearly represents the fair value of petitioner's physical property."

The Federal district court, being asked to enjoin the enforcement of the commission's order, held that "the fair value of complainant's said property at said time (January 1, 1924) was and is not less than $19,000,000 and that the water rates imposed in that order are too low and are confiscatory of complainant's said property." The commission and the city appealed jointly to the Supreme Court, contending that the district court had "adopted as the measure of value the cost of reproduction new, less depreciation, estimated on the basis of spot prices as of January 1, 1924, or gave that figure controlling weight." The company replied that the cost of reproduction, less depreciation, estimated at spot prices, was more than $22,500,000 and that "the court did not adopt such costs as a measure or give them an undue weight as evidence of value." The Supreme Court affirmed the decree of the district court, and its opinion concludes, as follows:

"On a consideration of the evidence, it is held that the value of the property as of January 1, 1924, and immediately following was not less than $19,000,000." (Mr. Justice Holmes's announcement that he concurred "in the result" is significant. In the light of the minority opinion of Mr. Justice Brandeis in State of Missouri ex rel. Southwestern Bell Tel. Co. *v.* Pub. Serv. Comm., 262 U. S. 276, 289 (1922) in which opinion Mr. Justice Holmes joined, it is apparent that Mr. Justice Holmes, and perhaps others, could hold views in irreconcilable conflict with those expressed by Mr. Justice Butler, and yet join in a decision affirming the decree of the lower court. Compare in this connection Bluefield Water Works, etc. Co. *v.* Pub. Serv. Comm., 262 U. S. 679 (1923) and Georgia Ry. & Power Co. *v.* Railroad Comm., supra note 3.)

Mr. Justice Brandeis delivered a dissenting opinion, in which Mr. Justice Stone joined. This opinion pointed out that since both the rate-making body and the lower court had purported to follow the rule of Smythe *v.* Ames, (supra note 2), the issue went not to the soundness of that rule but to its content. The lower court, said the dissenting justice, "assumed that spot reproduction cost is the legal equivalent of value. * * * He believed that the recent decisions of this court required him so to hold. In this belief he was clearly in error. (The dissent quotes from the opinion of the lower court; "* * * the necessary implication [of the recent decisions] is that dominating consideration should be given to evidence of reproduction value, and, if that means anything, is means that evidence of reproduction value spot at the time of the inquiry must be considered as evidence of a primarily different character from either of the other three kinds of evidence." Mr. Justice Butler, in affirming the lower court, did not state precisely that "spot reproduction cost is the legal equivalent of value." He did, however, approximate such a holding in this statement quoted infra note 8.)

In order to appreciate the significance of the majority opinion, it is necessary to analyze separately its various elements. The opinion seems to rest upon the following series of propositions:

(1) A public utility property will be "confiscated" unless rates are fixed so as to yield a reasonable rate of return on "present value." ("It *must* be determined whether the rates complained of are yielding and will yield, over and above the amounts required to pay taxes and proper operating charges, a sum sufficient to constitute just compensation for the use of the property employed to furnish the service; that is, a reasonable rate of return on the value of the property at the time of the investigation and for a reasonable time in the immediate future.") (Italics ours.)

(2) "Present value" of the physical elements is the (estimated) present (market) value of lands (for other uses), plus the (estimated) present cost of constructing the identical plant (under imaginary and impossible conditions). ("* * * * It is true that, if the tendency or trend of prices is not definitely upward or downward and it does not appear probable that there will be a substantial change of prices, then the present value of lands plus the present cost of constructing the plant, less depreciation, if any, *is* a fair measure of the value of the physical elements of the property.") (Italics ours.)

(3) Present cost of construction is found by using prices of materials and wages of labor prevailing at the "time of construction" (qualified by an "honest and intelligent forecast" of future prices and wages.) ("* * * In the light of all the circumstances, there must be an honest and intelligent forecast as to probable price and wage levels during a reasonable period in the immediate future.")

(4) The "time of construction" is the calendar day of valuation and is not the period of time which would be required to construct the plant in order to have it in operation on the valuation date. ("But in determining present value, consideration *must* be given to prices and wages prevailing at the time of the investigation; * * *.") (Italics ours.)

(5) There must be added to the physical value of the property thus found, all the intangible values, particularly "going value," which must equal that percentage of the physical value which is "generally included." ("A good property has an intangible value or going-concern value over and above the value of the component parts of the physical property. * * * And the reported cases showing amounts generally included by commissions and courts to cover intangible elements of value indicate that 10 per cent of the value of the physical elements would be low when the impressive facts reported by the commission in this case are taken into account.")

The majority opinion makes the entire process of valuation one of imaginative guesswork. (See the comment of Mr. Justice Brandeis in the Southwestern Bell Telephone case, supra note 4, at 299: "But gradually it came to be realized that the definiteness of the engineer's calculations was delusive; that they rested upon shifting theories; and that their estimates varied so widely as to intensify, rather than to allay doubts.") The evidence to be considered must consist wholly of opinions of partisan experts, estimating the cost of an imaginary but impossible construction, at imaginary and impossible prices, under imaginary and impossible conditions.

The construction is imaginary because a public utility plant is actually built over a period of many years during the development of the community it serves. But, for reproduction-cost purposes, it is arbitrarily assumed that the plant will be built over a period of a few years in a community which actually would not be existing (or at least not in its present condition) if the plants furnishing necessary public service had not developed with the community. It is further imaginary because no plant would be rebuilt in the same manner and according to the same plan as the present one.

The construction is impossible because any existing plant (after blotting it out) could not be reproduced without incurring such costs as those for removing pavement over substreet construction or the excess costs of condemning property (over the normal market value), which costs are judicially excluded from theoretical reproduction costs. (Des Moines Gas Co. *v.* Des Moines, 238 U. S. 153 (1915); Minnesota Rate Cases, supra note 2.) It is also impossible to determine what the market values of land, or even the prices of materials and wages, would be if the public service essential to the community existence were not present. ("It is an integral part of the communal life. The assumption of its nonexistence, and at the same time that the values that rest upon it remain unchanged, is impossible and can not be entertained." Minnesota River Cases, supra note 2, at 452. Cf. also International Harvester Co. *v.* Kentucky, 234 U. S. 216, 222 (1914), where, in speaking of a statute construed to require a combination to estimate the market value of its product "under fair competition and normal market conditions," Mr. Justice Holmes remarked "how impossible it is to think away the principal facts of the case as it exists and say what would have been the price in an imaginary world.")

A scientific determination of the reproduction cost of this hypothetical utility is impossible. There is no question but that competent and reasonably honest engineers using different theories of construction of the same property at the same date, and even using the same price levels, may differ from 10 to 30 per cent in their estimates, whereas, using different price levels, the estimates of the same engineers may differ from 50 to 100 per cent. Using different price levels, the

estimators in the Indianapolis Water Co. case varied their estimates of reproduction cost from $12,200,000 to $22,600,000. Using the same price levels, these experts varied more than $3,000,000 in their estimates. Experts testifying on the same side disagreed with each other to the extent of $800,000, although these men were employed to guess for a common purpose. (The writer of the present article, as special counsel for the city of Chicago, brought about a conference and agreement upon estimates of reproduction cost of the properties of the Peoples Gas Light & Coke Co. in the year 1920 between engineers representing the company, the State commission, and the city of Chicago. These agreed-upon figures varied to the extend of $25,000,000 in estimating the reproduction cost of physical properties subsequently valued by the commission at $72,000,000. See order of Illinois Public Utilities Commission, Proceeding No. 7689, December 21, 1920.)

The majority opinion now puts a seal of approval on the practice of ascribing decisive weight to a method of determining value which is generally repudiated by practical men as impractical ("The commissions working at first hand with the practical problems of valuation generally lean more and more decidedly toward fixing value, so called, of public utilities on prudent investment largely and in not a few cases wholly" (1921), 19 Mich. L. Rev. 849, 852, note. Mr. Justice Brandeis, in his opinion in the Southwestern Bell Telephone case, demonstrates the accuracy of this statement by a review of 363 commission valuations in 1920–1923) and by scientific men as unscientific. (See, e. g., Goddard, Fair Value of Public Utilities, 1924, 22 Mich. L. Rev. 777, and Public Utility Valuation, 1917, 15 ibid. 205; Whitten, Fair Value for Rate Purposes, 1914, 27 Harv. L. Rex. 419; Edgerton, Value of the Service as a Factor in Rate Making, 1919, 32 ibid. 516; Henderson, Railway Valuation and the Courts, 1920, 33 ibid. 902, 1031; Hale, the Physical Value Fallacy in Rate Cases, 1921, 30 Yale L. J. 710. See also Clark, Social Control of Business, 1926; and Bauer, Effective Regulation of Public Utilities, 1925.) It should be sufficient merely to quote the following statement of the Michigan Public Service Commission, approved by the Connecticut Public Service Commission, and cited in the minority opinion in the Southwestern Bell Telephone case:

"This method of determining value included percentages for engineering service never rendered, hypothetical efficiency of unknown labor, conjectural depreciation, opinion as to the condition of property, the supposed action of the elements; and, of course, its correctness depends upon whether superintendence was or would be wise or foolish; the investment improvident or frugal. It is based upon prophecy instead of reality, and depends so much upon half truths that it bears only a remote resemblance to fact, and rises at best only to the plane of a dignified guess." (In re Mich. State Tel. Co., P. U. R. 1921C 545, 554 (Mich.), cited in 262 U. S. at 300, n. 12. The prevailing rule outside valuation cases is that expert witnesses "will not be permitted to guess or to state a judgment based on mere conjecture." (1920) 22 C. J. 640.)

In addition to the expert guessing contest involved in estimating reproduction cost, according to present or past prices, the opinion also adds an additional gambling factor in requiring "an honest and intelligent forecast as to probable price and wage levels during a reasonable period in the immediate future. (This ruling goes far beyond the previous holding of the court in the Southwestern Bell Telephone case requiring the use of present prices in order to forecast future values.) For at least 100 years (and probably for several thousand years) commerce has been offering its greatest prizes to men who could make honest and intelligent forecasts of future prices. To-day the management of any large business would pour wealth into the lap of the inspired genius who could make such forecasts. The question is presented as to whether, when such forecasts are impossible (as they are most of the time), public utility commissions should make any effort to regulate public utility rates. Relying upon past prices alone it would become evident in practically every case, by the time the case reached the Supreme Court, that there had not been an "honest and intelligent forecast" of future prices. The illusion of the learned justice, that a reliable forecast of future prices can be made, is on a par with the illusion which also radiates from the opinion, that there is such a thing as a "relatively permanent price level."

If such a price level has finally appeared, it is a new development in our history, and the Supreme Court deserves great credit for up-to-date judicial functioning in its discovery that in the last three years we have reached a condition of price stability heretofore unknown. ("But for the assumption that there will be a plateau [of prices] there is no basis in American experience." Mr. Justice Brandeis in the Southwestern Bell Telephone case, supra, note 4, at 303, n. 16.) Starting on a level that we may call 100, the wholesale price index in the United States mounted rapidly to about 175 in 1800; vibrated up and down for 10 years; shot up to over 250, and then dropped rapidly to 125 in 1820. It continued to vibrate considerably for the next 40 years, going as high as 135 in 1840, and receding to 100 by 1860. Then it rose rapidly during the Civil War to a peak of about 225, and dropped rapidly to about 130 in 1870. From then on, with some ups and downs, it steadily declined to 75 in 1897; then it started up again, reaching 110 at the opening of the World War; shot upward to 275 by 1920, and then dropped steadily downward until it reached what the Supreme Court describes as the "relatively permanent level" of 1923–1926.

This "relatively permanent level" of the last three years looks like a storm-tossed sea on a chart, and can only be called "relatively level" in contrast to the tremendous rise and fall of prices during the World War. There never has been a time when the "experts" estimating the reproduction cost of a public utility property have not differed widely regarding the past prices which should be regarded as fairly "applicable." But in making "honest and intelligent forecasts" of future prices these experts will be able to mark up or mark down millions as desired with scientific precision and assured inaccuracy.

Another undesirable novelty of the present opinion is the importance attached to "spot" reproduction cost as distinguished from reproduction cost at the average of prices during the period at which construction would have occurred. The prices and wages "prevailing" on January 1, 1924, could not have been the prices and wages effective during a construction period of several years ending January 1, 1924. Yet such a construction period must be assumed in order to have the plant completed on January 1, 1924.

The entire computation of estimated reproduction cost (including the number of hours of labor employed, interest during construction, and similar factors) requires the assumption of a period of years and varying costs of labor and materials. (Mr. Justice Brandeis, in his dissenting opinion in this case, made this point vividly: "'Spot' reproduction would be impossible of accomplishment without the aid of Aladdin's lamp. * * * The search for value can hardly be aided by a hypothetical estimate of the cost of replacing the plant at a particular moment, when actual reproduction would require a period that must be measured by years.")

It is quite consistent with the unreal and unscientific method of ascertaining the value of tangible property which is sponsored in the Indianapolis Water Co. case that a new conception of "going value" suddenly arises out of nowhere in the opinion. The court quotes from the Des Moines Gas case (Des Moines Gas Co. *v.* Des Moines, supra, note 13, at 165) the statement:

"That there is an element of value in an assembled and established plant, doing business and earning money, over one not thus advanced, is self-evident. This element of value is a property right and should be considered in determining the value of the property * * *."

But the allowance for going value which was made in the lower court and approved by the Supreme Court in the Des Moines case consisted solely of the overheads allowed in the estimate of reconstructing the physical property. These overheads are already included in the reproduction cost of the physical elements in the Indianapolis Water Co. case. Yet, in addition to this physical valuation, the opinion holds that "the evidence is more than sufficient to sustain 9.5 per cent for going value," and continues with this statement:

"And the reported cases showing amounts generally included by commissions and courts to cover intangible elements of value indicate that 10 per cent of the value of the physical elements would be low, when the impressive facts reported by the commission in this case are taken into account."

The "impressive facts" referred to are evidently indicated in the following extract from the commission's report:

"Consider its earning power with low rates, the business it has attached, its fine public relations, its credit, the nature of the city, and the certainty of large future growth, the way the property is planned and is being extended with the future needs of the city in view, its operating efficiency and standard of maintenance, its desirability as compared with similar properties in other cities and with other utilities of comparable size in this city. These things make up an element of value that is actual and not speculative. It would be considered by a buyer or seller of the property or by a buyer or seller of its securities."

These "impressive facts" induce Mr. Justice Butler to observe that 10 per cent of the value of the physical elements would be a low estimate for the "going value" of the property. Just how this intangible element of "going value" obtains a percentage relationship to the value of the physical elements is not explained. In fact, no method is suggested whereby one can ascertain whether a plant has a "going value" or not, or what the amount of it is; and yet the learned justice complains of the lower court that its findings as to value are "not as specific as good practice requires."

It was only a few years ago that the Supreme Court, in a unanimous opinion, held that neither past losses nor good will nor earning power should be given a "value" in determining whether a rate is confiscatory. The court then held that there was no evidence to justify the finding of a master that a business brought to successful operation "should have a going concern value at least equal to one-third of its physical properties"; and also held: "Going concern value and development cost, in the sense in which the master used these terms, are not to be included in the base value for the purpose of determining whether a rate is confiscatory." (Galveston Electric Co. *v.* Galveston, 258 U. S. 388, 396 (1922).) The present opinion does not purport to overrule the unanimous opinion of the court in the

Galveston case and yet the "impressive facts" upon which Mr. Justice Butler relies, seem to be very similar to those offered by the utility as evidence of "going value" and rejected by the Supreme Court in the Galveston case.

The question naturally arises as to whether conversely the court would approve of a deduction from reproduction cost in the case of a utility where the evidence showed the reverse of these "impressive facts." If there is a "going value" which must be added when a public utility is in successful operation, is there a "receding value" which should be deducted if the operation is unsuccessful? Suppose that a utility has a poor earning power; has only attached part of the available business; is in a constant row with public authorities; has an uncertain credit; is established in a city of declining population; has been planned and is being extended without proper consideration of the future needs of the city; has a low operating efficiency and a poor standard of maintenance; and is undesirable as compared with similar properties. Under these circumstances should the unhappy, impoverished utility be made more unhappy and further impoverished by deducting a "receding value" from the reproduction cost of its physical properties? Or is "going value" a value which only goes in one direction, that is in favor of the investors, and never goes in favor of the consumers?

Finally let it be asked, What possible relationship can this going value have to the amount of the physical reproduction cost? Let us remember that the identical plant must be reproduced. One company builds a brick-and-stone structure of expensive design on high-priced land; another company builds an unpretentious but efficiently designed, cheap concrete structure on much cheaper land. These companies under efficient operation develop the same "impressive facts," which require an estimate of "going value." On the percentage basis the plant of extravagant construction will get a much larger allowance for "going value" than the plant of economical construction. What sort of a "value" is this that defies intelligent computation? It seems quite evident that this "going value" is another value created purely by judicial fiat. "Intangible" is a mild word with which to describe it. It should really be called "invisible."

We have now reviewed the propositions which are explicitly or implicitly stated in the opinion in the Indianapolis Water Co. case. It is evident that Mr. Justice Butler has proceeded on the basis of two assumptions: (1) That property devoted to private business has an absolute value which can be ascertained by the complicated, indefinite process (which he evidently regards as a simple, definite process) of estimating the cost of reproducing the existing property on the date of valuation, using the price levels "prevailing" on that date; (2) that the private owner of public-utility property should be given the same value for his property that it would possess if it were being used in private business. Compared to the error involved in the first of these assumptions, the fact that the ascertainment of reproduction cost is an elusive and unscientific process is a minor weakness in the opinion. The outstanding fallacy is found in the assertion that cost is the measure of value. (This fallacy has been demonstrated by the Supreme Court itself. Monongahela Nav. Co. *v.* United States, 148 U. S. 312, 328 (1893); C., C., C. & St. L. Ry. *v.* Backus, 154 U. S. 439, 445 (1894). Cf. International Harvester Co. *v.* Kentucky, supra note 14, at 222, where Mr. Justice Holmes defines value "as the effect in exchange of the relative social desire for compared objects expressed in terms of a common denominator." See also Standard Oil Co. *v.* Southern Pacific Co., 268 U. S. 146 (1925), where Mr. Justice Butler in his opinion distinguishes between "cost" and "value.")

"Value" is generally understood to mean the power to command a price. (Taussig, Principles of Economics (1911), 115; Laughlin, Elements of Political Economy (1915), 75.) The value of a man's property is not what he pays for it or what it would cost him to reproduce it; it is what he can get for it in exchange or in use. The cost of property may indicate what the purchaser expected to get out of it or would like to get out of it; but it is quite clear that the value of an industrial property can not be ascertained except through consideration of its actual or anticipated earning power. (A striking example of the difficulty of realizing a theoretical "value" is shown in the inability of the New York, New Haven & Hartford Railroad to sell an abandoned terminal in the heart of Boston, resulting in a loss of two-thirds of its investment in 11 years. See San Pedro, Los Angeles & Salt Lake Railroad, 75 I. C. C. 463, 535 (1923).)

The extent of the demand for a product or service and the extent of the competition (assuming efficient management) determine the earning power (and hence the value) of a plant constructed for industrial uses. If the product is a public necessity, the demand may fluctuate; but within limits it can be so relied upon and so anticipated that a certain earning power and value are assured. If competition is keen, it is probable that this earning power and the resultant value will be less than if competition is largely eliminated. Even where there is no direct competition earning power will be limited: First, by the line at which prices will diminish the demand; second, by the line at which potential competition may be brought into action, either directly or through a substitute service or substitute goods; third, by the line at which public regulation will come into play, either to destroy or to regulate the monopoly which is enforcing a "tax" rather than a selling price.

In the public utility field, monopoly (partial or complete) is accepted as a desirable condition. But for many centuries such monopolies have been subject to regulation in order to prevent the charging of unreasonable rates. The charging of unreasonable rates, if skillfully imposed, undoubtedly would enhance the value of the property used. Thus we find that the very purpose and necessary effect of public regulation is to diminish the value that otherwise might be realized. (Some of the principal factors which determine the value of a private business property to its owners are absent from or modified in their effect upon the value of a public business property to its owners, as the Supreme Court has specifically held in many cases, as, e. g.: Branch *v.* Jesup, 106 U. S. 468 (1882); Cent. Trans. Co. *v.* Pullman Co., 139 U. S. 24 (1891); C., B. & Q. R. R. *v.* City of Chicago, 149 Ill. 457, 37 N. E. 78 (1894), aff'd, 166 U. S. 226 (1896); Minnesota Rate cases, supra note 2; Penn. Coal Co. *v.* Mahon, 260 U. S. 393 (1922); Dayton-Goose Creek Ry. *v.* United States, 263 U. S. 456 (1924).)

The value of property which an owner can reasonably hope to realize in private business, where there is competition, is the value which results from an earning power obtained by selling goods or services for approximately their cost of production. So long as there is real competition, it is clear that cost of production (including what is regarded as a fair return on investment) will control prices. (Ely, Economics (4th ed. 1924) 158 et seq.; Marshall, Principles of Economics (4th ed. 1898) Book 5, ch. 7, secs. 5–6.)

There is therefore discernible in the operations of private business a method for measuring a fair charge which might well be applied in the valuation of public-utility properties (Kirshman, The Principle of Competitive Cost in Public Utility Regulation (1926), 35 Yale L. J. 805. See also an article by the present writer, A Permanent Basis for Rate Regulation (1922), 31 ibid. 263), but to which the opinion in the Indianapolis Water Co. case gives no consideration. The supreme court of Illinois indicated the use of this method in the following language (Util. Comm. *v.* Springfield Gas Co., 291 Ill. 209, 217, 125 N. E. 891, 895 (1920)):

"Fixing rates by public authority may secure to each individual the advantage of collective bargaining by all in behalf of the whole body of consumers and result in such a rate as might properly be supposed to result from free competition, if free competition were possible."

What competition is reasonably conceivable in the furnishing of public utility service? Clearly it is the competition of the public itself which the private utility operators must always meet. Those who devote property to public utility service have taken upon themselves a function of the State. They have offered to do the work more efficiently, and, if not more cheaply, at least not more expensively than if the State itself furnished the service. Not so long ago the question was asked in an opinion of the Supreme Court: "Is there not force in the suggestion that as the State may do the work without profit, if he voluntarily undertakes to act for the State he must submit to a like determination as to the paramount interests of the public?" (Mr. Justice Brewer in Cotting *v.* Kansas City Stock Yards Co., 183 U. S. 79, 94 (1901).)

It is not necessary to suggest that public services should be furnished without profit merely because the State might so furnish them. But it is pertinent to suggest that those who have undertaken to render public service have undertaken, from the beginning and in every year of their trusteeship, to meet the potential public competition and certainly have undertaken to furnish this service without demanding such a profit as twice the earnings on capital which would be required to finance a publicly owned public service.

The measure of value suggested in the Indianapolis Water Co. case opinion can have no possible justification, unless it is offered as the measure of a competitive value. We can not assume that the court would attempt to justify establishing an admitted monopoly value. Apparently the argument of the opinion is that if it would cost the public $19,000,000 on January 1, 1924, to duplicate the service rendered by a privately owned public utility, then the private owners are entitled to charge rates sufficient to produce a fair return on $19,000,000. This is, in fact, a monopoly value—or what is called a "hold-up price"; that is, the most that any sane buyer would pay. But let us call this "value" euphoniously "the cost of competition," and then let us go back a few years and let us assume (as seems reasonable according to the record of this case) that on January 1, 1917, the property could have been duplicated for $13,000,000. If the public had then duplicated the property, or had condemned it, for that amount, certainly no one would suggest that on January 1, 1924 it would be necessary to raise rates so as produce a profit on $19,000,000.

Let us go still further back. Let us consider the situation at the time when that public-utility plant was constructed. Assume that the present plant cost $9,500,000 originally and that since that time there have been no additional private investments, but that through maintenance and renewals out of operating expenses the plant has been brought to its present condition, and that to-day it would cost $19,000,000 to reproduce the plant according to a conservative estimate of reproduction cost. When that plant was built at a cost of $9,500,000, if the

owners had then announced that some years later they would insist upon being allowed to earn, not 7 per cent on $9,500,000 but 7 per cent on $19,000,000, or, in other words, 14 per cent on their investment, is it not certain that the public either would have built a competing plant, or would have condemned and taken over the plant already built?

The theory of the opinion under discussion permits the utility to disregard its implied promise from the beginning of the enterprise that the private operation of the public service should not be used as the means for compelling the public to pay rates grossly in excess of those which could be secured for the public by public operation of public service. Public competition has been prevented by assurance that the benefits of "free competition" would be preserved. Essentially the demand of the utilities for a monopoly value is a breach of faith. Under the theory, once popular and still sound, that private owners of public utilities are public trustees (Smyth *v.* Ames, supra note 2, at 544; Dayton-Goose Creek Ry. *v.* United States, supra note 27), it may be fairly said that such a demand is a violation of an accepted trust. Private owners have undertaken to do the work of the State upon certain representations, not merely implied in their offer, but written into long recognized legal obligations. These representations they now repudiate. These obligations they now forswear. And the opinion of the Supreme Court finds their right to do this embedded in the Constitution.

It has been impossible within the limits of this article to discuss all the assumptions, implications, and effects of this important opinion. Also, it has been impossible to segregate carefully those ideas and expressions which have been developed partially in previous opinions, from those which are peculiarly the product of this one opinion.

The present case, as has been pointed out, is unique in its omission of qualifying phrases and in its substitution of reproduction cost as the sole criterion of present value, instead of determining the latter by "a reasonable judgment having its basis in a proper consideration of all relevant facts." (Mr. Justice Butler approved this standard, quoted from the Minnesota Rate Cases, supra, note 2, in his own opinion in Bluefield Water Works, etc., Co. *v.* Pub. Serv. Comm., supra note 4; and on the same day tacitly joined in the rejection of reproduction cost as the sole measure of value in the opinion of Mr. Justice Brandeis in Georgia Railway & Power Co. *v.* Railroad Comm., supra note 3, in which latter case Mr. Justice McKenna in a solitary dissent asserted that reproduction cost less depreciation was the "measure of the value of the utility." 262 U. S. at 636.) It is very much to be hoped that the court's opinion as distinguished from its decision represents only the views of Mr. Justice Butler, and not those of the six members of the court for whom he purported to speak. (It has been pointed out in note 4 supra that it would be impossible for Mr. Justice Holmes, in view of his concurrence in Mr. Justice Brandeis's dissent in the Southwestern Bell Telephone case, to approve a court's ascribing "dominating consideration" to reproduction cost. The inference is plain that Mr. Justice Holmes must have concluded that the lower court in the Indianapolis Water Co. case did not, in spite of the language in its opinion, give dominating force to this factor. It may well be that other members of the court whose views did not demand that they should explicitly dissociate themselves from the language of Mr. Justice Butler's opinion, nevertheless agreed only in his decision, namely, that the action taken by the lower court should stand.)

In concluding this review, let us recall that the purpose of rate regulation is to determine what earning power shall be allowed to a public utility, and suggest that certain truths should be self-evident: First, the present value, which can be ascertained from market quotations, depends on the present earning power. Second, to maintain this "value" the usual procedure would be to continue the present rates. Third, if rates are to be regulated up or down, a new earning power will result. Fourth, therefore, the question presented in rate regulation is not what the present value is, but what the future value should be.

We may be sure that, regardless of what he said, Mr. Justice Butler was trying to ascertain, in the Indianapolis Water Co. case, not what the "present value" of the water company's property was on January 1, 1924, but what the future value would be if rates were correctly fixed. Then, he evidently assumed that if rates were correctly fixed the resultant value of the property would be the same as though the rates had not been fixed.

The assumption is clearly implied that if rates were not fixed the property would have a certain earning power that would give it a certain value, and that the property ought to have that same earning power as the result of rates fixed by the commission. This assumption indicates that there is little use or purpose in governmental rate regulation, except to determine as nearly as possible "what the traffic will bear" in order that the owners of public utilities may realize that highest possible value of property which results from its maximum earning power. Any diminution of this value is apparently regarded as "confiscation."

The learned justice utterly ignores the important fact that the exercise of the power of the Government to fix rates inevitably must either deflate the value of the property toward its minimum earning power or inflate it toward its maximum earning power. The exercise of this power, therefore, requires at all times a balanced consideration of what earning power and what resultant value is fair, not only to the owners of the property but also to the users of the property. Mr. Justice Butler's attempt to ascertain an absolute "value" which is supposed to exist, regardless of the interests of the public and the consumers, was foredoomed to failure. The result of this futile attempt is that he has neither found what the present value of the property is nor stated what the fair value of the property should be. He has arbitrarily given the property a fiat value (the amount of "investment" in the railroads and other public utilities upon which rates are now based exceeds $30,000,000,000; the "value" of these "investments" would be doubled by a valuation on the basis of reproduction cost estimated at "present prices" in accordance with this opinion; see the Reports of the Interstate Commerce Commission and the Department of Commerce for investment figures, and Wall Street Journal of August 3, 1926, for estimated "value") and has issued a command that the public shall pay enough in rates to make this fiat value an actual market value.

DONALD R. RICHBERG.[1]

CHICAGO, ILL.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its clerks, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 2141) conferring jurisdiction upon the Court of Claims to hear, examine, adjudicate, and enter judgment in any claims which the Assiniboine Indians may have against the United States, and for other purposes.

The message also transmitted to the Senate the resolutions of the House adopted as a tribute to the memory of Hon. ROBERT M. LA FOLLETTE, late a Senator from the State of Wisconsin.

ENROLLED BILLS SIGNED

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

S. 2770. An act to confer United States citizenship upon certain inhabitants of the Virgin Islands and to extend the naturalization laws thereto;

H. R. 5823. An act to amend the Code of Law for the District of Columbia in relation to the qualifications of jurors;

H. R. 9916. An act to revise the boundary of the Grand Canyon National Park in the State of Arizona, and for other purposes;

H. R. 9971. An act for the regulation of radio communications, and for other purposes;

H. R. 15414. An act to authorize the United States Veterans' Bureau to accept a title to lands required for a hospital site in Rapides Parish, La.;

H. R. 16576. An act making appropriations for the Departments of State and Justice and for the judiciary, and for the Departments of Commerce and Labor, for the fiscal year ending June 30, 1928, and for other purposes; and

H. R. 16863. An act making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1928, and for other purposes.

BELLE FOURCHE AND CHEYENNE RIVERS

Mr. KENDRICK. Mr. President, a few days ago the House passed Senate bill 4411 with an amendment. On motion the Senate refused to concur in the House amendment and appointed conferees. I now ask that the action of the Senate at that time be reconsidered. It is the bill (S. 4411) granting the consent of Congress to compacts or agreements between the States of South Dakota and Wyoming with respect to the division and apportionment of the waters of the Belle Fourche and Cheyenne Rivers and other streams in which such States are jointly interested.

The PRESIDING OFFICER (Mr. DALE in the chair). The Senator from Wyoming asks that the Senate reconsider its action in appointing conferees on Senate bill 4411. Without objection, that action will be reconsidered.

Mr. KENDRICK. I now move that the Senate concur in the House amendment to Senate bill 4411.

The PRESIDING OFFICER. The Senator from Wyoming will first have to move that the Senate request the House to return the papers.

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[1] The writer has been general counsel for the National Conference on Valuation of American Railroads since 1923, and special counsel for the city of Chicago in gas matters since 1915. It is interesting also to note that Mr. Justice Butler was for many years prior to his elevation to the bench principally engaged in representing railroads and other public utilities in valuation cases.

Mr. KENDRICK. It is a simple matter and provides for a voluntary compact between the two States referred to. I move that the Senate concur in the House amendment.

Mr. JONES of Washington. Mr. President, I hope that may be done. While I do not like to see the money taken out of the reclamation fund, and I do not think it is proper to do it, yet, under the circumstances I hope the Senate will take the action requested by the Senator from Wyoming.

The PRESIDING OFFICER. Pending the motion of the Senator from Wyoming, the House will be requested to return the bill to the Senate.

ADDRESS BY SENATOR WILLIS ON LINCOLN'S BIRTH ANNIVERSARY

Mr. FESS. Mr. President, my colleague [Mr. WILLIS] made a notable address at the banquet of the National Republican Club, Waldorf-Astoria Hotel, in New York City, on the occasion of the Lincoln birth anniversary. I ask unanimous consent that it may be inserted in the RECORD.

The PRESIDING OFFICER (Mr. JONES of Washington in the chair). Is there objection? The Chair hears none.

The address is as follows:

Senator WILLIS. It is fitting that on this anniversary of the birth of our greatest American and greatest Republican that something should be said of the present-time achievement of the Republican Party and of its leadership in the person of President Coolidge, who has many of the virtues and personal qualification possessed by Abraham Lincoln. The calm, quiet, thoughtful courage, dispassionate judgment, and even-handed justice that carried Lincoln through the trials of the Civil War are exemplified in the conduct of the present occupant of the White House.

It is too early to discuss candidacies for 1928. Such discussion at this time proceeds ordinarily from one of two sources: First, from some Republicans who themselves desire to be candidates, but who, according to past performances and present policies, would not be able to get to the first base in the Republican National Convention; and, in the second place, from our Democratic friends who, it is reported, are proposing to push for consideration a resolution in Congress against third terms.

The people have known all the time of the splendid record and great popularity of the existing Republican administration at Washington. The most complete admission of it, however, is in the evident anxiety of the opposite party to forestall an alleged third term. If they did not feel that the administration of President Coolidge had made such a strong impression on the American people as to make probable his renomination and reelection, if he should become a candidate, they would not be exercising themselves about antithird-term resolutions. The support of such a resolution is the best evidence that its supporters feel that the President has rendered such service as to entitle him to a second elective term if he chooses to become a candidate. Whether he will become such a candidate no one in this country knows except the President himself. Neither I nor others have authority to speak for him in this or any other matter. For myself, I say that as matters now stand, if he should choose to become a candidate for reelection in 1928 he undoubtedly will be renominated and reelected. Whether he is the candidate or not, the Republican Party, if it wins in 1928—as it ought to—will make the campaign on the record of the Coolidge administration. History does not record an instance in which a party has repudiated its own record and the record of its President and then has succeeded in carrying a subsequent election. This coup d'état was tried by our Democratic friends in 1896. They were bitter in their denunciation of their President just then going out of office, but were long in promises for the future. The people then wisely decided that a party that repudiated its own performances could not well be relied upon in the redemption of pledges. It will be so in 1928. Whatever other matters may be discussed, one dominant issue will be the record of the achievement of Republican administrations between 1920 and 1928. This is as it should be. The issue is welcomed by the Republican Party.

Our party loves to compare its historical achievements with those of its opponents. Our Democratic friends dislike history but are long on prophecy.

Inevitably the conduct of our relations with foreign nations will be prominent in the next campaign.

The World Court issue apparently has been definitely disposed of. Our Government, under the leadership of President Coolidge, signified its willingness to become a member of the World Court only with reservations which would guarantee American sovereignty and prevent the imposition of the will of foreign peoples and governments upon our own people. America was willing to help, but it insisted that it should always be free. No Republican administration will ever yield up American sovereignty to any organization of foreign nations anywhere or under any consideration. The powers of Europe, having decided definitely that our admission into the World Court can not be had with the reservations which our Government adopted, the matter is at an end. The reservations will not be changed. The fact that European nations were unwilling to have us members of the court unless we would promise beforehand to yield up certain fundamental American rights inherent in sovereignty shows conclusively that our Government acted wisely in insisting upon preservation of these rights through the adoption of the reservations which the Senate formulated and attached to the World Court protocol. This whole question has been handled by the administration of President Coolidge in a manner strictly in accord with American traditions and, as I believe, in fullest sympathy with American public opinion. So long as Europe insists that America shall yield up its rights as an independent Nation and retain only the privilege of paying the bills, there is no probability of entrance of our country into any foreign combination.

Under Republican leadership our Nation will not become a member of the League of Nations, directly or indirectly. Nor will it play into the hands of certain financiers in Europe and in America by agreeing to the cancellation of the foreign debt. Gentlemen who are urging such a course seem very generous with other people's money. They seem also to forget that the best way to bring on further European wars is to adopt the principle of the cancellation of war debts. If European nations could be assured that debts incurred by them in conducting future wars need not be paid there would be such an impetus to increased armaments and probable resulting warfare as the world has never seen before.

The administrations of Presidents Harding and Coolidge have settled the foreign-debt question. Doctrinaires either in Europe or America will not be permitted to unsettle it. Payments are now being made, and no Republican administration will enter into any sort of arrangement whereby the settlements already entered into can be canceled or modified.

Within the past week the President has sent a message to Congress which has excited universal approval not only in this country but abroad. It evidences the firm purposes of the United States to do everything in its power to promote peace. The Conference for the Limitation of Armaments called by President Harding was the longest step forward toward peace and better understanding amongst nations in five centuries of history. If the great powers shall respond, as it is hoped they will respond, to the call which President Coolidge has now made, further limitations can be agreed upon which will stop the unseemly competition in armaments that is weighing like an incubus on the taxpayers of all the great nations. There would be no question of the ability of the United States to win out in such a competition, but it is certainly much better, if the peace of the world can be secured, to adopt such limitations as President Coolidge has proposed.

In its dealings with Central America and Mexico the administration at Washington has acted in strictest accordance with American traditions and policies followed heretofore without reference to political considerations. There are, of course, some who have attempted to make political capital out of a distressing situation which our Government is doing its best to remedy. Many people seem to have obtained the idea that Calvin Coolidge, with a bloody dagger in one hand and a war club in the other, is running amuck in the countries to the south of us, breathing war and desolation on all who come in his path. Many letters are received complaining of the "belligerent attitude" of the Government of the United States toward Nicaragua and Mexico.

This mistaken idea is created, of course, by the false propaganda sent out by publicity writers. Revolutionists in both Nicaragua and Mexico have their regular publicity organizations in the United States. A firm of publicity engineers, so called, is employed. These engineers map out a program for weeks ahead, embodying statements by the revolutionists, written communications to the Government of the United States, etc. All of this is carefully worked out by skilled publicity writers, and it is then fed out to the public for the purpose of creating an erroneous viewpoint.

The administration of President Coolidge maintains no belligerent attitude toward any nation. Every effort is being put forth peacefully to solve our difficulties with countries to the south of us.

If any great nation had treated American citizens and American rights as Mexico has treated our citizens and interests there would have been not only a severance of diplomatic relations but a situation bordering upon war. Our Government has been, as it should be, exceedingly patient in dealing with Mexico. It will continue and should continue every effort toward peaceable settlement of difficulties. The arbitration resolution adopted by the Senate is an illustration of this pacific policy. However, American citizens and interests must and will be protected. A government that will not protect its people is not worthy of the name. It is urged by certain radical elements that immediately the marines should be withdrawn from Nicaragua. If this should be done, within 24 hours American lives and property would be endangered. If American lives were taken, a situation would result that might easily lead to war. As a matter of fact, the presence of the marines in Nicaragua is the best guarantee for the preservation of peace and the protection of American lives. American men, women, and children by the hundreds are in Nicaragua lawfully. Upon what theory should they be abandoned to the tender mercies of revolutionists? Yet, because of the propaganda which has been circulated in the coun-

try, thousands of citizens are writing their Senators and Representatives demanding this course. If the advice were followed, and as a result American lives were lost, those very people who have demanded withdrawal of the marines would be the first to criticize the Government for its failure to protect American citizens.

Some people proceed on the theory that it is an indication of great wisdom and breadth of view to start in with the assumption that our Government and our people are always wrong and other governments and the people of other nations are always right. Why is it not safer to assume that our Government and its officers are, at least, as patriotic and as wise as other governments and citizens of other nations? They have access to sources of information of which the public can not know. Is it not safer to assume that they are doing the best that can be done, in view of all the facts? For example, an administration that would abandon the Monroe doctrine would be worthy of censure and certainly would not receive the support of the American people. Yet, if the marines are withdrawn from Nicaragua, the foreign nationals who have applied through their governments to the United States Government for protection would be left unprotected. We can not pursue the "dog in the manger" policy in Central America. If we say to Europe under the Monroe doctrine, "You must keep out," we can not in the same breath say to the people of Europe, "You can not protect your people and interests and we will not do so." In other words, the conclusion is inescapable. If the Monroe doctrine is to be maintained, there is a certain degree of responsibility resting upon the United States Government. This responsibility the administration of President Coolidge, in strictest harmony with American traditions, is seeking to maintain.

Those who are excitedly asking for the return of the marines to America evidently have not heard of the piteous appeals that come to some of us from the friends and relatives of American citizens and missionaries in China. Our Government has always been a friend to China and is now. It is willing to make the most liberal concessions as to extraterritoriality and other matters in which China is interested just as soon as a responsible government can be found in that distracted country able to guarantee the permanence of treaty pledges and furnish protection of American citizens. Until that time arrives, our Government will unhesitatingly perform its duty of protecting American citizens wherever those citizens have a right to be.

The country is rather familiar with the successful financial achievements of the last five or six years. In 1919 our debt was more than $26,000,000,000. On the 31st day of December, 1926, that debt was reduced to $19,000,000,000. In these seven years there has been on the average a reduction of $1,000,000,000 per year. No such financial policy has ever been carried out by any administration in any other country. In 1919 expenditures exceeded governmental receipts by $13,000,000,000. By 1921, through wise financial management, this deficit of $13,000,000,000 had been changed into a surplus of $86,000,000. In 1922 the surplus was $313,000,000; in 1923 it was approximately the same; in 1924 the surplus was over $500,000,000; in 1925, $250,000,000; and last year the excess of receipts over expenditures was more than $350,000,000. In other words, every year that wise Republican policies have been followed there has been a surplus of approximately $1,000,000 for every working-day in the year and the reduction of the Federal debt of a billion dollars for the year.

What has been achieved is an indication of what should be done in the present situation. Whatever surplus there may be should be applied forthwith to the important purpose of reducing the public debt and thus cutting off interest charges. Under the policy that has been followed, an annual interest charge has been reduced approximately $50,000,000 per year. At the same time the affairs of the Federal Government have been so wisely managed that in place of a per capita cost of $51 of six years ago the per capita cost of the Federal Government has been reduced to approximately $30.

These vast achievements in the fields of finance, unprecedented domestic progress, and honorable dealings with foreign nations furnish a basis for successful appeal to the American electorate.

NATIONAL-ORIGINS QUOTAS UNDER IMMIGRATION ACT

Mr. NEELY. Mr. President, I ask to have laid before the Senate a resolution which was discussed on Saturday, being Senate Resolution 362, and I ask for the immediate consideration of the resolution.

The VICE PRESIDENT. The resolution will be read for the information of the Senate.

The Chief Clerk read the resolution (S. Res. 362), submitted by Mr. NEELY on the 18th instant, as follows:

Resolved, That the President be requested, if not incompatible with the public interest, to transmit to the Senate a copy of the memorandum explaining the methods and processes employed by the six statistical experts, appointed by the Secretary of State, the Secretary of Commerce, and the Secretary of Labor, in determining the quotas on the basis of nationality of origin of the population of the United States, which accompanied the quota board's report to the Secretaries of State, Commerce, and Labor.

Mr. WILLIS. Mr. President, when the Senator from West Virginia submitted his request on Saturday I felt constrained to object to the consideration of the resolution. I have since, however, had an opportunity to examine the resolution and to confer with different members of the Committee on Immigration. I find that the resolution contains the provision that the President shall be requested to transmit the information "if not incompatible with the public interest." I think, therefore, that the terms of the resolution are sufficiently guarded, and so I withdraw my objection.

Mr. REED of Pennsylvania. Mr. President, necessarily the calculations that are called for by this resolution are extremely complicated, involving, as they do, a factor of increase in each year for about a century and a third. I do believe there will be an advantage in having the figures sent to the Senate and made public, because it is generally assumed that there is a wide margin of error in these calculations. When the figures come, however, it will be seen, I believe, that the margin of error is very slight.

Mr. NEELY. Mr. President, I trust the Senator will permit me to say that I heartily agree with the statement he has just made.

Mr. REED of Pennsylvania. I believe that it will be highly heartening to believers in this method of apportioning quotas to see with what accuracy and care the quotas have been calculated. So I shall be glad to see the resolution adopted.

The VICE PRESIDENT. Without objection, the resolution is agreed to.

LOWER COLORADO RIVER BASIN

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 3331) to provide for the protection and development of the lower Colorado River Basin.

Mr. JOHNSON. Mr. President, on Saturday last, in the 50 minutes which were allocated to me, I endeavored generally to present what is attempted to be done by the Boulder Dam project, and sought only then, in general terms, to make plain the necessity and the emergency existing and the accomplishment sought under the measure. I do not propose to-day to occupy any great amount of time, because I realize that the opponents of this measure, lacking in a majority of votes upon this floor, look to the limitations of time as their principal ally for the defeat of this great constructive work. I do desire, however, within the very few minutes I shall occupy briefly to present an answer to some of the things that have been stated regarding the design of the State of California in this bill and respecting the claims made by the State of Arizona.

Preliminarily, however, let me say that a flood in the Imperial Valley is a very different thing from a flood in any other place on earth. There may be floods in the Mississippi, floods in the Ohio, floods in the Missouri, floods in the Sacramento, upon whose banks I lived for 35 years, and, although thereby there may be destruction of property, very soon thereafter there may be a resumption of the usual activities of the people in the particular territory affected; very soon, indeed, there may be a rebuilding of those things destroyed by flood. It is not so, however, in the Imperial Valley. Once there is a flood in the Imperial Valley, located as it is 250 feet below the surface of the sea, there is annihilation, there is no remedy, no mode by which the water can be taken off or drained from the affected territory. Only evaporation, and long, long years of evaporation, will enable the land again to resume its normal condition. A flood in the Imperial Valley, therefore, is an essentially different thing from a flood in any other part of the United States.

Again, the Colorado River, vagrant as it is at certain times, torrential at others, erratic at others, carries a quantity of silt down through its channel unequaled so far as any other stream is concerned. One may perhaps visualize what this silt is, and the amount of it, when I say that annually the Colorado River carries down in silt a quantity of material equal to all of the excavations which have been made upon the Panama Canal. This will enable one to have some idea of why it is essential that works of a monumental character shall be built in that river for flood control, because the vast quantity of silt carried by the river makes it necessary not only to care for floods and torrents and the like, but to provide a mode by which the silt shall not by piling up overcome the works which shall be constructed.

Mr. President, let me call your attention to the fact, too, that the dam referred to in this bill is to be erected upon the boundary of Arizona and Nevada. It is not true that any State rights viewpoint of any man in this Chamber can be affected by this bill. It is utterly erroneous to assert that there is any endeavor by this measure, sir, to take anything that belongs to the State of Arizona or to interfere in any degree with the

laws of Arizona or the property to which Arizona may claim title. State rights are as far from this bill as is the transit of Venus itself; that doctrine has no more relation to the particular matter than any other irrelevant or any other detached proposition. The property of Arizona is taken by this bill not at all; rights of Arizona are invaded not in the slightest degree by this measure; and when the Senator from Maryland [Mr. BRUCE] asked the other evening of the Senator from Arizona if it is not a fact that California proposes to take Arizona's water without her consent, and the Senator from Arizona answered quickly that is the fact, both were absolutely and wholly in error, for this measure does not in the slightest degree impinge upon the rights of the State of Arizona; nor does California propose by this bill to take any water or anything else that belongs to Arizona of any kind or of any character at all. I can not overemphasize this fact, and a reading of the measure and an understanding of the situation and the law will demonstrate that I am entirely accurate in the assertion that I make. This bill is in accord with the constitution of the State of Arizona; it follows the enabling act of Arizona; it follows the reclamation law from which Arizona has derived so much benefit so generously extended by the United States of America; and it does naught of any kind or of any character at which Arizona really can cavil or concerning which Arizona can in the slightest degree complain.

The question of controversy, sir—and I reply to the Senator from Maryland because of the query in which he indulged and the statement which he made—between Arizona and California and Nevada is not concerning water at all. When the delegates of Arizona and California recently met in the hope of effecting a compromise and in the hope of concluding a treaty concerning the Colorado River and concerning this bill, an agreement was had at once upon the division of water.

An agreement was made between the representatives of Arizona and the representatives of California, tentative in character, it is true, but, nevertheless, there was no difficulty at all in reaching an agreement for the division of the waters in the lower Colorado River Basin, and that agreement was satisfactory to the representatives of the State of Arizona. That is not the crux of the situation. The crux of the situation lies in the desire of Arizona not to protect existing rights of Arizona but to acquire rights that Arizona has not to-day and possesses neither under her constitution nor her laws nor under the Constitution and laws of the United States of America. What Arizona asks is not a division of water, concerning which there is no difficulty and no disagreement at all, for California yields whatever may be desired in that regard—what Arizona asks is money, revenue from the work that is to be done by the United States of America in the erection of this dam and in the generation of electric power therefrom. That is the crux of this situation; not the waters of the Colorado at all. When I tell you, Mr. President, that at the last meeting that was had between the representatives of Arizona and California, Arizona asked substantially $6,000,000 a year before she would agree to come in and aid in the passage of this measure, you will have some understanding of just where the difficulty arises in this bill so far as Arizona is concerned, and you may dismiss forever from your mind the theory that has been advanced here that a State of little population and little power is being imposed upon or coerced by one of greater population and of greater power.

The crux is the money to be derived; and money is asked either in the right of the State to tax what the United States itself constructs or as a royalty to the State upon power generated by the United States. The United States Government, first, can not, of course, establish the precedent of permitting a royalty upon power generated by the United States Government, and secondly, it can not and will not permit—and the decisions are uniform in that regard—the taxation by the State of a Federal project such as is designed by this bill.

Under this bill, sir, we make the entire project a part of the reclamation law. This is a reclamation measure; and by section 13 of the bill it is distinctly provided:

> This act shall be deemed a supplement to the reclamation law, which said reclamation law shall govern the construction, operation, and management of the works herein authorized, except as otherwise herein provided.

The very first section to the act provides for what purposes the act is presented and what are its designs. The act itself says:

> That for the purpose of controlling the floods and regulating the flow of the lower Colorado River, providing for storage and delivery of the waters thereof for reclamation of public lands and other beneficial uses within the United States, and for the generation of electrical energy as a means of making the project herein authorized a self-supporting and financially solvent undertaking, the Secretary of the Interior is hereby authorized—

And so forth.

First, we provide for flood control and river regulation.

Secondly, we provide for irrigation and domestic use.

And, thirdly, after providing for these, we provide for the by-product of the bill—power out of which the project may be paid for.

I repeat to you that this is a reclamation measure, made so by section 13 of the bill. Adverting, then, to section 8 of the reclamation law, let us see how much there is in this statement that is made about appropriating the water of Arizona and taking the property of that State.

Section 8 of the reclamation act provides:

> That nothing in this act shall be construed as affecting or intended to affect or to in any way interfere with the laws of any State or Territory relating to the control, appropriation, use, or distribution of water used in irrigation, or any vested right acquired thereunder, and the Secretary of the Interior, in carrying out the provisions of this act, shall proceed in conformity with such laws, and nothing herein shall in any way affect any right of any State or of the Federal Government or of any landowner, appropriator, or user of water in, to, or from any interstate stream or the waters thereof.

So, first, our act is a reclamation act.

Secondly, under the reclamation law we can no more affect the rights of Arizona in the waters that flow through Arizona than we could affect the title of any Arizona resident to any particular property. In passing, I may remark that it is entirely a misnomer to say that Arizona or any other State in the West, after all, has title to water. Under western law, the appropriator of water has a title to the use when the application is beneficially made of the water that he thus appropriates; but to talk of title of the State to water is entirely a misapprehension and misapplication of terms.

Mr. PITTMAN. Mr. President——

Mr. JOHNSON. I yield.

Mr. PITTMAN. Let me call attention to the fact that the water is taken out of the Colorado River where it is the boundary line between the State of California and the State of Arizona.

Mr. JOHNSON. Nevada and Arizona.

Mr. PITTMAN. Where the water is taken out of the river, where it is diverted from the river, it is between the States of California and Arizona.

Mr. JOHNSON. Oh, yes.

Mr. PITTMAN. If the theory of Arizona is correct—and I am inclined to think the theory is correct—that the river is a navigable river, and the State of Arizona has sovereignty over the bed of the river to the center of the river, and the State of California has sovereignty over the bed of the river to the center of the river, and each State has sovereignty over the running water for the purpose of controlling its diversion, we arrive at this situation: That both the States of Arizona and California have a right to control the diversion of that water at that point. I know of no law that would prevent California from diverting as much water as it wanted to divert from the California side, or that would prevent Arizona from diverting as much water as it wanted to divert from the Arizona side; and as far as the diversion by this proposed dam is concerned, I know of no way by which either Arizona or California could get the best of it.

Mr. JOHNSON. I thank the Senator from Nevada. Not only that, but when the Senator from Arizona talks of "Arizona's waters," he forgets what water it is that will be stored at this particular dam. He states that 28 per cent of the water of the Colorado emanates in the State of Arizona. The experts tell me that he is mistaken in that; that it is 18 per cent; but I care not whether it be 18 or whether it be 28 per cent. The fact of the matter is that the water that will be impounded at the dam at Boulder Canyon is water that comes from the flood waters of the upper basin States, and Arizona does not contribute to exceed 5 per cent of that water. All of it comes from the upper-basin States. They are interested, of course, in preserving their rights to water if they can; and we have endeavored to write this bill around the pact that was made for the benefit of the upper-basin States. You must understand that there are seven States that are interested in the Colorado River—four that are designated upper-basin States; three that are designated as lower-basin States.

The upper-basin States are Utah, Colorado, New Mexico, and Wyoming. The lower-basin States are Arizona, Nevada, and California. The upper-basin States are in quite a different situation from the lower-basin States, and by reason of the law of appropriation for beneficial use the upper-basin States

are constantly in fear that the water will be so legally appropriated below that a sufficient amount will not remain for their needs; and, because of that, the upper-basin States have sought what is termed the Colorado River compact, and these upper-basin States have written into this bill many amendments designed to protect them and designed to give them the water that shall be required by them in the years that are to come and that is required by them for their present necessities and their present uses. Indeed, I may say that every amendment submitted by the upper-basin States before the Committee on Irrigation and Reclamation was written into this bill and is in it to-day; and the provisions of this measure which apparently are designed to underwrite the seven-State Colorado River pact are provisions that are written into the bill at the instance of the upper-basin States.

Returning for the moment to the claim of the State of Arizona, the claim that we take Arizona's water, let me impress upon you again that there is really no controversy between Arizona and California in respect to water. Let me impress upon you again that the representatives of Arizona and California had no difficulty in agreeing upon a division of the waters of the Colorado River. I have before me the statement of the proceedings of those representatives, in which Arizona was accorded everything that Arizona asked in the division of the waters of the Colorado River, California readily according it, and in which also it appears that after the tentative agreement concerning the waters of the Colorado River the one difficulty existed in the payment of money that Arizona demanded because of power generated by the United States Government at Boulder Dam under this bill. That is the crux of this situation with Arizona—that, and that alone.

To say to us that we have no authority under the law to do as we seek to do under this bill is, it seems to me, to deny the enabling act of the State of Arizona, to deny its very constitution itself.

I have called your attention to the fact that this bill is made a part of the reclamation law; that the reclamation law specifically protects each State in its water rights and in the rights of the citizens of those States to water. Now, let us see, sir, just exactly what has been enacted by the State of Arizona concerning waters, concerning reclamation, concerning power sites.

Remember that in Arizona to-day there are perhaps some of the very finest reclamation projects that exist in all the United States. No question has ever been raised by Arizona concerning the generosity of the Government or the activity of the Government in respect to those particular reclamation projects. Now, when it is sought to make a wasteful torrent finally subservient to the uses of mankind; now, when it is sought finally to make of the Colorado River the national asset that the Secretary of the Interior says that it should be made; now, sir, when finally it is sought with this river to rescue the people of the Imperial Valley, and to give to the cities of southern California water for domestic use; now, sir, when without the investment of a penny we can have a going concern that will be administered in solvent fashion and pay for itself; it is now, when the United States Government is about to intervene in behalf of its people, as it has a right under its constitution and under the laws of Arizona to do; it is now that Arizona says, "You shall not be permitted to harness this river; you shall not be permitted to rescue your people; you shall not be permitted to take this wasteful element and make it useful to all the United States of America, unless you pay to Arizona a royalty upon power or pay to Arizona a tax upon property of the United States." The United States has ever refused to pay such a royalty or to permit taxation thus of its property.

Let me read to you, sir, the enabling act of Arizona.

Section 20 of the enabling act relating to the convention for the formation of a constitution for the proposed State of Arizona required that—

> said convention shall provide, by ordinance irrevocable without the consent of the United States and the people of said State * * *
>
> Second. That no taxes shall be imposed by the State upon lands or property therein belonging to or which may hereafter be acquired by the United States or reserved for its use.

Read the minority report of the distinguished colleague of the Senator from Arizona that is filed in the House. In substance, as I understand him, he would tax this particular project for the benefit of Arizona. An amount equal to taxes that would be paid by private individuals is what he demands before he, as a Representative of Arizona, would consent to the passage of this bill.

The provision for exemption from taxation I have read was carried into the constitution of Arizona as the fifth section of article 20.

The constitutional convention was also required, by section 20 of the enabling act, to provide by like ordinance as follows:

> Seventh. That there be and are reserved to the United States, with full acquiescence of the State, all rights and powers for the carrying out of the provisions by the United States of the act of Congress entitled "An act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands," approved June 17, 1902, and acts amendatory thereof or supplementary thereto, to the same extent as if said State had remained a Territory.

Under the reclamation law Arizona, in its enabling act, reserved to the United States all the rights and powers which the United States had under that law. Section 13 of our act, as I have repeatedly said, provides that the act shall be a part of and supplementary to the reclamation law.

This provision, reserving to the United States all rights and powers for carrying out the act of Congress above referred to, was carried into the constitution of Arizona as the tenth section of Article XX.

Section 28, sixth paragraph, of the enabling act provides as follows:

> There is hereby reserved to the United States and excepted from the operation of any and all grants made or confirmed by this act to said proposed State all land actually or prospectively valuable for the development of water powers or power for hydroelectric use or transmission and which shall be ascertained and designated by the Secretary of the Interior within five years after the proclamation of the President declaring the admission of the State; and no lands so reserved and excepted shall be subject to any disposition whatsoever by said State, and any conveyance or transfer of such land by said State or any officer thereof shall be absolutely null and void within the period above named; and in lieu of the land so reserved to the United States and excepted from the operation of any of said grants there be, and is hereby, granted to the proposed State an equal quantity of land to be selected from land of the character named and in the manner prescribed in section 24 of this act.

The twelfth subdivision of Article XX of the constitution of Arizona, entitled "Ordinance," provides:

> Twelfth. The State of Arizona and its people hereby consent to all and singular the provisions of the enabling act approved June 20, 1910, concerning the lands thereby granted or confirmed to the State, the terms and conditions upon which said grants and confirmations are made, and the means and manner of enforcing such terms and conditions, all in every respect and particular as in the aforesaid enabling act provided.

Now, let us look for a moment at the constitution of Arizona. Section 5 of Article X of the constitution, which deals with State and school lands, provides as follows:

> SEC. 5. No lands shall be sold for less than $3 per acre, and no lands which are or shall be susceptible of irrigation under any projects now or hereafter completed or adopted by the United States under legislation for the reclamation of lands, or under any other project for the reclamation of lands, shall be sold at less than $25 per acre: *Provided*, That the State, at the request of the Secretary of the Interior, shall from time to time relinquish such of its lands to the United States as at any time are needed for irrigation works in connection with any such Government project, and other lands in lieu thereof shall be selected from lands of the character named and in the manner prescribed in section 24 of the said enabling act.

Section 6 of the same article provides as follows:

> SEC. 6. No lands reserved and excepted of the lands granted to this State by the United States, actually or prospectively valuable for the development of water power or water for hydroelectric use or transmission, which shall be ascertained and designated by the Secretary of the Interior within five years after the proclamation of the President declaring the admission of the State, shall be subject to any disposition whatsoever by the State or by any officer of the State, and any conveyance or transfer of such lands made within said five years shall be null and void.

Article 20, subdivision 4, reads:

> Fourth. The people inhabiting this State do agree and declare that they forever disclaim all right and title to the unappropriated and ungranted public lands lying within the boundaries thereof, and to all lands lying within said boundaries owned or held by any Indian or Indian tribes, the right or title to which shall have been acquired through or from the United States or any prior sovereignty, and that, until the title of such Indian or Indian tribes shall have been extinguished, the same shall be and remain subject to the disposition and under the absolute jurisdiction and control of the Congress of the United States.
>
> Fifth. The lands and other property belonging to citizens of the United States residing without this State shall never be taxed at a

higher rate than the lands and other property situated in this State belonging to residents thereof, and no taxes shall be imposed by this State upon lands or property situated in the State belonging to or which may hereafter be acquired by the United States or reserved for its use; * * *

Tenth. There are hereby reserved for the United States, with full acquiescence of this State, all rights and powers for the carrying out of the provisions by the United States of the act of Congress entitled "An act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands," approved June 17, 1902, and acts amendatory thereof or supplementary thereto, to the same extent as if this State had remained a Territory. * * *

Twelfth. The State of Arizona and its people hereby consent to all and singular the provisions of the enabling act approved June 20, 1910, concerning the lands thereby granted or confirmed to the State, the terms and conditions upon which said grants and confirmations are made, and the means and manner of enforcing such terms and conditions, all in every respect and particular as in the aforesaid enabling act provided.

I read these provisions of the enabling act and the provisions of the constitution, so that even were there any validity in the claim that is made by the Senator from Arizona his own laws and his own constitution would justify exactly what is being proposed here. But were there no provisions in the constitution of Arizona, were there no provisions of the enabling act, under this bill can be done by the United States Government exactly what it sees fit to do on either the theory announced by the Senator from Arizona that this is a navigable stream, or upon the theory that it is an unnavigable stream. I care not which it be. I presume it will be asserted to be navigable, because at some time in the distant past some individual may have escaped with his life in going down through this particular territory. It reminds me, indeed, of the gentleman who claimed Niagara Falls to be navigable, because he said that a man went over the Falls in a barrel.

Whatever may have been the fact long in the past, the fact is that to-day it is not navigable in the particular territory that is affected by this bill. But I care not whether it be navigable or whether it be innavigable. Under either horn of the dilemma we have the right to construct the particular works provided for by this bill. We have the right under the Constitution, if it be a navigable stream, to do whatever may be essential for flood control and in aid of navigation, and that navigation is not the primary purpose of the construction of the work is of no consequence. If the works be in aid of navigation, if they be for flood control, and it be a navigable stream, the United States Government has the right to do exactly what we assert, and has the right notwithstanding the claims of Arizona. Already we have seen that the laws of Arizona, the enabling act, the Constitution, yield these lands to the United States of America. Of course, that, if it be true, settles the whole question; but if it be controverted, we may eliminate that; and, saying that the stream is navigable, the United States Goverment has the right to construct these works for flood control; or, if it be innavigable, of course the title to the land and the bed of the river not being in Arizona, the United States Government has the right to do exactly as it sees fit. So either the one horn or the other may be taken by the gentleman. It makes little difference to me.

He says the river was navigable at one time. We know it is not now. We know that it is an utter and absolute impossibility, as a matter of fact, to navigate the river at this particular point or at these particular points at this time.

We know, too, that if this dam be constructed a lake 80 or 100 miles in extent will be constructed back of the dam, which will render the waters navigable, and the regulated flow of the river below will render the waters navigable there. But if it be innavigable—I do not like that word particularly, but it seems as if the text writers and others delight in using it—if it be innavigable, then, of course, there is no question whatsoever, notwithstanding what the claims might be upon the one side or the other.

Mr. President, I do not like to occupy the time unduly or at all in relation to this bill. It is an emergency measure; it is a measure that represents study for an extended and a long period of time. It is a measure which means so much that it ought to be understood by this body and ought to be passed without delay. I can do it no greater disservice, it seems, than to occupy time even in a legitimate discussion of its merits.

I stand ready to answer any question of any kind that may be propounded by any Senator upon this floor. I stand ready to reply to any interrogation, whether it be as to law or fact, whether it be as to emergency or otherwise, whether it be as to the justice of the bill in relation to the State of Arizona or in relation to the State of California. I submit myself to the Senate of the United States for any query that may be propounded. I cease argument and I cease dealing with the measure because of the limitations of time, these limitations being the one and only ally of the opponents of the bill, and I cease in order that there may be action upon the measure at the very earliest possible moment.

Mr. ASHURST. Mr. President, at this juncture I request the clerk to read Senate Joint Memorial No. 1, which recently passed both houses of the Legislature of the State of Arizona.

The PRESIDING OFFICER (Mr. ODDIE in the chair). The clerk will read as requested.

The legislative clerk read 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 further 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 request 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.

Mr. PITTMAN. Mr. President, will the Senator yield to me before he proceeds?

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

Mr. ASHURST. I yield.

Mr. PITTMAN. I merely wish to give notice that if the Senator from Arizona shall conclude his address to-day, with the consent of the Senate, it is my intention to discuss this subject to-morrow morning. That naturally depends, however, entirely upon whether the Senator from Arizona shall finish to-day.

Mr. ASHURST. If the Senator wishes to speak to-day, I shall yield the floor to him.

Mr. PITTMAN. No; I do not care to speak now; the Senator is proceeding; but I will be ready to-morrow morning, and if at that time the Senator shall not have completed his address, of course, I can wait until he has done so.

Mr. ASHURST. Mr. President, I should not wish the Senator to gather the impression I shall finish to-day.

Mr. President, I ask the Secretary to read an opinion rendered by a prominent law firm in Arizona, Messrs. Kibbey, Bennett, Gust, Smith & Lyman.

I also ask that the Secretary read a statement by Mr. Thomas Maddock.

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

The Chief Clerk read as follows:

PHOENIX, ARIZ., *December 29, 1926.*

Mr. F. A. REID,
Heard Building, Phoenix, Ariz.

DEAR SIR: Our answers to your questions relative to the proposed Colorado River compact are as follows:

1. Upon the ratification of said compact by each of the States party thereto and by Congress, the apportionment of the waters of the Colorado River system therein made will become effective and enforcible according to the terms thereof, and the United States, each of the States, and the municipalities and citizens of each of these States, will be bound thereby and will be able to obtain relief from the provisions of said compact relating to apportionment of water only by consent of Congress and of each of the States party to the compact.

2. The waters apportioned by article 3 of said compact are apportioned from the "Colorado River system." By article 2 of said compact the term "Colorado River system" is defined as "that portion of the Colorado River and its tributaries within the United States of America." The apportionment of 7,500,000 acre-feet to the lower basin, therefore, includes the waters of the Gila, Bill Williams, Little Colorado, and Virgin Rivers, as well as all other waters that naturally flow into the Colorado between Lee Ferry and the international boundary. We use the figure 7,500,000 rather than 8,500,000 acre-feet for the reason that it is not clear to us whether the provision for the additional 1,000,000 acre-feet authorizes an increase over the 7,500,000 acre-feet or merely an increase of the appropriation existing at the date of said compact.

3. Existing rights to water from the Colorado River system will not be destroyed by the ratification of said compact. Until storage capacity of 5,000,000 acre-feet is provided on the main Colorado River within or for the benefit of the lower basin, rights perfected in the several States at the date of said compact will prevail according to their priority as if no compact had been made. After the aforesaid storage capacity has been provided the appropriations in each basin will be limited to the waters apportioned to said basin and the present perfected rights from the main Colorado in the lower basin will attach to and must be satisfied out of such stored water. This does not increase the amount of water apportioned to the lower basin, but permits the upper basin to take its water to the extent it desires at the low stages of the river, even to the extent of taking the whole stream flow and compelling the lower basin to supply its appropriations from the main Colorado at low stages of the river out of the stored supply.

4. Priority of appropriations, whether perfected or inchoate among the States of the lower basin, will not be affected by the ratification of the proposed compact. If the existing appropriations in those parts of the States of Arizona, California, Nevada, New Mexico, and Utah, which lie within the lower basin, require all of the water apportioned to the lower basin, no further appropriation can be made from the Colorado River system in the lower basin. Under the express provision of article 3 of said compact the additional waters above the apportionment are subject to disposal as follows: (a) By treaty to Mexico; (b) after October 1, 1963, to further apportionment with the consent of each of the signatory States and Congress. Independent of any provision of said compact, such additional waters will be subject to appropriation in Mexico. This necessarily follows, because Mexico will not be a party to the compact and will not be limited thereby, and upon the fundamental principles of equity and justice applied by the Supreme Court of the United States to appropriations from interstate streams which are undoubtedly a part of the law of nations, the United States recognizing and asserting the right of prior appropriation will not be in a position to deny the same right to a neighboring nation. Our statement that the additional waters above those apportioned will not be subject to appropriation does not necessarily mean that the lower basin States will not be permitted to use such waters until other disposition is made thereof under the compact. On general principles such temporary use would be permitted, but the said compact plainly does not contemplate that any rights whatever will be gained by such temporary use, and it may well be said that the acquisition of any temporary right is impliedly prohibited by the compact. In any event such temporary use, if permitted at all by the compact, will be subject to termination at any time when other use or disposition of said water is made under the terms of the compact.

5. Your question as to the effect of the compact on the desire of the city of Los Angeles to obtain a substantial quantity of water from the Colorado River for its municipal purposes presents several interesting questions. Your assertion that the States of Arizona, California, Nevada, New Mexico, and Utah have already appropriated the full quantity of water to which the lower basin will be entitled under the compact is accepted by us without question, because we know of no one better qualified to speak authoritatively with respect to this question than yourself. It follows from this premise that the city of Los Angeles can acquire no valid appropriation from the Colorado River system after the compact is ratified. Assuming that it may make temporary use of the waters available above those apportioned by the compact, such temporary use will certainly be subject to termination at any time by treaty with Mexico, and will probably be subject to termination by appropriation in Mexico without the aid of treaty, for the reason that the State of California will be in the position of having bound itself by solemn compact not to appropriate these waters, and Mexico will be bound by no agreement limiting her right to appropriate such waters. Such temporary use of said surplus water will also be subject to termination after October 1, 1963, by a supplemental apportionment under the compact. Since the existing appropriations of the Yuma and Imperial Valleys attach to the stored water under the compact, any right the city of Los Angeles can acquire to the waters of the Colorado River will be expressly subject to such rights of the Yuma and Imperial Valleys. If there should be sufficient stored water available to supply the needs of Los Angeles after taking care of the prior Yuma and Imperial Valley rights, and Los Angeles should proceed to construct its works at great expense and divert such surplus waters from the Colorado River, the Yuma and Imperial Valleys would be precipitated into a fatal conflict with Los Angeles whenever other disposition of the surplus waters of the Colorado River should be made to Mexico or the other States under the provisions of the compact or such surplus water should be appropriated by Mexico.

6. Your suggestion that the proposed compact is essentially a limitation upon the benefits to be derived by Arizona and California from

the Colorado River is correct. Said proposed compact undoubtedly limits the water available from the Colorado River for the benefit of the States of Arizona and Colorado as against the upper-basin States, and also limits the rights of the States of Arizona and California to the waters of the Colorado River as against Mexico.

The general plan of the compact which apportions a certain number of acre-feet from the Colorado River system to the upper basin and a certain number of acre-feet to the lower basin—the aggregate of the two apportionments being less than the total amount of water produced by the system and binds the several States to make no further appropriations from said system until the year 1963—seems to be in effect a setting aside of all of the remainder of the water produced by the system to Mexico and to be in the nature of a suggestion to the treaty-making powers of the United States to deliver to Mexico the surplus of such waters. This is a phase of the compact that has not received the consideration that should be given to it. It would seem desirable that the proposed compact be rewritten so as to divide between the upper and lower basins the total water produced by the system with a provision that if any of the same is delivered to Mexico by the treaty-making power, each of the basins will contribute their pro rata part of the amount so delivered to Mexico.

Very truly yours,

KIBBEY, BENNETT, GUST, SMITH & LYMAN.
By J. L. GUST.

STATEMENT OF MR. THOMAS MADDOCK

1. The bill would create a storage reservoir which would automatically increase the river's flow of water, permitting Mexico to increase her irrigated acreage beyond the 300,000 physical and contractual limitation existing at present without notifying Mexico that her moral claims to water shall not extend to that which is created by storage within the United States.

2. The bill confirms the error made at Santa Fe of limiting the consumptive use in the lower basin to 8,500,000 acre-feet, which stops further development, as there will be more than this amount required for projects now built or under construction.

3. The bill, by granting unlimited time to the States of the upper basin for their slow development and subsidizing the California development, would force Arizona to bear all the shortage that exists in the entire Colorado River Basin between the land which is susceptible of irrigation and the available water supply.

4. The bill would compel the sovereign State of Arizona to accept a law not general in character which two of our legislatures have refused to ratify.

5. The bill is contrary to the recent decision of the Supreme Court which established the law of prior appropriation and beneficial and economic use (Colorado-Wyoming), as it abrogates it between basins and nullifies it within the lower basin by a subsidy which destroys the equality of opportunity for development by economic competition.

6. The bill pretends to favor ex-service men in securing land while really advancing the development of a project, of which most of the land is in private possession, against other projects which have a greater proportion of land still owned by the Federal Government. (Sec. 9.)

7. The bill seeks to use Liberty loan laws passed in a war emergency to finance a project unable to secure a national appropriation. (Sec. 2F.)

8. The bill uses the natural resources of Arizona and Nevada to develop California, leaving those of Utah, Colorado, New Mexico, and Wyoming for the benefit of citizens of those States.

9. The bill compels pumping projects in Arizona and Nevada, to pay part of the cost of gravity projects in California.

10. The bill permits the Secretary of the Interior to waste water for power production that may be needed for irrigation. (Sec. 6.)

11. The bill creates a unit of construction which will not be an economic part of the complete development of the river. (See testimony of Federal engineers, La Rue, Kelly, Merrill, Stabler, and Secretaries Weeks, Wallace, and even Work.)

12. The bill provides water storage at a place of large evaporation due to low altitude and latitude and provides for irrigating the land which is the greatest possible distance from water origin, thus entailing a maximum evaporation loss in transit.

13. The bill is discriminatory between States in that it gives the canals and power plants developed in California to the people of that State while retaining title to dams built in Arizona and Nevada by the Federal Government.

14. The bill is discriminatory in authorizing a six-State compact to control the water of seven States by providing that California must be one of six consenting States (sec. 12) and allowing all of the seven Colorado River Basin States a veto except Arizona. (Sec. 4.)

15. The bill attempts to validate a contract for unlimited water for the Imperial Valley which California can not secure if limited to the utilization of her own natural resources. (Sec. 10.)

16. The bill will result in endless litigation as it probably violates the United States Constitution.

Article I, section 8, paragraph 1, says taxes shall be uniform. The bill taxes Arizona and Nevada resources to pay for California development.

The tenth amendment provides that powers not delegated to the United States by the Constitution were reserved to the States. The Nation had to go to the States for authority to handle prohibition, income taxation, and suffrage. In this bill the Nation would usurp the State right to the water and power of its rivers without any specific constitutional authority permitting such action.

Article I, section 8, paragraph 2, gives Congress power to borrow money on credit of the United States, not on water-power development.

Article I, section 8, paragraph 17, permits Congress to declare war, provides for docks, arsenals, and other buildings limited by the State legislatures' consent to purchase of necessary land. It does not authorize the building of dams, canals, etc., by the Federal Government without the consent of the State. Such consent heretofore has been considered necessary.

17. The bill would permit the city of Los Angeles to make power investments in Arizona and Nevada exempt from taxation by these States while that city now pays taxes on her water aqueduct to California counties which it traverses.

The above does not exhaust the reasons for opposition to this bill but should be sufficient to warrant Arizona's opposition to it.

* * * * * * *

THOMAS MADDOCK.

Mr. ASHURST. Mr. President, the region drained by the Colorado River and its tributaries, known as the Colorado River Basin, is about 900 miles long, from 300 to 500 miles wide, and embraces 251,000 square miles, an area larger than Georgia, New York, North Carolina, Pennsylvania, and Virginia combined.

The Colorado River proper is formed by the junction of the Green and the Grand; the name of the Grand was by act of Congress approved the 25th day of July, 1921, changed to the Colorado. Green River from its source to its junction with the Grand is 700 miles long. The Grand River from its source to its junction with the Green is about 450 miles long.

Green River heads near Fremont Peak in the Wind River Mountains, Wyoming, in a group of alpine lakes fed by perpetual snows. The source of the Grand is in Colorado. Like the Green, it is fed by small alpine lakes that receive their waters directly from snow banks. Including the Green, the Colorado River is about 1,700 miles long and empties into the Gulf of California in latitude 31° 53′ and longitude 115°.

The Colorado River enters Arizona from Utah near what is called the Crossing of the Fathers and flows in Arizona on a meandered line 330 miles to the Arizona-Nevada State line, in Iceberg Canyon. From this point the river forms the western boundary line of Arizona on a meandered line for 400 miles, to the point where it intersects the boundary line between Arizona and Old Mexico.

The Colorado River Basin—that is to say, the region traversed by this river and drained by its tributaries—contains mountains reaching to a height of 13,500 feet, belted at the base by forests of vivid green, and capped with gleaming snow; it contains playas and inland lakes below the level of the sea; it contains vast plateaus of rugged, black scoria; immense forests of pine, cedar, and pinion, and in these forests are hundreds of small parks, bowl-like gems of exquisite scenery; it contains the largest area of recent volcanic action to be found on the continent, "recent" being employed in its geological sense. It contains a real desert where the raw and scorching sun comes down as a pitiless flail, where the sand reflects the heat and glare and distresses the eye of the traveler, and where little dew or moisture is deposited, but where a wind, hot as a furnace blast, sometimes blows from the south.

Before a railroad was built through it a journey over this desert was at times dangerous and always fraught with discomfort. Day after day nothing was to be seen but an expanse of hot sand, with now and then a cactus lifting its thorny arms into the brazen gloom. The loneliness of the pioneer pilgrim there seemed to sever him from human things and to remove him an infinite distance from the world, with its interests and its occupations, but nature, in one of her capricious moods, also placed in this same basin the richest agricultural lands in the Western Hemisphere.

In some parts of this basin, which were populous before the pyramids were built, ancient peoples builded cities not wholly lacking in grandeur. These peoples of antiquity wove and spun cotton and flax into gaudy tapestries before Romulus and Remus were suckled. They melted gold and silver into chieftain's ornaments and queens' girdles before Cæsar's legion brought tribute back to imperial Rome.

Centuries before the Knickerbocker set foot on Manhattan Island, tribes of men now vanished irrigated the fertile sands of the lower basin of the Colorado River from canals and reser-

voirs finished with hard linings of tamped or burnt clay which in some degree possessed the endurance of our modern concrete. The origin of this people is enwrapped in the mists of antiquity. Nothing has been found of sufficient distinctiveness to enable us to do more than speculate and form ingenious theories as to whence they came, how long they enjoyed their tolerable civilization, and whither and why they went.

Within this basin and in Arizona is the Petrified Forest, whose trees lived their green millenniums and put on immortality in Triassic time, 7,000,000 years ago. The trees were of several kinds, most of them being related to the Norfolk Island pines. A small amount of iron oxide is distributed through the logs, which gives them their beautiful yellow, brown, and red tints.

Within the region traversed by the Colorado River and drained by its tributaries is the Painted Desert, in which at a distance you perceive the "sea of jasper" and the face of cliffs that gleam like jewels; you seem to descry fortifications with flags flying on their ramparts, and walled towers on conical hills amidst an admixture of light and shade.

Within this basin and in Arizona is the Grand Canyon, of wondrous colors, of bold escarpments, pyramids, swelling domes, mosques, minarets, and isolated mesas through which rolls and tumbles the Colorado River.

On the 5th day of January, 1886, in the Forty-ninth Congress, the first bill to make the Grand Canyon a national park was introduced in the Senate by the late ex-President Benjamin Harrison, then a Senator from Indiana. This bill failed to become a law, and the project was presented to the Congress from time to time since 1886.

In the Sixty-fifth Congress I introduced a bill to make the Grand Canyon a national park. The bill was referred to Secretary of the Interior Lane for a statement of the facts relating to the subject, and in the Secretary's report to the committee he states as follows:

> It seems to be universally acknowledged that the Grand Canyon is the most stupendous natural phenomenon in the world. Certainly it is the finest example of the power and eccentricity of water erosion, and as a spectacle of sublimity it has no peer.
>
> It would be futile to attempt to describe the Grand Canyon. However, a review of a few facts with relation to the canyon would be pertinent to a report of this character.
>
> The Colorado River, which flows through the gorge, drains a territory of 300,000 square miles, and it is 2,000 miles from the source of its principal tributary to its entrance into the Gulf of California. It is one of America's greatest rivers. It is proposed by this bill to establish a national park at the point in the river's course where it has worn a channel more than a mile deep. This enormous gulf measures occasionally 20 miles across the top.
>
> The sides of the gorge are wonderfully shelved and terraced, and countless spires rise within the enormous chasm, sometimes almost to the rim's level. The walls and cliffs are carved into a million graceful and fantastic shapes, and the many-colored strata of the rocks through which the river has shaped its course have made the canyon a lure for the foremost painters of American landscapes.
>
> * * * * * * *
>
> It seems that the Grand Canyon, therefore, is entitled to the same status and to an equal degree of consideration by Congress as are enjoyed by Yellowstone, Yosemite, and the other great national parks which contain natural phenomena of the first order, and I heartily recommend immediate favorable action looking toward the enactment of this bill.

The bill passed both Houses of Congress and was approved by President Wilson on the 26th day of February, 1919.

The Grand Canyon National Park represents an area of approximately 950 square miles, a greater part of which is within the walls of the canyon.

FUTURE OF THE COLORADO RIVER BASIN

What is to be the future of the Colorado River Basin, a country larger in area than the tract of land which Virginia, with princely liberality, ceded to the General Government in 1787, out of which five States were erected?

Of course, its forests will be utilized, its mineral wealth will be sought, its scenic beauties will be unfolded; but its greatest development must come from its water resources, upon which the development of its other resources must largely depend. Without the water afforded by Colorado River and its tributaries, vast tracts of its land would remain unproductive and practically useless; but the Hand that formed this land, cleft its mountains in twain, filled their caverns with precious metals, painted its landscapes in colors warranted never to fade, and that replenishes this river left it feasible for man not only to construct large irrigation systems and to build towns, cities, and prosperous agricultural communities within this basin, but to generate hydroelectric power for lighting, heating, industrial uses, and the transportation of freight and passengers.

In discussing the broader possibilities and problems of the Colorado River Basin there are hundreds, even thousands, of minor yet important possibilities of expansion that I necessarily must leave unmentioned, although these future minor auxiliary developments will have much local importance and in the aggregate true natural significance. In general such minor or auxiliary projects do not preclude the larger use of the river, but must be undertaken as part of that larger use.

The record of accomplishment of the United States Reclamation Service enriches the annals of the American people. Irrigation projects charm the imagination with their wizardry. Their power of transforming barren deserts into grain and cotton fields, into orchards and vegetable and flower gardens makes the lamp of Aladdin and the purse of Fortunatus seem tame and prosaic. The wildest hyperbole would not overestimate the strength, wealth, beauty, comfort, and public order that would be added to this Nation were all the unemployed agencies of the Colorado River utilized.

In order more readily to comprehend the potentialities of the Colorado River, it may be helpful at this point to translate some technical terms into common expressions.

One second-foot is a flow of 1 cubic foot of water per second.

One acre-foot is a volume of water sufficient to cover 1 acre 1 foot deep; 16,400,000 acre-feet of water would submerge the District of Columbia over 400 feet.

A horsepower is a rate of work equal to lifting 33,000 pounds 1 foot per minute. Originally based on observations of dray horses, it greatly exceeds the average performance of an ordinary horse.

The combined peak demand on all power plants in the District of Columbia in 1920 was 95,000 horsepower.

The total development at Niagara in 1916 was 575,000 horsepower.

The installed substation capacity on the Chicago, Milwaukee & St. Paul Railway electrification is 180 horsepower per mile.

At 200 horsepower per mile, 4,800,000 horsepower would serve 24,000 miles of electrified railroad, which roughly approximates the total railroad mileage in Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming.

POWER

A vast amount of power is dissipated in the fall of the Colorado River. Imaginative France calls water power "white coal," and this brilliant characterization suggests a coal free from dust, cheaper, easier handled, a supply inexhaustible, which after used flows on to the projects below and may be used again and yet again.

Thus on the main stream of the Colorado River below the junction of the Green and the Grand known power sites on the river have 6,000,000 potential horsepower, and of this 6,000,000 potential horsepower 4,000,000 thereof would be developed and generated in the State of Arizona.

The percentage of water which the States within the Colorado River Basin contribute, respectively, to the Colorado River is about as follows:

	Per cent
Arizona	28
California	00
Colorado	53.7
Nevada	.3
New Mexico	1
Utah	7
Wyoming	10
Total	100

Mr. President, the figures as to the percentages of water supplied to the Colorado River by these various States have been furnished to me by an authority which I deem to be correct, but there is no man, no matter whom he may be, who can with precision and definiteness say exactly how much water each State contributes. The only point upon which we may be exact and upon which all authorities agree and upon which there is no dispute is the assertion that California contributes no water whatsoever to the river.

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

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

Mr. ASHURST. I yield.

Mr. KENDRICK. I want to ask the Senator from Arizona if there is not a general agreement on another point, and that is that the upper-basin States contribute about seventy-nine and a fraction per cent of the total flow of the river?

Mr. ASHURST. I have no desire to expand the figures with respect to the percentage which Arizona furnishes. It would

ill-become me to do so. It is a matter of general belief that the upper-basin States do not furnish quite the proportion the able Senator indicates.

According to the figures which I have assembled—and I have been some three years from time to time trying to assemble these figures—Arizona furnishes 28 per cent, California 0 per cent, Colorado 53.7 per cent, Nevada 0.3 per cent, New Mexico 1 per cent, Utah 7 per cent, and Wyoming 10 per cent, making 100 per cent.

Mr. KENDRICK. The figures given me by the Department of the Interior, I believe, are substantially the same as those presented here by the Senator from Arizona but differing in so far as the full amount furnished by the upper-basin States, which is estimated by the department to be 79 and a fraction per cent.

Mr. ASHURST. Let me say in reply to the able Senator that, running through a cycle, doubtless there have been years when the upper-basin States in some particular year furnished 79 per cent, so the Senator has some basis for his statement, considering especially that California furnishes nothing and that Nevada furnishes but three-tenths of 1 per cent of the waters.

I now read the following letter, which is self-explanatory:

UNITED STATES DEPARTMENT OF THE INTERIOR,
GEOLOGICAL SURVEY,
Washington, April 2, 1926.

Hon. HENRY F. ASHURST,
United States Senate.

MY DEAR SENATOR ASHURST: In response to your letter of March 31, I am inclosing a statement in tabular form which I believe will supply the information you desire respecting the flow of Colorado River at Lees Ferry and points below. Attention is called to the fact that the averages for the stations at Bright Angel Creek and Lees Ferry are based on records extending over but three and four years, respectively, and are probably below a long-time average inasmuch as the years 1924 and 1925 were years of low run-off in Colorado River Basin.

Flow in second-feet may be converted into acre-feet by multiplying by the number of days that the flow existed and that product by 1.98. If the rate of flow of a stream is 15,000 second-feet the run-off in one day will be 29,700 acre-feet; in a 30-day month it will be 891,000 acre-feet; and in one year 10,840,500 acre-feet. The computations may be reduced and results obtained within 1 per cent by using 2 as the factor instead of 1.98.

Yours very cordially,

GEORGE OTIS SMITH, *Director.*

Annual flow of Colorado River at points in Arizona

Gaging station	Years of record [1]	Second-feet			Acre-feet		
		Maximum year	Minimum year	Average	Maximum year	Minimum year	Average
Lees Ferry	1922–1925	22,300	15,800	19,400	16,100,000	11,400,000	14,000,000
Bright Angel Creek	1923–1925	23,500	16,100	19,200	17,000,000	11,700,000	13,900,000
Topock	1918–1925	29,800	16,200	22,900	21,500,000	11,700,000	16,600,000
Yuma	1903–1924	36,000	13,600	23,700	26,100,000	9,870,000	17,200,000

[1] Years ending Sept. 30.

Mr. KENDRICK. Mr. President, will the Senator from Arizona yield to me to enable me to bring up a matter with reference to a bill in which I am interested?

Mr. ASHURST. The bill now before the Senate, the Boulder dam bill, is the most important bill that will ever be considered in our time. I wish to yield to my colleagues. I think it is my duty to yield. I realize that I can not capitulate or bargain with the Senate, or the Chair, but I wish it understood that when I yield on these matters of courtesy it must not be considered that I have spoken more than once. With that understanding I am glad to yield to the Senator from Wyoming.

[The matter which Mr. KENDRICK called up appears elsewhere under its proper heading.]

NAVIGABILITY

Mr. ASHURST. Mr. President, prior to the construction of the Southern Pacific Railroad into Yuma, in 1876, practically all of the supplies reaching Arizona for the settlers and the troops came from California by steamer to Yuma, Ariz., where the ocean steamers lightered and their cargo was transferred to river steamers, which distributed the merchandise to the various settlements along the river between Yuma and Callville, thence to be hauled into the interior of Arizona by ox teams. For many years two steamers, the *Esmeralda* and the *Nina Tilden*, made regular trips up and down the river between Callville and Yuma, at which latter place they connected with steamships plying between Yuma and San Francisco. The owners of these river boats seeking trade carried standing advertisements in the Salt Lake City and San Francisco newspapers up to 1867.

FLOODS ON COLORADO RIVER

Hernando de Alarcón sailed in May, 1540, to explore the region north of New Spain, and reached the head of the Sea of Cortes, now known as the Gulf of California. He says: "And it pleased God that after this sort we came to the very bottom of the bay, where we found a very mighty river which ran with so great fury of a stream that we could hardly sail against it." Here began the acquaintance of Europeans with the river now known as the Nile of the West. Alarcón proceeded up the Colorado in small boats to a point about 100 miles above the mouth of the Gila River.

Owing to the gradual upbuilding of its deltaic bed and banks and its aggressive "cutting edge" the flood menace on the Colorado River is an ever-recurring problem.

The Gulf of California once extended northwestward to a point a few miles above the town of Indio, or about 144 miles from the present head of the gulf. The Colorado River, emptying into the gulf a short distance south of the international boundary, carried its heavy load of silt into the gulf for centuries, gradually building up a delta cone entirely across the gulf and cutting off its northern end, which remains as a depression from which most of the water has evaporated, leaving in its bottom the Salton Sea of 300 square miles, with its surface below sea level.

The river flowing over its delta cone deposits silt in its channel and by overflow on its immediate banks, so that it gradually builds up its channel and its banks and forms a ridge growing higher and higher until the stream becomes so unstable that it breaks its banks in the high-water period and follows some other course. In this manner the stream has in past centuries swung back and forth over its delta until there exists as a broad flat ridge between the gulf and the Salton Sea, about 30 feet above sea level, and on the summit of this has formed a small lake called Volcano Lake, into which the river flows at present, the water then finding its way to the southward into the gulf.

The floods of the Colorado divide themselves naturally into two general classes—those from the Colorado River, which drain the large areas in Arizona, Colorado, New Mexico, Nevada, Utah, and Wyoming, and those from the Gila River, of Arizona.

The Gila River, owing to its temperamental and flashy nature, sometimes furnishes a volume of water and flood waves at its mouth near Yuma almost as large as the maximum discharge of the Colorado at the same point.

During the past 25 years at flood seasons the Colorado and the Gila have overflowed their banks and have done damage to the landowners and water users on the eastern side of the river below Yuma, and although the land in that region is very fertile and the average yield per acre is high, the expense of controlling this mighty river and keeping it in a fixed channel is a burden of crushing weight which can not be borne by the farmers there.

If Imperial Valley in California is imperiled by floods of the Colorado River, the blame can not be laid at Arizona's door. If disaster should come to Imperial Valley, Arizona will sympathize deeply with the citizens of that valley. Every responsible citizen of Arizona is now and always has been in favor of the all-American Canal and flood-control to protect Imperial Valley. Arizona has extended to Imperial Valley the hand of friendship, and has spoken in the calm language of justice. The Arizona delegation in Congress is not only willing but anxious to vote for any and all appropriations necessary to build the all-American canal and secure flood control for Imperial Valley.

Let me read to you from a speech delivered by Hon. Thomas Maddock at the conference held at Phoenix, Ariz., on August 17, 1925, at which conference there were present the following delegates:

California: Senator Ralph E. Swing, of San Bernardino, chairman; Assemblyman A. C. Finney, of Brawley, secretary; Senator L. L. Dennett, of Modesto; Assemblyman Walter J. Little, of Los Angeles; Arthur P. Davis, Oakland, engineer.

Nevada: Charles P. Squires, Las Vegas, chairman; George A. Cole, Carson City; George W. Borden, Carson City; Levi Syphers, St. Thomas.

Arizona: Cleve W. Van Dyke, of Miami, chairman; H. S. McCluskey, of Phoenix, secretary; Thomas Maddock, of Phoenix; F. A. Reid, of Phoenix; A. C. McGregor, of Warren.

Mr. Maddock is an able and experienced engineer and an eminent citizen of Arizona. In the course of his well-considered speech he said the following:

Now, here is one point, I want to say to you, we believe we can give you everything that you want or need in both California and Nevada, but we are not willing to let the sheep of flood protection cover up the wolf of power and water greed. We will not allow you to get away with our resources just simply because you need protection. We want to give you that protection. We would be glad to. We would be glad to help you in any way to get the Imperial Valley away from the menace of the Mexican control. We are glad to help you that way and if the people of this State feel that way I will tell you that our Representatives and Senators will be that way or we will change them. Now, then, I want to say one thing and just this in closing, if this delay that I prophesy does occur, and if finally you do start something, but the engineering estimate is from 10 to 20 years, you run up against the inevitable breaking of the Colorado River back into the Imperial Valley. If this two or three years delay, added to the construction period, so delays that you get a big flood there and forever drowns out your valley, I say to you gentlemen that the blood of your people of that valley be on your own heads.

If the advocates of the Swing-Johnson bill had exercised the energy, prescience, and judgment employed by the Arizona delegation in Congress, Imperial Valley would to-day have been protected from floods of the Colorado River and the all-American canal would have been nearing completion; but, most unfortunately for Imperial Valley, the advocates of the Swing-Johnson bill preferred to spend their time and energy in planning how most effectively to exploit Arizona's resources rather than to spend their time and energy in securing the relief which Congress would quickly and amply grant. Just so long as Imperial Valley continues to be beguiled by those urban Pollyannas who seek to acquire Arizona's potential hydroelectric energy, just so long will Imperial Valley be imperiled.

There is ample time remaining during the life of this Congress to authorize flood control and the all-American canal for Imperial Valley if she will but consent to accept such relief.

Arizona knew full well that she could not defer flood-protection, river-front, and levee work until the Swing-Johnson bill should become a law; so, with foresight and prudence, assisted by Col. Benjamin Franklin Fly—the able parliamentary solicitor for the Yuma irrigation project—Arizona's delegation in Congress finally convinced Congress of the injustice of requiring the water users and landowners of the Yuma irrigation project to bear the expense of holding the Colorado River within a fixed channel at Yuma, and the following legislation was enacted:

[Public, No. 585, Sixty-eighth Congress]

[H. R. 11472]

An act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes

* * * * * * *

SEC. 16. (a) That there is hereby authorized to be appropriated, out of any moneys in the Treasury of the United States not otherwise appropriated, the sum of $650,000, or so much thereof as may be necessary, to reimburse the reclamation fund for the benefit of the Yuma Federal irrigation project in Arizona and California for all costs, as found by the Secretary of the Interior, heretofore incurred and paid from the reclamation fund for the operation and maintenance of the Colorado River front work and levee system adjacent to said project.

(b) That there is hereby authorized to be appropriated, out of any moneys in the Treasury of the United States not otherwise appropriated, the sum of $50,000, or so much thereof as may be necessary, to be transferred to the reclamation fund and to be expended under the direction of the Secretary of the Interior for the purpose of paying the operation and maintenance costs of said Colorado River front work and levee system adjacent to said Yuma project, Arizona-California, for the fiscal year ending June 30, 1926.

(c) That there is hereby authorized to be appropriated, out of any moneys in the Treasury of the United States not otherwise appropriated, for the fiscal year ending June 30, 1927, and annually thereafter, the sum of $35,000, or so much thereof as may be necessary, as the share of the Government of the United States of the costs of operating and maintaining said Colorado River front work and levee system.

Approved, March 3, 1925.

* * * * * * *

[Public, No. 560, Sixty-ninth Congress]

[H. R. 11616]

An act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes.

* * * * * * *

That there is hereby authorized to be appropriated, out of any moneys in the Treasury of the United States not otherwise appropriated, for the fiscal year ending June 30, 1928, and annually thereafter, the sum of $100,000, or so much thereof as may be necessary, to be spent by the Reclamation Bureau under the direction of the Secretary of the Interior, to defray the cost of operating and maintaining the Colorado River front work and levee system adjacent to the Yuma Federal irrigation project in Arizona and California.

Section 16 (c), act approved March 3, 1925 (43 Stat. L., p. 1198), is hereby repealed.

Politically, financially, industrially, socially, and economically California is one of the most powerful States of the Union, and if her congressional delegation will but labor for Imperial Valley along the same practical lines that Arizona labored for Yuma success will abundantly crown their efforts.

If the sword of Damocles is suspended over Imperial Valley and the waters of wrath are held in check only by a tricky guard of sand, let the California delegation follow the example of Arizona and obtain the relief which Congress would be willing to grant.

Arizona is a State of slow growth compared with California, and we do not intend that our future and our opportunity for development and growth shall be foreclosed by the avidity of southern California, which is a country of rapid development.

I know the generosity of Senators will pardon me if I now presume to solicit their attention while I make a reference personal to myself. My forebears were members of that bold advance guard of pioneers who 70 years or more ago explored the Colorado River Basin. From the time of my youth to the present day I have wielded ceaselessly what strength was mine, which was modest and small enough, to bring about the development of the potentialities of the Colorado River. The time now seems not far distant when my hope shall be realized, and there shall be brought forth within and for the United States the inland empire of the Colorado River Basin, an empire wealthier than that which Pizarro added to the dominions of Charles V, and more splendid and more durable than that of the Cæsars. Unfortunately, however, the legislation now proposed for development of the Colorado River (S. 3331) is sectional in character, is wholly in the interest of California, and disregards the rights of Arizona.

The Colorado River is the Nation's most remarkable and dramatic river in its value for irrigation and hydroelectric energy. It combines concentration of fall, sites for power plants, reservoir sites for controlling the river flow, and a vast volume of water for irrigating several million acres of land.

Other rivers may be used, either for irrigation or for hydroelectric power, but no other river in the Western Hemisphere presents such enormous opportunity for the use of its waters for both irrigation and power.

In approaching the problems of a river so pregnant with possibilities for development, it is important that all the factors connected therewith—engineering and economic—should be fully evaluated and that expediency shall play no part therein.

It is the opinion of all experts that there is no surplus water in the Colorado River, therefore in any plan of developing that river, extreme care should be exercised so that no practicable potentiality shall be needlessly sacrificed.

There exists now in some sections of the Colorado River Basin a demand for irrigation, hydroelectric power, and flood control, and whilst the development proposed by this bill is dazzling, nevertheless, a visualization of farms, fields, factories, towns, and cities yet to arise of which the Colorado River must be the alimentary canal is equally as important, hence no plan or scheme should be adopted which would forever preclude the possibility of a full use of all the water resources of the river.

Before many years shall have passed the demand for water within the Colorado River Basin will be as great, possibly greater, than the available supply; therefore it would be a tragic blunder were the initial dam placed at a point so far downstream as to preclude construction in the future of other dams or series of dams which will inevitably be necessary higher up the river, and unfortunately that is what the bill S. 3331 proposes to do.

The logical and practical way to develop a river is to begin at its source and work toward its mouth. This bill proposes to reverse this logical and practical order of development.

The elevation of the water surface of the Colorado River at Glen Canyon is 3,127 feet, at Bridge Canyon it is 1,207 feet, and at Boulder Canyon it is 705 feet.

ARIZONA

Ninety-seven per cent of the entire area of the State of Arizona is within and constitutes 43 per cent of the total area of the Colorado River drainage basin.

Arizona contributes about 28 per cent of the waters of the Colorado River.

Of the 6,000,000 firm horsepower of potential hydroelectric energy in the lower basin 4,000,000 thereof is in Arizona, but the Boulder Canyon plan of development would allot to Arizona only an insignificant fraction of this hydroelectric power.

Of the lands in Arizona susceptible of irrigation, all thereof to be irrigated must obtain their water from the Colorado River or its tributaries in Arizona; they have no other waters from which to draw.

CALIFORNIA

Only 2 per cent of the Colorado River drainage basin is in California.

California contributes no water to the Colorado River.

The fact that California does not furnish any water to the Colorado River is no reason why California should not have some water, but it is one of the reasons why she should not have the lion's share thereof.

The Boulder Canyon plan of development allots to California 37 per cent of the waters of the Colorado River.

The Boulder Canyon plan allots to California practically all of the hydroelectric power to be generated in the lower basin of the Colorado River.

California has 18,000,000 acres of land irrigable by waters other than by the waters of the Colorado River.

Of potential hydroelectric energy, California has 6,000,000 horsepower which may be developed within her borders on streams other than the Colorado River or its tributaries.

The Boulder Canyon plan allots to California practically all the hydroelectric power developed in Arizona, but California would not permit Arizona to direct the allocation of the hydroelectric power developed on California streams.

It is the opinion of numerous engineers of large ability and vast experience that to place the initial high dam at Boulder Canyon would sacrifice priceless resources of this river inasmuch as a high dam at Boulder Canyon would defeat a comprehensive and systematic plan of maximum development.

A storage dam at Glen Canyon, with a diversion dam at Bridge Canyon, would achieve precisely what is sought by a dam at Boulder Canyon, viz, flood control, irrigation, hydroelectric power, and domestic water for the cities and towns of southern California; and, furthermore, such dams at Glen Canyon and at Bridge Canyon would sacrifice no potentiality of the river.

Mr. KENDRICK. Mr. President——

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

Mr. ASHURST. I yield.

Mr. KENDRICK. I wanted to ask the Senator whether the construction of the dam at Boulder Canyon would interfere with the construction later of a dam at Glen Canyon.

Mr. ASHURST. I am not an engineer, but I have consulted numerous engineer authorities, some of them being very respectable in standing, and it is their opinion that the construction of a high dam at Boulder Canyon would ultimately prevent the construction of a large dam higher up the river, and they hold that the logical and proper way to develop a river would be to begin near the source and work toward the mouth.

Mr. KENDRICK. The Senator will recall the testimony given before our Committee on Irrigation and Reclamation, in which it was stated by, I believe, Mr. Weymouth, former chief engineer of the Reclamation Service, that the waters impounded by the Boulder Canyon Dam would not reach the site proposed for the Glen Canyon Dam; that is, if the dam were not made higher than 550 feet.

Mr. ASHURST. Mr. Weymouth gave that testimony.

Attention is directed to the testimony of Mr. O. C. Merrill, executive secretary of the Federal Power Commission (see p. 505, vol. 5, hearings before Senate Committee on Irrigation and Reclamation):

> While the resources of the Colorado River approximate from 4,000,000 to 6,000,000 horsepower, way beyond present-day requirements of the Southwest, and including in the Southwest the southern half of California, there is no reasonable doubt that within the next half century at the outside there will be demand for all the hydroelectric energy that the lower Colorado River at least can supply, and care must, therefore, be taken in any scheme of development of the river to see that we do not sacrifice, unless for outstanding reasons, any future possibilities of power.

It is, of course, true that we should attempt to serve our generation and meet the needs and requirements of our own day, but it is none the less true that we will never be forgiven at the bar of public opinion if in serving our own day and generation we reject a plan for Colorado River development (viz, storage dam at Glen Canyon and diversion dam at Bridge Canyon), which plan if consummated would furnish all the practical results needed and desired by this generation and would at the same time conserve all the natural advantages of this river for those who in the days yet to come are to live in the Colorado River Basin. It is entirely within the realm of practicability to irrigate every acre of land within the Colorado River Basin susceptible of irrigation if science and national welfare, instead of expediency and selfishness, be allowed to control.

There will be no remorse so poignant as that which will come from a realization, after the expenditure has been made, that in placing the high dam too far down on the river—at Boulder Canyon—a potential empire in the lower basin has been stunted.

The enactment of this bill into law would sentence Arizona to obscurity and render impossible in that State any large development in the future.

This bill, however, with all its vices, is at least free from the vice of hypocrisy. It sedulously and intentionally proposes to sever Arizona's jugular.

The bill is intended to be, and is, an attempt to coerce Arizona. One administration unsuccessfully attempted to coerce Arizona into joint statehood with New Mexico. Another administration unsuccessfully attempted to coerce Arizona upon certain provisions of her constitution, and those of the present administration who are attempting by this legislation to coerce Arizona will ultimately discover that they have simply been standing like large locomotives on a sidetrack, without driving rods, wasting their steam in vociferous and futile sibilation.

What abysmal folly to condemn, as this bill does, 200,000 firm horsepower, which is over one-third of all the electrical energy proposed to be generated at Boulder Canyon, eternally to the task of lifting 1,500 second-feet of water to a height of 1,730 feet and pumping the same to the cities and towns of southern California for their domestic use, when at no greater cost the same supply of domestic water may be sent to these same cities and towns of southern California by gravity from a diversion dam at Bridge Canyon, and thus save and release for other purposes this enormous quantity of horsepower!

What reckless disregard of the public interests to build a dam at Boulder Canyon, as this bill proposes, which at most could irrigate only 200,000 acres of land in Arizona, whilst the storage dam at Glen Canyon and the diversion dam at Bridge Canyon would irrigate at least 3,000,000 acres of land in Arizona!

The bill (S. 3331) is objectionable, among other reasons, because it attempts to compel the settlement of a controversy among various States, which controversy the Federal Government has no authority to enter and could not settle even if it should enter.

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

Mr. ASHURST. I yield to the Senator from Wyoming.

Mr. KENDRICK. Assuming that Arizona's share of the waters of the Colorado River were allocated to her in agreement, would there be any serious obstacle in the future to building a dam at Glen Canyon and diverting the waters from Bridge Canyon? Under those conditions existing at the time that such development became necessary, would there be any obstacles any greater than now apply in the development of the river?

Mr. ASHURST. Bridge Canyon site is about 90 or 100 miles above Boulder Canyon?

Mr. KENDRICK. Yes.

Mr. ASHURST. The water surface of the Colorado River at Bridge Canyon site is some 1,200 feet altitude, whereas the water surface at Boulder is only 700 feet. A diversion dam at Bridge Canyon would serve Arizona and at the same time would by gravity take potable water to Los Angeles. That Los Angeles requires potable water has been one of the arguments advanced for this bill. Arizona is not seeking to deny potable water to southern California or any other portion of the country. We simply say that by diverting the water at Bridge Canyon such water may be taken by gravity to Los Angeles and its environs, whereas if potable water be taken to Los Angeles from Boulder Canyon it must be lifted some 1,700 feet over intervening hills and one-third of the horsepower generated at Boulder must be forever dedicated to lifting the water to that height.

Mr. KENDRICK. I assume that the Senator would not be inclined to dictate to California how she shall carry on that development?

Mr. ASHURST. California has furnished such an example of the folly of dictation that even if Arizona had any disposition to dictate, the evil consequences of trying to dictate would preclude us from attempting to do so, but quite naturally we object to wasting 200,000 horsepower of electrical energy when such waste would be Arizona's loss.

Mr. KENDRICK. In that event it would hardly be of interest to Arizona how and in what way California proceeded with her development. The question I would like to ask the Senator is, If the people of Arizona had their share of the water allocated to them by an agreement so that there is no question as to their rights to the water, why could they not proceed with a plan of their own development to regulate their own territory under much the same conditions as are provided by the Swing-Johnson bill; and what obstacle or obstacles would be in their way to prevent them from proceeding along that line?

Mr. ASHURST. That is a fair question, and I think it is not prompted by hostility but by a sincere desire to reach some settlement. It is entitled to a respectful and clear answer.

Mr. KENDRICK. If the Senator will permit me before he undertakes to answer the question, may I say from that the beginning of the discussion in connection with the bill I have been unable to understand why the development of the river should not proceed along exactly that line. In the fullness of time—and not necessarily a remote time—with her waters allocated to her and her rights to them made secure under the provisions of the Swing-Johnson bill, containing as it does the Colorado River compact, and any subsequent agreement between the States of Arizona and California guaranteeing those rights, I am unable to see why that development could not proceed for the benefit and the satisfaction of both the Commonwealths of Arizona and California.

Mr. ASHURST. I do not object to the interruption. Let me say on that point that the attitude of Arizona has not been one of greediness, dogmatism, or unfriendliness. Conversations among the representatives of the States of Arizona, California, and Nevada have taken place looking to a compact supplemental to the Santa Fe compact. It may be that I am unduly biased in favor of Arizona. I probably would be pardoned if I were biased in her favor. But to use the language of Lord Bacon, "descending into my own conscience" and examining as best I may the attitude of Arizona, as a chancellor should, I am unable to perceive wherein Arizona has asked for other than justice.

I am speaking now from memory and without notes, but I believe that the substance of the counterproposition made by the Arizona delegates to the States of California and Nevada was and is just and reasonable.

A part of Arizona's counterproposition was that California should take her share of the water when and where she pleased and Arizona should do likewise.

Mr. KENDRICK. Mr. President, will the Senator yield again at that point?

Mr. ASHURST. I yield to the Senator.

Mr. KENDRICK. If California were to meet the demands of Arizona and agree to allocate to her one-half of the waters of the main stream of the Colorado, would Arizona join the seven-State compact?

Mr. ASHURST. That would depend upon the character of the supplemental compact. I have not finished with the angle of the problem with respect to power. The attitude of Arizona is that the Government or the State should develop power rather than that private power interests should develop such power; further, that if private interests were to develop power, taxable property would be set up, and Arizona, therefore, in accordance with precedents of many States, asks, in lieu of the taxes she might have levied and collected were private power plants constructed, that a certain revenue be paid to her of so much per horsepower on that which her waters generate. California is willing to pay $1 per horsepower, which concedes the principle.

Mr. JOHNSON. No, Mr. President, it does not concede the principle. California might be willing to be held up for a dollar per horsepower, but concede the principle? Never! I do not know whether I caught what the Senator from Arizona said about division of water. There is no trouble about dividing the water, is there?

Mr. ASHURST. They have not agreed to this date.

Mr. JOHNSON. Does the Senator deny that the delegates from Arizona, California, and Nevada reached a tentative agreement on the division of water?

Mr. ASHURST. I have not been so notified.

Mr. JOHNSON. Is not the Senator familiar with that fact?

Mr. ASHURST. I repeat most respectfully to the Senator that I have never been notified of any such agreement.

Mr. JOHNSON. The Senator may not have been notified. I can not say that I have been officially notified except that I have the proceedings from one of those who was present, and those proceedings show that a tentative agreement was reached concerning the division of water. The only difference is as to payment per horsepower. I am correct in that, am I not?

Mr. ASHURST. I am sure the Senator is stating what he understands, but I personally do not know.

Mr. JOHNSON. I ask the Senator from Arizona if that is not his understanding?

Mr. ASHURST. I have no understanding in the matter. The official information I have is that there has been no agreement.

Mr. JOHNSON. But whether there has been an official agreement, did not the commissioners from the Senator's State of Arizona and the commissioners from Nevada and California reach a tentative agreement on the division of water?

Mr. ASHURST. If they did, they never notified me.

Mr. JOHNSON. Let me say for the information of the Senator from Arizona that they did reach such an agreement.

Mr. ASHURST. I will accept the Senator's word.

Mr. JOHNSON. A difference exists, then, upon the question of the payment for power, Arizona wanting either a royalty on the power or a tax upon the particular property which is to be created by the United States Government.

Mr. ASHURST. The Senator does not view with any great appreciation Arizona's claim that she should receive some revenue from power.

Mr. JOHNSON. That is quite true. I do not think there is any difference between the Senator and myself in this regard. What I want to make clear is that there is no difference about the water.

Mr. ASHURST. The Senator asserts there is not.

Mr. JOHNSON. California and Nevada stood ready and are ready to give Arizona all the water for which Arizona asks; to accept Arizona's terms. The question, then, recurs upon the payment for power. The Senator from Arizona has one view about that; I have another view; but that is the crux of the difference.

Mr. PHIPPS. Mr. President, may I make an inquiry of the Senator from California?

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

Mr. ASHURST. I yield to the Senator from Colorado.

Mr. PHIPPS. Was there not another point in question, namely, a division of the power that might be produced?

Mr. ASHURST. Certainly.

Mr. PHIPPS. As to the allocation of power, I understood that Nevada asked that there be a reservation.

Mr. JOHNSON. There never has been any question as to the allocation of power.

Mr. PHIPPS. I have been informed that that was one of the points that was up for discussion and settlement amongst the commissioners of the States and, Nevada feeling that she was not then prepared to take the amount of hydroelectric power that she could take a little later on, therefore wanted what was equal to, say, 100,000 horsepower.

Mr. JOHNSON. Mr. President, the Senator from Nevada has asked that there be a certain amount of horsepower allocated to the State of Nevada. I say all right; allocate it. He has prepared his amendment; I accept it. I do exactly the same for the State of Arizona, so far as that is concerned. There is not any difference on that score at all.

Mr. PHIPPS. That is what I wanted to know. I thank the Senator from California.

Mr. KENDRICK. Mr. President, will the Senator from Arizona yield to me for one other question?

Mr. ASHURST. I yield.

Mr. KENDRICK. There are at the present time in the State of Arizona, as I understand, at least two irrigation projects which have been constructed by the Reclamation Bureau?

Mr. ASHURST. That is correct.

Mr. KENDRICK. Has the State of Arizona ever exacted or attempted to exact as to either of those projects a tax or price per horsepower for the current produced under those Government-constructed dams?

Mr. ASHURST. Not directly.

Mr. COPELAND. Mr. President, will the Senator from Arizona yield to me?

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

Mr. ASHURST. I yield.

Mr. COPELAND. I dislike to take any of the Senator's time.

Mr. ASHURST. I believe on a bill of this importance that not only courtesy but necessity requires that I should yield to interruptions; but I wish it distinctly understood that, while I can not capitulate or bargain with the Senate, I am not hereafter to be held by the Chair as having lost any rights because I have yielded at various times.

Mr. WALSH of Massachusetts. Mr. President, will the Senator from Arizona yield to me for a moment?

Mr. ASHURST. The Senator from New York [Mr. COPELAND] first interrupted me.

Mr. WALSH of Massachusetts. The inquiry I desire to make is in reference to the Senator's speech.

Mr. ASHURST. I yield to the Senator from Massachusetts for that purpose.

Mr. WALSH of Massachusetts. I should like to ask the Senator from Arizona if he expects a vote on this measure this afternoon?

Mr. JOHNSON. What was the question of the Senator from Massachusetts to the Senator from Arizona?

Mr. WALSH of Massachusetts. I asked the Senator from Arizona the question, but I should now like to repeat it to the Senator from California. I ask the Senator from California if we are likely to reach a vote upon the pending bill this afternoon?

Mr. JOHNSON. I would not say that we shall reach a vote on the bill this afternoon, but I hope that some time about 3 o'clock in the morning we shall have a vote upon it.

Mr. ASHURST. Mr. President, 3 o'clock in the morning is an hour when things which will not bear the light of day generally take place.

Mr. COPELAND. Mr. President, I think I understood the Senator from Arizona to say a few minutes ago that if he could have assurance of an equal division of the water between Arizona and California he would be satisfied?

Mr. ASHURST. I said that the Arizona delegation appointed by the governor to conduct negotiations and conversations with a like committee from Nevada and California proposed that each State, to wit, Arizona, Nevada, and California, should have its own tributaries, and that the main stream of the Colorado River should be divided equally between Arizona and California after allowing Nevada 300,000 acre-feet annually.

Mr. COPELAND. My anxiety is to bring about peace between these warring factions. I think the country has a feeling that there are great power possibilities and a great water supply which should be utilized, and, if it is possible for us in any way to bring about an adjustment of affairs between these States, I believe it is the duty of the Senate to bring it about.

Mr. ASHURST. Let me say in reply to my learned friend the junior Senator from New York that this bill is an attempt to coerce Arizona. That is how the bill is construed by the legislature of the State and by the governor.

The Senator from New York is sufficiently informed about the temper of my State and of other States to know how impossible it is to coerce Arizona. One administration some years ago attempted to coerce Arizona into joint statehood with New Mexico and failed in such attempt; another administration attempted to coerce Arizona respecting certain provisions of her constitution, and that administration failed; and this administration and those who are attempting to coerce Arizona will find ultimately that they have simply been standing like large locomotives on a sidetrack without driving rods, wasting their steam in futile sibilation. Arizona will not be coerced.

Mr. COPELAND. Mr. President, will the Senator yield further at that point?

Mr. ASHURST. I yield.

Mr. COPELAND. I honor the Senator for the position he takes and the loyal support he gives his State, but the very practical question presents itself: Is there not some possible arrangement, some plan which could be agreed upon? I see the Senator from Utah [Mr. KING] shake his head. Yet there must be some way of bringing about an adjustment of these differences so that there can be agreement.

Mr. ASHURST. Utah's problems are similar to the problems of Arizona; and our situation is very like that of Utah. Let me recite some recent history.

The seven-State compact was entered into by the seven States of the Colorado River basin—Arizona, California, Colorado, Nevada, New Mexico, Utah, and Wyoming—looking in an equitable division of the waters of the Colorado River among the several States of the basin. The various States thereupon appointed their negotiators; the Secretary of Commerce (Mr. Hoover) was the presiding officer; and as I have previously said, the deliberations were somewhat in the nature of star chamber proceedings. The compact was not responsive to the act of Congress, it did not divide the water among the seven States, but it divided the water between two basins, leaving a sharp controversy with Arizona and Nevada on the one hand, and California on the other, as to how the waters in the lower basin were to be disposed of; whereupon Arizona refused to ratify the seven-State compact. In Arizona, Mr. President, when we make a bargain we keep it; when we sign, we live up to that signature. We declined to sign the seven-State compact and neither the mailed hand of the Federal Government nor the oblique lines of diplomacy can force the hand of Arizona or make her sign. It is futile to attempt to compel Arizona to sign an agreement she does not desire to sign.

The advocates of the Swing-Johnson bill, despairing of building the Boulder Canyon dam under the provisions of the seven-State compact, disregarding Arizona, entered into a six-State compact. The six-State compact provided for the Swing-Johnson bill; and the Senator from California, Mr. Johnson, predicates his bill upon the six-State compact, a compact among California, Colorado, Nevada, Utah, Wyoming, and New Mexico.

Utah, Wyoming, Colorado, New Mexico, and Nevada ratified the six-State compact in good faith and without reservation, but when came California to act thereupon California proposed to enter into it with a reservation. Utah did not ask for a mess of pottage when she ratified the six-State compact; neither did Colorado, New Mexico, Nevada, nor Wyoming. They did not ask what is called lagnaippe, or a tip, before they ratified the six-State compact; but California said, "Yes; we will ratify the six-State compact conditionally. We ratify if and when an expenditure of $125,000,000 from the Federal Treasury is made to build the Boulder Canyon dam for our benefit." When California attempted that kind of ratification Utah gave notice that such action would be dangerous to the six-State compact. California proceeded, and did attach the reservation to the six-State compact, whereupon Utah in disgust, Utah standing erect as a sovereign State of this Union, Utah which has contributed statesmen to our country, promptly withdrew from the six-State compact.

When the time comes to negotiate, when California shall be willing to sit at the table with the other States without cards up her sleeve, without reservation or equivocation, she will get somewhere, and not until then.

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

Mr. ASHURST. I yield. Have I made that clear?

Mr. COPELAND. Perfectly; but the Senator has spoken about the mailed hand of the Government. Let me assure the Senator that, as I view the temper of the Senate, it is not the desire of the Senate to have the Government use the mailed hand. It is the desire of the Senate to extend a helpful hand to these States.

There should be some way of adjustment of this matter so that the equities can be preserved, so that Utah can have its share and Arizona can have the large share to which it is entitled. There must be found a way to do it. If this measure at present is not drawn in such a form as to establish and to preserve the equities, it must be modified so as to make possible the preservation of the rights of these individual States.

Can we not find a way? Are not the Senators from Arizona and Utah prepared to suggest some method of division of the power and of the water in order that this great project may go forward? Here there is a waste every day of this great water supply which should be harnessed for the benefit of the people of the Nation and of that section of the Nation. I think it is the desire of the Senate to find a way of adjustment so that the rights of these States may be preserved and yet that this great water power may be developed for the benefit of the human family.

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

Mr. ASHURST. I yield to the Senator from Utah.

Mr. KING. May I say to the Senator from New York that there are two very important questions involved in what is denominated the Colorado River problem.

First, let me say to the Senator that his State recently and very properly resented the attempt of the Federal Government and the Federal Power Commission to interfere with the rights of the State of New York in the control of the waterways and the streams and the beds of streams and the power and the rights that may result from the use of streams within the State of New York.

Mr. COPELAND. Yes; that was a very proper act, and I applauded it.

Mr. KING. Exactly. The Senator believed that the Federal Government had no power to deal with any question except there was a grant of power in the Constitution of the United States. I regard this question as one of the most important ones that have come before Congress; and I think some of my Democratic brethren and some of my Republican friends on the other side have closed their eyes to the significance of the case and to the question of the police powers and the rights of the States as they are involved in the so-called Colorado River problem.

Speaking for myself—and I am speaking only for myself—I deny the power of Congress to construct a dam in the Colorado River. The Colorado River where it flows through Utah is

under the jurisdiction of the State of Utah, and not of the Federal Government. The Federal Government has no more power to go into the State of Utah and build a dam in the Colorado River than it has to go into the State of New York and assume control over matters that are exclusively within the province of the State of New York. The power of the Federal Government in matters relating to rivers is found in the interstate-commerce clause of the Constitution. The Federal Government may only protect the navigability of streams. It has no right in the waters of the streams. It has no power to build dams in the streams of the State of New York.

Mr. ASHURST. Over the protest of the State.

Mr. KING. Of course, over the protest of the State of New York, or in the State of Utah, or in the State of Arizona, or in the State of Nevada. If those States want to build dams they may do so, subject to the paramount interest of the Federal Government to protect the navigability of the streams; but in the instant case this is not a navigable stream, although it is declared so to be.

There is no navigation upon it; but, if it were navigable, this proposition is to destroy its navigability. So I say that the Federal Government is not interested in this proposition. It is a matter for the States to determine for themselves. The Federal Government has no right to go and build a Colorado River dam. That is a matter for the States themselves to determine.

But it is said that under the right to control flood waters the Federal Government has the right to build a dam. In the first place, I deny that. There is no parallel between this case and the Mississippi River. The Federal Government is not building a dam across the Mississippi River to destroy navigability. It is only shoring up some of the walls or banks of the river in order to make the river navigable.

Mr. COPELAND. In that connection, if the Senator will bear with me, if it were necessary in order to protect those banks or to preserve the safety of the surrounding land abutting upon the river, would the Senator dispute the right of the Government to build dams under those circumstances?

Mr. KING. Yes. I think the Government has no more power to build a dam for the protection of Imperial Valley than it has to protect the lands in the State of Utah from some of our mountain streams.

May I say, if a personal allusion will be pardoned, that one of my first experiences as a boy, when I embarked in business, was to construct a sawmill in a canyon. The floods came and washed it away, and destroyed the road, and inundated hundreds, if not thousands, of acres of good farm land in the valley below. We did not come down and ask Congress to protect us. When we settled at the mouth of the ravine or the canyon, we knew that we were subject to floods. We knew that if the floods came in torrential power, our lands would be inundated, and that those of us who made improvements in the canyon were liable to have them carried away by floods.

There is no doubt that the State of Utah, in the exercise of its sovereign power, would have the right, if there was nothing in its constitution to prohibit it, to tax the people of the State of Utah to protect its inhabitants who settled at the mouths of these canyons from the ravages and inundations of the waters that came down in torrential flow from the canyon. There is nothing to prevent the State of California, if it desires to do so, from taxing the people of that State—I am assuming there is nothing in that State's constitution to prohibit taxing for this purpose—and making provision for guarding the limited amount of property that is in this valley. By the way, may I say to the Senator that the census of 1922 shows that the value of all the real estate and all the improvements in this valley was only $35,000,000, and yet there is a proposition here to spend $41,000,000—and it will cost $81,000,000—to build a canal for them, to say nothing of the enormous cost of the dam, which I feel confident—and I have talked with many engineers—will cost not $50,000,000 but $100,000,000. So we are now embarking upon propositions that in my opinion will involve at least $200,000,000. The primary object of this bill—and I state it with all due courtesy—is not the protection of Imperial Valley. The primary object and the driving force behind this bill is to furnish water and power for the municipalities of southern California; but I shall discuss that matter when I come to speak in my own time.

Mr. JOHNSON. Mr. President, if the Senator from Arizona will yield——

Mr. ASHURST. I yield.

Mr. JOHNSON. I can not permit that statement to go unchallenged. I shall be glad ultimately to debate it with the Senator from Utah, but he is utterly in error in the statement he makes. If the Senator from Arizona desired, I could read to him a statement that has come to me from the mayor of San Diego, who was present during the time of the negotiations of Nevada, California, and Arizona in respect to the water, or I will do that in my own time if the Senator prefers.

Mr. ASHURST. I have no objection to whatever course the able Senator sees fit to pursue.

Mr. JOHNSON. I make that statement in confirmation of what I said to the Senator from Arizona sometime since, and subsequently I will read it into the RECORD.

Mr. ASHURST. Very well.

Mr. KING. Mr. President, the Senator from New York having left the floor—and I hope he was not driven from the floor by anything I said—I yield the floor back to the Senator from Arizona.

Mr. ASHURST. Mr. President, I now turn to another phase of the bill, and ask the Secretary to read section 2, in italics, page 14.

The PRESIDING OFFICER. In the absence of objection, the Secretary will read as requested.

The CHIEF CLERK. On page 14, section 2, the committee have stricken out certain words, and inserted the following:

SEC. 2. (a) There is hereby established a special fund, to be known as the "Colorado River Dam fund" (hereinafter referred to as the "fund") and to be available, as hereinafter provided, only for carrying out the provisions of this act. All revenues received in carrying out the provisions of this act shall be paid into, and expenditures shall be made out of, the fund, under the direction of the Secretary of the Interior.

(b) The Secretary of the Treasury is authorized to advance to the fund, from time to time and within the appropriations therefor, such amounts as the Secretary of the Interior deems necessary for carrying out the provisions of this act, except that the aggregate amount of such advances shall not exceed the sum of $125,000,000. Interest at the rate of 4 per cent per annum accruing during the year upon the amounts so advanced and remaining unpaid shall be paid annually out of the fund.

(c) Moneys in the fund advanced under subdivision (b) shall be available only for expenditures for construction and the payment of interest, during construction, upon the amounts so advanced. No expenditures out of the fund shall be made for operation and maintenance except from appropriations therefor.

(d) The Secretary of the Treasury shall charge the fund as of June 30 in each year with such amount as may be necessary for the payment of interest on advances made under subdivision (b) at the rate of 4 per cent per annum accrued during the year upon the amounts so advanced and remaining unpaid, except that if the fund is insufficient to meet the payment of interest the Secretary of the Treasury may, in his discretion, defer any part of such payment, and the amount so deferred shall bear interest at the rate of 4 per cent per annum until paid.

(e) The Secretary of the Interior shall certify to the Secretary of the Treasury, at the close of each fiscal year, the amount of money in the fund in excess of the amount necessary for construction, operation, and maintenance, and payment of interest. Upon receipt of each such certificate, the Secretary of the Treasury is authorized and directed to charge the fund with the amount so certified as repayment of the advances made under subdivision (b), which amount shall be covered into the Treasury to the credit of miscellaneous receipts, and shall be available for the purposes specified in subdivision (g).

(f) In order to make the advances to the fund, the Secretary of the Treasury may, if he deems it advisable, exercise the authority granted by the various Liberty bond acts and the Victory Liberty loan act, as amended and supplemented, to issue bonds, notes, and certificates of indebtedness of the United States; and any bonds so issued shall be disregarded in computing the maximum amount of bonds authorized by section 1 of the second Liberty bond act, as amended.

(g) The Secretary of the Treasury is authorized and directed to use, upon such terms and conditions as he may prescribe, for the payment, redemption, or purchase, at not to exceed par and accrued interest, of any bonds, notes, or certificates of indebtedness of the United States, the money covered into the Treasury under subdivision (e) in repayment of the amounts advanced.

Mr. ASHURST. Mr. President, on February 2 of this year I gave notice that I should move to strike from the bill that particular provision, and I addressed the Senate. I asserted that the Senate had no right to originate a bill which proposes to raise revenue; and I said that under the Constitution of the United States—to wit, section 7 of Article I—the Senate could not originate that provision, because the Constitution reads as follows:

All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments as on other bills.

I understand that the Senator from California [Mr. JOHNSON] concedes that my point is well taken.

Mr. JOHNSON. No, Mr. President; I do not concede that the point is well taken; quite the contrary. But in order that there shall be no question concerning the matter, I have presented an amendment eliminating the bond feature from the bill. We argued the matter at length before the Committee on Irrigation and Reclamation, and I think I am perfectly correct in saying that after argument the committee was convinced that there was nothing in the proposition. But I do not want to encounter it in the other House, and for that reason I have presented an amendment here eliminating the provision relating to the bond issue.

Mr. ASHURST. The Senator has, I will not say conceded, my point, but the Senator has at least become convinced that if the Senate should pass the bill with that revenue-raising feature in it, he would encounter difficulty in the House of Representatives. I said in my former speech that even if the Senate passed this bill embracing section 2, which proposes to issue bonds in the sum of $125,000,000, the House of Representatives would return the bill to the Senate, because under section 7 of Article I of the Constitution the Senate is not eligible to originate a bill raising $125,000,000 by the sale of Government bonds. The Senator, of course, has the right to modify his bill by striking out section 2, and I shall consider that in the Senator's realization of the situation I have achieved a victory. I have never split the ears of groundlings speaking about the Constitution, but I shall regard it as a signal victory for myself that so great a lawyer as the Senator from California realizes that if he should pass this bill with that revenue-raising feature in it the House would send it back to the Senate.

Mr. JOHNSON. Mr. President, that does not relate to a legal proposition or the determination of a constitutional question. It avoids the possibility of conflict upon a prerogative, nothing more than that, and it was to avoid that possibility of conflict that the amendment was proposed by me.

Mr. ASHURST. I am not complaining. I am congratulating the Senator that whilst the bill came from the Senate committee containing a provision to raise revenue amounting to $125,000,000, the Senator now sees the impossibility, the impracticability, or at least the undesirability, of passing the bill with that thorn or blade in it. With that blade or thorn, which would be fatal to the bill, identified and removed, I declare that long before this debate shall have concluded many other thorns and dangerous blades will be encountered from which the proponents of this bill will retreat.

Mr. President, I ask unanimous consent to print in the RECORD my remarks on this subject, wherein I alleged that the Senate was ineligible to originate a bill raising revenue.

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

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

LOWER COLORADO RIVER BASIN

Mr. ASHURST. Mr. President, for speaking at this time upon a matter not related to the pending bill I make due apology.

The Senator from California [Mr. JOHNSON] on April 23 last reported favorably from the Senate Committee on Irrigation the so-called Boulder Canyon Dam bill, Senate bill 3331. Section 2 of this bill is as follows:

"SEC. 2. (a) There is hereby established a special fund, to be known as the 'Colorado River Dam fund' (hereinafter referred to as the 'fund') and to be available, as hereinafter provided, only for carrying out the provisions of this act. All revenues received in carrying out the provisions of this act shall be paid into, and expenditures shall be made out of, the fund, under the direction of the Secretary of the Interior.

"(b) The Secretary of the Treasury is authorized to advance to the fund, from time to time and within the appropriations therefor, such amounts as the Secretary of the Interior deems necessary for carrying out the provisions of this act, except that the aggregate amount of such advances shall not exceed the sum of $125,000,000. Interest at the rate of 4 per cent per annum accruing during the year upon the amounts so advanced and remaining unpaid shall be paid annually out of the fund.

"(c) Moneys in the fund advanced under subdivision (b) shall be available only for expenditures for construction and the payment of interest, during construction, upon the amounts so advanced. No expenditures out of the fund shall be made for operation and maintenance except from appropriations therefor.

"(d) The Secretary of the Treasury shall charge the fund as of June 30 in each year with such amount as may be necessary for the payment of interest on advances made under subdivision (b) at the rate of 4 per cent per annum accrued during the year upon the amounts so advanced and remaining unpaid, except that if the fund is insufficient to meet the payment of interest the Secretary of the Treasury may, in his discretion, defer any part of such payment, and the amount so deferred shall bear interest at the rate of 4 per cent per annum until paid.

"(e) The Secretary of the Interior shall certify to the Secretary of the Treasury, at the close of each fiscal year, the amount of money in the fund in excess of the amount necessary for construction, operation, and maintenance, and payment of interest. Upon receipt of each such certificate, the Secretary of the Treasury is authorized and directed to charge the fund with the amount so certified as repayment of the advances made under subdivision (b), which amount shall be covered into the Treasury to the credit of miscellaneous receipts, and shall be available for the purposes specified in subdivision (g).

"(f) In order to make the advances to the fund the Secretary of the Treasury may, if he deems it advisable, exercise the authority granted by the various Liberty bond acts and the Victory Liberty loan act, as amended and supplemented, to issue bonds, notes, and certificates of indebtedness of the United States; and any bonds so issued shall be disregarded in computing the maximum amount of bonds authorized by section 1 of the second Liberty bond act, as amended.

"(g) The Secretary of the Treasury is authorized and directed to use, upon such terms and conditions as he may prescribe, for the payment, redemption, or purchase, at not to exceed par and accrued interest, of any bonds, notes, or certificates of indebtedness of the United States, the money covered into the Treasury under subdivision (e) in repayment of the amounts advanced."

In the committee I made the point of order that the committee had no power or authority to report a bill originating in the Senate proposing to "raise revenue," and I argued that section 2 of this bill contravenes section 7 of Article I of the Constitution of the United States, which said section 7, so far as the same relates to this question, reads as follows:

"All bills for raising revenue shall originate in the House of Representatives; but the Senate may propose or concur with amendments, as on other bills." * * *

After discussion, the Senate Committee on Irrigation and Reclamation reached the conclusion that it had no authority to determine the point of order, as the Senate had not called upon its committee for an opinion upon this question.

I now move to strike out that section of this bill—section 2—which, in my judgment, proposes to "raise revenue" by authorizing a bond issue or by authorizing the further issuance and sale of bonds under statutes heretofore enacted.

I assert that neither the Supreme Court of the United States nor the Treasury Department is the authority eligible to pass upon and decide the question of parliamentary practice and privilege.

The Constitution, in Article I, section 1, says:

"Representatives and direct taxes shall be apportioned among the several States which may be included within this Union according to their respective numbers. * * * The actual enumeration shall be made within three years after the first meeting of the Congress of the United States and within every subsequent term of 10 years."

The "enumeration" mentioned, which is the "decennial census," is expressly commanded in the Constitution. No time limit in stated terms is set upon apportionment, although Congress has always assumed that the framers of the Constitution intended a decennial reapportionment following the census; but no writ or process known to our Constitution or our law, no writ or process known to our Government or to our polity, could compel the House of Representatives to pass an apportionment bill.

The Supreme Court might, indeed, declare that a bill originating in the Senate proposing to issue and sell Government bonds was not "raising revenue," but no writ or process known to our system of Government could compel the House of Representatives to receive, consider, or pass a bill sent to it by the Senate if the House declared that the bill was one for "raising revenue." Upon the question as to whether or not a particular bill "raises revenue," the House of Representatives is the judge and the final judge. What action the House would take upon this particular bill, were the Senate to send the same to the House, there can be no doubt.

I now refer to pages 4731 and 4737, volume 54, part 5, CONGRESSIONAL RECORD of the Sixty-fourth Congress, second session. On March 2, 1917, the Senate had under consideration the naval appropriation bill, sent to the Senate by the House, and whilst such bill was under consideration in the Senate, after some debate, the Senate added a provision, of which I shall read only the pertinent part:

"That the Secretary of the Treasury is hereby authorized to borrow on the credit of the United States from time to time such sums as may be necessary to meet expenditures directed by the President from the naval emergency fund and for expediting naval construction as provided in this act, not exceeding $150,000,000, or to reimburse the Treasury for such expenditures, and to prepare and issue therefor bonds of the United States in such form and subject to such terms and conditions as the Secretary of the Treasury may prescribe * * *."

The Senate thus adopted and agreed to that provision as an amendment to the naval appropriation bill, and when the bill with such

amendment reached the House again the House unanimously returned the bill to the Senate. Remember that this was on the 2d of March, 1917, just before the United States entered the World War, and was, therefore, at a time when every moment was precious, when every motive was operative that could induce Members of Congress to make haste and to waive what some persons call peccadillos, or technicalities, the House resolutely stood by the Constitution and refused to surrender the prerogatives of the House. I read now from volume 54, part 5, page 4827, of the CONGRESSIONAL RECORD, Sixty-fourth Congress, second session, indicating the promptness and the unanimity of the House Members in rejecting this Senate amendment:

"Mr. FITZGERALD. Mr. Speaker, ever since the beginning of the Republic the House has asserted its prerogative under the Constitution to originate revenue bills. In my experience in the House upon several occasions the Senate has attempted to incorporate into various bills items providing for the raising of revenue either by taxation or by the issuance of bonds. The one great prerogative of the House of Representatives is the right to originate revenue bills, and however lowly this House ever descended it has never yet yielded a single iota of that privilege. [Applause.] I hope in this instance the vote will be unanimous. It ought to be unanimous, Mr. Speaker, because this action has not been taken by the Senate without warning. Notice was given to those in charge of this bill to-day that this proposed amendment was an infringement of the prerogatives of the House; that it should not be incorporated in the bill; that if incorporated it should be eliminated; and that if it were incorporated in the bill the House would assert its prerogative and return the bill with such a message as is now proposed. In spite of that warning and regardless of the constitutional provision the Senate has sent this bill here in defiance of the warning given and in derogation of the rights of the House. There is nothing for us to do except to insist upon our constitutional prerogative and to follow the unbroken precedents of the Republic by sending this bill back to the Senate, so that they may eliminate the provision which infringes upon our privileges.

"The SPEAKER. The question is on agreeing to the resolution.

"The question was taken.

"The SPEAKER. The ayes have it. The vote is unanimous."

This is not only a late precedent, but is squarely in point as well.

Moreover, Mr. President, in January, 1925, whilst the Senate was considering a bill increasing postal salaries and raising post rates, the Senator from Virginia [Mr. SWANSON] made a point of order against such portion of the bill as proposed to increase the postal rates, upon the ground that such a bill was "raising revenue," and that therefore the Senate was not the eligible body of Congress to originate such legislation. (See p. 2274 of vol. 66, pt. 3, 68th Cong., 2d sess.)

After discussion on this point the Senate, by 29 yeas to 50 nays, refused to sustain the point of order and thereby held that the Senate was an eligible authority to originate legislation increasing postal rates and that to increase postal rates was not "raising revenue." The bill was sent to the House of Representatives, and on February 3, 1925, the House of Representatives considered the bill, whereupon Mr. GREEN of Iowa made the following point of order, as shown at page 2941 of volume 66, part 3, Sixty-eighth Congress, second session:

"Mr. GREEN. Mr. Speaker, I rise to a question of the highest privilege, the privileges of the House, and offer a resolution which has been sent to the Clerk's desk.

"The SPEAKER. The gentleman from Iowa offers a resolution, which the Clerk will report.

"The Clerk read as follows:

"'*Resolved*, That the bill S. 3674, in the opinion of the House, contravenes the first clause of the seventh section of the first article of the Constitution and is an infringement of the privileges of this House, and that the said bill be taken from the Speaker's table and be respectfully returned to the Senate with a message communicating this resolution.'"

Mr. President, the discussion in the House upon that point was exhaustive and learned. The various views upon this question were supported with vigor, and I invite Senators to read the RECORD of that day, to wit, February 3, 1925. The House of Representatives then and there, by a vote of 225 yeas to 153 nays, decided that to increase postal rates—that is to say, to increase the charges and rates to be paid for the transmission of mail matter—was "raising revenue," and the bill was returned to the Senate.

The House had the power and authority to make such decision; therefore, before the Senate considers a bill of such vast importance as this bill reported by the able Senator from California [Mr. JOHNSON] authorizing the issuance and sale of bonds in the sum of approximately $125,000,000, or authorizing the sale of bonds under laws heretofore enacted, the Senate should seriously consider whether we have the constitutional power to originate such a bill. Surely the Senate does not wish to issue a brutum fulmen—a harmless thunderbolt—by considering a bill which we are not constitutionally eligible to initiate. I say this now so that I shall not hereafter be charged in the Senate with having waived this point.

I clear this discussion of the underbrush and wish my philosophy of this question made manifest. Whoever discusses questions of law with the Senator from California [Mr. JOHNSON] will find himself hard put to answer the arguments he may make.

I am not so vain as to imagine that I may vanquish him easily or at all, unless I be clearly within the law and precedents. He argues that the Supreme Court of the United States apparently has said that the issuance and sale of bonds is not "raising revenue" and that also the Treasury Department apparently has said that the issuance and sale of bonds is not "raising revenue"; but I say again that neither the Supreme Court nor the Treasury Department is eligible to pass upon a parliamentary question of this sort. What is "raising revenue" is not so much a juridical question as it is a parliamentary or political question.

No writ known to our law or Constitution can compel the House of Representatives to accept a bill from the Senate if the House declares the same to be a bill for raising revenue.

The principle of our constitutional requirement that all bills for raising revenue shall originate in the House of Representatives is far older than our Federal Government. Such principle originated out of the struggles between the King and the Commons of medieval England. The statute of William and Mary, session 2, Chapter II, was one of the first acts of the English Parliament specifically providing how public funds should be raised, and our forefathers did not ignore the principle when they adopted our Constitution in 1787.

During the days in England when the Crown attempted to exact ship money Hampden's share of the contribution was 1 pound sterling, which he refused to pay and was therefore summoned to show cause in the Court of Exchequer in the thirteenth year of Charles I.

The provision made by the ship money law for the defense of the country by sea was the grant to the King of tonnage and poundage and the service of the Cinque Ports. In addition to this provision, the right was assumed by the King of levying impositions, and the King disputed that the parliamentary supplies were the only legal supplies.

The judges, by a majority of 7 to 5, decided in favor of the King; some of the majority alleged the superiority of the King to the law, and the opinion of these may be found in the words of Berkeley—

"the law is of itself an old and trusty servant of the King's; it is his instrument or means which he useth to govern his people by. I never read nor heard that 'lex' was 'rex,' but it is common and most true that 'rex' is 'lex,' for he is 'lex loquens,' a living, a speaking, an acting law."

The expression by the majority judges in that case that rex was lex helped to bring on the contest which finally resulted in civil liberty in England. On this subject of originating revenue bills the Senate is neither rex nor lex. The Constitution of the United States on this important subject of originating revenue is rex and lex, and the Constitution on this, as on all other subjects, is lex loquens, "a living, a speaking, an acting law."

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

Mr. ASHURST. I yield.

Mr. COPELAND. A moment ago I was called from the Chamber as the Senator from Utah was speaking. As I understand it, he is opposed to the building of any dam whatever, is he not?

Mr. ASHURST. I am unable to say.

Mr. COPELAND. I took it from his remarks that he was in opposition to having the Federal Government build any dam. May I ask the Senator from Arizona if he would oppose the building of a dam and the carrying out of this project provided that there was some guarantee in the measure that the rights of Arizona should be fully preserved?

Mr. ASHURST. Arizona owns the bed of the stream. Without the bed of the stream, the river would be of no value.

Mr. ODDIE. Mr. President, that should be qualified to a certain extent. On the site of the Boulder Dam, the State of Nevada comes in.

Mr. ASHURST. The able Senator is correct. I shall say that Arizona owns the entire bed of the stream of the Colorado River where the river flows through Arizona. The junior Senator from Nevada is correct when he points out that Arizona does not own all of the bed of the stream at the Boulder Canyon site. Arizona owns only from the bank of the stream to the thread thereof, it owns that much of the bed, and at the Boulder Canyon site Nevada owns from the western bank of the stream to the thread of the stream.

Mr. COPELAND. Mr. President, if the Senator will yield for a moment, as he knows, I have no desire except to promote the peace, if I may, and I suppose, like all peacemakers, I am likely to be torn to pieces before the disturbance is over. But if there is a way to adjust the differences, to protect the rights of Arizona, and at the same time to harness this stream and make it work for the country, we should find that way; and I

hope the Senator will propose to the Senate some compromise, some solution, so that this work may go on, and so that his own State may benefit, as it will, tremendously.

Mr. ASHURST. Suppose I should enter the Senator's residence, where under the law he is living peacefully, and I should begin to take out his furniture and his wares and chattels, and when he objected I should say, "Make some offer of compromise." Does he not realize that California is entering Arizona, or attempting to do so, and take Arizona's property. If a burglar enters your house and begins to carry off your goods, what will you reply when the burglar says, "How shall we compromise this? How much shall I have of it?"

Mr. COPELAND. Is it as bad as that?

Mr. ASHURST. It is worse.

Mr. COPELAND. Of course, in that case, Mr. President, there is nothing for the peacemaker to do but to retire.

Mr. ASHURST. I welcome the peacemaker, but I shall not permit him, great physician that he is, to perform a Cæsarian operation on Arizona.

Mr. JOHNSON and Mr. COPELAND addressed the Chair.

The PRESIDING OFFICER. To whom does the Senator from Arizona yield?

Mr. ASHURST. I yield to the Senator from California.

Mr. JOHNSON. Of course, the Senator from New York, with the best of intentions, has met the fate that generally is met under those circumstances. But let me say to him that all of this talk about taking the property of Arizona is sound and fury, because Arizona stands there saying, "Give us $6,000,000 a year, and we are perfectly willing you should do just as you see fit." That is Arizona's position to-day, and the United States Government can not afford to permit Arizona or any other State in the Union to hold up the United States Government for $6,000,000, or any other sum.

Mr. ASHURST. "Still harping on my daughter." I have heard nothing this afternoon from the able Senator except that Arizona is demanding $6,000,000 a year. Let us see about that. California, rich, powerful, aggressive, a proud State in the Union, is, as I said the other day, politically, socially, industrially, and economically one of the great States of the Union. Hydroelectric power and petroleum-gasoline are the great horses of God which are always on the road, and which never grow weary. Arizona has the potential hydroelectric power; California has the base which furnishes the gasoline. Suppose that Arizona had the power and the influence to tap all California's oil wells by one gigantic conduit, and take all thereof into Arizona. What would the Senator think about it? That is what you are proposing to do to Arizona's hydroelectric power.

Mr. JOHNSON. Perfect nonsense.

Mr. ASHURST. Everything is branded as nonsense by my friend from California except what he says.

Mr. JOHNSON. There is not anything of the sort that is proposed to be done in this instance, or by this bill, nothing of the character or of the sort at all.

Mr. ASHURST. Suppose Arizona had the power and the disposition and it were physically possible to go into the oil fields in southern California, and to take seven-eighths of the oil and send it to Arizona by a conduit. Would the Senator think that was fair?

Mr. JOHNSON. What a perfectly silly analogy that is. That has nothing to do with this potential——

Mr. ASHURST. Would it be fair if we could do it?

Mr. JOHNSON. You could not do it, in the first place——

Mr. ASHURST. I know we could not do it, and you can not take this power.

Mr. JOHNSON. And you would not do it, in the second place. We are not attempting anything of that sort, in the first instance. We would not attempt it, and the United States Government, undertaking, as it is, to have flood control in the Colorado River of the waste water, is not attempting anything of the character that is insinuated by the Senator from Arizona.

Mr. ASHURST. Suppose we should attempt it and could do it. Would it be fair?

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

Mr. ASHURST. I yield, but I must hurry along.

Mr. COPELAND. Mr. President, to return to the Cæsarian operation which the Senator mentioned, the purpose of that operation is to save two lives, the life of the mother and the life of the baby. Is it not possible, if some plan can be worked out by which this development can go on, that the life of Arizona will be preserved? I have heard the Senator say, and he said it very eloquently yesterday, that the very life of Arizona depends upon the possession of this water.

Mr. ASHURST. Yes; surely.

Mr. COPELAND. Then, perhaps, a Cæsarian section of the kind mentioned by the Senator would be of benefit to the State.

Mr. ASHURST. Sever the jugular and a man dies. When you build a high dam at Boulder Canyon you have severed our jugular. Our growth would be stunted. It would be nothing to compare with what we might achieve if the dam were placed higher up the river.

The surface of the water at the Boulder Canyon is only 700 feet above sea level. It is proposed to generate 550,000 firm or primary horsepower there. That means, as the able Representative from Arizona [Mr. HAYDEN] said in his report, that sufficient water must flow over the dam every minute of every hour of every day of every year. Where is the water going after it shall have passed over the dam? It never will be recaptured. It will have gone on to Mexico. Place the dam at Glen Canyon, where the altitude is three thousand-odd feet, place the diversion dam at Bridge Canyon, and then you do not waste the water which is poured over the dam in the generation of this hydroelectric power.

The truth is, and with regret I speak of it, to wit, that we are living in the center of the most avid period of the world's history, avid for money, avid for success, avid to achieve results. Speed, bulk, size, success, quantity, and majority are the gods of the age. Durability and stability are not much considered. Los Angeles, caught within the whirlpool of her enormous growth, requires potable water and is quite careless in her methods of distributing water belonging to others.

Mr. McKELLAR. Mr. President, of course, I think these power projects should be developed wherever it is possible. I will say to the Senator from Arizona that I would like very much to have some arrangement made which would enable me to vote for the bill. I want to ask if there is any provision in the bill which would prevent the same thing happening to the power after it is developed that has happened to the Muscle Shoals power after it was developed?

In order that the Senator may understand what I mean, let me say that in the act of 1916, which was passed while I was a Member of the House and with the drawing of which I had something to do, this provision was included:

> The plant or plants provided for under this act shall be constructed and operated—
>
> Constructed and operated—
>
> solely by the Government and not in conjunction with any other industry or enterprise carried on by private capital.

Now, that is the law. Instead of that being done, the Government has never operated the plant at all, but in absolute violation of law it has turned the plant over to the Alabama Power Co. to be operated, and the Alabama Power Co. has been operating it ever since its completion to the interest and profit of the Alabama Power Co. and to the interest and profit of no other person, I believe, not only in the State of Alabama but in the United States or in the world, excepting the officers and owners of the Alabama Power Co.

I want to ask the proponents of the bill, the Senator from California or anyone else, if there is any provision in the bill which will prevent that identical thing happening after this work shall be completed? In other words, will the Government operate the plant after it is completed and after it is constructed out of the money belonging to all the people? Will the Government operate it for the benefit of those people within transmission distance of Boulder dam, or how will it be done?

Mr. JOHNSON. Mr. President, the Senator has reached now a point in the bill upon which there is a diversity of opinion. The senior Senator from Utah [Mr. SMOOT], as I understand it, and the Senator from Colorado [Mr. PHIPPS], as I understand his position, are opposed to the measure because within it there is an alternative proposition which authorizes the Secretary of the Interior to construct the works which might generate electricity, and to lease in units or otherwise at the switchboard the power, or in the alternative to lease the water for power. Those Senators, as I understand their position—I may not state it accurately, because they have not stated it upon the floor, but I believe their opposition to be founded upon the consideration which I suggest—insist that there shall be no alternative provision by which the Secretary of the Interior may construct the generating works and lease at the switchboard the units of power and the like, but that the entire situation shall be left so that, if I may use the term, private initiative will not be in any degree interfered with. Now, it is our hope, if the bill shall become a law, that municipalities within striking distance or within reasonable distance of the works——

Mr. McKELLAR. Within economical transmission distance.

Mr. JOHNSON. The Senator has supplied the appropriate term—within economical transmission distance, will contract for the power. I can say to the Senator that one municipality, the city of Los Angeles, by popular vote at the present time stands ready to take all the power that will not be given to various other cities or others who seek the power, and stands ready to take, as well, 250,000 horsepower, as I understand the present condition. So it is our hope that a situation such as the Senator fears will never arise. It is a hope. I can not say what may happen.

Mr. McKELLAR. Could we not provide in the bill that when the power is developed it shall be operated by the Government, and the Government shall sell it to cities and towns preferably, but, if not, to other users at a reasonable price, and not sell it through power companies which will charge the people tremendous prices?

Mr. JOHNSON. The bill gives the cities and towns and political subdivisions a preferential right first. Now, it is essential in this particular construction that there be an elasticity in the administration of the bill, left with the Secretary of the Interior, who is to administer it. That is because we are requiring, before there is a shovelful of earth turned or a single dollar expended, that the Secretary of the Interior shall have in his hands contracts which will pay for the entire construction of the stupendous work. We left, therefore, at his instance—because it was at his instance in writing requested—the mode of administration in alternative fashion, and we must leave him some leeway, some discretion, some elasticity in order that the financial set-up may be ultimately accomplished.

We have a different proposition than there is at Muscle Shoals. There the Government expended all of its money in erecting the works and in doing the job, and never got a penny of it back. All the talk about "dipping into the Treasury" in this case is the merest twaddle. We do not ask a single penny from the Government of the United States. We do not ask that the Treasury shall give to us any money of any kind or any character, except the initial loan which shall be put into this particular enterprise. We take the burden of financing this great public enterprise, and we take the burden of it so there can not be a single solitary thing done until we have financed it. We are in a different position from Muscle Shoals. We have left with the Secretary of the Interior, who is to administer the bill, the alternative in the administration. He desired it, he asked it, and the provisions were inserted at his request, and I think reasonably so.

Mr. McKELLAR. Of course, the Senator understands I have great sympathy with his project and I hope it will be arranged so I can vote for it. I would like to do it. At the same time I do not think the Government ought to lend its credit, if it does not do anything more than that, or furnish the money in the initial steps of the program unless some such provision is made. If it is going to be for the benefit of all the people, if the people are going to get cheaper electric rates, all well and good; but if we are going simply to furnish the credit of the United States to build this great plant for certain power companies who are going to charge the people just as much as before, and if the only ones who will be really benefited may be those great power companies, then I do not think we ought to agree to it. I will say in all frankness that I hope some arrangement can be made by which it can be conducted for the benefit of all the people.

Mr. JOHNSON. May I say to the Senator that he is fighting just exactly the fight that I have been fighting on the bill? I eliminate the opposition of Arizona now because that comes on a different theory entirely, but I say to you, sir, that the opposition there is to the bill, the opposition which is the real opposition, the opposition which denies the power of the United States Government to do what the Government may desire with its own property, the opposition which would let 60,000 men, women, and children die in the Imperial Valley before they would permit relief to be given them from the Colorado River, the opposition to the bill, I say to you, sir—and I say without fear of contradiction—comes from exactly the same source to which the Senator refers, comes from the power corporations of the United States who stand like a lion in the path preventing relief to these people which so richly they deserve and to which their perils entitle them from the Government of the United States.

INVESTIGATION OF CAMPAIGN EXPENDITURES

During the delivery of Mr. ASHURST'S speech,

Mr. REED of Missouri. Mr. President, will the Senator from Arizona yield to me for a moment?

Mr. ASHURST. Mr. President, let me make this short statement. I feel that courtesy requires me to yield. I realize that a Senator holding the floor, however, can not capitulate and bargain with the Chair or with the Senate; and so I must have it understood that yielding to these matters of courtesy and necessity does not in any way prejudice my right under the rules. I yield to the Senator from Missouri with that understanding.

Mr. REED of Missouri. Mr. President, I should not have interrupted the speech of the Senator from Arizona except that the work of the committee in which I with others am engaged must go on this afternoon. I desire to offer a resolution on behalf of the special committee, and ask unanimous consent for its present consideration.

Mr. MOSES. Mr. President, I think I had better suggest the absence of a quorum. I assume that the resolution is of some consequence.

Mr. REED of Missouri. I do not think it is, except that it extends the time of the special committee.

Mr. CURTIS. Let the resolution be read.

Mr. MOSES. Let the resolution be read for the information of the Senate.

Mr. REED of Missouri. I ask that the resolution be read for the information of the Senate. I do not think there will be any objection to it.

The PRESIDING OFFICER (Mr. DALE in the chair). The clerk will read the resolution.

The legislative clerk read the resolution (S. Res. 364), as follows:

Resolved, That Senate Resolutions Nos. 195, 227, and 258 of the Sixty-ninth Congress, first session, and Senate Resolution No. 324 of the Sixty-ninth Congress, second session, be, and they hereby are, continued in force during the Seventieth Congress.

That the special committee created pursuant to Senate Resolution No. 195 of the Sixty-ninth Congress, first session, is authorized in its discretion to open any or all ballot boxes and examine and tabulate any or all ballots and scrutinize all books, papers, and documents which are now in its possession or any that shall come into its possession, concerning the general election held in the State of Pennsylvania on the 2d day of November, 1926.

Resolved further, That the general authority of the said special committee is hereby extended to cover the nomination and election of any Senator at any general election held during the year 1926.

The PRESIDING OFFICER. Is there objection to the present consideration of the resolution?

Mr. MOSES. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. REED of Missouri. I will state to the Senator from New Hampshire that I think I can answer the inquiry because, I take it, I already have the substance of it from what the Senator has just said to me.

Mr. MOSES. Yes.

Mr. REED of Missouri. The purpose of the resolution is, first, to make it clear that the Senate committee will have the right to sit during the recess of Congress, a conclusion, I think, which follows from action heretofore taken, but I do not want any doubt about it; and, second, specifically to give the committee the right to examine the ballots so far as may be necessary. Our power already goes to the extent of examining the books and papers. We already have the ballot boxes here from the two sections of Pennsylvania which are principally involved, namely, Allegheny County and the city of Philadelphia. Those boxes are here, and we have authority to obtain the ballot boxes from the whole State. It is not our purpose, unless something shall develop in the future, to try to bring the ballot boxes here from perhaps more than one or two other counties, which are all, so far as we now know, that seem to be necessary to our investigation; but we can not systematically and with accuracy determine the matters that we must determine if we are to make a report to the Senate that shall mean anything unless we are allowed to go into these ballot boxes and to verify from them the returns that have been made. The purpose now is to confer that specific authority.

Mr. MOSES. And this request grows out of the notice of contest which has been filed by Mr. Wilson?

Mr. REED of Missouri. It grows out of the whole situation. The original resolution covered expenditures of money and the things done to secure nomination or election during the past year, 1926. A subsequent resolution authorized the committee to impound the ballots. The parties in interest, Mr. VARE and Mr. Wilson, were both called before the committee and they both signed a request to the authorities of Pennsylvania to turn over the ballot boxes to the committee. They have been brought here from those two great counties. Also there was a request, joined in by those gentlemen, to bring in the election records. I think that, under the authority we already have, we can proceed with the inquiry, except that there is no specific instruction

to open the ballot boxes if we deem it necessary to do so. We can not complete this work and make a report to the Senate that will really mean anything and that will be of real value unless we get this authority. The thought of the joint committee has been to proceed with that work during the vacation and ascertain whether the ballots in the boxes check with the returns, and so forth.

Mr. MOSES. I appreciate all that the Senator has said. May I ask him what is the state of the allocation of money made from the contingent fund of the Senate for this purpose?

Mr. REED of Missouri. There has already been a report as to the expenditure of funds. I am going to be frank and say that I have got to consult with the committee regarding the matter, but it will probably be necessary to have some more money. That phase of the subject, however, is not covered by this resolution.

Mr. MOSES. My immediate thought when I heard the resolution read was that it was necessary that it should go to the Committee to Audit and Control the Contingent Expenses of the Senate. As I have been standing here surveying the Chamber, however, I discover that the junior Senator from Pennsylvania [Mr. REED] is not now present, and I suggest to the Senator from Missouri, while I have no personal objection whatever to the immediate consideration of the resolution, it might be at least ethical not to take action in his absence.

Mr. REED of Missouri. I do no want to take any advantage of the absence of any Senator. The only difficulty with me is that I have left the work of the committee temporarily for this purpose; we are getting toward the end of the session; and it did not occur to me that anybody in the Senate could really have an objection to the consideration of the resolution.

Mr. REED of Pennsylvania entered the Chamber.

Mr. MOSES. The Senator from Pennsylvania has now come in. He may acquaint himself with the situation, and then state his position for himself. I do not know what it is.

Mr. REED of Pennsylvania. Mr. President, I have examined the resolution offered by the Senator from Missouri. At first sight the only criticism that I have of it is that it does not go far enough. It authorizes the committee "in its discretion to open any or all ballot boxes." It seems to me that it would be preferable to have the resolution read that the committee is authorized and directed to open all ballot boxes in its possession. I do not think that the investigation ought to be piecemeal. I think that in fairness the committee ought to open all the boxes which they have.

Then I notice the last clause extends the authority of the special committee "to cover the nomination and election of any Senator at any general election held during the year 1926." I ask the Senator what that is intended to cover?

Mr. REED of Missouri. That is intended to cover the Maine case. The other resolution specifically referred to an election to be held on the 2d day of November, the general election. The Maine election was held in September, 1926. I am not particular about it, but many people have been clamoring to have the matter looked into, and that is what the clause referred to is intended to cover. There is no secret about it at all. I do not know that there will ever be an investigation, but the committee thought that it ought to be in position to make it if it shall be called on to do so.

Mr. REED of Pennsylvania. I thought the Maine case had already been well investigated.

Mr. REED of Missouri. I do not know whether it has been or not.

Mr. REED of Pennsylvania. I have no particular knowledge and no particular concern about it.

Mr. REED of Missouri. I can assure the Senator we do not want to go into it unless we are compelled to do so by our duties.

In regard to the opening of the ballot boxes let me say to the Senator that both Mr. VARE and Mr. Wilson appeared before the committee at our request and signed requests to the authorities in Allegheny County and in Philadelphia to deliver the ballots from those two counties, and I am not sure but the request is broad enough to cover all of the counties of the State. However, in consultation with those gentlemen, the statement was made to us that probably there would be no contest in regard to the greater part of the State, but that if either of them wanted any particular ballots investigated they would make that known, and we assured them on behalf of the committee that, so far as time permitted, we would accord with their request.

Mr. REED of Pennsylvania. There are a very large number of "zero" districts throughout the State in which VARE got the "zeros" and his adversary got all the votes which were reported.

Mr. REED of Missouri. That was mentioned by Mr. VARE. We told him that if he would file with us a list of those districts from which he wanted to have the ballot boxes brought in we would have them brought in. He has not filed any such list up to date; so that it is left there in that way. I am asking the Senate to trust the committee to do its work as thoroughly as time and opportunity will permit. I hope there will be no objection.

Mr. REED of Pennsylvania. Mr. President, I have not had any chance to discuss this matter with Mr. VARE or any of his representatives; and I think I shall have to ask that the resolution lie over until to-morrow under the rule.

Mr. REED of Missouri. Very well.

Mr. REED of Pennsylvania. I do not imagine there will be any difficulty about it to-morrow.

The PRESIDING OFFICER. The Senator from Pennsylvania objects to the present consideration of the resolution, and it will lie over until to-morrow.

CONSTRUCTION AT MILITARY POSTS—CONFERENCE REPORT

Mr. WADSWORTH. I send to the desk a conference report which I ask may be read, and for which I shall ask immediate consideration.

The PRESIDING OFFICER. The conference report will be read.

The report was read, as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 15547) to authorize appropriations for construction at military posts, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate numbered 1, and agree to the same.

Amendment numbered 2: That the House recede from its disagreement to the amendment of the Senate numbered 2, and agree to the same with an amendment as follows: In lieu of the matter proposed by the amendment of the Senate insert the following:

"SEC. 3. That in order to make further provision for the military post construction fund established by the act approved March 12, 1926, the Secretary of War is authorized to cause to be retransferred to the War Department, subject to the approval of the President, all real property heretofore transferred, or any part thereof, since January 1, 1919, from the War Department to other departments, bureaus, branches, or activities of the Government and no longer actually and necessarily required for their use, respectively, and upon the retransfer to the War Department of any such property the Secretary of War shall report the same to the Congress with recommendations as to its sale and the deposit of the proceeds to the credit of the military post construction fund."

And the Senate agree to the same.

J. W. WADSWORTH, Jr.,
DAVID A. REED,
MORRIS SHEPPARD,
DUNCAN U. FLETCHER,
HIRAM BINGHAM,
Managers on the part of the Senate.

W. FRANK JAMES,
JOHN PHILIP HILL,
JOHN J. MCSWAIN,
Managers on the part of the House.

Mr. WADSWORTH. Mr. President, an agreement has been reached upon all items in the bill; they have all been discussed in the Senate on a prior occasion; no important change has been made; and I ask unanimous consent for the immediate consideration of the conference report, with the understanding that there will be no extended debate upon it.

Mr. JOHNSON. Mr. President, may I inquire if that is all the Senator from New York has been waiting for?

Mr. WADSWORTH. Yes.

Mr. JOHNSON. I was hoping he was listening to the debate on the pending bill.

Mr. WADSWORTH. We have been waiting for two years for the bill on which I have presented the conference report.

Mr. JOHNSON. Very well; we will assist the Senator in passing the bill; but we have been waiting for 50 years for the Boulder Canyon dam bill, and please assist us in passing it.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Haltigan, one of its clerks, announced that the House had agreed to the amendments of the Senate to the bill (H. R. 10485) for the relief of William C. Harllee.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 16800) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of such District 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. FUNK, Mr. SIMMONS, Mr. TINKHAM, Mr. GRIFFIN, and Mr. COLLINS were appointed managers on the part of the House at the conference.

DISTRICT OF COLUMBIA APPROPRIATIONS

Mr. PHIPPS. I ask the Chair to lay before the Senate the action of the House of Representatives on the District of Columbia appropriation bill.

The PRESIDING OFFICER (Mr. DALE 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. 16800) making appropriations for the government of the District of Columbia and for other activities chargeable in whole or in part against the revenues of such District 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. PHIPPS. I move that the Senate insist on its amendments, agree to the request 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. PHIPPS, Mr. JONES of Washington, Mr. CAPPER, Mr. GLASS, and Mr. KENDRICK conferees on the part of the Senate.

LOWER COLORADO RIVER BASIN

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 3331) to provide for the protection and development of the lower Colorado River Basin.

Mr. ODDIE. Mr. President, I think consideration of the pending measure will be expedited if I may obtain permission to insert in the RECORD certain extracts from the hearings which were held before the Senate Committee on Irrigation and Reclamation at Las Vegas, Nev., on November 2, 1925, in which a number of Senators participated. Statements were made at these hearings regarding the Colorado River development by the able engineer, Mr. F. E. Weymouth, who had for many years been chief engineer and chief of construction of the Reclamation Service, and who is one of the ablest engineers and best authorities in the country on reclamation matters.

Mr. President, I am strongly in favor of this proposed legislation, the Swing-Johnson bill, and the material which I am placing in the RECORD will be more eloquent and instructive than any speech which I might make in its behalf. It gives accurate and reliable statistics regarding the whole Colorado River problem, and brings out the valuable and useful discussion of the several members of the committee with these experts.

The PRESIDING OFFICER. Is there objection to the printing in the RECORD of the material referred to by the Senator from Nevada?

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

STATEMENT OF F. E. WEYMOUTH, CIVIL ENGINEER

The CHAIRMAN (Mr. MCNARY). Mr. Weymouth, what experience have you had as a civil engineer?

Mr. WEYMOUTH. Twenty-five years' experience. Twenty years I was in the Reclamation Service. The last eight years of that I was chief of construction and chief engineer.

The CHAIRMAN (Mr. MCNARY). Very well, Mr. Weymouth, the committee will be glad to have you discuss the matter in your own way.

Mr. WEYMOUTH. The Reclamation Service began almost from the time if its inception the study of the Colorado River and its basin; that is, as to the amount of irrigable land in the several States, and to that end asked each of the State engineers or other proper State official to furnish the service with the amount of irrigable land in their State; that is, whether or not they thought it would be practical to irrigate it. That information was, of course, necessary in order to determine any feasible scheme of development of the river as a whole. The service spent a great deal of time investigating various reservoir sites in the basin as early as 1902 and 1903, made surveys of the Mohave Reservoir site, the Bull Head site, and the Parker site on the lower river, and later on constructed the Yuma project heading at Laguna Dam, which you gentlemen have seen. The service has also constructed two projects in the upper basin—the Uncompahgre project and the one at Grand Valley. The physical conditions are such in the upper States that in nearly all cases or in all cases the water can be taken out of the streams in the State to irrigate the lands in that State, and for that reason, so far as I know, there never has been any difference of opinion among the different States in the upper basin as to how the upper-basin waters of the Colorado River should be regulated. You gentlemen are familiar with the reasons which lead up to the suggestion that a pact be formed between the upper basin and the lower basin States. The lands in California are very easy to reclaim. That is because they lie low and adjacent to the river and it is comparatively easy to get the water out of the river onto the land.

In Arizona it is possible to irrigate along the bottoms some two hundred and eighty or ninety thousand acres of land easily, of which about 115,000 acres is in the present Yuma project—will be when it is completed. There is another project in Arizona that is perhaps feasible—the so-called Parker-Gila project. The plan proposed in connection with that was made by the Arizona Engineering Commission, consisting of an engineer appointed by the Reclamation Service and an engineer appointed by the State of Arizona and another selected by the Geological Survey. These men investigated this Parker-Gila project and reported that in their opinion it was feasible; that about 674,000 acres could be irrigated by a canal taken out at Parker by constructing a dam at that point and raising the water about 100 feet and irrigating about 160,000 acres by gravity and something over 600,000 acres by pumping. That land will perhaps some time be reclaimed, although the pump lift is 200 feet.

Senator PITTMAN. How much is the pump lift?

Mr. WEYMOUTH. About 200 feet.

Senator PITTMAN. You think that that will be feasible at some time?

Mr. WEYMOUTH. Perhaps some time. Those two—this is, the Parker-Gila project and the land adjacent to the river—makes a million acres in Arizona. You have heard in the last few days a great deal about the so-called high-line project in Arizona, for which various claims have been made as to the acreage that could be irrigated. Some of the schemes that have been suggested contemplate irrigating as much as three and one-half million acres of land and other plans 2,000,000 acres. This engineering commission of which I have spoken also investigated that project. They investigated several different schemes. One was to build a dam at Boulder Canyon to an elevation of about 1,290 feet and carry a canal down along the sides of the mountains, with long tunnels, 70 or 80 or 90 miles long, to reclaim a large area down there—about 2,000,000 acres of land—they reduced the acreage from 3,000,000 to about 2,000,000. This commission, however, came to the conclusion that the project was infeasible and that they would not recommend any money be made available for the further investigation of that project. At the present time I understand that the State of Arizona has filed on the waters of the Colorado River to reclaim about three and one-half million acres of land in Arizona under this so-called high-line canal. That would take about 14,000,000 acre-feet of water, which is about all of the water there is in the whole river.

Senator PITTMAN. Before you leave that; do your studies of the report that declared this proposed project of 2,000,000 acres in Arizona infeasible cause you to agree or disagree with the opinion of that commission of engineers?

Mr. WEYMOUTH. Well, I fully agree with them that the project is not worthy of further investigation and that it is not feasible. In those investigations, they suggested different headings where the water could be taken out but all had about the same elevation. One scheme was to take out the water at Spencer Canyon. The present plan, though, I believe, is to take it out at Bridge Canyon, and it is for that reason, I understand, that Arizona is in favor of a dam at that point. With your permission, I would like to read two or three pages of the report of the engineers to the Secretary of the Interior, of which I was one, in reference to this high-line canal.

The CHAIRMAN. The names of the other engineers appear in the document?

Mr. WEYMOUTH. Yes.

The CHAIRMAN. Very well.

Mr. WEYMOUTH. The members of the board signing the report are Spencer Cosby, who is a colonel in the Corps of Engineers, United States Army; W. Kelley, chief engineer of the Federal Power Commission; E. B. Dabler, engineer of the Bureau of Reclamation; and Herman Stabler, chief of land classification branch of the Geological Survey; Walker R. Young, engineer of the Bureau of Reclamation, and myself. I might say this particular letter refers to the engineering report of Sturdevant and Stam, which was filed with your committee a few days ago. The report, of which I will read the major portion, is as follows:

"In accordance with your request, the committee of engineers appointed by you to consider the problems of the Colorado River has the honor to submit the following report on the canal project set forth in the report of G. W. Sturdevant and E. L. Stam, dated September 18, 1923:

"This project is a proposal to divert water from the Colorado River at or near Spencer Canyon for the irrigation of 3,500,000 acres of land in southwestern Arizona. The canal, with an intake elevation of 2,000

feet, would be constructed down the canyon to a few miles above Grand wash, thence by alternating tunnels and open channels it would extend in a southwesterly direction across Grapevine Creek, Hualpai wash, and Detrital or Squaw wash, and the intervening mountain ranges to the western slope of the Black Mountains about 5 miles east of the old Eldorado Ferry; thence down the west slope and around the southern extremity of the Black Mountains, crossing the Santa Fe Railroad about 3 miles south of Yucca Station; thence down the east side of Sacramento Valley and through a long tunnel to the Williams River Valley at the head of Mohave Creek; thence up the Williams Valley, crossing Big Sandy and Santa Maria Rivers about 10 miles above their junction; thence in a southwesterly direction across Data Creek and Bullard wash, under a low divide into Butler Valley, and down the west slope of Harcura Mountains to a crossing of the Santa Fe Railroad about 3 miles east of Vicksburg Station. Here the main body of irrigable land would begin and the first main lateral would branch off. Thence the main canal would extend eastward through comparatively level country across the Hassayampa and Agua Fria Valleys, through Paradise Valley, to a siphon crossing of Salt River at Granite Creek Dam, the canal level being 157 feet above the dam crest; thence southeasterly to a crossing of the Gila River about 7 miles below Florence; thence southwesterly to Casa Grande and westerly to a point 8 miles southwest of Maricopa, the elevation at that point being approximately 1,300 feet. The length of this canal is given by the promoters as approximately 548 miles with measurements following the course outlined, on the best contour maps available give 360 miles to Santa Maria crossing, 420 to Vicksburg, 555 to Granite Reef Dam, and 645 to the end."

Senator JONES. What is the total?

Mr. WEYMOUTH. The total length is 645 miles as measured on the map; probably much longer than that. [Reading:]

"If the canal were actually located, it is safe to say that it would be even longer and possibly over 800 miles long. It is our belief that the average length water would have to travel from diversion to land would hardly be less than 700 miles.

"The irrigable area appears to include all of the lands that can be reached from this canal. It is known that a portion of this area, particularly in the lower Gila Valley below Sentinal Butte, is unsuited to irrigation and there are also about 300,000 acres now irrigated from other sources which seem to be included. However, it is impossible from information furnished by the promotors of this plant, or any other data at the present available, to determine even approximately the area of lands which could be properly classed as irrigable, and we have grave doubts that so large a body of irrigable land exists under this proposed canal.

"Land in this locality requires for successful irrigation at least 3 acre-feet per acre delivered. Considering the great length of this canal system, even though all of the main canals are concrete lined, loss from seepage and evaporation will certainly amount to 25 per cent to 40 per cent. Taking the smaller amount, it will be necessary to divert 4 acre-feet for each acre of land, or 14,000,000 acre-feet for the season. The maximum use of water in irrigation in this section occurs in July and averages about 13 per cent of the total for the year. This demand will require a canal with a capacity of 30,000 second-feet. The first 35 or 40 miles of the canal would be located in shale along precipitous cliffs and narrow benches within the canyon. Considering the well-known treacherous character of shale when saturated with water, we think it would be necessary to place the entire canyon section of the canal in tunnel.

"Further on, the main canal will traverse a great deal of country with steep slopes and so irregular that the construction of a surface canal of the necessary capacity would be exceedingly expensive and might be infeasible.

"Throughout its entire length, the main canal will cross thousands of water courses varying from small gulleys to deep, wide canyons. This region is characterized by local storms of very violent character and at each drainage crossing adequate provision must be made for safely carrying storm waters across the canal. This again would add to the expense of the undertaking.

"Messrs. Sturdevant and Stam state that the total length of tunnels will not exceed 27 miles. Our estimate is over 80 miles, the tunnel from Sacramento Valley into Williams River Valley being alone as long as their total.

"The low-water level at Spencer Canyon, as determined in the survey made by the Geological Survey during the past summer, is 1,112 feet. It will therefore be necessary to construct a dam for diversion about 900 feet high above low-water level. It is not known how far below water level satisfactory foundations can be found.

"With our present knowledge of the principles of dam design, it is questionable whether a dam from 900 to 1,000 feet high, developing stresses within ordinary allowable limits is practicable or economically feasible. It is known that the upper 200 feet of this dam would have shale abutments, which probably would not be found permissible in a dam of this character.

"There is still to be considered a difficulty which is perhaps the most serious of all—the operation of a canal system 700 miles long with 500 miles of main canal in rough, mountainous country. The difficulties of handling a river with three times the low-water flow of the Colorado River along canyon walls, rough lava mountain slopes, and across wide detrital washes for 500 miles are hard to visualize, and one break in this canal would mean the shutting off of water to this entire area for a period which would ruin crops. A storage and regulating reservoir on the canal line near the irrigable area of sufficient capacity to tide over such an emergency or, indeed, to meet ordinary requirements in operating so huge a system, seems to be unavailable, and no mention of such a necessary adjunct to the system has been made by the promoters.

"Messrs. Sturdevant and Stam state that the construction cost of their project, including dam, high-line canal, and lateral canals, will be $200,000,000. It is believed that the actual construction cost of such a project, if indeed it is feasible at all, would far exceed this estimate.

"We consider that this project is inadvisable and is not worthy of serious consideration."

Senator SHORTRIDGE. What is your idea as to the approximate cost of that canal?

Mr. WEYMOUTH. More money than there is in the world, I guess.

Senator SHORTRIDGE. Well, that, of course, is an answer; but, have you made any approximation as to the total cost?

Mr. WEYMOUTH. We tried to make some estimates and I judge it would be at least six or seven hundred million of dollars.

Senator SHORTRIDGE. Would that include the cost of the dam?

Mr. WEYMOUTH. Yes; that might include the cost of the dam.

Senator SHORTRIDGE. What storage capacity would the reservoir have?

Mr. WEYMOUTH. At Spencer Canyon, it would be very little.

The CHAIRMAN. Pardon me. You said that to irrigate this would require 14,000,000 acre-feet per annum?

Doesn't that exceed the capacity of this basin if a dam were constructed at Spencer Canyon?

Mr. WEYMOUTH. Yes.

The CHAIRMAN. To what extent does it exceed it?

Mr. WEYMOUTH. Probably the flow of the whole river is about 20,000,000 acre-feet and the present areas that are irrigated need to be taken care of and some expansion of areas that is feasible to irrigate needs to be taken care of. You see, all of the lower river, under the compact, is only allowed seven and one-half million acre-feet and this one scheme contemplated 14,000,000 acre-feet. Now, while this report referred to a particular project, all of the high-line schemes are very similar but the scheme that they have under consideration now, as I understand it, contemplates taking out a canal heading at Bridge Canyon after building a dam eight or nine hundred feet high. I wanted to state all of these things, because it seems to me that the entire scheme is so visionary that it ought to be killed off for all time to come, that is, in considering what should be done with the water in the river.

Senator PITTMAN. We have a map here which is gotten out under the LaRue report and it does not seem to have a dam site on here named Bridge Canyon. Is that identical with or near the so-called Spencer Canyon?

Mr. WEYMOUTH. Yes; it is very near. It is only 8 or 9 miles away. Bridge Canyon is about 12 miles below the Diamond Creek site.

Senator PITTMAN. But the Bridge Canyon site and the Spencer Canyon site are advocated by its supporters before this committee for the purpose of accomplishing the purposes of irrigation such as you have described?

Mr. WEYMOUTH. Yes, sir.

Senator PITTMAN. And no matter which one of those sites they selected the result would be just about the same as you have testified to?

Mr. WEYMOUTH. Yes, sir; and the reason that I have at this time in my testimony taken up the question of the so-called high-line canal in Arizona is because of its effect on the development of the river as a whole as to where a dam should be built or should not be built.

Senator ODDIE. How many miles of tunnel were contemplated in that high-line scheme?

Mr. WEYMOUTH. It would be 70 or 80 miles.

The CHAIRMAN. Proceed, Mr. Weymouth.

Mr. WEYMOUTH. A witness appeared at Phoenix and advocated as a first step in the development of the Colorado River a dam at the so-called Dewey site to control the floods. The Reclamation Service investigated that site, among many others. We estimated that we could build a dam at that point for about $11,000,000. It is a good dam site and a good reservoir site, but comparatively small. I do not recall just what effect that site alone would have in connection with the regulation of the river, but I remember distinctly that we made a plan—worked out a scheme for controlling of floods of the river by building of dams at the Dewey site, Bluff site, Flaming Gorge, and at the Juniper site at an estimated cost of about $40,000,000. With those reservoirs we believe that we could control the river to a flow of about 70,000 cubic feet a second. We believe that with floods of 70,000 cubic feet a second that there would be danger of inundation of the Imperial Valley and the breaking of the levees of the Yuma project;

that is, experience has proven that whenever the river gets up higher that 30,000 or 40,000 cubic feet a second that it is not only apt to overtop its banks where there are no levees but the river gets so high that it undercuts the levees, even where protected, and it is very dangerous, and therefore the river should be controlled to a lower discharge—something like 30,000 or 40,000 cubic feet a second—and it was because of that fact which led to the investigation on the lower river to see if a large reservoir site could not be found downstream somewhere to regulate the flow to about 30,000 or 40,000 second-feet.

The so-called Kinkaid Act authorized the Secretary of the Interior to have an investigation made to determine how to protect the Imperial Valley and that led to the investigation of the Boulder Canyon site. At the same time, we investigated all possible sites on the lower river, because we believe that eventually all of the head in the river should be utilized for power, that is, no dam should be permitted to be built anywhere in the river that will interfere with the best development as a whole and for that reason we worked out a scheme for the development of the river as a whole to see if the Boulder Canyon would fit into that scheme. That scheme contemplated building a dam at Bridge Canyon about 550 or 560 feet high, another at Boulder Canyon or rather Black Canyon, where we were to-day; another one at Bulls Head, where water could be reregulated and some power developed, and another dam down at Parker. That site could be utilized to reregulate the flow and serve as a diversion dam for the Parker project and also create some power. With those four dams, all of the head of the river between the Grand Canyon Park and Parker could be developed; that is, so that there would not be any power lost. Mr. LaRue has suggested another scheme for developing that river, building a dam at Bridge Canyon but nothing at Boulder Canyon and then there are several low dams suggested by him down the river, the names of which I have forgotten, but they are all in his report. He thinks it is a mistake to build high dams. Why, I do not know. In constructing a dam in the Colorado River, one thing should be kept in mind at all times and that is that the principal cost of building any dam in the river below the Grand Canyon is the cost of getting started; that is, wherever you build a dam, you have got to build a railroad out to the site; you must build a large camp to take care of a large construction crew and you must build a large construction plant and all that sort of thing; the river must be diverted and it costs just as much to divert the river for a low dam as it will for a high dam. Now, all of those things will cost somewhere around $16,000,000 or $17,000,000 before you get started to build the dam itself.

The CHAIRMAN. Mr. Weymouth, do you think it is necessary to construct any dams other than the 550-foot dam at Boulder Canyon to control the flood waters of the Colorado River?

Mr. WEYMOUTH. No, no; but I think, however, that we should take into consideration these different sites, so that after the Boulder Canyon Dam is built the river will be left in such shape that other dams can later on be built so as to get the maximum amount of power out of the river and the maximum amount of water for irrigation and, for that reason, we have studied all of these other sites to see what would be the best combination of dams we could build to develop the river and, for that reason, we worked up—I don't remember now how many heights of dams or how many locations, but there were literally dozens of them, before we could select the best combination—the cheapest combination—and one thing that we took into consideration in all these studies was this, that the first development on the river should be at a point where power could be developed within transmission distance—within a practical transmission distance—of the present market. Now, if there was a dense population the whole length of the Colorado River that needed power or needed water for irrigation, it might mean a different kind of development than we would recommend under present conditions, or perhaps the first dam should be constructed at some other point, but under existing conditions there should be a dam built, we believe, to regulate the floods in the first place, I think everybody is agreed, somewhere, and about every one believes that water should be stored somewhere so that all the lands in the lower valley can be reclaimed that are feasible of reclamation. Now, if those two things could be done and at the same time create power enough to pay for the dam and reservoir, that is the wise thing to do, and it was for that reason that we decided on the site at Black Canyon.

Senator KENDRICK. In connection with the high line, Mr. Weymouth, do I understand you to say that the high dams proposed to the extent of 900 feet are to be used as diversion dams and would not be available for storage purposes?

Mr. WEYMOUTH. Now, regarding the dam at Bridge Canyon, the engineers in the Reclamation Service worked up the storage capacity of a reservoir made by a dam 900 feet high and found it to be about 1,000,000 acre-feet, so a dam at Bridge Canyon will not store water. In Mr. La Rue's report, on page 72, you will note that he recommends a dam 566 feet high, or 556 feet high, and that table shows that there will be no water available for flood control or no water available for storage for irrigation.

Senator KENDRICK. It is simply for the purpose of diverting the water at a high elevation?

Mr. WEYMOUTH. Yes; or for power. That could be used for power at that height, but without any storage above it it would be of little value. Now, this one dam at Black or Boulder Canyon 550 feet high above the water surface would cost about $40,500,000, or, say, $41,000,000, whereas, under Mr. La Rue's scheme, to get power, to get water for irrigation, and to have flood control, he would have to have three dams. He would get power at Bridge Canyon and that dam will cost about thirty-two or three million, provided the foundation conditions are favorable. We made an estimate on a site at Bridge Canyon. If the foundations are favorable at a depth of 90 feet, you could build it for that amount, but we do not know that there is any suitable foundation there at all—that is, within feasible depth—so that we don't know that there is a feasible dam site at Bridge Canyon.

Senator JONES. You made your investigations and your report before Mr. La Rue made his report?

Mr. WEYMOUTH. Before he made this last report.

Senator JONES. So he had the benefit, I assume, from your report—he had that advantage?

Mr. WEYMOUTH. Yes. The Glen Canyon Dam, where water would be stored, is a good reservoir site, but has a very poor dam site. The dam would be longer than at Black Canyon and the rock there is of very poor quality.

Senator JONES. How much longer?

Mr. WEYMOUTH. Thirty or 40 per cent, if I remember correctly. The rock up there is like soft brick. When we were there a corps of engineers of the Edison Co. were drilling there at that time and they had their workmen get us some samples of the rock out of the side of the cliffs, and we put them in gunny sacks and boxes and brought them back down to Flagstaff and then shipped the samples to Denver and Washington, and the samples were mostly sand when they reached there. The rock is so soft it just crumbled. You can crumble it up in your hands.

Senator JONES. It crumbled in transit?

Mr. WEYMOUTH. Yes.

Senator PHIPPS. Do we understand that the purposes of flood control, irrigation, control of silt, and production of power are in a measure conflicting; that is to say, that the ideal dam for power purposes would be of a different type than that you would need merely for flood control—you would need a different height dam to take care of silt over a period of years? If you were building a dam simply for power that was 550 feet high at Boulder Canyon, you could afford to divert the water—take the water out practically at the crest, but if you want it for flood control purposes, you should never fill the dam above a certain height, leaving enough capacity above that given height to take care of the floods that might come into the dam; is that correct?

Mr. WEYMOUTH. No.

Senator PHIPPS. Well, I would like to have your exposition of the different heights that would be suitable for the varying purposes, including irrigation.

Mr. WEYMOUTH. If a site was selected on the river where there was very small storage, it might be advisable to have different sites for power and for flood control and for irrigation, but, as it happens, at Black Canyon the site is large enough for all of those purposes; that is, you can get all of those things much cheaper than you can get them separately in any other way.

Senator PHIPPS. That is self-evident, I think. At what height would you take out the water of the 550-foot dam proposed at Black Canyon?

Mr. WEYMOUTH. You mean for the power?

Senator PHIPPS. Yes; for power.

Mr. WEYMOUTH. About 150 or 200 feet above the river.

Senator PHIPPS. You would not utilize the full drop of 550 feet or anything like that?

Mr. WEYMOUTH. Oh, yes.

Senator PHIPPS. How would you accomplish that and still have flood capacity remaining?

Mr. WEYMOUTH. Well, we would take out penstocks at that elevation and carry them down to the river level, so we would get the full head of the reservoir on the power plant.

Senator PHIPPS. I don't quite follow you in your statement. Assuming that the 550-foot height was adopted for the dam and was constructed now, in order to have retaining capacity for flood control you could not keep that dam filled at all times?

Mr. WEYMOUTH. No, sir.

Senator PHIPPS. And take out the water for the purpose of generating hydroelectric power from the top of the dam?

Mr. WEYMOUTH. No. Senator, we figure that the average effective head would be 430 feet.

Senator PHIPPS. And that would leave you ample capacity to take care of flood?

Mr. WEYMOUTH. Yes.

Senator PHIPPS. Over and above that height?

Mr. WEYMOUTH. Yes; we allowed about 8,000,000 acre-feet for flood control and 5,000,000 or 6,000,000 acre-feet for silt, and the remainder of the water would be available for irrigation and still have this high head of 430 feet for power.

Senator PHIPPS. The dams of the hydroelectric power companies for power and those of the irrigationists for water for their lands frequently conflict, do they not? In other words, the power company wants water to come through in a constant flow and the irrigationist only wants it to come through as he can use it for covering the lands?

Mr. WEYMOUTH. Yes. In this lower country they use water most of the year, so there is not as much conflict there in the Southwest as there is farther north, where they only irrigate a few months.

Senator PHIPPS. I don't recall at the moment, but in the terms of the compact, with which you are familiar, which has the highest beneficial use after domestic use, irrigation or power?

Mr. WEYMOUTH. I do not remember what the compact states, but, generally, in the West the law gives irrigation precedence over power.

Senator PHIPPS. I think that is correct in the pact also. Now, one of the primary purposes of this dam would be flood control?

Mr. WEYMOUTH. Yes.

Senator PHIPPS. Would that be made paramount?

Mr. WEYMOUTH. Yes. For the period that we studied, which is the period that we have the river discharge records, the reservoir would regulate the flow of the Colorado throughout the year, take care of the irrigation requirements below, and take care of the power—about 600,000 continuous horsepower; that would mean the reservoir would be fluctuating considerably; but the reservoir is so large it could be done.

Senator JOHNSON. There would be no conflict with the dam built at Black Canyon between the various uses that have been suggested by the Senator?

Mr. WEYMOUTH. No, sir.

Senator ODDIE. Mr. Weymouth, what is your idea as to the time that a serious menace would occur in the Imperial Valley and in the Yuma Valley from the accumulation of silt, in case there should be a delay in the building of the Boulder Canyon flood-control dam?

Mr. WEYMOUTH. Well, that is very serious. The silt problem is very serious now.

Senator ODDIE. In filling up the ditches and raising their level. What is your idea as to the time that will elapse before it becomes a very serious matter?

Mr. WEYMOUTH. It is getting to be more serious every year. I do not know how long it will take to get to the point where it will cost too much to maintain those ditches any longer; the river at this time is gradually raising its bed every year. The Pescadero Cut was built a few years ago and it is estimated it will take care of the silt somewhere from 10 to 15 years. Nobody knows exactly how long, but there is danger, though, of the river breaking into the Imperial Valley above the Pescadero Cut if high floods occur.

Senator ODDIE. What would be your idea, roughly, as to the damage that would be done in case that should happen?

Mr. WEYMOUTH. If the river went into the Imperial Valley?

Senator ODDIE. Yes.

Mr. WEYMOUTH. Well, I do not believe the water could ever be gotten out again, so the valley would be destroyed. The river menaces the levees above the Pescadero Cut. You remember a few days ago we went down the valley and you doubtless saw where the river comes in against the dikes next to the railroad?

Senator ODDIE. I saw it and studied that condition carefully.

Mr. WEYMOUTH. If there should be a high flood, it is liable to go into the Imperial Valley.

Senator ODDIE. In your opinion, is that levee in imminent danger of going out in case of a flood?

Mr. WEYMOUTH. A large flood; yes.

Senator ODDIE. How much would you estimate that ditches are raised each year from the silt deposition?

Mr. WEYMOUTH. I do not know how much the ditches are raised. They keep cleaning them out all of the time. They would be filled up several times a year if they did not keep cleaning them out.

Senator ODDIE. That accumulation of silt that is piled up from the ditches each year is becoming a menace, is it not?

Mr. WEYMOUTH. Yes; certainly.

Senator SHORTRIDGE. Mr. Weymouth, would the building or constructing of a 550-foot dam at Black Canyon prevent the constructing of a dam or dams higher up the river?

Mr. WEYMOUTH. No, sir. It would only back the water up to the Bridge Canyon dam. That dam could be built at any time in the future.

Senator SHORTRIDGE. At that height it would not interfere with the building of a dam in the years to come at Bridge Canyon, for example?

Mr. WEYMOUTH. No, sir.

Senator PHIPPS. I want to ask one other question. Since the inundation of the Imperial Valley in 1906, the San Diego-Arizona Railway line has been constructed along the valley there from Mexicali on up to Yuma. That serves as what you might term a second line of defense against breaking through of the river? Have you a knowledge of that embankment all along? Is it made as a solid structure, so to speak, or are there openings left in that line of the right of way in which the tracks are located?

Mr. WEYMOUTH. I am not familiar with that feature or of the openings along the track of the Arizona Railroad.

Senator PHIPPS. But the danger of the river breaking through has, in a measure, been lessened by the construction of that railway line, has it not?

Mr. WEYMOUTH. Yes; I think that would be a material help.

The CHAIRMAN. Mr. Weymouth, what would be the length of time required to construct a dam at Black Canyon?

Mr. WEYMOUTH. Some seven or eight years.

The CHAIRMAN. Would by the impounding of the water to the height you have mentioned cover any cultivated land or town sites?

Mr. WEYMOUTH. Yes; it would dam the water up—it would flood the town of St. Thomas.

Senator JOHNSON. Mr. Chairman, I would like to ask if during the process of construction of the seven or eight years power could be generated there?

Mr. WEYMOUTH. Yes; some before the dam is completed.

Senator PHIPPS. How quickly would it afford flood control?

Mr. WEYMOUTH. Two or three years before the dam was completed there would be considerable regulation.

Senator PHIPPS. Putting it the other way, then, in from four to five years after the commencement of the work we might expect flood control?

Mr. WEYMOUTH. Some. Not complete. There has been also a flood-control dam suggested at the Mohave site, but that would cost about $28,000,000 for just a flood-control dam. That eight or ten million acre-feet flood-control dam at the Black Canyon site would cost practically the same, so the difference between a dam just to control the floods and of a high dam for flood control, irrigation, and for power would be about twelve or thirteen millions of dollars.

Senator PHIPPS. Was there any test of the practicability at Mohave or Topock to determine what foundation is to be secured there?

Mr. WEYMOUTH. No; that site has never been tested. The best information that we have is the information obtained by the railroad company when they put their bridge piers in at Needles, and they went over 80 feet and did not get bedrock there, and the river is narrow down at the Topock Dam site and I expect that the foundation would be some deeper; that is, we have found both in Boulder Canyon and in Black Canyon, where the river was wide, that it has less depth to bedrock than where it is narrow.

The CHAIRMAN. Mr. Weymouth, if flood control should be undertaken without further delay by the Government, would it be practical, in your opinion, for the Government to strengthen the dikes and levees along the river?

Mr. WEYMOUTH. Well, of course, those dikes can be improved, but in my opinion that would cost a lot more than it would to put the dam up a little higher and make it safe.

The CHAIRMAN. I am not speaking of the dikes after the dam is constructed, but the waiting period of the next five or six years. Is the peril of inundation of the Imperial Valley so imminent as to justify the Government, under the flood control act, to strengthen the levees along the bank and near the spot indicated by you a few minutes ago in your testimony?

Mr. WEYMOUTH. I think those dikes ought to be strengthened. Perhaps the Imperial Valley can do it themselves. I do not know. I think that they are not in very good shape now.

The CHAIRMAN. Should there be any new levees constructed, in your opinion?

Mr. WEYMOUTH. You mean elsewhere?

The CHAIRMAN. Yes.

Mr. WEYMOUTH. Yes.

The CHAIRMAN. Now, what I want to keep in mind is that we are trying to protect Yuma Valley and Imperial Valley from inundation during the time required to construct Boulder Canyon Dam. In your opinion, should the Government go in there, under the flood control act, and construct any new levees or increase those that are now in existence?

Mr. WEYMOUTH. I haven't considered that.

Senator JOHNSON. What is the relative storage capacity of a dam at Bridge and a dam at Black Canyon of equal heights?

Mr. WEYMOUTH. Well, a 550-foot dam, at Bridge Canyon has no storage that is available for flood control or reclamation but a dam of the height at Black Canyon would store about 28,000,000 acre-feet.

Senator PHIPPS. I don't know whether I understood you correctly or not. You contend that a 550-foot dam at Bridge Canyon site would not afford any storage?

Mr. WEYMOUTH. I am basing that statement upon a table on page 72, I think it is, of the La Rue report, where he states that there is no storage available for flood control or storage by dam of that height, but on a diagram in his report he shows for a dam 550 feet about a million and a half acre-feet, but the engineers in the Reclamation Service, with the data that we had available, find with a dam 900 feet, only 1,000,000 acre-feet of storage. Now, there may be some difference in the basic data. He might have more topographic information than was furnished the Reclamation Service, but the table of Mr. La Rue's is on page 72.

Senator ODDIE. How long would it take that reservoir to fill up with silt?

Mr. WEYMOUTH. With about 100,000 acre-feet of silt a year, a million and a half acre-foot reservoir would fill in 15 years.

Senator PITTMAN. A million and a half acre-feet would not be any practical storage for the purposes we are considering, would it?

Mr. WEYMOUTH. No, sir.

Senator PITTMAN. Is there any difference in the advantages, as far as silt elimination is concerned between a dam constructed at Black Canyon and one constructed at Glen Canyon?

Mr. WEYMOUTH. Well, a lot of silt comes in the river between those points from the Little Colorado, Virgin, and other rivers of that character. The others are smaller, of course, but they bring in lots of silt. It is generally conceded to be a silt-bearing area.

Senator PITTMAN. Are they all downstream from Glen Canyon?

Mr. WEYMOUTH. Yes, sir.

Senator PITTMAN. And upstream above the proposed Black Canyon?

Mr. WEYMOUTH. Yes, sir.

Senator ASHURST. May the reporter read that part of Mr. Weymouth's statement in regard to the proposed dam at Dewey site?

The CHAIRMAN. It would be quicker for you briefly to state it over again.

Mr. WEYMOUTH. I do not recall the amount of storage that it is feasible to develop at Dewey. I will state it in another way. I do not recall how much of the flood peak we could take off of the river at the Dewey site alone but, with a dam at Dewey and at Juniper and at Flaming Gorge and at Bluff site, all of those reservoirs combined, we could only regulate the river to 70,000 second-feet, so I believe that a dam at Dewey alone would have very little effect.

The CHAIRMAN. The committee is indebted to you, Mr. Weymouth. Mr. Arthur P. Davis.

STATEMENT OF ARTHUR P. DAVIS, CIVIL ENGINEER

The CHAIRMAN. Mr. Davis, how long were you chief engineer of the Reclamation Service?

Mr. DAVIS. I was chief engineer of the Reclamation Service from the year 1907 to 1914; then director and chief engineer from 1914 to 1920 and director from 1920 to 1923.

The CHAIRMAN. What work are you pursuing now?

Mr. DAVIS. I am chief engineer and general manager of the East Bay municipal utility district, which comprises nine cities on the eastern shore of San Francisco Bay, building a water supply for that region.

The CHAIRMAN. Do you represent any of the interests affected by the development of the Colorado River Basin?

Mr. DAVIS. Yes, sir; I am here on the invitation of the governor of Nevada and of the city of Los Angeles.

The CHAIRMAN. Very well. Would you like to be seated, Mr. Davis, or would you prefer to stand?

Mr. DAVIS. I believe it would be more convenient to stand, if it is agreeable to you. I have no set statement, Mr. Chairman. I am here at your service, and those who desire to ask me any questions concerning what I know about the outstanding features of the Colorado River, which are the large discharge of water, the great irregularity of that discharge, the immense fall through its course, and the immense amount of sediment which it carries. To utilize that stream and also to eliminate its destructive characteristics, it must be controlled and regulated to as near an approximation to an equality of flow as practicable. As it stands, it is an imminent menace to the Imperial Valley by its load of sediment and the destructive volume of its floods in abundant years. That has already cost an immense amount to the Imperial Valley, the Yuma project, and the irrigators at Blythe, and is an increasing menace to all of them, because of its constant upbuilding of its bed and threatens imminently with destruction the Imeprial Valley, because, if it should break into that valley, contrary to the conditions on the other valleys, that valley is below sea level and can not be drained off except by pumping, which is entirely out of the question both in time and cost.

The river, when discovered, or since modern man became acquainted with it, was running nearly due south from this point to the Gulf of California, meandering, but the general direction was south and along that course to the Gulf of California, has built up a ridge, as such a stream always does, carrying an immense amount of sediment, and that sediment must go somewhere. If it goes to the mouth of the stream it builds a delta at that point and lengthens the stream, and it deprives it of a part of its grade, because the same flow is distributed over a greater mileage. It is cutting above and building up below, and it tends to destroy this grade and make it lighter. Every time the grade is diminished it tends to deposit that sediment in its bed, so that there is a constant deposit of material in its bed and at its mouth, distributed in the various places, which constantly builds up its bed, making the stream unstable, and in time of flood it frequently changes its course, running to a lower place, because it has built up its old bed. Now, it had done that in its course straight to the Gulf until it had become very unstable and finally through some force breaking into the Salton Basin, as it had doubtless done many times before in its history, but it never would hold that course very long; that is, very long as centuries go, because it would eventually fill it up, and then could not run in there any longer, and that would put it back in some other channel, and it would go to the ocean until the basin was again open; and when it built up its bed again it might again break in. Well, it did that in 1905, and at great expense it was put back on its old course, only in a few weeks to break in again, and with the river up in flood it was an extremely difficult and expensive matter to put it back, and could not have been done without the ready-made available equipment of the main line of the Southern Pacific Railroad, which was thrown in in great force to that end and accomplished that fact, as you gentlemen probably learned long ago; but it was a difficult matter, and during that period it cut deep gulches down the two courses, New River and Alamo River, through the valley, and that much is already done. If it should do so again it would not have to wait to make those channels again. It would begin receding in its grade faster farther up, and when the river was put back in its course it would not follow that course, but was held at the point where it broke before by strengthening the levees, making them high and facing them with rock; but it did break through at what is called the Bee River.

That is a small channel farther down and that led it to Volcano Lake, which was a lake existing at that time and, answering one of the questions asked Mr. Weymouth, the river ran in that course 14 years and in that period built up its channel in its immediate vicinity and the entire area of Volcano Lake 14 feet, which is about a foot a year. It built it up so rapidly that it became unstable there. A levee had been built between there and the Imperial Valley to prevent it breaking into the Imperial Valley again, and that levee did prevent it but one year: I think it was in 1922 it raised above the top of that levee and was only held by the constant efforts of people piling sand bags on the levee from overtopping. That, of course, was a very dangerous situation, and, following that, the people of the Imperial Valley invested a large sum of money in putting the river into another channel that has been built in the last few years, the Pescadero. It is running there now. That will have a similar history. The river spreads out there and deposits its sediment and is building that up rapidly. Whether it will become so unstable as to become unsafe there within 5 years or 20 years, nobody knows. The best estimates are between 10 and 15 years, but eventually that will be accomplished just as surely as the sun rises, and then all of the available delta there will be built above and it will be unstable wherever you put it. There may have been some small regions which will not have been built up above it, but eventually, at no great distant period, that condition of instability will come. Now, it is of great importance to maintain some of that possibility of silt storage, because no handling of the stream can entirely eliminate the silt menace. It might eliminate nine-tenths of it. The Gila will come in, the Bill Williams comes in, and some silt comes in below any reservoir that can be built, so it is very desirable that this work be done just as quickly as possible so as to make it safe even after it is done—make it as safe as it would——

Senator ASHURST. Then the construction of the San Carlos Dam and project on the Gila River would remove the silt menace to some degree?

Mr. DAVIS. In some degree. The Gila at San Carlos is not as muddy as it is farther down. Some of the other incoming streams bring in a great deal of sediment, but it would assist both in the volume of water——

Senator ASHURST. Then it would be of material assistance to the farmers and landowners and water users in the Imperial Valley and Yuma Valley to construct the San Carlos project at an early date?

Mr. DAVIS. Yes, sir.

Senator PHIPPS. Mr. Davis, at the time the decision was made to open the Pescadero Cut, did they not have another cut-off that they were considering, known as Old River Channel, that is higher up the river?

Mr. DAVIS. I am not acquainted with that detail, but it was, as I gather it, a question of the cost of getting the river into some other channel that would build——

Senator PHIPPS. That was the very point I was trying to get at. I thought probably you could inform this committee the cost of opening up the Pescadero Cut and the estimated cost of opening up the proposed cut at the Old River, and that, as I was informed down there, involved too great an expenditure for the Imperial Valley to bear at that time.

Mr. DAVIS. I am not sure that I understand exactly the problem that you are putting up. I know of no river that is called the Old River, except the old channel that it was following 20 years ago.

Senator PHIPPS. That was the one I had in mind.

Mr. DAVIS. At the time the river broke into New River they tried to turn it and did turn it then and could not hold it, and it broke back into Bee River, so at that time that was what was done by the Southern Pacific in both cases.

Senator PHIPPS. That must be a different opening or drainage area than the one I have in mind, but I have a recollection that when they

considered and finally decided upon the Pescadero Cut there was another possibility farther up the stream, but the cost was about double that of making the diversion into the Pescadero.

Mr. DAVIS. Yes; I know there are other points of diversion, but they would lead into the same general region. The region is the triangle between the old channel and the Bee River channel. There is a triangle in there, formed by the Old River on the east and the Bee River on the northwest and the Colorado on the southwest, and that triangle is what they wanted to throw it into and did throw it into.

Senator PHIPPS. If that is the same territory, that has answered the question I had in mind.

Mr. DAVIS. Refers substantially to the same territory.

Senator KENDRICK. Mr. Davis, have you ever heard any estimates made as to the actual damage done, together with the expense of repairing the river when it broke out before?

Mr. DAVIS. Yes, sir; there are many estimates of those things relating to different dates and different features. The Southern Pacific Railroad put in a bill of, if I remember the figures, one million eight hundred and some odd thousand dollars for the second diversion. They diverted it first and made no charge for that. They did that voluntarily. The river after that broke in again and was running at time of flood, and the second diversion, or stoppage, and turning it back into the old river, cost $1,800,000.

Senator KENDRICK. And what was the estimated damage done to the property in the Imperial Valley?

Mr. DAVIS. I don't remember. I have seen a good many rather wild guesses regarding that. It was very large, but I could not tell you.

Senator KENDRICK. It must have totaled several millions of dollars, did it not?

Mr. DAVIS. I think it would. The damage was nowhere near as great as it would be now.

Senator KENDRICK. Under present conditions it would be vastly greater.

Mr. DAVIS. Yes, sir. Now, this silt menace that you have all heard about—something like $1,000,000 a year it costs that valley to take care of it. It is not easy to visualize the amount of that statement—I mean the amount of that sediment—and I want to call attention to the fact that on the average, so nearly as we know the figures, the discharge of the Colorado River averages from about from one hundred and sixty to one hundred and seventy-five million cubic yards per annum. That is somewhere about a little more than the total excavation performed by the American commission in the construction of the Panama Canal. That is an immense quantity and it amounts, to express it in acre-feet, to something like 100,000 acre-feet per annum. It is a little bit less at Boulder Canyon and a little more at Yuma, because there is some comes in between—a good deal.

Senator JONES. Can you give us any estimate as to the proportionate part of that that is down below the Laguna Dam, for instance, or about that?

Mr. DAVIS. Below the Laguna Dam the estimate would be the amount brought in by the Gila. The Gila brings in about 6 per cent of the water of the total river, and I think in the neighborhood of 10 or 11 per cent of the sediment of the total.

Senator ASHURST. Then, the Gila brings in some 11 per cent of the sediment?

Mr. DAVIS. I am quoting from memory. I don't know exactly.

Senator ASHURST. Then, the construction of the San Carlos project—the Coolidge Dam, on the Gila River would indeed relieve in part the menace of this silt?

Mr. DAVIS. Yes, sir. Oh, yes; it would hold back such sediment as the upper Gila, above San Carlos, brings down and it would also reduce, to some extent, the volume of the floods, which cut the banks and help pick up new sediment all of the way down.

Senator ASHURST. Then, happily, there is one project upon which we all agree that will relieve the Imperial Valley.

Mr. DAVIS. Yes, sir.

Senator ODDIE. Have you an estimate of the proportion of silt coming into the Colorado River between the Boulder Canyon Dam and the Bridge Canyon, or the Glen Canyon Dam site?

Mr. DAVIS. That would be somewhere about the same as I have stated for the Gila. The drainage basin, you mean, between?

Senator ODDIE. Between Boulder Canyon and Glen Canyon or Bridge Canyon?

Mr. DAVIS. The drainage basin, I imagine, between Glen Canyon and Boulder Canyon is about, approximately, the same as that of the Gila, namely, a little over 50,000 square miles. The yield in water is very nearly the same, so far as we know it, but it has not been measured in such detail. The yield of sediment is probably slightly less than the Gila. It may be more, but somewhere about the same, I think.

Senator ODDIE. Is the volume of water and of sediment that comes into the Colorado River below the Glen Canyon site sufficient to be a menace, in your opinion?

Mr. DAVIS. I should correct the statement I made. In speaking of silt I had in mind for the moment the silt that is carried by the river—that is, the silt that you would get by picking a sample of the river water. None of it comes into the river from the Gila at all, because—I mean all that comes in from the Gila—that is all that comes in from the Gila. Silt is carried by the water all along the course of the river from Glen Canyon to Boulder Canyon. There are a large number of small tributaries that come in and deposit their sand and gravel there, and it is about as heavy as will travel down the stream as such, and in that steep grade it is pounded and finally grinding itself up fine enough so that it goes down in the lower part as sediment, and it would be only a guess to say how great that is; but I know it is very great from observation of deltas that each of those streams coming in from the side bring in. Nearly every one of them produces a rapid in the river. Nearly every side canyon that comes in produces some kind of a rapid, and that is what causes the bed of the river to silt up. Those side streams bring in rock faster than the river can carry them away.

Senator ODDIE. Then a dam built at Glen Canyon or Bridge Canyon would not do away with the chief danger from the floods and from the silt that comes into the river below that point?

Mr. DAVIS. No; that would have but little effect, because of the very small storage capacity available. It would have some effect, of course, in accordance with the storage. Now, the fact is that any dam adequate for the purpose of controlling floods and controlling silt must be on the lower river below where those tributaries that cause the floods come in, and anything above Boulder Canyon does not catch the Virgin River, and nothing of adequate capacity catches the Little Colorado, or any of the drainage between Glen Canyon and Boulder Canyon. Any reservoir built in that part of the basin will fill with sediment at the rate of 100,000 acre-feet per annum, as long as it is there, unless it is taken out in some way, and that means that if the improvement of that river is to be permanent we must conserve the storage capacity on that river to the limit. We must conserve it thoroughly, not doing anything that will destroy the good reservoir sites, and there is only one on that river.

That is the one which we saw to-day. That is the only point below Glen Canyon that has large enough capacity to perform this business of regulating the river, preventing the destruction by the floods, and desilting the river. A series of small dams in the Colorado River has been advanced by somebody as the best method of developing the power. Why that was decided upon, I don't know, because one dam in that plan was to be 566 feet high, higher than any we proposed, so that it could not be because of the infeasibility of such a dam.

Another was to be about the same height in Cataract Canyon, both of them to be more inaccessible and consequently more nearly unfeasible, if either is, than the Boulder Canyon, but the fact of the matter is that a series of small dams would not conserve the power of the Colorado River at all, because it would be unfeasible from a standpoint of cost. The difference in cost in proportion to the power developed is very great. We have that worked out in detail for two of the proposed heights in Black Canyon. A dam 510 feet high at the site you saw to-day would form a reservoir of 21,000,000 acre-feet capacity.

The CHAIRMAN. To what records are you making reference?

Mr. DAVIS. This is a record of the Reclamation Service, unpublished. Mr. Weymouth is responsible for this and so am I. A dam, as I said, 510 feet high would form a storage capacity of 21,000,000 acre-feet.

Senator JONES. How can it be found at Washington City?

Mr. DAVIS. It is only a manuscript. I can send you a copy of it.

Senator JONES. Give some reference, so that we could identify it in the records there, so that the committee can get it from the reclamation records at Washington City.

The CHAIRMAN. On that point, Mr. Davis, is that the record compiled largely by Mr. Weymouth and was transmitted to the House Committee on Irrigation?

Mr. DAVIS. Yes; that is an extract of it.

Senator PITTMAN. I suggest you start over again, Mr. Davis, on that reading.

Mr. DAVIS. Would be made 510 feet high in the upper part of Black Canyon, would form a reservoir of 21,000,000 acre-feet capacity. A dam 560 feet high, 50 feet higher, would form a reservoir of 27,000,000 acre-feet capacity. The latter 560 feet; that is the total height. It is the same dam as the one raising the water 550 feet. The power developed at that dam, 550 feet, would cost $117 per horsepower for the total investment, not counting interest.

Senator PITTMAN. That is the installation?

Mr. DAVIS. That is the whole thing, including the installation of power. The power developed at the 510-foot dam, a dam 50 feet lower, would cost $151 per horsepower, or nearly 30 per cent more, for only 50 feet difference in elevation. Extending that course, you would very soon run into prohibitive costs, and any dam there or elsewhere in the Grand Canyon, or in the canyon region, with similar problems—most of them have more difficult problems—with similar problems of foundation, construction, transportation, communication, etc., less than 300 feet high would make the power more expensive than power now produced in the Sierras and by the use of fuel on the Pacific coast. Such a dam might be feasible for the delivery of power at the high prices paid

in Arizona where fuel is much more expensive and power consequently more valuable.

The CHAIRMAN. The height of dam is calculated from the bed of the stream?

Mr. DAVIS. From the low water.

The CHAIRMAN. What depth would you have to go below the bed of the stream for foundation purposes?

Mr. DAVIS. At that point about 125 feet at the deepest point.

Senator JONES. Am I correct in my understanding that this estimated cost is based on the entire cost of the dam?

Mr. DAVIS. Yes, sir.

Senator JONES. Regardless of whether it is used for flood control or simply given to power development?

Mr. DAVIS. That is correct.

Senator SHORTRIDGE. That includes installation?

Mr. DAVIS. That includes the installation of power; yes, sir.

Senator SHORTRIDGE. For instance, Mr. Davis, the former witness, Mr. Weymouth, informed us that in the higher dam the water for the purpose of generating power would be taken out at a height of 430 feet. Do you know and can you tell us at what height the water would be taken out from the 510-foot dam?

Mr. DAVIS. I presume a little lower, but, of course, that height is, provided it is low enough, not very material because you get all the head that is in the reservoir anyhow. The pressure in the reservoir is transmitted through the penstock to your power plant, so you get that pressure at all times, provided the intake of the penstock is below the surface of the water. You get the same amount of power.

The only reason it is not put farther down is because eventually the lower part of the reservoir will become filled with sediment and you do not want to be drawing that sand or sediment through the water wheels. The water can be released at any elevation between those two points in the reservoir—one for silt storage and one for water storage. You get all the head available anyway.

Now, a question has been asked as to how much storage capacity is necessary for the purpose of flood control, and Mr. Weymouth has told you that in the reservoir which he has described and which he rerecommends he has allowed 8,000,000 acre-feet capacity dedicated to flood control. The reservoir would be emptied in time to receive the next flood by providing outlets through the dam of a capacity sufficient to discharge that water rapidly without swelling the river beyond a certain predetermined maximum.

That question is susceptible of a wide variety of answers, depending upon how you seek to produce a certain effect. If you build a reservoir at Mohave Canyon, or at any other place, for the purpose of flood control alone of a capacity of only 8,000,000 acre-feet, it would not perform half the service as a storage of the same capacity on top of the Black Canyon Reservoir, for the reason that 8,000,000 acre-feet is all you will ever have for flood control in that reservoir, and it is diminished 100,000 acre-feet per annum by sediment, while, with a large reservoir of 27,000,000 acre-feet capacity, such as we advocate, you not only have the 8,000,000 that is dedicated to flood control, but all of that time you are consuming water throughout the balance of the year between flood seasons.

You are consuming water and drawing on that storage capacity for power and irrigation, and any other use that you put the water to, so that when the next flood season begins you have not only that 8,000,000 acre-feet, but perhaps twice as much more, or as much more, so that you have a very large quantity of storage capacity there available. Now, to a very large extent, this can be coordinated. Of course, as the Senator said a while ago, there is a certain antagonism between water storage and flood control. Primarily and theoretically water storage means keep your reservoir as full as you can consistent with the usage.

Primarily and theoretically, flood control means keep your reservoir as empty as you can consistent with those uses. But to a large extent they can be coordinated, and recent studies have been made by the bureaus in California for that purpose, and I have been up against that problem and studied it myself, and I do know that to a large extent they can be coordinated wherever a stream has any kind of a predictable regimen, and in the case of some of the streams, they claim—I think it is a little stretched—they claim that the Sacramento River can, by proper study and manipulation, be stored in a reservoir which can be used to 100 per cent of its value for irrigation and power, and yet entirely correct the floods of that stream, or practically so—reduce them to a very small amount—but, in any event, the storage reservoir is built beyond the capacity of the river to fill every year, as a reservoir must be on this stream, or any other western stream to fully utilize it, and use it entirely for irrigation and power, will have a profound effect upon the floods, because of the fact that the floods usually find the reservoir not full, and, even if a flood finds a reservoir full, it then must be discharged by the capacity of the spillway, which is less than the peak of the flood, and, of course, it discharges it over a longer period, and will have some effect upon it. Now, it is conceivable and physically possible to build a reservoir on this river that will practically equate the whole stream; that is, make it run at an equal volume through all time. That, of course, is way beyond the feasible, but the nearer you approach that, the nearer you get to the point where you waste no water and have no flood.

That is the drift of the proposition, and that is the thing to approach. Now, any increase in storage capacity on the lower river, where the floods come in and where the sediment accumulates, will not only lengthen the life of the reservoir by storing the silt over a larger number of centuries, but it will approach that condition of equating the flow of the river—getting the maximum use of the water and entirely eliminating flood damages.

Unless precautions are taken to prevent the carrying out of the scheme that is proposed of building a series of low dams on that river, we will ruin the reservoir site, because this reservoir site is the only one large enough for its purpose on the lower river and the only one, in my judgment, large enough for the purpose on any part of the river. It takes a combination of them anywhere else to accomplish the results. Anything that decreases the capacity is against the wise one and destroys the usefulness of this river just that much sooner, and it is of the utmost importance, therefore, that that be prevented. It may be that we have been unwise. Nobody claims infallibility, as far as I know, in selecting the capacity we have selected for the Black Canyon Reservoir. It may have been that a large one would have been better.

Senator JONES. By Black Canyon you mean the one we visited?

Mr. DAVIS. The one you have been to see. The Boulder Canyon Reservoir, with a dam in Black Canyon. We have selected that because we must balance between cost and future usefulness. We must balance between the water lost by evaporation from any reservoir and the value of the storage that it forms. You can't have any reservoir in an arid region that is useful without losing water by evaporation, and the larger the surface of the reservoir the more destructive of water it is by evaporation. That is one of the great weaknesses of, among many others, the Mohave Reservoir. It is an immense shallow reservoir. A great bulk of its cost is the fact that it would destroy 20 miles of double-track transcontinental railroad, and 24 miles of sidetrack, and an equal distance of paved highway or public highway—national highway—and the great bridge at Topcock, and all the machine shops and apartment houses, hotels, and hospitals, etc., and that is the major portion of the cost of that reservoir, producing a broad, shallow plain covered with water, where the evaporation would be greater than any other part of the basin, because it is 2 degrees farther south than Black Canyon. It is 500 feet lower, and this would increase the temperature.

Then, add that to the shallowness, which, of course, increases the evaporation, and the fact that it is on a broad plain, unprotected in canyons, as the one up here, and the probabilities are that the evaporation will be 75 or 80 per cent greater than it would be at Black Canyon, and the area is the principal thing. That is 60 per cent greater to start with for any given capacity.

The CHAIRMAN. In the natural flow of the Colorado River, what quantity of silt is carried in and deposited upon the lands, say, at Yuma and at Imperial Valley?

Mr. DAVIS. I can't answer that question from memory. I think the figures are obtainable, and I would be glad to get them or try to get them for you.

The CHAIRMAN. To what extent would the deposit of silt be removed by the construction of the dam at Black Canyon?

Mr. DAVIS. The amount of silt in the water at Black Canyon is approximately 10 or 15—about 15—per cent less than it is at Yuma; perhaps 10 per cent less than it is at Laguna, or something like that. The Boulder Canyon Reservoir will not entirely desilt the river, but it will pick up some on the way down; but that will be coarser material, which is more easily sluiced out and is not so destructive to the land. It has the same character to the building of ditches, but, being of a coarser nature, is not so injurious to the land, when put on it, and I can't give any more accurate answer than that, Senator, I am sorry to say.

The CHAIRMAN. Let me ask you another question. Have you studied the problem of flood control by the use of levees?

Mr. DAVIS. Yes, sir. We have had a struggle with levees for many years down there.

The CHAIRMAN. In your opinion, is the danger of inundation and possible destruction of the Imperial Valley such as to justify the Government in strengthening and making more stable and useful the present dikes along the Colorado River?

Mr. DAVIS. Well, I haven't investigated those dikes for nearly three years, and I would not be able to answer that question with any value to you. Your shore could be kept in good condition, of course.

Senator PITTMAN. Mr. Davis, to what degree should the flow of the lower river be regulated, we will say, in the vicinity of Yuma, to absolutely insure against the destruction of the Imperial Valley by the Colorado River?

Mr. DAVIS. We have given that a great deal of study, and the conclusion of the best studies we have been able to give it is that the floods of the Colorado should be controlled within about 40,000

cubic feet per second, and that would not furnish complete relief unless the Gila were also controlled, but it is entirely feasible to so control the Gila by a dam on that stream which would at the same time irrigate a large amount of land in the lower Gila Valley.

Senator PITTMAN. If this stream were only controlled down to 70,000 second-feet, wouldn't the water then at its peak of 70,000 feet raise on the levees?

Mr. DAVIS. In most places, it would; yes, sir. I don't know of any place that it would not.

Senator PITTMAN. And, if it rested on the levees and the whole levee should cave in—that is, the foundation of the levee should cave, as it has done down there—it would be high enough then, of course, to overflow the banks?

Mr. DAVIS. Yes, sir.

The CHAIRMAN. Does that conclude your statement?

Mr. DAVIS. Yes, sir; unless there is some other question.

Senator PITTMAN. What sized storage reservoir would be essential to control the river at the point we are discussing to a maximum flow of 40,000 second-feet?

Mr. DAVIS. That is a question on which authorities will differ, for the reason that we do not know the maximum flow of the Colorado River. We have evidence from the engineers of the Santa Fe Railroad that in the neighborhood of the Needles floods have occurred of far greater volume than any that we have measured. They measured one much higher than any that has been observed since and, on the basis of that information and that which we have also accumulated, it would require somewhere between twelve and fifteen million acre-feet capacity, as I remember the studies, to maintain the flow—the maximum being not more than 40,000 second-feet, but that again depends upon the length of these great floods. We don't know, and it might be a larger amount. We have generally adopted, as a result of those studies, and in view of the information you are asking, 8,000,000 acre-feet to the superimposed upon the top of a reservoir to be used for other purposes, so that a much larger amount would be available for the control of floods than the 8,000,000 acre-feet.

Senator PITTMAN. There is just one other question. What capacity of reservoir, whether you have this layer of flood-control water on top or not on top, would you think was absolutely necessary to insure controlling every flood that might come, considering the history of the river?

Mr. DAVIS. And reduce it to 40,000?

Senator PITTMAN. Yes; reduce the flow to 40,000 second-feet.

Mr. DAVIS. Well, I should say not less than 15,000,000 acre-feet.

Senator SHORTRIDGE. You appear, I understand you to say, on behalf of Los Angeles also?

Mr. DAVIS. Yes, sir.

Senator SHORTRIDGE. Will you have the goodness to advise the committee as to the interest which Los Angeles has and takes in this problem you have been discussing?

Mr. DAVIS. Yes, sir; I will be glad to. As I understand it, Los Angeles has an interest in the best, most complete, and most economical development of the Colorado River from every standpoint of usefulness of that stream. First and primarily, she desires a regulated and desilted water for domestic supply. Second, she desires to participate in the power resources of the river for her own uses and that of her surrounding country. She is vitally interested, perhaps more than in any other matter, in the control of the floods, because all of the farms and cities and orchards that are menaced by the floods of the Colorado are customers of the city of Los Angeles and contributory to the metropolis of California. She is interested in the construction of works which will be durable and which will last through the centuries and not destroy the resources of that river, because when that is destroyed one of her greatest assets and the greatest assets of the country in which she is and has a common interest would be destroyed.

Senator JONES. What is the highest flood from the Gila River?

Mr. DAVIS. Two hundred and five thousand second-feet is the highest that has been observed.

The CHAIRMAN. So that, whatever storage you get on the Colorado River, the flood situation is not absolutely secure without works on the Gila River?

Mr. DAVIS. That is true, but the floods of the Gila do not menace the existence of the Gila Valley. They are very flashy. A flood of the quantity that I have mentioned lasts only a few hours; that is, I mean in that volume, and the entire flood may not last but a few days, and if it should break into the Imperial Valley it is so short in duration that it could be allowed to run into the Salton Sea without submerging any good land, or much, and the breach closed. That is not true of the Colorado.

The CHAIRMAN. Practically, then, you would hold that the elimination of the flood possibilities of the Colorado down to 40,000 acre-feet would practically take care of the flood situation?

Mr. DAVIS. No; I think not. I have always said that the Gila should also be controlled, because, otherwise, they must keep up the same levee expense that they do now, and would be under constant menace of a good deal of damage which any break from the Gila would do. I have only said that it would not destroy the valley. It might do much damage, though, and, of course, would do some always.

Senator ASHURST. Then, you do assert that it is quite necessary to proceed with the early construction of the San Carlos project, not only to relieve Imperial Valley from the silt menace but also from the flood menace?

Mr. DAVIS. Yes, sir; that would have an effect on both.

Senator PITTMAN. Just one other question. Mr. Davis, what would be the dimensions of a tunnel carrying 30,000 second-feet on that high-line canal in Arizona that has been discussed? I don't ask you exactly, but approximately.

Mr. DAVIS. That would depend upon the grade, and any increase in grade in that long tunnel would greatly increase its length. Assuming they can give that tunnel a velocity of 10 feet a second, to carry 30,000—was that your question?

Senator PITTMAN. Thirty thousand.

Mr. DAVIS. To carry 30,000 cubic feet of water every second on a grade giving a velocity of 10 feet per second would require a tunnel 60 feet wide—wider than an ordinary business block and as high as a five-story building.

Senator ASHURST. Mr. Davis, will you kindly indicate who were the engineers who made the report regarding this high line that you have spoken of?

Mr. DAVIS. I don't know their names. Mr. Weymouth can give them, perhaps, more accurately.

The CHAIRMAN. They are in the record.

Senator ASHURST. No; that is the reply to some engineer who urged the high-line.

Mr. DAVIS. George H. Maxwell.

Senator ASHURST. And whom else?

Mr. DAVIS. I don't know of any other. The State of Arizona made an investigation—authorized an investigation of that question by an engineer appointed by the State and I have his report here. I will only read one sentence from it.

Senator ASHURST. Will you give the name?

Mr. DAVIS. His name is Blake. Under direction of the State water commissioner, Mr. L. E. Blake, civil engineer, made a field investigation and filed a report in the fall of 1921. The report is printed here in full. His conclusion is this: "However, it is believed, that this report is sufficient to show that the project is not feasible at the present time." That is without a survey; just looking over the ground.

Senator SHORTRIDGE. The proposed Los Angeles-Colorado aqueduct starts at or near Blythe?

Mr. DAVIS. Yes, sir.

Senator ODDIE. Just one question, Mr. Davis. Is there a danger of the water breaking through the bottom of the levees that protect the Imperial Valley?

Mr. DAVIS. That is the chief menace. There has been no flood for many years that would overtop the levees, but a quantity of water much less than that has a very bad scouring effect, and wherever the river meanders, as it generally does, it tends to undermine the levees. The water may be up on the levee a little and may not be up to the bank, but, if it is in large enough quantity and with enough meander, it undermines the levee, and it is extremely difficult to hold that because of the quantity of rock it takes to stop that cut.

Senator SHORTRIDGE. Do you consider the menace such as, for every reason, calls for prompt action?

Mr. DAVIS. It is a very serious menace, followed, of course, with great diligence by the engineers. The river is watched very closely at such times. Large forces of men and great stores of rock are prepared for just such things during the flood season every year.

Senator SHORTRIDGE. And the gopher plays a part, doesn't he?

Mr. DAVIS. Sometimes the gopher does by letting the water through the levee.

The CHAIRMAN. The committee is thankful to you, Mr. Davis. Senator ASHURST desires to propound a question to Mr. Weymouth.

Senator ASHURST. Are you familiar with the manner in which the Imperial Valley is now menaced by flood waters and by silt deposition from the Gila River?

Mr. WEYMOUTH. Yes, sir; in a general way.

Senator ASHURST. Is it your opinion that the early construction and building of the San Carlos irrigation project would in a manner and in some marked degree relieve the Imperial Valley from the silt menace and the flood menace?

Mr. DAVIS. Yes, sir; to a certain extent.

Senator ASHURST. To an appreciable extent, would it be?

Mr. DAVIS. Yes, sir.

Senator ASHURST. That is all.

Mr. DAVIS. I understand that Senator ASHURST asked what engineers made the report to which I referred. It was Sturdevant & Stam.

Senator ASHURST. That is what I wanted to know.

Mr. DAVIS. And I understand now that the State has recently filed on water for a high-line canal, for about that area, so that it will take a canal of about that same size.

Mr. ODDIE. Mr. President, I also ask permission to place in the RECORD a statement made by the Secretary of Commerce, Mr. Hoover, before the Committee on Irrigation and Reclamation on December 10, 1925, on this same matter, with the interesting and valuable discussion between himself and the various members of the committee. Mr. Hoover goes into the details of the subject in a most able and comprehensive manner. He is recognized as one of the foremost engineers in the world. He has given years of intensive study to this great Colorado River problem, so he speaks with abundant knowledge of the whole problem.

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

The statement referred to is as follows:

STATEMENT OF HON. HERBERT HOOVER, SECRETARY OF COMMERCE, WASHINGTON, D. C.

Secretary HOOVER. Mr. Chairman, I have the conviction that the committee, due to the many hearings that it has held in the Colorado River Basin and the large knowledge that the members of the committee possess of the problems outside even of that, probably do not wish me to traverse the whole complex of the Colorado River; and I am a little in doubt as to the points upon which I could be of assistance to the committee.

But I prepared and have here before me a brief note as to one or two questions. I am not at all certain as to whether they are germane to matters on which I possibly can be of service.

I may say that the Colorado River problem does not lie in the lack of enormous resources in water, in arid land, and in power, or of private or public capital to develop it. The difficulties are the sharp conflicts of opinion of the people in the basin on a multitude of questions as to their rights, their interests, and the method of development of the river. And these conflicts have been in course of discussion, to my knowledge, for some 15 years. They have resulted in innumerable conferences, discussions, and appeals to legislation and to the courts.

The first of these conflicts, and the one that overrides all others, is the conflict over water rights between the seven States. The four States in the upper basin have, naturally, opposed any development in the lower basin until such time as they could have certainty of some fixed assurances of their water rights. As the committee is well aware, the application to beneficial use will give priority in water rights as between States, and, as the development of the Colorado River will take place in the lower basin long before any large development in the upper basin, therefore the upper-basin States have justifiably been resolute in their demands for some fixation of the rights before there shall be construction and thus extension of beneficial use down below.

In an attempt to solve this proposal some years ago a compact commission, representing the seven States and the Federal Government, was established, and, as you are aware, I acted as the chairman of that commission. Hearings and sessions of the commission extended over a matter of over 18 months, and the commission was composed not only of delegates from each of the States but the most of the sessions were attended by their attorneys general, and a number of the sessions by all but one of the then governors of the States.

After a great deal of discussion and negotiation a compact was arrived at subject to ratification by the State legislatures and by the Congress.

The compact did not attempt to solve any problem on the Colorado River except water rights, and it limited its action to a division of the water between the upper basin and the lower basin. It furthermore limited its action to a division of only a portion of the water of the river adjoining a further apportionment of the water to a considerable number of years in the future to await the character of development.

The compact commission believed that if progress could be obtained that far it would at least take the block off of the development in the lower basin and would reduce all other conflicts to purely local questions, which could be more easily settled with time.

The compact was ratified without reservation by six legislatures, the Arizona Legislature passing the compact with some reservations, but approval was refused by the governor.

Subsequently, in order to try and lift the block on development in the lower basin some of us suggested a six-State compact, or, rather, a ratification of the compact among six States as being sufficient to satisfy the upper-basin States. Under that proposal the compact was ratified by five States, and California made reservations which the northern States declined to accept. Due to the action of California that proposal has failed in any practical result, so that at the present time we are still in the midst of the conflict over water rights.

One thing that I have been impressed with in all the discussion that has gone on for nearly three years since the compact was signed is that there has been very little substantial criticism as to the equities of the proposals in the compact. Colorado, Utah, Wyoming, New Mexico, Nevada, and California accepted them in full. The Arizona Legislature ratified the compact with reservations that did not again challenge the equities of the compact seriously. The quarrels over the compact have been due to attempts to force extraneous questions. I believe I can say that the commission arrived at an extraordinarily successful document when you consider the tremendous conflict and feeling over this question.

There have recently been conversations between California and Arizona in an attempt to agree upon their differences. A committee, partly appointed by the California Legislature and partly informal, has drawn up a pro forma compact to be signed between California, Arizona, and Nevada.

The main compact provides that the interstate rights between the States in the different basins shall be subsequently settled by further compacts. This action of the folk in the southern basin is entirely in line with the purpose of the main compact, and in their proposed lower-basin compact they, of course, stipulate that it is subject to acceptance of the main Colorado River compact itself.

I am rather hopeful that that negotiation will succeed. They are starting on very sound lines as far as I can observe, and a settlement of that conflict might make it possible to reconvene legislatures and secure early ratification of the compact all along the lines. We would in case of success of those negotiations have practically settled what I regard as the most difficult of the conflicts.

The next most important line of conflict is over the character and location of the first works to be erected on the river. I believe the largest group of those who have dealt with the problem, both engineers and business folk, have come to the conclusion that there should be a high dam erected somewhere in the vicinity of Black Canyon. That is known usually as the Boulder Canyon site, but nevertheless it is actually Black Canyon. The dam so erected is proposed to serve the triple purpose of power, flood control, and storage. Perhaps I should state them in a different order—flood control, storage, and power, as power is a by-product of these other works.

There are theoretical engineering reasons why flood control and storage works should be erected farther up the river and why storage works should be erected farther down the river; and I have not any doubt that given another century of development on the river all these things will be done. The problem that we have to consider, however, is what will serve the next generation in the most economical manner, and we must take capital expenditure and power markets into consideration in determining this. I can conceive the development of probably 15 different dams on the Colorado River, the securing of 6,000,000 or 7,000,000 horsepower; but the only place where there is an economic market for power to-day, at least of any consequence, is in southern California, the economical distance for the most of such dams being too remote for that market. No doubt markets will grow in time so as to warrant the construction of dams all up and down the river. We have to consider here the problem of financing; that in the erection of a dam—or of any works, for that matter—we must make such recovery as we can on the cost, and therefore we must find an immediate market for power. For that reason it seems to be that logic drives us as near to the power market as possible, and that it therefore takes us down into the lower canyon.

The dam there is recommended by the reclamation engineers, and I believe their latest view is 540 feet in height. This would, I believe, serve the triple purpose of flood control, storage, and power, so far as we can see ahead, for the development of irrigation, domestic water supply, and need of power for a good many years to come.

I do not believe that construction at that point is going to interfere with the systematic development of the Colorado River for storage and power above and below. As I have said, I think the time will come when a storage dam should probably be erected below Boulder Canyon and that storage dams and flood-control dams will be erected far above. Those of you who have looked into the engineering problems involved will recognize that the operation of a single dam for the triple purpose is rather difficult and will not give the maximum power results. For instance, such a dam must be partly empty in anticipation of the spring flood and hence the power possibilities will be much diminished, and beyond this it will be necessary thereafter to lower the head for irrigation purposes. Thus the power production from such a dam will be rather irregular.

But, in any event, I do not believe that we can not now contemplate the expenditure of the several hundreds of millions of dollars necessary to carry out the theoretical plan; we should confine ourselves to what we can afford to spend now, and I do not believe we will destroy the possibilities of the river for systematic development by this course. We must await a settlement of population and their demands to create a need for the future development.

The proposed Black Canyon Dam of 540 feet, as estimated by the reclamation engineers, would cost about $41,000,000 or $42,000,000. The cost of an electrical generation plant to go with it would be about another $33,000,000. And the transmission lines to the power market would be somewhere about $27,000,000 more, or a total of from $110,000,000 to $115,000,000 for dam and equipment. The loss of interest during construction would be $10,000,000 more. The alternative plan of a 606-foot dam would require something like $20,000,000 more.

Now, the 540-foot dam would apparently develop, theoretically at least, about 550,000 primary horsepower and another 450,000 secondary horsepower. No engineer could say at the present moment what the actual power development will be, because none of us know until we have had experience how much the electrical power will need to be made subjective to flood control and irrigation in the manner I have referred to, but in any event these theoretic figures are possibly near enough.

Now, a large part of the power developed will be needed to pump the water for the proposed domestic water-supply plan for southern California, and both the manufacturers and private power companies will need the surplus power. It seems to me we need some consideration here of making a settled financial plan if we are to expedite this very urgently needed development. The people of southern California have recognized that the folks in the Eastern and Central States will probably not be anxious for the Federal Government to find the whole of the $115,000,000 for this development, and they have already expressed their willingness to make a substantial contribution to it, both from the municipalities and from the private power companies. It seems to me that the Federal Government has a very substantial obligation in this matter. It has been traditional to provide flood control in the protection of our people at the cost of the Federal Government, and we, of course, have the reclamation funds for the development of arid land; so that here is a problem of the proper contribution from municipalities, irrigation districts, private power companies, and the Federal Government.

All this leads me to the belief that somebody ought to be given authority to negotiate a definite financial contract which could be laid before Congress for approval in connection with the construction of these works. It does not seem to me that it would take long to do that, and it could possibly be laid on the table here before this session of the Congress expires. I believe that we should do all we can to expedite this matter. It is true that our path would have been smoother if we could have had more success in the ratification of the compact, but so long as we have these great conflicts and differences of view that I have mentioned we must expect difficulties. And in this connection I would remind you that it required, I believe, 10 or 11 years to secure a ratification of the Federal Constitution, and I doubt if there was as much emotion connected with that proposition as there is with water rights between seven States. So we may make progress more speedily than was made by the original 13 States of this Union.

Now, Mr. Chairman, if there are any further points that I can help the committee on, I shall be glad to have them brought to my attention.

The CHAIRMAN (Mr. MCNARY). On the point you have been discussing do you see any conflict in the purposes discussed by you in connection with Boulder Canyon that might prevent private capital from participating in this matter?

Secretary HOOVER. Pardon me, Mr. Chairman, but my attention was distracted, and I did not catch your question.

The CHAIRMAN (Mr. MCNARY). You spoke of the different purposes, flood control, irrigation, and power development. Are these functions in which private capital would be interested, or is there a conflict one with the other?

Secretary HOOVER. Some of them are functons in which private capital would not be interested. In the development of dams outside of Boulder Canyon there is not necessarily any question of Federal finance, the other developments of the river below the upper basin are predominantly power developments and could be carried out by private capital under Government control. You have a problem here of working out that relationship at Boulder Canyon. I think there have been some discussions in Southern California as to the possibility of some arrangement between a municipal electrical power establishment and the private power companies distributing in southern California for mutual participation in the Boulder Canyon project. I do not know how far they have got, but in any event it ought to be possible to bring some conclusion out of that, and through such arrangement to secure financial support to the Boulder Canyan development. I do not think the Federal Government will ever want to build the electrical power works there, or the transmission lines, and get into the power business. But it is through the power side of the question that the Federal Government can secure a large contribution to the development and hope for the recovery of its own investment.

The CHAIRMAN. Is it your opinion that the Government obligation consists only in the matter of erection of a dam for the purpose of flood control?

Secretary HOOVER. No; I think the Government can go farther than that. While, of course, you can not very well say our reclamation policy is an obligation, yet it is a sound financial policy, and the proposed dam would be a very large contribution to the reclamation of arid lands. Therefore some contribution on that score would be in order.

The CHAIRMAN. But, Mr. Secretary, you must bear in mind that there is a special fund for that purpose, under a specific act, which does not come out of the Treasury of the United States but from the resources of the States, while in this case the funds would come under a different plan.

Secretary HOOVER. My suggestion made here was that some sort of authority might be set up to make a plan, and to negotiate out the contribution of all these different elements, even including the reclamation fund. I have no detailed plan in mind, but it does seem to me that we are in this position: Here are four or five sources which are willing or should contribute to the work, and we ought to get some sort of definite relationship established to it.

The CHAIRMAN. Is it in your mind that there is a sufficient demand for electrical power to justify the erection of a dam at this time from that viewpoint alone?

Secretary HOOVER. The probable primary horsepower is something like 550,000. While I can not state precisely, yet it is my belief that the domestic water supply into Los Angeles will absorb about 200,000 horsepower for pumping purposes and which they will need to provide for, that would leave 350,000 horsepower, which I think could be absorbed in that market long before these works could actually be built. This offers a basis also for contribution to cost. I doubt whether there would be a kilowatt of power transmitted for five years if you should start to-morrow on this enormous work of construction. I do not know how far these contributions would go to the total cost. My proposal is that we should find it out.

The CHAIRMAN. Have you looked into the matter of the domestic supply of water for southern California in regard to whether it should be taken from the Colorado River here or there, whether by lift, as mentioned at Black Canyon, or by gravity system some place up the river?

Secretary HOOVER. I am not competent to speak of that. All I know about that matter is what I have read in the newspapers as to statements of various engineers.

The CHAIRMAN. What sort of suggestion have you to make, or can you detail it a little more to the committee, that a commission should be designated to look into this matter? Do you mean to have it confer with the various States in order to get an allocation of water and power?

Secretary HOOVER. I have not gone into it in detail. My own thought was that we could expedite this whole development, and expedition is what we all want, by having some sort of commission with authority to make a financial plan, and who could be helpful in bringing the States together in the matter of the compact.

Such a commission could lay out a financial plan with all the groups involved and thus have some definite contract—subject, of course, to approval by Congress—then you gentlemen would have some finished thing to act upon. It seems to me pretty difficult for Congress to negotiate a thing of that kind, and the administration has no power to do it.

Senator ASHURST. Mr. Secretary, what would be your conclusion as to the advisability of writing into any resolution upon this subject a provision that the President of the United States shall appoint a board of engineers, say not more than seven nor less than five, of large experience to fix and determine upon the location of the dam, and that they be guided by the possibilities that you have suggested—that is, to obtain the largest development for irrigation, flood control, and power?

Secretary HOOVER. Well, Senator ASHURST, you have a very complex problem here. It has always seemed to me that the States themselves ought to be represented in a settlement of these problems, as this is primarily a question for the seven States, and that——

Senator ASHURST (interposing). In other words, it will be difficult for the Congress to locate a dam on the Colorado River. Would it not be more practicable and feasible for a board of engineers appointed by the President to locate a dam and reservoir?

Secretary HOOVER. Well, of course, I am in favor of having boards of engineers for these matters, because they usually deal with facts rather than emotion; but we have to bear in mind that there is a great deal of emotion around this whole question, and we must have somebody on a commission capable of dealing with that question, too.

Senator ASHURST. Mr. Secretary, we realize that all politicians are emotional. But we want to eliminate the emotion, hence do you not think that a board of, say, seven engineers, being governed by the principles of science and free from the emotion of politicians, would come more nearly properly locating a dam at the proper place on the Colorado River?

Secretary HOOVER. Well, if I could choose the engineers possibly I could get the same results that you would get if you were to choose politicians, but——

Senator ASHURST (interposing). Well, I propose to have the President of the United States choose the engineers.

Secretary HOOVER. What I am trying to get clear is this: That we have a problem here of mixed political importance—and I speak of politics in its highest sense—of what will serve the greatest number of the people. We also have a problem of economics. It is not solely a problem of theoretic engineering. I should like to see a board possibly embrace men of the other types of mind. I think the States in the Colorado River Basin ought to be represented in that problem.

So if I were appointing a commission I should certainly take some representatives from the States, and I should take some men of strong engineering reputation.

Senator ASHURST. Are you able to state whether you would rather have a dam site selected by seven engineers or by the Congress?

Secretary HOOVER. If Congress is going to select the site, it will be done on the recommendation of engineers of the Reclamation Service or of the Federal Power Commission, or of the War Department, I take it. And it is my impression that they would, if they were put up against all phases of the problem, all recommend about what I have suggested this morning.

Senator ASHURST. You have omitted any mention of an all-American canal. What do you think would be the cost of its construction?

Secretary HOOVER. I can not tell you, as I do not know.

Senator ASHURST. You are in favor of its construction, are you not?

Secretary HOOVER. In the long run I believe there will have to be an alternative inlet into that valley. But there is here an international question which, if this committee wishes to discuss, I would prefer to discuss in executive session, or, perhaps, if I could discuss a phase or two of it with your chairman. It is a question that would involve international matters, and to be helpful to you I could not very well discuss it without discussing the international problem, which I should prefer in general interest not to do here.

Senator ASHURST. But you are in favor of an all-American canal?

Secretary HOOVER. As an alternative of other possibilities, yes; there is a relief that may be had in that way.

Senator ASHURST. As to your favoring such canal, that is contingent on certain international obligations.

Secretary HOOVER. Yes, sir; certain international possibilities.

Senator ASHURST. If the dam advocated by California and Nevada, and upon which many engineers have reported favorably——

Secretary HOOVER (interposing). And in which I agree.

Senator ASHURST. Yes; and in which you agree, as you are from California.

Secretary HOOVER. That does not necessarily follow, for in my present position I am a neutral.

Senator ASHURST. As a Californian I would expect you to be in favor of it.

Senator JOHNSON. But he does not agree for that reason. He is the Secretary of Commerce in the President's Cabinet and agrees with his engineers.

Senator ASHURST. Just a little mixture of emotion, I should say.

Senator JOHNSON. Probably you will appreciate him for that.

Senator ASHURST. The Secretary is described as an emotionless man, and I am glad he is willing to have some emotion mixed with this proposition.

Senator SHORTRIDGE. Then, I take it, that is all settled.

Senator ASHURST. If the proposed dam at Boulder Canyon, so emotionally advocated, were constructed, how much land would be irrigated in California from the Boulder Canyon reservoir?

Secretary HOOVER. I am not familiar with those figures now.

Senator ASHURST. I knew that you had been quite thoroughly into the matter.

Secretary HOOVER. Yes; but that has been some time ago. It has been the better part of three years since I had my mind on that matter.

Senator ASHURST. Will you say about how many acres?

Secretary HOOVER. I think 815,000 acres, as I recall, in the Imperial Valley.

Senator ASHURST. In California?

Secretary HOOVER. Yes, sir.

Senator ASHURST. How many in Arizona?

Secretary HOOVER. My recollection is about 150,000.

Senator ASHURST. A total of about 850,000 acres in California and 150,000 in Arizona.

Secretary HOOVER. I could not tell you as to that.

Senator ASHURST. I supposed you probably had those figures in mind.

Secretary HOOVER. Well, I have learned a lot of telephone numbers since I had these figures definitely in mind, and I can not tell you now.

Senator ASHURST. Well, you might supply them for the record, for I take it the figures are available.

Secretary HOOVER. I think the engineers of the Reclamation Service are here, and doubtless they could tell you at once.

Senator ASHURST. From Boulder Reservoir there would be, so yqu state, about 150,000 acres irrigated in Arizona and about 800,000 acres in California; how much of the waters of the Colorado River does California contribute——

Senator PITTMAN (interposing). Senator ASHURST, I think you are mistaken about those figures.

Secretary HOOVER. I can not give you offhand the acreage that would probably be irrigated.

Senator PITTMAN. I call attention to the fact that Mr. Weymouth said 600,000 one way and other figures another way.

Senator ASHURST. I rely upon Mr. Hoover's figures of 150,000 acres as to Arizona.

Secretary HOOVER. It has been some time since I have gone over that matter, you understand.

Senator ASHURST. I have usually found Mr. Hoover accurate, and I take it his figures of 150,000 acres for Arizona and about 800,000 for California are about right.

Secretary HOOVER. I would suggest that the real figures, which are available in the room, should be used rather than taking an indistinct recollection that is now in my mind. I do not think it fair to the committee to make your record in that way.

Senator ASHURST. Do you know how much water California contributes to the Colorado River?

Secretary HOOVER. If we are going to divide the waters of the Colorado River on the basis of contribution by States, Colorado will get 70 per cent right away. We must not go on that basis.

Senator ASHURST. I am talking now about California. Do you know how much water California contributes to the Colorado River?

Secretary HOOVER. I do not recollect now.

Senator ASHURST. I will supply that answer by saying it is nothing.

Senator SHORTRIDGE. I shall have to deny that.

Senator ASHURST. Secretary Hoover, do you know how much water Arizona contributes to the Colorado River?

Secretary HOOVER. I do not recollect now.

Senator ASHURST. Pardon me if I state that answer for the record: It is about 20 per cent. Now, Mr. Hoover, I recognize you as one of our great experts in engineering. You have an international reputation, and no American is prouder of it than I am.

Secretary HOOVER. I thank you.

Senator ASHURST. Is it not a fact that the potential hydroelectric energy of the Colorado River, below Lees Ferry, is about 4,000,000 horsepower?

Secretary HOOVER. I think that is somewhere near correct.

Senator ASHURST. And that is wholly within Arizona.

Secretary HOOVER. Not entirely; no.

Senator ASHURST. Well, I will supply your answer to that question by saying it is almost wholly within Arizona.

Secretary HOOVER. Some of it is in Nevada, you know.

Senator JOHNSON. Just one or two formal questions, if you please.

The CHAIRMAN. The Chair recognizes Senator JOHNSON of California.

Senator JOHNSON. The problem of the Colorado River has become a national problem, has it not?

Secretary HOOVER. Yes; I think it is a matter in which the National Government has a very great interest.

Senator JOHNSON. And so in your opinion it is an urgent problem concerning which the National Government should act with the least possible delay?

Secretary HOOVER. Yes.

Senator JOHNSON. You suggested that some individual or agency should be appointed that would have power to deal financially with the various interests that might desire power and the like. Under the bill before us permit me to suggest to you that the design of it, at least, is that the Secretary of the Interior shall have just that power, and just that theory is embraced within the bill. Do you recall that?

Secretary HOOVER. No; I do not recall it in that sense.

Senator JOHNSON. I wanted to call it to your attention. Now, another thing: In the measure that has been proposed, and which has been designated as the "Swing-Johnson bill," it is not contemplated that the Government shall construct transmission lines, power works, and the like, but that the Government shall construct the dam and that subsequently the payment for the various works that are essential for the transmission of power shall be liquidated by those to whom the power shall be allocated. Do you recall that?

Secretary HOOVER. Well, that provides, I believe, that the Government shall advance the entire cost, does it not?

Senator JOHNSON. No, sir; only for the dam. For instance, in the proposal that is made by the city of Los Angeles to take such power as may be allocated to it after others shall have been accommodated, it is not proposed that the Government shall pay for the transmission lines, and the like at all. The idea with us was that the Government should pay only the cost of the construction of the dam, and that ultimately it shall be repaid that, too. I call your attention to that in order to show that the appropriation which may be required would be an appropriation merely in the first instance, all of which is to be repaid for the construction of the dam alone. So that your computation as to transmission lines, and the like, would not enter into the initial appropriation that we ask.

Now, Mr. Secretary, it is necessary, is it not, in order to equate adequately the flow of the Colorado River that we have storage?

Secretary HOOVER. Absolutely. We have here a river of extraordinary character—its spring flood is as high as something like 200,000 second-feet, and as low as 6,000 second-feet.

Senator JOHNSON. Our friend from Arizona [Mr. ASHURST] talks about emotion on the part of some of us who advocate this bill. I do

not want the record to show at all that we are presenting it from an emotional standpoint at the present time. The fact is that relief is necessary for Arizona and California in the way of flood control.

Secretary HOOVER. For both of those States?

Senator JOHNSON. The fact is that in your opinion the appropriate place to begin the control of the Colorado River is in the vicinity of Black Canyon that has been described here, is it not?

Secretary HOOVER. That is and has been my opinion. Of course, I am always subject to better engineering advice.

Senator JOHNSON. And that a dam of sufficient height, what we term a high dam, should be built at that particular point in order that the three purposes you have suggested, namely, flood control, storage, and power, should be adequately served.

Secretary HOOVER. That is it.

Senator JOHNSON. That is all, Mr. Chairman.

The CHAIRMAN. Senator KENDRICK.

Senator KENDRICK. Mr. Hoover, you, of course, have had the greatest opportunity to study this question, particularly as to division of water between the States in all its phases. Recalling that four States are in the upper basin, and that these four States are at least equally interested with the States of the lower basin in reference to their reclamation problems, do you not consider of vital importance to the States of the upper basin that the differences in reference to the distribution of these waters be composed before any development is begun on the Colorado River?

Secretary HOOVER I think the upper States have a rightful contention there and have said so all along.

Senator KENDRICK. Would not you consider any development in the lower basin before that distribution to contain itself the very nature and cause of the ruling of the Supreme Court?

Secretary HOOVER. Of course, Senator KENDRICK, you are now on a question of law, but I have always accepted the legal view that the works in the lower basin will establish prior beneficial use as against the upper basin.

Senator KENDRICK. In the course of our hearings in the Southwest one of the criticisms directed toward the compact as written was due to the fact that the charge of division of waters as authorized in the original act of Congress was as between the States, whereas the actual division was between the two basins. You do not consider that feature of the compact as inconsistent with the original authority, do you?

Secretary HOOVER. No; I do not. I thought that what Congress wanted was to get a substantial step toward settlement, and that in any event the whole matter would come back to Congress for ratification, which ratification would cover any variation from the strict letter of the original authority.

Senator KENDRICK. Naturally, because, if I might suggest, the physical conditions prevailing in the States of the upper basin divide the water without the necessity of a compact between those States; that does not raise such a question there.

Secretary HOOVER. I have thought——

Senator KENDRICK (continuing). In other words, the waters of Wyoming can be used practically only in the State of Wyoming. The same is true of the other States. Now, just one more question: I want to say in advance that the representatives, so far as I know, of the upper basin States are not only not concerned about the necessary protection by flood control and the necessary development in the lower Colorado River, but they are not even disposed to intervene objections as to any point of development that may be decided upon between the lower basin States, and they look upon it as of but little concern to the States of the upper basin. But in connection with your statement that both Arizona and California are greatly in need of flood control, is it not true, in your opinion, that if they are in such stress, that in the very interest of fairness to the upper basin States before asking for this development they should compose their differences?

Secretary HOOVER. Well, of course, Senator KENDRICK, I have been working for three years—I will say five years nearly—in an endeavor to secure a composing of those differences so that Congress could get ahead with this very legislation. No one was more disappointed than I at the failure of the California Legislature to accept the six-State proposal, and, of course, I believe that you gentlemen at this table would now be able, if California had accepted it, to draft and pass final legislation. The action of California may again delay the whole program of development.

Senator JOHNSON. The question was as to the differences between Arizona and California that Senator KENDRICK asked you about.

Secretary HOOVER. I am a little encouraged as to their ability to settle those differences. But I feel that they ought to be blocked off from the Northern States and localized. The two States are discussing the matter, and I am hopeful they will come to a very early conclusion, in which event it will very greatly relieve the situation. I believe, with Senator KENDRICK, that they should compose their differences and that perhaps some urging from this committee will stimulate it.

Senator JOHNSON. I will say that I believe every effort is being made now in that direction.

Secretary HOOVER. And I am hopeful they will succeed.

Senator JOHNSON. I am quite hopeful that the lines we have started on will carry the matter through.

Senator KENDRICK. Of course you have stated, Mr. Secretary, that you are not an attorney, but we have reasons, all of us, to respect your good judgment, and it has probably been your privilege to make some investigation of the question, and I wish to ask: In view of all the action taken on the seven-State compact, do you believe, if afterwards ratified by the Congress, that a compact involving six States only would be entirely legal and constitutional?

Secretary HOOVER. I was advised that it would be. Of course, the six-State compact is a new form of compact entirely. The advice we had at the time was that it would be perfectly valid if ratified in that form by the six States and Congress.

Senator KENDRICK. And if afterwards ratified by the Congress after the action was taken, it is your opinion it would be a legal and binding contract?

Secretary HOOVER. That is my understanding.

Senator ASHURST. That is, among the States agreeing to it?

Secretary HOOVER. Yes.

Senator ASHURST. It would not bind any other State?

Secretary HOOVER. No.

The CHAIRMAN. Any other questions?

Senator PITTMAN. Just a question or two: Mr. Hoover, in view of the fact that negotiations are pending between California and Arizona looking to a settlement of their differences, is it possible that the appointment of a commission by Congress at this time to deal with the economic features of the project might result rather in cause for delay by Congress than otherwise?

Secretary HOOVER. I think you have a very practical legislative question here before you. It may be assumed that the Representatives from the Northern States are going to oppose legislation until they have been satisfied on their question of water rights. And the practical thing, it seems to me, is for you to determine—and it is not for me to determine—whether you would not expedite this question more by the appointment of some kind of commission that would help to forward these settlements, and a settlement of the financial question, and thereby make less delay for the lower basin than to be held up by the Northern States. This has been the block for three or four years already.

Senator PITTMAN. What I had in mind was this: If Congress is not going to act this session, that such a commission, which would probably take several months to accomplish its purpose, would be quite justified. But I think it is possible that we may be in a position to act this session, and that the appointment of any additional commission might serve in such event as an excuse for the Congress—I do not mean excuse for the committee or any of us here—but an excuse for the Congress as a whole for further delay in this matter. In other words, I am really fearful that any provision for further investigation will result, as so many of them have, in delay rather than in expediting the matter. Is it not the duty of the commission that you have now, the seven-State compact commission, which is in existence as a body, I believe, to be unofficially preparing this same data for submission?

Secretary HOOVER. That commission has no authority to act in any matter except as to water rights, and that only in relation to the seven States.

Senator PITTMAN. How would it do, then, to have a resolution empowering that commission to investigate and report with regard to economic questions?

Secretary HOOVER. I presume that might do. I feel, however, that here is a matter you have to determine within your own room as to whether or not any legislation could be put through until the Northern States are satisfied as to their rights. If you conclude that that can not be done, then I am offering you a suggestion as to an alternative that will probably expedite the matters. On the other hand, if you believe that the Congress could be led to enact final legislation on this against the opposition of the Northern States, ignoring their claims to equitable treatment, and do it now, of course that is the quick thing to do; but I have had the impression that that can not be done.

Senator PITTMAN. I do not believe that it could be done.

Secretary HOOVER. And therefore I am endeavoring to find a way to expedite it.

Senator PITTMAN. I do not believe that the Congress could be persuaded to take any action on that matter in opposition to the equities of the Northern States.

Senator JOHNSON. I will say that we are going to recognize them, and that they have been recognized constantly and fully as far as that is concerned.

Senator PHIPPS. Mr. Secretary, you probably have not had an opportunity to follow the hearings of this committee. But, briefly, I think it has been demonstrated that there is no objection on the part of any of the lower-basin States to what has been proposed in the compact as to the quantity of water that may be used by the States of the upper basin. The disposition of the upper-basin States

has been to aid in every possible way in expediting a settlement of this very difficult problem and to assist in every way, to the end to have the least possible loss of time in beginning the construction of work on the Colorado River and prosecuting it to a conclusion.

We in Colorado have been hopeful that the lower basin States might be able to get together directly and compose their differences, and other Senators have expressed themselves, I believe, that the prospects are brighter to-day than they have been at any time in the past several months. I do believe the activities of our committee have been helpful in bringing those States together. Any effort at this moment to secure affirmative action from the Congress on development in the river pending settlement of the differences between the lower basin States, to my mind, would be futile. I appreciate your suggestion as to the possibility of assistance in settling the problem, and that it might be had in the employment of a commission, and that suggestion, I think, is one that this committee should give very serious consideration to, either at this time or, if after the lower basin States come to an agreement, it may be advisable to have a commission that would be empowered to negotiate with the different interests—municipal, private, and State, perhaps—to bring about the best form of working out a development.

Secretary HOOVER. Is that all, Mr. Chairman?

The CHAIRMAN. One moment. Senator JONES of Washington wishes to propound a question or two.

Senator JONES of Washington. Mr. Secretary, I want to ask this: It has been argued that if the Boulder Dam site is accepted and a dam is constructed there, it would prevent the highest possible development of the resources of the Colorado River. Or, in other words, the map behind you there shows what is suggested as a comprehensive scheme of development that would utilize in greatest degree all the resources of the Colorado River. That is the map submitted by Engineer La Rue. It is urged that if the Boulder Dam is constructed we would lose, according to the plan shown on the map and assuming for the purpose of the question that plan to be correct, about 400,000 horsepower development, is my recollection of Mr. La Rue's testimony; and that we would be able to reclaim about 100,000 acres less of land. Now, I want to ask this question: Assuming that contention to be correct, do you consider the needs by the development of power and flood control and irrigation so imperative that it would justify us in losing that 400,000 horsepower and that ultimate 100,000 acres of development and proceed as expeditiously as possible to the erection of the Boulder Dam as proposed?

Secretary HOOVER. If I were convinced that there would be a loss of 400,000 horsepower and inability to irrigate 100,000 acres of valuable land, I might want to give it more thought. But my own advices from the Reclamation Service do not corroborate that loss.

Senator JONES of Washington. Well, I understand that there is a difference of opinion among the engineers. But just assuming for the sake of the question, and that is a part of the problem this committee has to consider, assuming that that contention is correct, would you think, notwithstanding such probable loss, that the needs are so urgent we would be justified in going ahead and building the Boulder Dam?

Secretary HOOVER. My instinct as an engineer would be to prevent any loss of that kind, but I do not believe that such extensive a loss is going to occur.

Senator JONES of Washington. I am not prepared to pass upon that question, of course. Here is another phase of it, and I think I appreciate your position in regard to the other matter: It is urged that if the Boulder Dam is constructed the amount of water that will be stored will be far greater than will be used for reclamation purposes and power purposes for quite a good while, and that necessarily a great deal of it will go down into Mexico. And it is suggested that if it goes down into Mexico it will be put to beneficial use by our southern neighbor, and that lands down there will be reclaimed and very likely in the future, when the matter comes up, we will have to recognize the rights of Mexico and thereby lose that amount of possible reclamation in this country.

Secretary HOOVER. I think the answer to that question is that any dams erected on the Colorado River will have the same effect so far as stabilizing the flow of water into Mexico is concerned; that this particular dam does not necessarily increase that flow over and above that of any other engineering scheme on this river. All plans are predicated on the proposition of storing the spring flood to be used in the summer, and thus stabilizing the flow of the water. I do not think that this particular plan of construction would lend itself to Mexican supply any more than any other plan.

Senator JONES of Washington. And some engineers I think urge very strongly the other way. Of course I am not prepared to pass upon it. It does look to me like, however, that if you store 20,000,000 or 30,000,000 acre-feet of water in that dam—and as I understand it there is no other proposed dam in this plan of Mr. La Rue's that stores anything like that quantity—that if this amount is stored it is not likely to be used for quite a good many years for reclamation purposes in this country, and that it will go on down into Mexico.

Secretary HOOVER. That proceeds on the hypothesis that in the treatment of Mexico for many years to come before we use most of the water it would be better to allow the flood flow to go down to Mexico and thus deprive Mexico of any water in the dry seasons. I think if we stabilize the river at all it will be likely to increase the flow into Mexico during the low-water season. If we put up small storage, it might have that effect; but if the storage were small enough to bring this about, I doubt if it would control the flood.

Senator JONES of Washington. I think it was the idea of the engineers that we could stabilize it by this plan in such a way as to use all of the stabilized water flow in this country, but that with the storage of this large amount of water at this particular point it can not be used for irrigation in this country, and that it will go down into Mexico, and that they will establish the right thereto by use, while they would not do so under this other program.

Secretary HOOVER. It seems to me that there is a wrong conception in there somewhere. There is no land to be irrigated in sections above the Black Canyon until you get to the upper basin, and any series of dams built in the river above the canyon to stabilize the flow of water will hold back the spring flood and deliver that flow at the low-water season, which is the irrigation season. It makes no difference where the dam is erected. If we wanted to prevent the irrigation of lands in Mexico by way of holding up the flow in the low-water season—that is, if we wanted to deliberately do that—you could do it more effectively at Boulder Dam than anywhere else, because you have a larger body of water to deal with. In a large reservoir like this we could hold back water during the summer and let it down in the winter when they could not use it—that is, if we wanted to be malevolent.

Senator JONES of Washington. That is all.

The CHAIRMAN. Senator ODDIE, any questions?

Senator ODDIE. Mr. Secretary, if the dam is built at the Black Canyon site, it will serve for desilting the water of the river, so the water would naturally be clear after leaving the dam. Would it pick up enough silt on its way down the river below the dam to make any material difference?

Secretary HOOVER. If it comes out clear, it will not pick up enough silt below to do any harm as far as I understand the river. As a matter of fact, no dam will desilt the Colorado River water completely. The material in suspension is such that a considerable portion will go down despite of any form of settlement, but I should not think there would be any accumulation of sediment below that dam.

Senator ODDIE. You think it would only pick up an immaterial amount on the way down after leaving the dam?

Secretary HOOVER. I do not think that is any great factor.

Senator PITTMAN. Mr. Secretary, calling attention to your statement in regard to the equities of the upper-basin States, could not their equities be threatened by granting of privileges and licenses to build dams for power purposes on the lower river?

Secretary HOOVER. The compact makes special provision covering that use—that no dam shall be erected on the Colorado River that shall ever have precedence over agriculture, either above or below. That is a specific provision of the compact.

Senator PITTMAN. How does that compact affect the jurisdiction of the Federal Power Commission?

Secretary HOOVER. It will override the jurisdiction of the commission in that matter if ratified by the Congress.

Senator PITTMAN. But pending such ratification?

Secretary HOOVER. You have an undetermined question. The Federal Power Commission has tried to accommodate itself to that matter in all discussions it has had hitherto.

Senator PITTMAN. To meet that question and solely for that purpose I have introduced a joint resolution providing that for the purpose of taking care of the interim the Congress suspends the jurisdiction of the Federal Power Commission over the Colorado River and its tributaries, until a reasonable date, and I have fixed that date as the 1st day of February, 1928, or until the President by proclamation states that a sufficient agreement has been reached among the States. Because it is an anomalous situation that exists here, the Congress has directed the Federal Power Commission to develop the Colorado River, among others. I understand that they have certain discretion, to deal or refuse, but having in mind what the compact provides for and pending action on that compact by the States and Congress, it would seem that there should be some assurance nothing will be done one way or the other.

Secretary HOOVER. The Federal Power Commission has already taken that attitude.

Senator PITTMAN. I realize that. And it is probable that they will maintain that position.

Secretary HOOVER. I have not any doubt they will maintain it.

Senator PITTMAN. But I thought that as the Congress had directed them to dispose of these power sites in their discretion, we might as well suspend that authority, so that they would not feel that they were neglecting their duty in not going ahead.

Senator SHORTRIDGE. Just a question or two.

The CHAIRMAN. The Chair recognizes Senator SHORTRIDGE.

Senator SHORTRIDGE. Mr. Secretary, is it your opinion that the Congress could in any legislation provide in like manner that any

rights acquired by the lower basin States, or in the lower basin, should be acquired without prejudice to the rights of the upper basin States?

Secretary HOOVER. Senator SHORTRIDGE, you are on a very considerable legal point now, but I understand it is the contention of the lawyers in the upper basin that that can not be done.

Senator SHORTRIDGE. The Federal Power Commission issues permits with that proviso, as I understand you.

Secretary HOOVER. It has not issued any yet.

Senator SHORTRIDGE. That was their theory that if they should go forward and issue permits, that any rights acquired under such permits were not to be prejudicial to the rights of the upper-basin States.

Secretary HOOVER. Well, I do not think they have gone any further than a discussion at one time as to whether they should issue permits to people who would waive in perpetuity all water rights. But even if the Southern States were willing to waive any water rights at all that would be objected to by the Northern States for legal reasons which others can state better than I can.

Senator SHORTRIDGE. Not to resolve that question, but it has been suggested that Congress could incorporate in an act a provision that rights acquired pursuant to the act should not be prejudicial to the rights of any of the upper-basin States. It is not necessary to pursue a legal discussion on that point, however.

Secretary HOOVER. I know that that has been suggested, but I know also that the Northern States oppose it on strong legal grounds, and there you come to the practical problem of their objection to legislation. That plan has not been satisfactory to them. We tried that once. They rejected it. Therefore we tried the six-State compact, which they accepted; and California rejected it, thus delaying the question for more years.

Senator SHORTRIDGE. We can indulge the view, and do, that they can be persuaded and convinced that their legal and equitable rights to the use of the water can be preserved.

Senator KENDRICK. In reference to the recent decision of the Federal Water Power Commission, if I am not mistaken, in denying the right to begin development in the canyon of the Colorado River, the decision contained a statement in effect that such right would be denied until the seven-State compact had an opportunity to agree upon a division of the waters of the river—an opportunity or a reasonable time in which to agree. Now, I wonder if you would kindly interpret to the committee the thought of the commission or the meaning of the commission as to "reasonable time."

Secretary HOOVER. I am sure that I do not know it. I am not a member of the Federal Power Commission, as you know, and I could not state precisely what was in their minds in that connection.

Senator KENDRICK. Oh, I beg pardon.

Senator JOHNSON. Do you know the position taken by Solicitor Davis, of your department, upon the question propounded by my colleague [Senator SHORTRIDGE] as to the preservation of the rights of the States in the upper basin?

Secretary HOOVER. I could not state his position accurately. At one time he joined with the other men of the Northern States in endeavoring to work out some kind of formula, but I believe they were not successful in satisfying themselves that it would hold. Hence the six-State compact.

Senator JOHNSON. I have been advised by our people here that he has held that legislatively that could be done.

Secretary HOOVER. Well, I am not quite sure about that. My impression is that he rather inclined to the view of the men from the northern States. I remember that Solicitor Davis represented New Mexico in the compact.

Senator JOHNSON. Yes; I knew that.

The CHAIRMAN. Another objection urged by capable engineers is that the construction of a dam and impounding of water at the Boulder Canyon would result in excessive evaporation. It has been estimated by them that a dam 550 feet high will produce an evaporation of between 400,000 and 500,000 acre-feet per annum. Have you given any thought to that objection?

Secretary HOOVER. Oh, assuming that that would happen it would not do any harm during the next generation and a half or two generations. We are not going to be using all of the water of the Colorado River for another 50 or 75 years. When the time comes that evaporated water is a large item there, you will have a number of other dams already built on the river, and you can reduce the level and thus the evaporation at the Boulder Dam. You can add to this, in the next 75 years, to any number of contingencies.

Senator ODDIE. Do you believe that after a period of years, in case the Boulder or Black Canyon Dam is constructed, that the saturation of water in the surrounding area and banks would in any wise neutralize the evaporation?

Secretary HOOVER. Oh, I do not think in that climate it would enter into it very much.

Is that all, Mr. Chairman?

The CHAIRMAN. Does any other member wish to propound any questions to the Secretary. [After a pause.] The committee is very greatly indebted to you for your very instructive remarks, Mr. Secretary, and the way you have handled the subject.

Secretary HOOVER. I thank you.

(And Secretary Hoover thereupon left the room.)

Mr. CAMERON. Mr. President, before commencing my remarks I desire to ask the indulgence of Senators that I may not be interrupted until I shall have concluded. I shall then be glad to try to answer any question which may be propounded to me by any Senator.

I also desire to state at this time that I shall not be able to finish my remarks to-day and that I expect to resume them at the session of the Senate to-morrow.

Mr. President, the argument which has been made in behalf of the so-called Swing-Johnson bill by the Senator whose name it bears has increased my great admiration for him as one of the ablest of advocates.

I appeal to the Members of this body, one and all, to withhold any conclusion and to form no judgment as to the merits of this proposed legislation until the facts which condemn it can be made clear; so clear that "he who runs may read."

There can be no question as to the facts. They are all set forth in reports of the Federal or State Governments, coming from engineers or officials whose ability and dependability can not be questioned.

The greatest difficulty in the way of a perfect understanding of this measure by one not personally familiar with the region of country to which it is sought to apply it is that the region referred to is one of the most extraordinary and unusual in its physical characteristics to be found anywhere in the world.

It is to that fact, I believe, that we may look for an explanation of the errors into which the Senator who has spoken so forcefully in advocacy of the measure has fallen. I fully acquit the Senator of any purpose to deceive, and my high personal regard for him is in no way affected by the unfortunate fact that he has been led into such grievous and unfortunate errors in his advocacy of this bill.

It has been my good fortune—and I say that without any reference to this legislative controversy—to have lived in that wonderful and marvelously interesting region for more than 40 years. The Colorado River, its Grand Canyon, its immensity, its inspiration, its sudden and devastating floods, and every site where dams may be built to control those floods are as intimately known and as familiar to me as is the park surrounding this Capitol to all of us. The whole of the vast area we plan to irrigate in Arizona with the regulated flow of that great river lies before me in a vision as I speak to you now. I can see it as it is to-day—a desert waste—and I can see it as it will be when it has been transformed by the touch of the life-giving waters of the Colorado River into a vast garden, beautiful beyond description, inspiring in its immensity, peopled by a multitude of happy citizens of the United States of America, if it is not condemned by the passage of the Swing-Johnson bill to remain a desert waste forever—the habitat of the horned toad, the coyote, cactus, and sand storms.

One of the greatest difficulties confronting us in our efforts to secure a fair and unprejudiced consideration of this pending measure is that immense sums of money have been expended in a great nation-wide propaganda in its behalf.

The result of this propaganda has been that the real facts are unknown to the public or to editorial writers, and we face a most determined barrage of misrepresentation and error in the columns of the press. Never before, in my recollection, has Congress been so lashed with a whip of ignorant assumption without any basis of fact as in the case of this particular measure.

I, for one, here and now, lay my protest before the Senate against such methods as have been adopted in the pending case to browbeat Congress by statements which have not the slightest justification in the light of known facts.

That is all I wish to say on that subject at this time. I shall refer to it again, after I shall have fully laid the facts before this body as a basis for their determination of this most important problem. But because the indefensible methods to which I refer have been adopted, and so persisted in, I shall ask the Senate to permit the facts to be brought before it in every instance as fully and comprehensively as may be necessary at least to enable this body to rest its determination on them instead of being misled by the innumerable misstatements that have been printed in the papers with the evident purpose of deceiving the public and improperly influencing the action of Congress with reference to this legislation.

The first question involved is flood protection. Everybody wants flood protection for the Imperial Valley. And the Imperial Valley would have had complete and perfect flood

protection long ago if they had not clung with implacable persistence to a measure in which flood protection is inseparably tied to so many other controversial questions that the friends of flood protection have found it impossible to lift that menace from the Imperial Valley.

Look at the things to which flood protection is tied in this bill:

First. It is tied to a scheme to take from Arizona the waters that will irrigate 3,000,000 acres of otherwise irreclaimable desert, and devote that water to the reclamation of any where from 1,000,000 to 2,000,000 acres below the line in Mexico.

Second. It is tied to a scheme to reclaim approximately 500,000 acres of new and as yet unreclaimed lands in the Imperial Valley at a time when, to say the least, the people of the East are set against the reclamation of any more land to increase the agricultural output of the United States of America.

Third. It is tied to a scheme to put the Government into the power business, at least to the extent of building a great power dam and working out plans to get its money back by the sale of power, which is a new function of the Government, and one of the most controversial and bitterly contested questions before the country to-day—so much so that the Muscle Shoals project has been hopelessly bogged down in it for years, with no apparent prospect as yet that a satisfactory solution will be found, at least not for a long time yet—and, notwithstanding that, we are belabored day after day because we do not rush to the rescue of a community which up till now has said to us:

> We must have help, but we refuse to accept it unless you will at the same time give the water of the Colorado River to Mexico to irrigate more than a million acres of land, and also reclaim 500,000 acres of new lands in the Imperial Valley, and also put the Government into the power business.

That is not all by any manner of means.

Congress is asked to override and trample underfoot the most sacred and deeply rooted rights of a sovereign State by creating an alliance of six States against one State in a permanent plan to force that one remaining State either to fight for its life single-handed against the allied influences of the Federal Government, working hand in glove with the six other States, or to surrender to that combination of allied influences and permit its future to be destroyed by a ratification of the so-called Santa Fe seven-State Colorado River compact, which can not but utterly destroy the future of Arizona. That is exactly what a ratification of that seven-State compact will do to the State of Arizona. It will destroy its future development. It will leave it within a generation a pile of ashes, a sand-swept and irreclaimable desert, instead of one of the richest and most fertile and productive agricultural States of the Union.

I make that statement to the Senate with all the earnestness that I possess. I make it seriously and advisedly; and when I reach that point in my discussion of this measure I shall prove every word of that general statement to the last detail. I refer to it now merely to emphasize the fact that instead of in reality wanting flood protection, what the proponents of this bill really want is to take from the State of Arizona her birthright and the heritage of her people, to rob the children of the future for the benefit of other States and a group of American land speculators in Mexico.

As I have said to the Senate before, Arizona is fighting with her back to the wall, and she will continue to fight for her future life as a State as long as there is a breath left in her body. What else can she do? She faces ruin if she fails to win that battle. She will fight for justice in the Halls of Congress and in the courts until she escapes from this menace that has been hung over her by the proponents of the Santa Fe-Colorado River compact. Is it not a most appalling condition of affairs when a State stands ready to go the limit to give protection to a "neighbor across the way" from the flood menace and is told that she will not be allowed to extend that help unless she will yield up her whole future hope of development and submit to be stripped of her most indispensable rights and inalienable property?

I am not at this time proposing to lay before the Senate the facts sustaining those general declarations. I shall do that later when the facts proving them have all been presented. In the meantime I appeal to you Senators, to each and every one of you, to put yourselves in the place of my State of Arizona, and see what you would think of it if your State were called a "dog in the manger" because you refused to submit to ruin in order that the Imperial Valley might have a particular method of flood protection—a method wholly unnecessary, because complete and absolute flood protection for the Imperial Valley may be had without asking Arizona to surrender any of her rights as a sovereign State which are necessary to her future prosperity.

We have not only been called a "dog in the manger"; we have again and again had the lash cracked over us because we would not accept a scheme that would tear up by the roots the whole system of rights by appropriation and substitute for it an unworkable scheme of apportionment, launching an endless era of litigation, and making the irrigated homes of Arizona in years of drought subject to a demand that they should supply a deficiency in Mexico.

With all the force and power I possess, I resent and repudiate and protest against that attitude toward Arizona. But the most reprehensible thing about it is that we are charged with these heinous offenses for what reason? Why, forsooth, because we say to our friends in the Imperial Valley: "We want you to have flood protection. We will work with you with all our strength to secure it for you. We will work with you for it, not only as a matter of neighborly good will but also because communities in Arizona are threatened by the same danger of flood devastation that hangs over you. We want flood protection for them, and we want it without delay. All we ask of you is that you separate your demand for flood protection from controversial schemes that make flood protection impossible if you tie it to them."

Is there anything unreasonable about that?

Can any justification be found for those who must have flood protection refusing to accept it unless Arizona can be compelled to commit hari-kari, or strip herself of otherwise inalienable rights without which she faces eventual ruin as a State?

I insist that there is no possible justification for such a proposition as that in which we have been placed by the proponents of the pending measure.

Mr. President, the first thing I am going to do is to show, beyond the shadow of a doubt, that the Imperial Valley and the Yuma Valley and the Coachella Valley and the Palo Verde Valley and every other flood-menaced valley or acre in the lower basin of the Colorado River can be protected from the danger of floods, protected more quickly, protected more effectively than it can by this Boulder Canyon project, by another plan that involves none of the controversial elements that have delayed this bill and would prevent flood protection under it, even though it were enacted.

It is as certain as fate that if this bill were enacted at this session its only effect would be to launch us on a sea of litigation the end of which no human vision could see.

It would defeat the very purpose which we are constantly told by newspapers which seem determined to force this bill through, right or wrong, is the reason why we should rush the bill through without proper consideration. I say "without proper consideration" because this bill involves the most complex problems of constitutional law, of interstate law, of the rights of States to the waters of the States, that have ever been involved, so far as my knowledge goes, in any bill pending before the Congress of the United States. Yet we have had no opportunity to present our side of the case to any committee having jurisdiction of those questions. This bill, whatever else may be done with it, should not be passed until it has been referred to and considered by the Judiciary Committees of both the Senate and the House of Representatives.

In addition to that, as I shall make clear beyond question before I close my remarks, the bill raises innumerable questions of an international character, questions affecting our foreign relations so profoundly, questions affecting the national defense and the safety of the nation from foreign complications and aggression, questions involving every problem of Asiatic competition, the enforcement of our immigration laws, and the maintenance of decent moral conditions along the border, that it can not properly be brought before the Senate for passage until those questions have been considered by a committee having jurisdiction over them, and that committee is the Committee on Foreign Relations.

It seems to me, Mr. President, that I have shown enough good and unanswerable reasons why the present bill, if its newspaper advocates are sincere in their almost daily declarations that it must be passed "willy-nilly"—passed whether right or wrong, passed when there can not be time for its proper consideration at this session of Congress by either the Senate or the House of Representatives, because the Imperial Valley must have flood protection—is nothing but a snare and a delusion when it comes to the question of flood protection, and that flood protection is, in fact, nothing but a peg on which to hang reclamation of vast areas in Mexico, reclamation of another 500,000 acres in the Imperial Valley, water power development by the Federal Government, and the ratification of the Santa Fe-Colorado River compact, with all its unfair and unconstitutional provisions.

It is time that some one took the bull by the horns and put before Congress and before the country a definite, concrete, plain, simple, and genuine plan for flood control that can be put through at this session of Congress, and thereby give flood protection to the Imperial Valley and all other flood-menaced sections of the lower basin of the Colorado River.

It is an indispensable prerequisite to such a plan, if it is to be possible of adoption by Congress and to actually secure flood protection for these flood-menaced valleys and sections, that it shall be simplified. It must be separated from all the intricacies and complexities and controversies in which the pending bill has been involved by its original proponents and all who have since taken a hand at it and complicated it still more.

The plan must be split away from reclamation in Mexico.

It must be split away from reclamation in the Imperial Valley.

It must be split away from any scheme to involve it in the bitter controversy between the advocates of public and private power development.

And last but not least it must be split away from every contact with a Colorado River compact designed to give to land speculators in Mexico and take from Arizona water enough to irrigate 3,000,000 acres in Arizona, and fasten around the neck of Arizona forever an obligation to furnish a deficiency in Mexico in seasons of drought and water shortage.

The almost inconceivable and unbelievable thing in connection with this whole campaign under the banner of flood protection for the Imperial Valley is that such a simple plan had not been presented to Congress years ago, instead of delaying flood protection while all these controverted questions were being fought to a finish by bitterly opposing interests.

The plan I shall propose is in no sense a personal one. It is nothing more than the application to the needs of the present situation of some common sense in the selection of the things that must and can be done to give full and complete protection against floods to the Imperial Valley without complications causing endless delay.

The first necessity of the Imperial Valley is for immediate levee protection. Before flood protection can be accomplished by reservoir storage at Boulder Canyon or elsewhere a dam must be built that it will take several years to construct. Why wait for that? Congress has shown its willingness to provide levee protection on the Colorado River, just as it does on the Mississippi River, by more than one generous appropriation for levee construction. A great flood on the Colorado River is said to be threatened this year. I believe there is not one Senator in this body who would not gladly vote, before we adjourn for this session, an adequate appropriation as an emergency matter to save the Imperial Valley from the menace of the flood that is expected to reach that country this very year. Therefore, I say, the first thing the Imperial Valley needs for flood protection is an emergency appropriation at this session of Congress to protect it from the flood that is said to be already anticipated before the coming summer is over.

The next thing is an adequate appropriation for a levee system that will protect the valley during the interval of time necessary for the building of a storage reservoir for flood protection. It does not matter where that storage reservoir is located; it will take so long to build it that the only safeguard available for the period of construction is a levee system.

Neither an emergency appropriation to meet the exigencies arising from the danger of a flood this coming summer, nor an appropriation to so perfect the levee system that it will afford complete and certain protection until storage dams can be built are involved in any of the complications that are delaying this pending bill.

All the machinery for the expenditure of those appropriations and the doing of the work promptly and well now exists. Let the people of the Imperial Valley ask for these appropriations, and there is small doubt that they would get them with a promptness that would surprise them. An appropriation asked for by me for the protection of my constituents under the Yuma reclamation project in Arizona from the floods of the Colorado River was granted by the Senate at this session most graciously and almost unanimously. I can see no reason why the same spirit of helpfulness should not be extended to the Imperial Valley, if its people were to do what seems to me the only sensible thing they can do, and ask through their own Representatives in Congress for the same consideration that I have asked for in behalf of my constituents.

If Mr. SWING, who represents the Imperial Valley in Congress, fails, neglects, or refuses to ask for these necessary appropriations to meet this year's emergency, apparently a very pressing one, or the necessary appropriations to insure safety for his people pending the construction of storage reservoirs for flood protection, I fail to see any reason why any rocks should be thrown at Arizona or why she should be held responsible, or why Congress should be held responsible for any disaster that may befall the Imperial Valley pending the construction of flood storage reservoirs for flood protection, which in the very nature of things can not be built with a rush. Great engineering structures of that character can not be built in a hurry. It took well onto 10 years to build and completely finish the Roosevelt Dam.

It therefore seems to me that we can hardly undertake to force levee protection on the Imperial Valley. The suggestion I have made has been very seriously made, but as yet I hardly feel that I ought to include emergency or temporary levee protection in a plan for flood protection which it will take several years to accomplish, but which still can be done sooner than the Boulder Canyon project.

The first unit of the storage reservoir plan for the protection of the Imperial and Yuma Valleys should be the building of a flood-control dam at Sentinel, on the Gila River, in Arizona. That is a well-known site and it has been approved for a flood-control dam by the Reclamation Service.

Some years ago an examination of the site was made for a storage reservoir for reclamation, but the engineers who made the examination did not approve it for such a reservoir.

Several years afterwards another examination was made of the same site for a flood-storage dam for flood protection only, and the site was approved for that purpose.

In order to make my position so clear that there can be no possible misapprehension about it, I want to explain more fully the conditions on the Gila. The Gila River flows into the Colorado a short distance above Yuma and below the Laguna Dam, which is about 12 miles above Yuma. It is one of the most erratic, treacherous, and dangerous flood rivers of the world. It drains an area of 56,500 square miles in Arizona and New Mexico.

In United States Geological Survey Water Supply Paper No. 395, issued in 1916, by E. J. La Rue, on page 95, the Gila River is described, the last paragraph of the description being as follows:

> The flow of the Gila is very irregular and the daily, monthly, and annual flow is subject to large variations. During the last 12 years the total annual run-off of the Gila at Yuma, Ariz., has ranged from less than 100,000 acre-feet to more than 3,000,000 acre-feet.

With that sort of a river to deal with, you never can tell what it may do in any year of the future. It has not yet at any time within the comparatively brief period covered by our records and knowledge of the river come out at flood when the Colorado was also at flood. Notwithstanding that, on more than one occasion a flood from the Gila, coming out on top of the Colorado when that river was not at flood, has caused the Colorado below the mouth of the Gila to rise to heights which are dangerous to the present levee system.

The tables of discharge of the Gila from January, 1904, to December, 1906, will be found on page 113 of Water Supply Paper 395. They show that in the period from January to September, 1904, the total run-off from the Gila into the Colorado River was only 187,000 second-feet, of which 140,000 was in August of that year. In the period from October, 1904, to September, 1905, inclusive, the total run-off was 3,050,000 second-feet, of which 3,010,710 second-feet was in the months of January to September, 1905. In February, 1905, the run-off was 680,000 second-feet, in March 1,020,000 second-feet, and in April 768,000 second-feet.

In a country where the rainy season is so uncertain, variable, and erratic as in Arizona there is no safe assurance that the Gila will never come out at flood when the Colorado River is at flood, but if the Colorado were not in existence a levee system would have to be maintained to protect the Imperial valley from floods coming entirely from the Gila, unless that stream were controlled by reservoirs.

In the course of time that may be done sufficiently to largely lessen the flood menace from the Gila River. The Coolidge Dam will control the floods above San Carlos; the dam now being built on the Agua Fria at Frog Tanks will control the Agua Fria up to a certain point, but that leaves an enormous area of the entire drainage basin uncontrolled.

The greatest difficulty with reference to flood protection is that plans are made for flood control in all ordinary years, and even for extraordinary years, up to a certain point, but it seems almost impossible to get flood menaced communities to realize that it is the history of floods the world over that at long intervals great superfloods occur which go far beyond everything anticipated, and do enormous damage which might

have been avoided if the superflood had been anticipated and planned against in working out flood safeguards.

We have not the slightest foundation for the assumption that the floods of 1905 on the Gila are the greatest we will ever have. We have no right to assume, in a country of such climatic uncertainty as Arizona, that the Gila will never be high when the Colorado is high, so that the flood crest of the Gila will meet a flood on the Colorado. And we have no right to assume that we may not have a flood on the Gila which will fill every storage reservoir in its drainage basin, and then run over the tops of them for days and perhaps weeks, and go on down to the Colorado River and go over the tops of the levees built to protect the Imperial and Yuma Valleys.

The only sensible plan to insure safety for the Imperial Valley and the Yuma Valley is to build a levee system adequate to protect those valleys to the fullest extent that it is possible to protect them in that way. Then that protection must be supplemented by a flood storage reservoir on the Gila so far down that it will intercept and hold back any flood that can by any possibility reach that low-down point on the river and check the flood and hold it in a reservoir until the channel will carry it without damage to any locality on the river below.

The Sentinel Dam should not be built with any idea of holding the water back for any length of time or storing it for any use except flood control. It should not be called a reservoir. It should be called a flood-control dam to create an emergency impounding basin in which the water could be held back just long enough to permit of its being carried in the channel without any damage below. The perfect illustration of that idea is to be found to-day on the Miami River, where a system of those flood emergency impounding and retarding basins have been built since the terrible flood devastations on that river in 1913 wrought such havoc at Dayton and other towns and cities on the Miami River.

It is apparently conceded that the Imperial Valley and the Yuma Valley can not be safe from flood devastation without a levee system, and the levee system can not make them safe unless both the Colorado River and the Gila River are eventually controlled by storage dams for flood control. If the Colorado is controlled, the levee system must be perpetuated for protection from the Gila, unless that river is also controlled for flood safety before it reaches the Colorado River.

Therefore, in addition to the emergency levee protection from a flood this year, and in addition to whatever further work is necessary to perfect the levee system so it will furnish complete protection until a great flood-control dam can be built on the Colorado River, I insist that full and certain protection for the Imperial and Yuma Valleys necessitates the construction of a flood-control emergency impounding basin on the Gila River at Sentinel.

I now urge that an appropriation should be made at this session of Congress for a full and complete survey and estimate of cost for a flood-control emergency impounding basin at Sentinel designed for no other use than to temporarily and for a limited time hold back any unusual and extraordinary flood, so that it could not reach the Colorado River until the channel of the Colorado was ready to carry it without damage or danger to levee systems.

That work should be done by the Army engineers, and it should be done and the survey, plans, and estimate of cost should be reported to Congress before the next Congress convenes in December of this year.

To recapitulate, the three things that should be done by this Congress before it adjourns, which I have already proposed, are—

1. An emergency appropriation to provide for the doing of everything necessary to be done to assure complete protection for the Imperial and other flood-menaced valleys in the lower basin from the anticipated flood in June and July of this year.

2. The making of a complete plan by the Army engineers, in cooperation with all local agencies, for the protection of the Imperial and other valleys above referred to during the interval of several years during which flood-control storage dams can be built on both the Gila and the Colorado.

3. An appropriation, to be expended by and through the Army engineers, for making the necessary surveys, plans, and estimates of cost for the prompt construction of a flood-control emergency impounding basin at Sentinel, on the Gila River, in Arizona.

There is not the slightest doubt, in my mind, that if the facts can be placed before Congress those three things can be authorized and the necessary emergency appropriations made before this session of Congress adjourns on March 4.

I want to make my point clear that I have proposed these three things that should be done at this session because they can be done without involving Congress in any of the bitterly controversial questions that are unavoidable if the advocates of flood protection insist on refusing to accept it unless they can also get reclamation in Mexico, and reclamation in the Imperial Valley, and a Federal power plant for Los Angeles, and compel Arizona to surrender her rights under present laws to her greatest asset as a State and put her neck into the noose of a perpetual obligation to furnish foreign competitors in Mexico with water when that water may be necessary for the preservation of her own crops and community life.

Not one single controversial question is involved in the doing of the three things I have advocated for flood protection, and if they are promptly done, as they should be, we will have a breathing spell of several years in which to work out the far more complicated problem of the selection of a flood-control dam on the Colorado River, which should be built also as a flood-control emergency impounding basin for the benefit of the lower basin.

When we reach and take up for consideration the question of flood control on the Colorado River I most earnestly and urgently insist that it should be shorn of every complication or complexity growing out of harnessing it to the reclamation of vast areas in Mexico or putting the burden on Arizona of furnishing a deficiency in years of drought to the foreign cultivators of those lands, or the surrender by Arizona, to say nothing of California, of vested rights under the laws of appropriation in exchange for rights in a possible reservoir which may be empty when the waters are most needed to save the country from devastation by drought, or putting 500,000 new acres under reclamation in the Imperial Valley, or trying to recover its investment in a power dam by selling power by the Federal Government, or any of the hundred and one complexities with which flood control has been surrounded in this present measure.

I insist that we should cut the Gordian knot and be rid of that whole swarm of difficulties and delays by separating flood control from all of them. I am willing to fight them out to the end, and we will take our chances in Arizona of protecting our State in the resources that God has given to us, but I protest against being placed in the position where we are to be clubbed into surrender because, forsooth, our neighbors refuse to permit us to give them what they want without being robbed ourselves.

Now I will point out a perfectly simple and noncontroversial way in which we can secure flood control for the Imperial and all the other interested valleys from the floods of the Colorado River by the building of a flood-control emergency impounding basin on that river, which can be built quicker and will serve that purpose better than the so-called Boulder Dam scheme.

I can not understand why the proponents of the Black Canyon dam should persist in calling it the Boulder dam. They have abandoned the Boulder dam site and nobody now proposes ever to build a dam there. They are now proposing a dam at Black Canyon, forty miles or so farther down the river. True, the Black Canyon dam will force the water back and to some extent fill the same reservoir site that would have been filled by the Boulder dam. But we were told that the Boulder dam reservoir would hold 35,000,000 acre-feet. Now, we are told that the Black Canyon dam, which is to create what the bill declares is to be called the Boulder Canyon project, will create a storage capacity of 26,000,000 only.

That, again, is an unfair and misleading use of terms. Any one reading the report of the Reclamation Service or the statements made elsewhere by its advocates as to the storage capacity of the Black Canyon dam reservoir would assume, of course, that when they say its capacity is 26,000,000, that they mean available capacity, capacity capable of use for the purpose of storing water that can be beneficially used year after year, filled and emptied every year when there is enough water in the river to fill it.

Such is not the case. The actual available storage capacity created by the Black Canyon dam is only 15,500,000 acre-feet. The remaining 10,500,000 acre-feet is dead storage. That is, when once filled, it will never again be emptied. For all practical purposes it might just as well be filled with silt or gravel as with water. All the good it serves is to raise the level of the water above it to the height that is necessary to make it fall over the dam from the level where it is drawn off for power. It furnishes no water whatever for either irrigation or power and no space for flood storage. It is a deception, a delusion, and a snare.

It may be said, with all fairness, that it is intended, for one thing, to deceive the people of California into assuming that the dam will hold the requisite 20,000,000 acre-feet of storage which they stipulated for as a condition of ratifying the Santa Fe-Colorado River compact, but no court in the world would ever hold that the condition requiring 20,000,000 feet of

storage is complied with by a reservoir furnishing only 15,500,000 acre-feet of storage that can be filled, and 10,500,000 feet of dead storage that never would and never could be used to relieve the necessities of the Imperial Valley or the Palo Verde Valley for water for irrigation in a season of low water and drought.

Those facts were all fully explained by Engineer Weymouth in his statement before the Senate committee in behalf of the Boulder dam scheme. He made no bones about it whatever. He very frankly furnished the committee with a blue print showing those facts, and I have a copy of that blue print in my hand at this moment.

That is only a sample of the innumerable half truths that are constantly being fed into the public mind with reference to this Boulder dam scheme, facts that are misleading to the last degree, and just as wrong in the effect they have on those who read them as though deliberate falsehoods were told. And, unfortunately, we have plenty of them to contend against, as I shall show beyond question before I close my remarks.

A FLOOD-CONTROL DAM ON THE COLORADO RIVER

When we approach the consideration of the matter of the selection of a site for a flood-control dam on the Colorado River that will completely protect the lower basin—the Imperial Valley and all other flood-menaced valleys in that region—we must not overlook the fact that the scheme for the building of the Boulder dam was proposed without any survey or investigation or study being made of any available storage sites on the river above Boulder Canyon in Arizona, and no study of the river was made for the purpose of selecting dam sites for a flood-control plan that would not be harnessed up with reclamation and power and Mexico and the rights of Arizona as a sovereign State.

The whole Boulder dam scheme had its birth in what is known as the Albert B. Fall-Arthur P. Davis report on "Problems of Imperial Valley and Vicinity," which was transmitted to Congress by Albert B. Fall, the then Secretary of the Interior, on February 22, 1922. It was based upon a survey, study, and investigation that included a vast area of irrigable lands in Mexico and started at the Gulf of California in Mexico and went up the river only to the Boulder Canyon dam site.

RECESS

The PRESIDING OFFICER (Mr. JONES of Washington in the chair). The hour of 5 o'clock having arrived, pursuant to the unanimous-consent agreement the Senate will take a recess until 8 o'clock.

Thereupon the Senate (at 5 o'clock p. m.) took a recess until 8 o'clock p. m.

EVENING SESSION

The Senate reassembled at 8 o'clock p. m., on the expiration of the recess.

The PRESIDING OFFICER (Mr. JONES of Washington in the chair). Pursuant to the unanimous-consent agreement the Chair lays before the Senate House bill 16886.

ADDITIONAL REPORTS OF COMMITTEES

Mr. SHORTRIDGE, from the Committee on Naval Affairs, to which was referred the bill (H. R. 6006) for the relief of John S. Carroll, reported it without amendment and submitted a report (No. 1546) thereon.

Mr. MAYFIELD, from the Committee on Claims, to which was referred the bill (S. 5232) for the relief of Sadie Klauber, reported it with amendments and submitted a report (No. 1547) thereon.

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

A bill (H. R. 10456) for the payment of claims for pay, personal injuries, loss of property, and other purposes incident to the operation of the Army (Rept. No. 1548);

A bill (H. R. 15252) to provide relief of certain natives of Borongan, Samar, Philippine Islands, for rental of houses occupied by the United States Army during the years 1900 to 1903 (Rept. No. 1549); and

A bill (H. R. 16058) for the relief of certain officers of the Army of the United States (Rept. No. 1551).

Mr. NYE, from the Committee on Claims, to which was referred the bill (H. R. 4258) to credit the accounts of James Hawkins, special disbursing agent, Department of Labor, reported it without amendment and submitted a report (No. 1552) thereon.

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

A bill (S. 4383) for the relief of certain claimants for interest arising from delay in the payment of drafts and cable transfers of the American Embassy at Constantinople between December 23, 1915, and April 21, 1917 (Rept. No. 1553); and

A bill (H. R. 531) for the relief of John A. Bingham (Rept. No. 1550).

He also, from the same committee, to which was referred the bill (S. 4558) to provide a method for compensating persons who suffered property damage or personal injury due to the explosions at the naval ammunition depot, Lake Denmark, N. J., July 10, 1926, reported it with amendments and submitted a report (No. 1554) thereon.

Mr. CAPPER, 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. 3253) for the relief of Lieut. Commander Garnet Hulings, United States Navy (Rept. No. 1555); and

A bill (H. R. 8278) for the relief of A. B. Cameron (Rept. No. 1556).

ALIEN PROPERTY ADJUSTMENT

Mr. McKELLAR submitted sundry amendments 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 were ordered to lie on the table and to be printed.

LOANS TO VETERANS UPON CERTIFICATES

The Senate, as in Committee of the Whole, proceeded to consider the bill (H. R. 16886) to authorize the Director of the United States Veterans' Bureau to make loans to veterans upon the security of adjusted-service certificates, which was read, as follows:

Be it enacted, etc., That section 502 of the World War adjusted compensation act is amended by adding at the end thereof the following new subdivisions:

"(i) The Director of the United States Veterans' Bureau is authorized, through such officers and at such regional offices, suboffices, and hospitals of the United States Veterans' Bureau as he may designate, and out of the United States Government life insurance fund established by section 17 of the World War veterans' act, 1924, as amended, to make loans to veterans upon their adjusted-service certificates in the same amounts and upon the same terms and conditions as are applicable in the case of loans made under this section by a bank, and the provisions of this section shall be applicable to such loans; except that the rate of interest shall be 2 per cent per annum more than the rate charged at the date of the loan for the discount of 90-day commercial paper under section 13 of the Federal reserve act by the Federal reserve bank for the Federal reserve district in which is located the regional office, suboffice, or hospital of the United States Veterans' Bureau at which the loan is made.

"(j) For the purpose of enabling the director to make such loans out of the United States Government life insurance fund the Secretary of the Treasury is authorized to loan not exceeding $25,000,000 to such fund with interest at the rate of 4 per cent per annum, compounded annually, on the security of bonds held in such fund.

"(k) The disbursing officers of the United States Veterans' Bureau shall be allowed credit in their accounts for all loans made in accordance with regulations and instructions of the director."

The PRESIDENT pro tempore. The bill is before the Senate as in Committee of the Whole and open to amendment.

Mr. KING. Mr. President, undoubtedly the thought behind the bill is entirely worthy. It is claimed that ex-service men are experiencing difficulty in negotiating their securities and obtaining loans upon the same. Perhaps this is true; but it must be remembered that the Congress, after full consideration, and after denying a cash bonus, determined that there should be, for a time at least, obstacles to the negotiation of the certificates issued to the ex-service men.

There were Senators who preferred a direct cash bonus, believing that was the easiest way of dealing with the problem. But suggestions were made that if the veterans were paid cash as a bonus it might be soon disposed of, invested, or utilized, and when it was gone efforts would be made to secure further contributions from the Treasury, or pensions, or allowances of some character. After mature deliberation, as I have said, Congress reached the conclusion that the bill which was passed contained the wisest and best provisions for the ex-service men. Now we are asked to take a step backward. This bill will encourage the negotiation of loans, and undoubtedly in many cases the debtors will be unable to meet their obligations, and thus lose their security. Instead of

preventing what was conceived to be an evil, this bill will contribute to its realization.

Mr. President, I do not think it a wise policy for the Government to make direct loans to individuals. It puts the Government into the banking business. It is not a sufficient answer to say that the loans are being made from funds in the possession of an agency of the Government. We are making loans upon security which is offered by private individuals. Recently there was legislation before Congress asking for a loan of $75,000,000 to be made to agriculturists in a particular region of the United States. A few days ago a bill was passed carrying approximately $8,000,000, from which loans were to be made directly to individuals on such security as the Secretary of Agriculture might deem proper. We are encouraging the people to believe that the Treasury of the United States is a bank from which every person may draw, with or without security. Soon we will have petitions for further loans and contributions to industries which may suffer some calamity, to individuals who may be out of employment, and to persons who may suffer from adversity. I think it is a bad policy, and not within the constitutional authority of Congress. This bill, in my opinion, will not be of advantage to the veterans, and within a short time they and Congress, if it becomes a law, will confess that a mistake has been made.

Mr. GEORGE. Mr. President, I offer an amendment which I send to the desk and which I ask may be read.

The PRESIDENT pro tempore. The clerk will read the amendment proposed by the Senator from Georgia.

The CHIEF CLERK. Add at the proper place in the bill the following:

That section 705 of the World War adjusted compensation act, as amended, is amended by striking out the period at the end thereof and inserting in lieu thereof a comma, and the following: "except that a duplicate certificate shall be issued without the requirement of a bond when it is shown to the satisfaction of the director that the original certificate, before delivery to the veteran, has been lost, destroyed, wholly or in part, or so defaced as to impair its value."

The PRESIDENT pro tempore. The question is upon agreeing to the amendment proposed by the Senator from Georgia.

Mr. WALSH of Massachusetts. Mr. President, I should like to inquire of the Senator from Georgia if the amendment is not one acceptable to the Veterans' Bureau?

Mr. GEORGE. The amendment, I may say, has been submitted to the bureau. The director of the bureau did not wholly approve the amendment. He approved a portion of the amendment.

Mr. WALSH of Massachusetts. May I say to the Senator that my correspondence with the director of the bureau was to the effect that he approved the amendment.

Mr. GEORGE. I will say to the Senator from Massachusetts that I did not know he fully approved it. I regret that I do not have before me the letter of the director of the bureau, but I thought that his disapproval of a portion of the amendment was founded obviously upon a misapprehension of what the amendment purported to do.

Mr. President, I would not offer the amendment if I did not feel that it was really in line with and germane to the legislation. Under the war veterans' act the Director of the Veterans' Bureau is authorized to issue duplicate adjusted service certificates in certain events upon the giving of a bond by the veteran. The amendment proposes simply to amend the act so that the director of the bureau may issue the duplicate certificate where the certificate was lost prior to its delivery to the veteran or where it was defaced or torn or obliterated so as to make it nonserviceable to him. A veteran is required, under the amendment, to offer proof of the nondelivery to him to the satisfaction of the director of the bureau. It seems to me in those circumstances there ought not to be placed upon the veteran the added burden of executing to the Government a bond. I will say to the Senate that in many instances the veterans will not be able to give such bonds.

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

Mr. GEORGE. Certainly.

Mr. SMOOT. Of course this is quite out of the regular form of issuing duplicate certificates. I ask the Senator what would happen in case a war veteran had a certificate and it was temporarily lost or laid aside or put where he could not lay his hands upon it, and there should then be a duplicate of the certificate issued without a bond. Suppose then a loan were made upon the duplicate certificate and later the original certificate turned up. What would happen in such a case?

Mr. SMITH. The duplicate number would show on the duplicate certificate.

Mr. GEORGE. The amendment does not contemplate a case where the veteran has misplaced or lost his own certificate. If the Senator will read the amendment he will see that it applies where, without fault of the veteran and without delivery to him, his certificate has been lost.

Mr. SMOOT. It provides—

Except that a duplicate certificate shall be issued without the requirement of a bond when it is shown to the satisfaction of the director that the original certificate, before delivery to the veteran has been lost.

Mr. GEORGE. Yes; "before delivery to the veteran." I am confining it to that, and I think it is manifestly just. I do not see how the Senate would wish to impose upon a veteran, who had never received his certificate and who can make satisfactory proof of that fact to the Director of the Veterans' Bureau, the necessity of executing bond. I am not offering the amendment because it is an amendment which will not be availed of, for it will be used in many instances. I grant that, and I grant also that, of course, there is always some danger that two certificates might appear. Some one might innocently get hold of a duplicate certificate, but I take it the loans will be made really by the Director of the Veterans' Bureau. Banks are not going to make these loans. That has been demonstrated. That is the very necessity for the legislation. The loans will be made by the bureau. The bureau will have every opportunity of checking and rechecking, and therefore if it makes a loan on a duplicate certificate and then upon the original, it will be its own fault.

Mr. ROBINSON of Arkansas. Mr. President, may I ask the Senator a question?

The PRESIDENT pro tempore. Does the Senator from Georgia yield to the Senator from Arkansas?

Mr. GEORGE. I yield.

Mr. ROBINSON of Arkansas. Are there many instances in which the certificate is said to have been lost before delivery to the veteran?

Mr. GEORGE. There are in the aggregate a considerable number. Of course, the percentage is not great. The percentage is very negligible, but out of the four million certificates or more there are of course a considerable number.

Mr. ROBINSON of Arkansas. What relief is provided for the veteran whose certificate was lost before delivery to him and who is himself unable to execute a bond?

Mr. GEORGE. Under the law, as it now stands, he can not get a certificate. The law, as it now stands, is rigid. The veteran to whom the bureau, through the negligence of a clerk, never mailed a certificate, could not get a certificate and could not borrow on it and could not utilize it unless he were able to give a bond. I think there are many veterans not able to give the required bond. The amendment covers only a case where the veteran is able to show to the director and to the satisfaction of the director that prior to any delivery of any certificate to the veteran it was lost or destroyed or defaced.

Mr. SMOOT. I have not had any report from the bureau, but I see no particular reason why the amendment should not be agreed to. So far as I am concerned, if there are no further objections, I express the hope that the amendment will be agreed to.

Mr. GEORGE. I thank the Senator from Utah.

The VICE PRESIDENT. Without objection the amendment is agreed to.

Mr. SMOOT. With reference to the statement just made by the Senator from Georgia as to the banks refusing to make loans on these certificates, I should like to state that during the month of January there were 4,813 banks which made loans. There were 175,338 loans made, aggregating $14,905,027.56. That was for the month of January.

Mr. ROBINSON of Arkansas. Mr. President, may I ask the Senator a question in connection with the statement just made?

Mr. SMOOT. Certainly.

Mr. ROBINSON of Arkansas. Are there statistics available to show the number of instances in which loans were refused when applications were made?

Mr. SMOOT. No; I have not any such statistics.

Mr. ROBINSON of Arkansas. It is an established or recognized fact that in numberous instances banks have refused to make loans.

Mr. SMOOT. In some cities of the smaller size, where the banks are small, and even in some banks in the larger cities, there have been refusals to make loans, but in January the loans made and the amounts loaned were more than anyone anticipated in the beginning.

Mr. ROBINSON of Arkansas. Some weeks ago I saw a press report of an incident alleged to have occurred in the city of Washington where a number of veterans appeared at a bank to make application for loans and the officers of the bank appealed to the police to disperse them as if they were a mob. Does the

Senator know whether a similar situation existed in other cities?

Mr. SMOOT. If any such incident occurred in the District of Columbia, I think it is the only place in the United States where it did occur.

Mr. ROBINSON of Arkansas. I only know what the newspapers of the city reported, and I recall reading a statement purporting to have been made by an officer of one of the banks, complaining that the veterans applying for loans were so numerous that they were disturbing the bank and interfering with its business.

Mr. BRATTON. Mr. President, I inquire if the amendment proposed by the Senator from Georgia [Mr. GEORGE] has been disposed of?

The VICE PRESIDENT. It has been agreed to.

Mr. BRATTON. Mr. President, on February 3 my colleague, the senior Senator from New Mexico [Mr. JONES], introduced a bill by which it is designed to repeal the last paragraph of paragraph 7 of section 202 of the World War veterans' act. At that time he gave notice that he would offer it as an amendment to this bill when it was reached in the Senate. Since then, my colleague has fallen ill and can not do that for himself. So, on his behalf, first, and on my own behalf, next, I propose to add the bill introduced by my colleague, being Senate bill 5579, as section 3 of the pending bill. The paragraph referred to reads thus——

Mr. BINGHAM. Mr. President, will the Senator from New Mexico yield to me?

Mr. BRATTON. I yield to the Senator from Connecticut.

Mr. BINGHAM. Did I understand the Senator to say that before his colleague was taken ill he gave notice that when the pending bill was considered he would offer his bill as an amendment to it?

Mr. BRATTON. He said he would do that.

Mr. BINGHAM. I merely wanted to suggest that, in view of the fact that we have a unanimous consent agreement to take up only two bills to-night, it did not seem to me quite in accordance with the spirit of that agreement to move to take up a third bill which no one understood was to be taken up; but, if notice was given of the intention to offer such a bill as an amendment, of course, my remarks are not applicable.

Mr. ROBINSON of Arkansas. With the permission of the Senator from New Mexico, I desire to make a suggestion.

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

Mr. ROBINSON of Arkansas. When a bill is taken up in the Senate, any amendment in order may be submitted to it, and notice of intention to submit an amendment is not required.

Mr. BINGHAM. I understand that; but it seems to me that it is unusual, in view of the agreement that to-night but two measures were to be taken up, to offer a bill which is on the calendar by way of amendment to one of those two bills. I think that is not in accordance with the spirit of the unanimous-consent agreement, although I understand perfectly well that it is in order.

Mr. ROBINSON of Arkansas. I do not think the Senator from Connecticut will maintain that position, namely, that merely because a Senator has presented the amendment which is offered here now in the form of a bill he is estopped from offering it as an amendment to this bill.

Mr. BRATTON. Mr. President, the Senator from Connecticut [Mr. BINGHAM] is in error in stating that the bill is on the calendar. It is pending before the Committee on Finance.

Mr. BINGHAM. The bill has not as yet been reported out of the committee?

Mr. BRATTON. No. On the 3d of this month my colleague introduced this bill, and he then stated:

> In this connection I desire to say that I shall probably offer that bill as an amendment to some other bill, perhaps to the bill which is now pending before the Finance Committee regarding loans upon World War veterans' insurance.

Mr. MAYFIELD. Mr. President, if the Senator from New Mexico will yield, I should like to say that no doubt the senior Senator from New Mexico [Mr. JONES] realized that on account of the session being so near its close it would be impossible to secure action on the bill as a separate measure.

Mr. BRATTON. That obviously is true.

Mr. MAYFIELD. And that was the idea that he had in mind when he said that he would offer it as an amendment to some bill that would come before the Senate.

Mr. BRATTON. Obviously so.

Mr. MAYFIELD. I certainly hope the Senator from Utah will accept the amendment.

Mr. SMOOT. I can not very well accept the amendment.

I wish to say to the Senate that the amendment has reference to the $40 limitation on the compensation of veterans in hospitals over and above their hospital expenses.

Mr. McKELLAR. How many men are involved?

Mr. SMOOT. The amendment, if adopted, will involve a cost of two million three hundred and some-odd thousand dollars per annum.

Mr. McKELLAR. How many men are involved?

Mr. BRATTON. I will say to the Senator that about 4,300 men are involved.

Mr. SMOOT. I will give the Senator the approximate number—between 4,300 and 4,500.

Mr. BRATTON. There are about 4,300 men who would be affected.

Mr. SMOOT. Mr. President, I will read a report from the Veterans' Bureau on the bill presented by the Senator from New Mexico as an amendment, if the Senator from New Mexico will yield for that purpose.

Mr. BRATTON. I yield to the Senator from Utah.

Mr. SMOOT. I submitted this bill to the Veterans' Bureau, and on February 15 I received a report from the Veterans' Bureau, reading as follows:

> MY DEAR SENATOR SMOOT: Reference is made to your letter of February 4, 1927, transmitting copy of S. 5579, a bill to amend the World War veterans' act, 1924, as amended, and requesting a report as to the merits thereof.
>
> This bill proposes to repeal the last paragraph of section 202 of the World War veterans' act, as amended, under which the compensation of all veterans maintained in hospitals by the Government on June 30, 1927, who have no dependents, will be reduced to $40 a month. This proposed legislation is in the nature of an additional benefit, and, as such, is a matter entirely within the discretion of the Congress.
>
> It is estimated that this amendment will result in an increased cost of $2,100,000 per annum, for the reason that should the statute be permitted to remain as it is there would result on June 30, 1927, a corresponding reduction in the compensation payments.
>
> A copy of this letter is inclosed for your use.
>
> Yours truly,
>
> FRANK T. HINES, *Director.*

Mr. CARAWAY. Mr. President——

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

Mr. CARAWAY. The amendment is designed to prevent a man from having his compensation cut when he is in such a bad condition of health that he has to remain in the hospital; that is all, is it not?

Mr. BRATTON. That is all. To say that it will cost the Government $2,100,000 is inaccurate, in this——

Mr. CARAWAY. If the amendment be not adopted, that much will be taken out of the pockets of the wounded veterans.

Mr. SMOOT. Oh, no.

Mr. BRATTON. Exactly. The adoption of the amendment will simply continue the law as it is to-day. To say that it will cost the Government $2,100,000 is not accurate unless it be said that the Government will lose by obviating the reduction in the veteran's compensation.

The situation is this: Under the present law a veteran without dependents and temporarily or totally disabled gets $80 per month for himself while in a hospital; he receives $10 per month for wife or if no wife $10 for the first dependent child.

Mr. SMOOT. The amendment has no reference to any soldier who has dependents; it has reference only to veterans who have no dependents.

Mr. BRATTON. That is correct; I will get to that.

Mr. SMOOT. It applies only to veterans who have no dependents at all, and who are in the hospital, where all expenses are paid; in other words, the veteran is just this much ahead every month, because he has no expense and he has no known dependents anywhere.

Mr. CARAWAY. The truth about the matter is that without the amendment proposed by the Senator from New Mexico we would let the veteran pay for his own hospitalization, at least, to the extent of $40 a month.

Mr. SMOOT. Oh, no.

Mr. BRATTON. I will get to that if the Senator from Utah will give me just a few moments time.

Under the present law a veteran who is temporarily totally disabled and is without dependents gets $80 a month. One with a family gets $100 a month, if he is permanently disabled.

Mr. SMOOT. And is out of the hospital.

Mr. BRATTON. A veteran temporarily totally disabled with dependents, gets $80 for himself, $10 for his wife, $10 for his first child, and $5 each for the other children. The present law will on the 30th of June cut in half the compensation of these

disabled veterans without dependents who are temporarily disabled while they are in the hospital. This is the only class of disabled veterans against whom a cut of this kind is made, and it is a discrimination which I can not justify upon any theory.

We will have this picture after the 30th of June. There may be a veteran who is totally and permanently disabled lying upon a cot in a hospital; he gets $100 per month; another veteran beside him who is temporarily disabled, but has dependents, gets $80 for himself, $10 for his wife, and so much for each child, and so much for each dependent parent; in the third bed there may be another veteran temporarily totally disabled confined in the hospital. As things now are, his two companions remain with no decrease in their compensation, but as to the third veteran, it is proposed to cut his compensation in half. Instead of letting the temporarily totally disabled veterans, without dependents, continue as they are now, with a compensation of $80 per month, it is proposed to reduce them to a flat figure of $40 a month.

To say that it will cost the Government $2,300,000 a year is inaccurate. It will not cost the Government a cent in addition to what it is paying now. It will continue things just as they are to-day; it will let those veterans, after the 30th of June, continue to be paid the same rate at which they are paid to-day.

The American Legion estimates that the proposed reduction of $40 a month affects 4,300 men by cutting their compensation in half, and if the law shall go into effect it will reduce the amount that the Government is paying to the veterans by the approximate sum of $2,100,000.

Every Senator here is familiar with the old apothegm that we make a living by what we get, but we make a life by what we give. Measured by that language, I venture to say, without consuming the time of the Senate, that these men already have made their lives by what they have given. This thing can not be justified on an economic or a financial or any other theory. This particular class of veterans should not be singled out and have visited upon them a 50 per cent decrease in their compensation.

We can vote $70,000,000 for rivers and harbors, and we can appropriate $100,000,000 at a time for public building; but when it comes to avoiding a reduction—for that is all it is—of $2,100,000—not an increase, but avoiding a reduction—by continuing the present status quo of these men, it is urged that we should not do it; that it is unsound, because it will cost the Government $2,300,000. If the time has come when the Government can visit a decrease of that kind upon these men and must with a sharp blade cut their compensation in half, then let the Senate do it; but if the Government is able to continue its treatment of these men, the amendment should be adopted; it should go into this bill. Let these men continue to be treated as they are being treated to-day.

Mr. HOWELL and Mr. SMOOT addressed the Chair.

Mr. BRATTON. I yield to the Senator from Nebraska.

Mr. HOWELL. Mr. President, do these men have to contribute anything out of what they receive for their hospital care?

Mr. BRATTON. They do not; but, in line with that, let me remind the Senator that on the very day this bill goes into effect they are required to convert their insurance. In the letter that my colleague [Mr. JONES of New Mexico] inserted in the RECORD on the 3d this language is contained:

> On June 30 next—the same day on which the $40 reduction would take place—the law provides that all monthly term insurance must be converted to United States Government life insurance. The average age of the veterans is now 35 years. A veteran who converts his $10,000 renewable term-insurance policy to a 20-year endowment policy on that day is faced with a monthly payment of $34.10.

When he pays that, he will have the handsome sum of $5.90 left if this bill goes into effect.

> In other words, if this provision of the law is allowed to become effective it will take all of a veteran's compensation except $5.90 per month to convert his insurance to an endowment policy. Should he convert to a twenty-payment life policy, he must pay out $23.30 a month to carry his policy—

He will have $16.70 left.

Mr. HOWELL. Suppose he converts it into a regular life policy and continues payments throughout life?

Mr. BRATTON. I have not the figures before me.

Mr. HOWELL. It would be very much less.

Mr. BRATTON. Perhaps so.

Mr. HOWELL. It would probably be half of that.

Mr. BRATTON. Perhaps so.

Mr. HOWELL. I have every sympathy with the veterans, but it strikes me that if a man is in a hospital, receiving his care without charge and in addition thereto $40 a month, and he has no dependents whatever, then in such case he is being treated very well by the United States Government.

Mr. BRATTON. Let me ask the Senator this question: This applies to a veteran who is temporarily disabled. A veteran who is permanently disabled, and contemplates staying in the hospital all the time, gets $100 per month. The veteran who is temporarily disabled will be released in time from the hospital, and he must go back into the community life on his own resources. He goes out with the handsome sum accumulated of $5.80 per month or $16.80 per month, and upon that as his cash he is compelled to go back into community life.

Perhaps he has given up his position. Perhaps he has been compelled to sever his connection with his former employer; and upon that insignificant sum he is put back into community life upon his own resources to start all over again, to hunt new employment, and must meet his necessary expenses in the meantime; whereas the veteran who is permanently in the hospital gets $100 a month right along.

Mr. HOWELL. But I do not think that anyone, even the man getting $40 who is temporarily disabled, would envy in the least a man who is permanently disabled, who has no hope of a career in civil life. I do not think they are comparable.

Mr. BRATTON. And I doubt if any man here would envy a veteran who was lying flat on his back in a hospital as the proximate result of his services rendered and who is receiving $80 a month plus his upkeep. If we are going to put it upon the basis of envy, I do not suppose any citizen would envy that kind of a veteran if the present law is continued.

Mr. McKELLAR. Mr. President——

Mr. BRATTON. I yield.

Mr. McKELLAR. When was this reduction made by the Congress, and what was the reason given for making the reduction?

Mr. BRATTON. In the data furnished by Mr. Taylor, the vice chairman of the national legislative committee, the statement is made that the reduction was made in conference in 1924. For what reason it was made, I do not know; but that is his statement.

Mr. McKELLAR. Was it ever discussed before either branch of Congress? I do not recall it. That is why I ask the question. I do not recall that it was ever mentioned in the Senate that this reduction would be had; and, if the Senator will permit me, I should like to ask the Senator from Utah whether this legislation was ever discussed in the Senate before it was passed. As I understand the Senator from New Mexico, the reduction from $80 to $40 takes place next July, unless we correct it in the meantime; and I ask the Senator from Utah whether that phase of the matter was discussed in the Senate before the bill was passed.

Mr. SMOOT. I will answer the question as soon as the Senator gets through and I can take the floor.

Mr. BRATTON. Mr. President, I do not propose to take any additional time of the Senate. I simply submit to the Senate and to the American people that this country is too strong and too powerful, and it ought to be too just, to visit a discrimination like this upon 4,300 helpless men, helpless by reason of their disability following their service to mankind in the World War. If the time has come when we must arbitrarily visit a punishment of this kind upon this class of men, I say it is a sad spectacle in the eyes of the American people and in the eyes of mankind.

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

Mr. BRATTON. I yield.

Mr. KING. I should like to ask the Senator whether his statement is quite accurate that those for whom he is now speaking have suffered disabilities in the line of service. As I understand, any person may go into the hospital and receive hospitalization and get this compensation, though the disability from which he is suffering and which entitled him to hospitalization is not traceable to any services which he rendered his country in the war. If I am in error, I should like to be advised.

Mr. BRATTON. I am not sure about that; but, at any rate, they are men who rendered service in the war.

Mr. GEORGE. Mr. President, may I say to the Senator from Utah that any veteran may obtain hospitalization, but he can not obtain compensation; and the amendment offered by the Senator from New Mexico refers to compensation, not mere hospitalization.

Mr. McKELLAR. Yes; and the veteran has to be disabled, or he can not draw it.

Mr. GEORGE. Certainly.

Mr. BRATTON. And his disability must be due to service connection; so that if a man is not entitled to compensation except by reason of disability due to service connection, his

disability does follow and is connected with his service in the Army.

I offer the amendment and ask that it be read at the desk, Mr. President.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. It is proposed to add, following the amendment heretofore agreed to as section 3:

That the last paragraph of paragraph 7 of section 202 of the World War veterans' act, 1924, as amended, is hereby repealed.

Mr. SMOOT. Mr. President, in the spring of 1924 this whole question was threshed out in the Finance Committee, the bill having passed the House of Representatives without this provision in it reducing that class of patients to $40 a month. During those hearings we had the representatives of the three veterans' organizations before the committee. If I remember correctly, they all agreed that a man who was in a hospital partially disabled, with no dependents whatever, should not draw the same amount as a man in a hospital totally disabled, or even partially disabled, and drawing $80 for himself, and for each child an additional amount up to $100.

Mr. BRATTON. Mr. President, will the Senator yield to me there for just a moment?

Mr. SMOOT. Yes.

Mr. BRATTON. In line with what the Senator says to the effect that at that time the American Legion admitted that there should be a discrimination——

Mr. SMOOT. I will say that they all did.

Mr. BRATTON. In this memorandum furnished by Mr. Taylor on the 2d of this month, two years after the time about which the Senator is now speaking, this is said:

There has been more complaint from the hospitals concerning this provision of the law than any other section of the World War veterans' act. The disabled veteran sees a deep injustice in the proposal to reduce his compensation from $80 to $40 a month.

And this Mr. Taylor, the vice chairman of the national legislative committee, urges in the strongest terms the repeal of this law now.

Mr. SMOOT. I have no doubt of that.

Mr. BRATTON. Contending that it is an injustice; so the point I make is that if the organizations took that position then, they take a different position now.

Mr. SMOOT. Mr. President, speaking of injustice, here is a veteran who goes to the hospital. Every expense is paid by the Government while he is in the hospital. He has no dependent outside, no one to look to him for assistance. He is in there, and he has $40 a month clear, outside of what he may pay for his insurance, if he is carrying insurance; but, if not, he has $40 clear. Here is a man with a wife and two children. He is in the hospital, and goes in on the same day as the other man. He gets $100 per month, with all of his expenses paid while there; but, which veteran has the advantage, when you consider the money that is needed to take care of that wife and two children in the home, and all the expenses attached to it? Which veteran, at the end of the month, comes out with more cents to his credit? In my judgment, the man who has no dependents is the only one who will have anything left. The other man will come out with nothing whatever, and, in fact, every month he is in there he is running behind. It seems to me there is no justice in it.

The Finance Committee in 1924 was a unit on this provision of the law, and the committee reported it out again; and I say that if that amendment is agreed to the veteran who has no dependents and goes to a hospital has every advantage in the world over the man who has a wife and a child or children and undertakes to maintain a home.

With that statement I will let the Senate decide the matter.

Mr. SMITH. Mr. President, before the Senator concludes I should like to have an answer to the question of the Senator from Tennessee [Mr. MCKELLAR] as to when this legislation became law. I have no recollection that this point was discussed.

Mr. SMOOT. In 1924, Mr. President. It was discussed at the time.

Mr. SMITH. On the floor of the Senate?

Mr. SMOOT. Yes; upon the floor of the Senate.

Mr. SMITH. This proposition that the veteran without dependents should be reduced to $40, as against the other having $100?

Mr. SMOOT. Eighty dollars and $100; and the very reasons that are assigned now were assigned then, and Congress thought then that it was only fair as between the two classes of veterans.

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

Mr. SMOOT. Yes.

Mr. BRATTON. In this statement prepared by Mr. Taylor, the vice chairman of the national legislative committee, this is said:

This provision of the law which we seek to amend was inserted in the World War veterans' act while that measure was in conference in the spring of 1924.

Mr. SMOOT. I think Mr. Taylor is wrong about that. This provision was discussed before the Finance Committee.

Mr. SMITH. Mr. President, it may have been discussed before the Finance Committee, but was it discussed here? Is not this another case of legislating in conference?

Mr. SMOOT. No.

Mr. REED of Pennsylvania. Mr. President, will the Senator yield to me?

I wrote the World War veterans' act, and this clause was in the bill when it was first introduced in the Senate. It was considered in the Finance Committee; it was debated on the floor of the House; it was fully explained; it was agreed to by the House of Representatives; it was agreed to by the conferees, who did not have any discretion about it, both Houses having agreed; it was agreed to by the American Legion; it was agreed to by every friend of the veterans who knew about it. It was put in in order to prevent the accumulation of very large sums of money for insane veterans who had no relatives and who did not need anything like as much as $40 a month.

Mr. BRATTON. Mr. President, will the Senator yield there a moment? Insane veterans are governed by an entirely different provision. They are governed by the third paragraph of section 7. They are reduced to $20 per month, with the provision that if they regain their mental ability their compensation then shall be increased by the exact sum by which it was decreased.

The provision we are talking about has nothing whatever to do with insane veterans.

Mr. SMOOT. I think the Senator is right in that.

Mr. REED of Pennsylvania. The whole of paragraph 7 was put in to take care of those cases which had already become a scandal, of men who had no need for this allowance, some of them insane, others confined to the hospital and unable to spend money for anything except a little tobacco, whose every expense was provided for, and the attention they were getting, even at that, was greater than any country in the world had ever paid any veteran.

Mr. BRATTON. Mr. President, the first sentence of paragraph (7) of section 202 reads as follows:

Where any disabled person having neither wife, child, nor dependent parent shall, after July 1, 1924, have been maintained by the bureau for a period or periods amounting to six months in an institution or institutions, and shall be deemed by the director to be insane, the compensation for such person shall thereafter be $20 per month so long as he shall thereafter be maintained by the bureau.

Then it is provided that if he recovers his mental faculties, his compensation shall be put back at the original figure, and the difference shall be paid him. The paragraph we are dealing with provides as follows:

After June 30, 1927, the monthly rate of compensation for all veterans (other than those totally and permanently disabled) who are being maintained by the bureau in an institution of any description and who are without wife, child, or dependent parent, shall not exceed $40.

This provision is not confined to insane veterans. It is not applied to them. It applies to other veterans without dependents. I am surprised to find that the Senator from Pennsylvania, with his usual justice and keen perception of equity, could have gone so far wrong.

Mr. SMOOT. Does the Senator think for a moment that we should select out 4,300 veterans who have no dependents whatever and put them in a better position than a man who has a wife and child and a home to provide for?

Mr. BRATTON. If the Senator from Utah is right, that is the very thing Congress did two years ago. If he is talking about treating them better than we treat others, it is not a question of shall we do it? The Congress already has done it.

Mr. SMOOT. Congress has undertaken to make them fairly equal, taking into consideration the position of the man, and taking into consideration what his expenses of living must be, not might be.

Mr. BRATTON. If that is a fair comparison after June 30, 1927, why was it not fair when the original act was passed, and why did Congress put them upon one plane from 1924 until June 30, 1927, and then discriminate against them?

Mr. SMOOT. The reason is that in passing legislation there are many things Congress can not foresee that develop afterwards. In the administration of the law we have had sug-

gested dozens and dozens of amendments that originally were never thought of by anybody.

Mr. BRATTON. But this is not one of them.

Mr. SMOOT. This is one of them.

Mr. BRATTON. This is in the original act.

Mr. SMOOT. In 1924 Congress undertook to make them fairly equal, and did so.

Mr. BRATTON. If $40 a month will be fair after June 30, 1927, for temporarily totally disabled veterans, as compared with other veterans, it was fair when this act was drawn. No man can justify, on this floor, putting them at $80 during the first three or four years of the existence of the act, and reducing them to $40 thereafter. If equality and a parity is the rule to guide us now the cases should have been measured by the same yardstick when the act was drawn.

Mr. REED of Pennsylvania. Mr. President, the section to which the Senator refers does apply to many neuropsychiatric veterans who may not be adjudicated by the director to be insane, but it applies to thousands of men to-day in neuropsychiatric hospitals. Congress did this deliberately more than three years ago, because we all knew, if we were willing to be honest with ourselves, that men who were only temporarily disabled, and were still in hospitals nine years after the armistice, were probably hypochondriacs, or men who were staying there to get free board and a large pension besides. We knew that would be so, and in order to reduce the population in the hospitals of that kind of patient, with the full acquiescence of the American Legion and the other veterans' organizations we inserted this provision deliberately, so that the Government might not find itself perpetually a boarding house for men who were not permanently disabled, but only temporarily disabled, but who showed no inclination to get any better. Keeping them on at the full rate of compensation for nine years after the armistice was an act of great generosity on the part of this Government.

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

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

Mr. STECK. If I understand the statement of the Senator from Pennsylvania, there are some 4,300 men who would be affected by this provision. As I am informed, the larger number of these men are either tubercular cases or "N. P." cases, as they call them. In the first place, I do not believe the Senator from Pennsylvania would charge that they are hypochondriacs.

Mr. REED of Pennsylvania. Many of them are; yes.

Mr. STECK. To any great extent?

Mr. REED of Pennsylvania. Many of them are.

Mr. STECK. As the Senator knows, the Bureau finds its greatest trouble in keeping the tubercular cases in the hospitals in order to give them proper treatment.

Mr. REED of Pennsylvania. This is intended to get the cases of the other sort out of the hospitals.

Mr. President, we might just as well face the realities of this thing. The United States has established a system of veterans' relief which is unparalleled in generosity in the history of the world. No country after any war at any time has established so liberal a system as this. If a veteran shall have contracted tuberculosis five years after his service in the war, although that service may have been in an office in Washington, and have lasted only one week, we go so far as to say that that is conclusively presumed to be the result of his service to his country.

If a veteran became insane five years after his discharge, although he may have had only one month's pleasant service, or one week's pleasant service, or one day's service under the colors and in the war time, we presume conclusively that his insanity is the result of his war-time service.

It is all very nice to stand up here in the Senate and give away the public money on the plea that these men have served their country well and deserve everything we can give; but we have to draw the line somewhere. Our appropriations for this purpose already amount to more than the total outlay for the United States Government 20 years ago. We are spending more every year than we spent to run the whole Government of the United States, including the pensions to the millions of veterans who fought for years in the Civil War.

In the fiscal year 1925 we spent for the veterans of the World War $483,000,000. In the fiscal year 1926 we spent $531,000,000. In the present fiscal year, not yet completed—and we do not know how much deficiency will be necessary—the appropriations are $521,000,000.

Mr. SMOOT. And for the next year they will be over $570,000,000.

Mr. REED of Pennsylvania. So it goes up. Every time any bill dealing with veterans comes into the United States Senate, we contest with one another in our generosity to give away somebody else's money to these veterans.

Sooner or later we will have to develop enough courage to say no. We have never developed it up to date. Last June we brought in what was considered to be a reasonable bill by the two committees of the Congress having to do with such legislation. Every section had amendments added to it here on the floor of the Senate. Tuberculosis was conclusively presumed to incapacitate a man 50 per cent for the rest of his life, when many of the men who voted for the amendment had themselves recovered from tuberculosis. Every single amendment that is offered on the floor is voted into these bills, and it is a thankless job to oppose them. Where the end comes I do not know. I suppose the time will come when we will give everything that anyone can suggest.

When this session of Congress started, the officers of the American Legion came to me and said, "If we can get the bill for additional hospitals passed by the Congress at this session, we do not intend to ask another thing." Yet here we have it from the Senator from New Mexico that a great outrage has been done in paragraph 7 of section 202 of the act passed three years ago.

Mr. ROBINSON of Indiana. Mr. President——

The VICE PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from Indiana?

Mr. REED of Pennsylvania. I yield.

Mr. ROBINSON of Indiana. Does the Senator think that all these 4,300 veterans are loafers?

Mr. REED of Pennsylvania. I think that a good many of them are.

Mr. ROBINSON of Indiana. Does he think that any of them are not?

Mr. REED of Pennsylvania. I am sure that some of them are not.

Mr. ROBINSON of Indiana. Would he do an injustice to even one of them?

Mr. REED of Pennsylvania. It is not an injustice to even one of them.

Mr. ROBINSON of Indiana. Does the Senator think it is perfectly right, on July 1, to reduce the compensation of a disabled veteran on the spot from $80 to $40?

Mr. REED of Pennsylvania. I do.

Mr. ROBINSON of Indiana. Without any preparation?

Mr. REED of Pennsylvania. It is absolutely fair. He has had preparation. He has known for three years this was going to happen, and if a man is only temporarily disabled, and if his Government provides him hospital care which can not be excelled anywhere, provides him will all the food he can eat and the housing he needs, and if he has no dependents whatsoever to look to him for support, and the Government still gives him $40 a month for pocket money he is better off than any veteran of any war in any country in history.

Mr. ROBINSON of Indiana. Does the Senator think that that is an enviable situation to be in?

Mr. REED of Pennsylvania. Of course, it is not enviable to be disabled.

Mr. ROBINSON of Indiana. Even if it is better than any other country has ever done, does the Senator begrudge these veterans that additional assistance they get from their own Government?

Mr. REED of Pennsylvania. The Senator knows that they are my comrades, as well as they are his, and that it is no pleasure to stand up here in the Senate and deny them anything that any of them would ask.

Mr. ROBINSON of Indiana. But, Mr. President, I would not go so far as the Senator from Pennsylvania goes.

Mr. REED of Pennsylvania. Apparently not.

Mr. ROBINSON of Indiana. And denounce them as loafers.

Mr. REED of Pennsylvania. Many of them are loafers.

Mr. ROBINSON of Indiana. Men who served probably as well as the Senator or anyone else served, possibly better, and they are bearing now the wounds, the disabilities, that came from that service. None of them can go far on $40 a month. Eighty dollars is none too much.

Mr. REED of Pennsylvania. The Senator speaks as a Senator. When he was an officer of the Army he did not hesitate to call them loafers.

Mr. ROBINSON of Indiana. I never did, Mr. President. I dispute that statement. I do not believe American soldiers are loafers. I never accused one of them of being a loafer. [Applause in the galleries.]

The VICE PRESIDENT rapped with his gavel.

Mr. REED of Pennsylvania. Then the discipline of the Senator's outfit must have been strange and wonderful.

Mr. ROBINSON of Indiana. I do not wonder at a possible lack of discipline in the outfit of the Senator from Pennsylvania, if he considered that his men were all loafers.

Mr. REED of Pennsylvania. Now, Mr. President, I ask you to appraise the sincerity of the statement that four million and a half Americans, taken at random throughout the country, do not include any loafers. I ask you to appraise the sincerity of the statement that four million and a half young men, taken from every quarter of our country, do not include any people who would rather stay in hospitals and get a large pension than get out and go to work. Of course, there are some.

It may be that in our desire to please those who vote for us we want to pretend that every American is brave and that no veteran would take advantage of his Government, but in the candor of our private conversation we will all admit that is not so. Who is the best friend of the veteran, the Senator who will stand here and insist that we give to the limit to the deserving case or the Senator who stands here to say that we should give indiscriminately to every case? There is only so much to be given. Some of these men stagger along under the effect of cruel wounds. Some of them, still crippled, still blind, need all the help their country can give them. What we do under the proposition now before us is to even up the relief that belongs to those men by giving it to all the "gold brickers" among the veterans. I say that may be good politics, but it is mighty poor patriotism.

Over in Evergreen, at the hospital for blind veterans, was one little fellow who had had both of his arms blown off by a shell which also blew out both of his eyes. That man, if you please, was teaching himself to write on the typewriter with the stumps of his arms and shifting the levers with the pressure of his foot. Are we going to treat that man the same as the chap who has had a touch of tuberculosis after a week's service in the Quartermaster's Department? Are we to say they are all alike, that none of them are gold brickers, that none of them are shams, or are we to give some recognition to the character of their service and the nature of their injury and to the fact that the United States Government can not support all of its citizens all the time? We have got to discriminate among these men. They served bravely and well. There never was a finer army than that one of ours which went to France, but those men, if they could be here and speak, I firmly believe, would echo what I am saying. I do not want the Congress of the United States to pour out the public money for the benefit of the shams and the men who will not work and who would rather stay in the hospital on pension than get out and try to earn an honest living.

I want to say a further thing. The bill to which the Senator offers his amendment, is, in my judgment, a very proper amendment of the adjusted compensation law. Many of the veterans are not known to the banks to whom they have applied for loans. Many of them are far away from banks and could not get to a bank. Many of them are in hospitals where there are no banking facilities whatsoever. Those men may have little needs; they may have had every reason to borrow on their adjusted-compensation certificates. It is only right that the Government should take care of those men. We might as well lend directly as to reimburse some bank which loans to the veterans.

Mr. McKELLAR. Mr. President——

Mr. REED of Pennsylvania. I believe we ought to pass the principal bill which is before us to-night, but we will not pass it, my friends, and we will deny relief to all those veterans if we are going to hang on to the bill amendments which in our hearts we feel are unjust.

I yield to the Senator from Tennessee.

Mr. McKELLAR. I want to ask the Senator about the rate of interest, the 2 per cent in addition to the rate charged by the Federal reserve bank. That would increase the rate up to 6 or 6½ per cent. Why was the additional 2 per cent added? It will not take an additional 2 per cent to operate the system, of course.

Mr. REED of Pennsylvania. It would run from 5½ to 6 per cent. The Director of the Veterans' Bureau estimates that it will require something over 500 additional clerks to make the bill operative.

Mr. McKELLAR. One per cent would more than pay for that extra service.

Mr. REED of Pennsylvania. I do not think so.

Mr. McKELLAR. Why should not the veterans be allowed to borrow the money at, say, 5 per cent.

Mr. REED of Pennsylvania. Because the money which is proposed to be loaned is not our money. It is the trust fund which was established for the benefit of the policyholders among the veterans. It is their money, not ours, although, of course, we are responsible for its safe custody and for keeping the fund intact. That fund has been loaned on Federal land bank bonds and investments of that character. We can not get enough interest on Liberty bonds, so they have had to buy the farm land and joint-stock bank bonds. They have bought many of them already. This is a very attractive and desirable investment, but unless we pay 6 per cent on these little loans, the trust fund will be the loser. The cost of administration is estimated to amount to as much as the difference.

Mr. SMOOT. They are all small loans.

Mr. REED of Pennsylvania. Of course they are. They are all under $110.

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

The VICE PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from Arkansas?

Mr. REED of Pennsylvania. I yield.

Mr. ROBINSON of Arkansas. The Senator has just stated that the Veterans' Bureau invest this money in Federal land bank and joint-stock land banks. In the latter statement I think he is in error.

Mr. REED of Pennsylvania. Perhaps I am in error as to the joint-stock land bonds.

Mr. ROBINSON of Arkansas. No investment has been made in joint-stock land bank bonds. All the investments have been made in the Federal land bank bonds, the law having been construed to limit the right of investment to the bonds issued by the Federal land banks.

Mr. REED of Pennsylvania. I am glad the Senator corrected me.

Mr. ROBINSON of Arkansas. I am prompted to say that there appeared to be no substantial reason why both classes of bonds might not be invested in, if the law permitted.

Mr. REED of Pennsylvania. I am glad the Senator corrected me. I have been told, and I think it is correct, that the investment at first were exclusively in Liberty bonds and in Treasury certificates; that as the interest obtainable on those diminished it was found necessary to put the money into the bonds of land banks, and I jumped to the conclusion that it meant both kinds of land banks, but evidently I was wrong about it.

Mr. ROBINSON of Arkansas. Will the Senator yield for a further statement?

Mr. REED of Pennsylvania. Certainly.

Mr. ROBINSON of Arkansas. I think the law might very well have been construed to include both classes of bonds, but that construction has not been given to it. I am informed that there are proposals pending now to expand the statute so as to permit investment in joint-stock land-bank bonds.

Mr. REED of Pennsylvania. Both of them are safe investments.

Mr. ROBINSON of Arkansas. Yes; they are.

Mr. REED of Pennsylvania. Mr. President, I can not too strongly impress upon the Senate the point I tried last to make. We want to help the veterans. We want to do what they need to have done. Let us not defeat the whole thing by adding to the bill, which everybody admits is a meritorious bill, a lot of amendments which will provoke debate for so long a time that the whole measure will fail because of the lateness of the day in the session.

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

Mr. REED of Pennsylvania. Certainly.

Mr. ASHURST. The Senator would not defeat this meritorious measure merely because a majority of the Senate added an amendment which the majority thought was correct? Why not let the Senate vote and test the sense of the Senate on the amendments and on the bill?

Mr. REED of Pennsylvania. The Senate is entitled to have the benefit of my own ideas on the subject before it votes.

Mr. ASHURST. I am very glad to receive the Senator's ideas, and I think in expressing them he has done so courageously; but I do not agree with him. The Senator is advocating the main bill, House bill 16886. He says it is a good bill, but he impliedly threatens to kill that good bill if the majority add an amendment which the majority think is a good thing.

Mr. REED of Pennsylvania. Mr. President, I know this is only the first of a series of amendments to be offered. The implication which the Senator ascribes to me can be extended to a number of other Senators, I believe. Of course, opinions must differ on this sort of thing. It is not pleasant to oppose these amendments. I hope the Senator will believe me when I assure him of that. But there is a sense of duty which prompts some of us to do it, and I expect to continue to do it until we have made our point.

Mr. McKELLAR. Mr. President, I shall detain the Senate only a moment. I think the amendment ought to be adopted.

It does cost a little more and, as some people may say, we have been a little generous with the soldiers. We have also been generous to the profiteers of the late war. We are being very generous to them now. Every year we pay to the profiteers of the war in the way of tax refunds nearly as much as we pay the soldiers. Nearly all of the tax refunds we pay are to profiteers in the late war. Surely if we are not niggardly toward the profiteers we ought not to be niggardly toward the maimed and wounded soldiers in the hospitals of the land.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from New Mexico [Mr. BRATTON].

Mr. BRATTON. I call for the yeas and nays.

The yeas and nays were ordered, and the Chief Clerk proceeded to call the roll.

Mr. GILLETT (when his name was called). I transfer my general pair with the Senator from Alabama [Mr. UNDERWOOD] to the Senator from Vermont [Mr. GREENE] and vote "nay."

Mr. GLASS (when his name was called). I have a general pair with the senior Senator from Connecticut [Mr. MCLEAN]. Not knowing how he would vote, I withhold my vote.

The roll call was concluded.

Mr. MOSES. Has the junior Senator from Louisiana [Mr. BROUSSARD] voted?

The VICE PRESIDENT. That Senator has not voted.

Mr. MOSES. I have a general pair with that Senator. In his absence I withhold my vote. If permitted to vote, I would vote "yea."

Mr. BRATTON. I desire to announce that my colleague, the senior Senator from New Mexico [Mr. JONES], is absent on account of illness. If he were present, he would vote "yea" on this question.

Mr. NEELY. The junior Senator from Alabama [Mr. HEFLIN] is unavoidably absent. If present, he would vote "yea" on this question.

Mr. MCMASTER. I desire to announce that my colleague, the senior Senator from South Dakota [Mr. NORBECK], is unavoidably absent. If he were present, he would vote "yea."

Mr. GEORGE (after having voted in the affirmative). Has the senior Senator from Colorado [Mr. PHIPPS] voted?

The VICE PRESIDENT. That Senator has not voted.

Mr. GEORGE. Having a pair with that Senator, I withdraw my vote.

Mr. PITTMAN. I desire to announce that the senior Senator from Rhode Island [Mr. GERRY] is detained from the Senate because of a death in his family.

Mr. JONES of Washington. I desire to announce the following general pairs:

The Senator from Delaware [Mr. DU PONT] with the Senator from Florida [Mr. FLETCHER]; and

The Senator from Oklahoma [Mr. HARRELD] with the Senator from North Carolina [Mr. SIMMONS].

I am not advised how any of these Senators would vote on this question.

The result was announced—yeas 46, nays 15, as follows:

YEAS—46

Ashurst	Hawes	Norris	Shortridge
Bayard	Johnson	Oddie	Smith
Blease	Jones, Wash.	Overman	Steck
Bratton	Kendrick	Pine	Stephens
Cameron	Keyes	Pittman	Trammell
Caraway	La Follette	Ransdell	Tyson
Copeland	McKellar	Reed, Mo.	Walsh, Mass.
Edwards	McMaster	Robinson, Ark.	Walsh, Mont.
Ferris	McNary	Robinson, Ind.	Wheeler
Hale	Mayfield	Sackett	Willis
Harris	Means	Schall	
Harrison	Neely	Sheppard	

NAYS—15

Bingham	Fess	Howell	Smoot
Borah	Gillett	King	Wadsworth
Curtis	Goff	Lenroot	Warren
Edge	Gooding	Reed, Pa.	

NOT VOTING—34

Broussard	Fletcher	Jones, N. Mex.	Simmons
Bruce	Frazier	McLean	Stanfield
Capper	George	Metcalf	Stewart
Couzens	Gerry	Moses	Swanson
Dale	Glass	Norbeck	Underwood
Deneen	Gould	Nye	Watson
Dill	Greene	Pepper	Weller
du Pont	Harreld	Phipps	
Ernst	Heflin	Shipstead	

So Mr. BRATTON's amendment was agreed to.

Mr. SMOOT. Mr. President, my attention has been called to an amendment that I think perhaps is absolutely necessary. So I propose, on page 2, after the words "per annum," in line 16, to insert these words:

beginning on the date the check for each amount loaned to a veteran is paid by the Treasurer of the United States.

That amendment is necessary, so as to make sure that the interest against the veteran will not begin until the check is drawn in his favor.

Mr. SMITH. Mr. President, I ask the Senator from Utah to again read the amendment.

Mr. SMOOT. I will read the context with the amendment, so, if the Senator will follow me, he will see how the amendment fits in. As proposed to be amended the clause will read:

For the purpose of enabling the director to make such loans out of the United States Government life-insurance fund, the Secretary of the Treasury is authorized to loan not exceeding $25,000,000 to such fund, with interest at the rate of 4 per cent per annum, beginning on the date the check for each amount loaned to a veteran is paid by the Treasurer of the United States.

In other words, under the bill as it now stands a veteran may be charged with interest at the time the amount is set aside, but I want the charge to begin only on the date on which the check in his favor is drawn.

The VICE PRESIDENT. Without objection, the amendment is agreed to.

Mr. HARRIS. Mr. President, I offer the amendment which I send to the desk.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. It is proposed to add as a new section, to be numbered section 4, the following:

That the payment of compensation shall be further continued after the age of 18 years and until 21 years in the case of children who are apprentices receiving not more than nominal wages, or are being educated at a secondary school, college, technical institute, or university, and whose fathers were killed in action, or died prior to July 2, 1921, of wounds or injuries received or diseases contracted in the line of duty during the World War.

Mr. HARRIS. Mr. President, I have heard a great deal about how generous we are to the soldiers, but we have neglected some to whom we ought to be generous, namely, those whose fathers were killed in action or who died of wounds. We have been niggardly with them. There is not a nation which was associated with us during the World War which limits to 18 years what little they give of compensation to the orphans of the men who gave up their lives for their country.

This amendment proposes to extend the time from 18 to 21 years when the orphans of such men will receive compensation, and even then it is not as much as all the other countries which were associated with us in the war have done for their war orphans.

Mr. President, the American Legion at Philadelphia indorsed this amendment, and I will ask the clerk to read the resolution adopted at their last meeting in Philadelphia, and also the resolutions of the Legion Auxiliary indorsing this amendment.

The VICE PRESIDENT. The clerk will read as requested.

The Chief Clerk read as follows:

EDUCATION AND VOCATIONAL TRAINING OF WAR ORPHANS

Resolution adopted by American Legion at the eighth annual convention, Philadelphia, Pa., October 13, 1926

Whereas all the great European powers associated with the United States in the World War furnish material assistance in the collegiate education and vocational training of the sons and daughters of those who were killed in action or died from other causes during or as a result of the war; and

Whereas these boys and girls are, or should be treated as, wards of the Nation and be given as good an education and as thorough a business or professional training as they would have received had the war not deprived them of the support and assistance of their fathers; and

Whereas that this convention heartily approves and indorses the bill introduced in the United States Senate on June 15, 1926, by Senator HARRIS, of Georgia, to amend the World War veterans' act, 1924, so as to continue the payment of compensation after the age of 18 years and until completion of education or training; and

Whereas death compensation terminates under existing law when the children reach the age of 18 years, just when they should be ready to enter college or begin learning a trade to make themselves self-supporting: Therefore be it

Resolved, That death compensation now being paid to minor children of deceased veterans be continued to the age of 21 instead of 18 years.

Resolutions adopted by American Legion Auxiliary at the sixth annual convention, Philadelphia, Pa., October 14, 1926

Whereas all the great European powers associated with the United States in the World War furnish material assistance in the collegiate education and vocational training of the sons and daughters of those who were killed in action or died from other cause during or as a result of the war; and

Whereas these boys and girls are, or should be treated as, wards of the Nation, and be given as good an education and as thorough a business or professional training as they would have received had the war not deprived them of the support and assistance of their fathers; and

Whereas the compensation now paid under the World War veterans' act to or for children—$10 per month for one child, and $6 for each additional child—is not sufficient to support a boy or girl in college or pursuing a course of vocational training; and

Whereas this meager compensation terminates under existing law when the children reach the age of 18 years, just when they should be ready to enter college or begin learning a trade to make themselves self-supporting: Be it therefore

Resolved, That this convention heartily approves and indorses the bill introduced in the United States Senate on June 15, 1926, by Senator HARRIS, of Georgia, to amend the World War veterans' act, 1924, so as to continue the payment of compensation after the age of 18 years, and until completion of education or training, in the case of war orphans who are apprentices receiving not more than nominal wages, or are being educated at a secondary school, college, technical institute, or university; and be it further

Resolved, That the legislatures of the several States be requested to establish a definite number of scholarships for war orphans at State educational institutions; and that appeals be made to patriotic and philanthropic citizens to establish such additional scholarships at secondary schools, colleges, technical or training institutes, and universities, State, denominational, and private, as may be necessary to provide for the education or vocational training of all of these boys and girls who need or desire such assistance.

Mr. HARRIS. The maximum number who could take advantage of the provisions of the amendment is 12,000.

Mr. WALSH of Massachusetts. Mr. President, will the Senator yield to me?

Mr. HARRIS. I yield.

Mr. WALSH of Massachusetts. Will the Senator, please, state just what additional benefits are granted under the amendment offered by him to those granted under the present law?

Mr. HARRIS. Under the present law an orphan boy or girl receives $10 a month—that is, if he or she is the first child—and the other children receive $6 a month as long as they are in school. This amendment proposes to extend the time when they shall receive such payment from 18 years to 21 years.

As I have said, the maximum number who will be able to take advantage of the provisions of the amendment is only 12,000, as estimated, and there will probably be not over 6,000.

As I said a few moments ago, Mr. President, all the other nations with whom we were associated in the World War have extended the age limit to 21, and some—in fact, most of them—have extended it as long as the boy or girl is in college or is an apprentice.

Mr. CARAWAY. Mr. President, may I ask the Senator a question?

Mr. HARRIS. I will be glad to have the Senator do so.

Mr. CARAWAY. Does this bill allow compensation only to those boys and girls in school and withhold it from those who are not able to go to school?

Mr. HARRIS. No; it gives the same to the boy who is working at a trade as it does to the boy or girl in school. They are only getting now $10 in case of the first child and $6 in case of the other children.

Mr. BORAH. Mr. President——

Mr. HARRIS. I yield to the Senator from Idaho.

Mr. BORAH. Will he explain just what additional expenditure would likely be incurred if the amendment should be adopted?

Mr. HARRIS. The expenditure is estimated for an average number of 6,000 who will take advantage of it at $1,000,000 a year, and that, I think, is a conservative estimate.

Mr. CARAWAY. I should like to ask the Senator another question, as I still do not understand his position. I understood him to say that 12,000 boys and girls could take advantage of the provisions of the amendment?

Mr. HARRIS. That is the maximum number that may take advantage of it, according to the estimate.

Mr. CARAWAY. Then, why does the Senator think that only 6,000 will avail themselves of the provisions of the amendment?

Mr. HARRIS. Last year we passed a bill, of which I was the author, allowing 40 boys whose fathers had been killed in the World War to go to West Point and Annapolis to the number of 10 each year, and not half of that number have come forward to take such appointments.

Mr. CARAWAY. I thought the Senator said it did not make any difference whether the boy or girl was at school or not at school, that the compensation would be paid just the same up to the age of 21?

Mr. HARRIS. I will read the provision of the amendment. It says—

in the case of children who are apprentices receiving not more than nominal wages—

Of course, a boy who is receiving a good salary would not apply for it.

Mr. CARAWAY. The word "apprentice," of course, has a technical meaning. It means one who is learning a trade. What if the boy is clerking in a store or working on a farm?

Mr. HARRIS. I should say that he was learning a trade if he is clerking in a store or working on a farm.

Mr. CARAWAY. The Senator thinks that a boy working on a farm is learning a trade? I think if he will look at the dictionary he will find that the word "trade" has a more definite meaning.

Mr. HARRIS. I understand what the general meaning is, but my amendment is intended to cover all kinds of work—on farm, store, or otherwise.

Mr. CARAWAY. So if a boy were working on a farm he would not receive compensation under the amendment.

Mr. HARRIS. I think he would get it. I certainly intended that all should get the benefit.

Mr. CARAWAY. He is not an apprentice. The Senator would have to correct the language of the amendment.

Mr. HARRIS. If the Senator is of that opinion, I will be glad to modify the amendment so as to include boys working on farms.

Mr. CARAWAY. If the Senator is going to offer such an amendment at all, why does he not offer one merely continuing the payments until the boys and girls reach the age of 21 years?

Mr. HARRIS. Then, Mr. President, I will strike out a portion of the amendment so as to include all children up to the age of 21.

Mr. SMOOT. If the Senator does that, he can not tell how many will be benefited, for it will include all children of soldiers who are less than 21 years of age.

Mr. HARRIS. The amendment deals only with the boys and girls whose fathers were killed in the World War.

Mr. SMOOT. I am aware of that, but I do not think the Senator can tell how many of them there would be.

Mr. HARRIS. I will strike out of the amendment the words "who are apprentices," so that the amendment will read in this way:

That the payment of compensation shall be further continued after the age of 18 years and until 21 years in the case of children receiving not more than nominal wages.

That will leave it to cover them all. I will ask the Senator from Arkansas if that does not meet his objection?

Mr. CARAWAY. I was not making any objection. In other words, does not the Senator now make it read so that if one would not work he would get paid, and if he went to work he would not?

Mr. HARRIS. It reads now:

In the case of children receiving not more than nominal wages or being educated at a secondary school.

Mr. President, the American Legion studied this question, and they recommended it unanimously; and the legion auxiliary did likewise, after careful study by a special committee. I ask that the amendment be agreed to as amended.

Mr. KING. Mr. President, will the Senator permit an inquiry?

Mr. HARRIS. Yes.

Mr. KING. Does the Senator think that the Senate must yield to every request or indorsement of the American Legion; that we are here only to indorse everything that they recommend?

Mr. HARRIS. No; not necessarily; but I think we ought to give careful consideration to anything the legion recommends.

I ask for the yeas and nays on the amendment.

Mr. SMOOT. Oh, let it go in without the yeas and nays.

Mr. WADSWORTH. Mr. President, this proposal has come before us in legislative form rather suddenly, and in reading the amendment proposed by the Senator from Georgia one or two considerations come to mind. I utter them in a spirit which is not unsympathetic, but merely to see if I can explore the situation a little bit and see where we are going.

This provision is to the effect that the compensation shall be continued until the child, so called, shall have reached 21 years of age, instead of ceasing at the age of 18, in the case of those children whose fathers have been killed in action or died during that period which included not only the actual period of hostilities but also that period following November 11, 1918, during

which the war continued technically; in other words, until we made our treaty of peace with Germany, effective on July 2, 1921.

I would not deny the handicap which comes to a child as the result of the father being killed in action; but I have this to suggest, which I hope will not seem cold-blooded: In the case of a father who is bedridden, a helpless paralytic to this day, the degree of handicap is even larger to the child than it would be where his father would fall into the category described in this bill.

In other words, if we are going to extend our generosity to the children in this category up to the age of 21, it would seem to me that we would better not confine it to those who have lost their fathers; for how about the child of 19 or 20 whose father is not only utterly unable to help the child in any respect but in large measure is a burden upon that child's earning capacity as the result of his being totally and permanently disabled?

There is a certain dramatic interest attached, of course, and legitimately so—a consideration that appeals to our imaginations and our sympathies—in the case of a child whose father has been killed in action.

Mr. NORRIS. Mr. President, may I ask the Senator a question there?

Mr. WADSWORTH. Yes.

Mr. NORRIS. In the case the Senator puts, the father would himself be drawing compensation, would he not?

Mr. WADSWORTH. Yes; he is drawing compensation; that is true; but it is a very grave question whether in all cases that compensation is sufficient.

Mr. NORRIS. I do not think it is.

Mr. WADSWORTH. In many cases it is. In some it is not.

Mr. NORRIS. But that is the theory of the compensation, at least.

Mr. WADSWORTH. Yes.

Mr. NORRIS. That does not answer fully the suggestion of the Senator but it does partially, because in the case of the death of the father, of course, there is no compensation coming to him.

Mr. WADSWORTH. But in the case of the death of the father in all normal cases the benefits of the insurance accrue to the widow, and that insurance amounts to $57.50 per month; and then as compensation for herself, as I recollect, she receives $25 a month more; and then if she has children, she receives $10 a month for the first child, and $6 for each additional child.

Mr. NORRIS. That only extends up to what age?

Mr. WADSWORTH. The age of 18. Now, it is proposed to single out a certain class of children whose fathers have been killed or who died in service or as the result of service, and have a fixed period arbitrarily set down in the law, and say that those children shall have an advantage to the extent of three years' additional education, partly at the expense of the Government, over all other children of veterans who have died, or who have not died.

Mr. NORRIS. Of course, there is a reason for giving the compensation to one whose father is dead that does not apply to one whose father is living, although I myself can not see why any discrimination should be made. It seems to me that if we want to change this age of 18, and extend it to 21, it ought to be general, and apply to everybody. If we are going to change it at all, it seems to me we ought to change it regardless of whether the so-called child is going to school, or whether he is employed at good wages, or whether he is not.

Mr. WADSWORTH. That is the suggestion I intended to make.

Mr. SMOOT. And it ought to apply to the children of soldiers of other wars as well as the last war.

Mr. WADSWORTH. May I call attention to the fact that this would apply only to the children of those fathers who were killed in action or who died prior to July 1, 1921.

Mr. HARRIS. That is the official end of the war.

Mr. WADSWORTH. Yes; and, as I recollect it, it is the date upon which we finally ratified the treaty of peace with Germany. If this is a good thing and a wise thing to do, it certainly ought not to stop at that date; or should we bind it around with that especially described set of circumstances.

I can see how the amendment of the Senator from Georgia at first blush appeals to our imaginations and our sympathies, because it refers merely to the children of those men who were killed in action or who died during the war itself; but that, taken of and by itself, is not a complete measure of the handicap imposed upon the children. There are children of veterans who died after 1921, and, indeed, there are children of veterans who have not died to this day, upon whom a handicap has been imposed perhaps greater in many instances than the handicap imposed upon the children described in this amendment.

Mr. ROBINSON of Arkansas. Mr. President, will the Senator from New York yield for a question?

Mr. WADSWORTH. I yield; yes.

Mr. ROBINSON of Arkansas. I observe, in the pending amendment, the language—

in the case of children receiving not more than nominal wages.

Mr. WADSWORTH. I should like to have that defined.

Mr. ROBINSON of Arkansas. I was just about to suggest that in all probability it would be very difficult to administer the act if that language is retained and no definition of nominal wages is included. The officers of the Government who were charged with the administration of the measure would necessarily have to determine what constitutes nominal wages.

Mr. CARAWAY. And it would confer a benefit on those who did not work at all.

Mr. ROBINSON of Arkansas. And, in the same connection, my colleague, the junior Senator from Arkansas [Mr. CARAWAY], suggests that it would put a premium on idleness instead of encouraging thrift and industry. "Nominal wages" is not a legal term, and I do not know what would constitute nominal wages, within the meaning of this language. Perhaps the Senator from Georgia, who prepared the amendment, may be able to explain that.

Mr. WADSWORTH. Mr. President, it might very well be and I think it would be the case, as was the case in connection with the use of the phrase "dependent" in connection with the Army pay bill, with which the Senator from Arkansas is familiar, that every case in which an officer claimed that his mother was dependent upon him, or practically every case, had to be submitted to the Comptroller General and each case passed upon on its own merits, with an extraordinary set of rulings by the Comptroller General, determining in each case whether the mother of the officer was actually dependent upon him; and many of those rulings came as a great surprise to the members of the Military Affairs Committee of the Senate and of the House who drafted the legislation.

In this instance I have no doubt that these payments would be submitted in the course of events to the Comptroller General for him to decide, or he would decide without their being submitted to him, because the vouchers would come across his desk, whether or not in each case the salary or wage was actually nominal. What would be nominal wages for one man might not be nominal wages for another; and we would have an infinite variety of decisions and interpretations of the word "nominal" applied to thousands of different individuals.

Mr. ROBINSON of Arkansas. And not only to individuals, but to different spheres of industry and activity.

Mr. WADSWORTH. Certainly—what they were engaged in, and what their abilities were.

Mr. HARRIS. Mr. President, would the Senator from New York be willing to deny to a widow and her children the $10 or $6 a month for an education, even if a few did not deserve it? Suppose they did not deserve it; suppose they did not make anything; why deprive the widow and the child of the $10 or $6 a month?

Mr. ROBINSON of Arkansas. May I suggest to the Senator from Georgia that my suggestion in this particular has no relation to the merits of the proposal. It has a very definite relationship to the practicability and workability of the language involved. I do not know how an officer would determine what constitutes "nominal wages" with no rule defined in the statute itself.

Mr. WADSWORTH. Mr. President, may I say, in answer to the suggestion or inquiry of the Senator from Georgia last propounded, that I am not taking the position of denying, so far as I can by my voice or vote, further relief to children who have suffered an extraordinary handicap through the death of a parent—in this case the death of a father.

My criticism of this amendment is that while it appeals to our imaginations, as I said a moment ago, and there is something of the dramatic in it, because it applies only to children whose fathers were killed in action or who died during the war itself, it does not cover what I suppose is a considerable number of cases in which the handicap imposed upon the child is just as great or greater than that imposed upon the children covered in this bill. If we are to legislate here for the relief of people who need relief and who are not getting enough of it now, we can not defend the insertion in this statute of a provision confining this additional relief to that upset date of July 2, 1921; for the man who died July 3, 1921, or August 3, 1921, or December 3, 1921, might have left his children in a much worse case, depending upon surrounding

circumstances, than the man who died July 1, 1921. In other words, I do not think this amendment can be defended on the ground of consistent public policy.

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

Mr. WADSWORTH. I yield.

Mr. KING. If the Senator's suggestion shall be incorporated into another amendment, or the amendment offered shall be amended so as to incorporate the views of the Senator, I ask the Senator, in that event, would it not be impossible to determine just the number that would fall within the category, as well as the cost to the Government? For instance, the Senator suggests that some person might be a paralytic. In 10, 15, or 20 years from now, some ex-service man might be a paralytic, or suffer some very serious disability which it was alleged was traceable to the war, and he might at that time have children of immature years.

If the Senator's thought could be crystallized into law it would perhaps mean in 30 or 40 years from now, possibly longer, that these payments would be made to children under the age of 21 years, so that the cost might be millions and millions, and extend, as stated, for an indefinite period of time.

Mr. WADSWORTH. I misspoke myself when I used the paralytic as an illustration. I have that in mind as a state of affairs which brings a tremendous handicap to a child seeking an education. What I really desired to call attention to was the fact that this amendment, inserting, as it does, July 2, 1921, as the upset date, as it were, arbitrarily singles out a set of persons and confers an additional benefit upon them when, so far as we know here to-night, there may be just as large a number of persons, children of veterans who died since July 2, 1921, needing the additional help just as much. In other words, we ought to face this thing as a matter of broad, general policy. I am not sure that such a policy is needed or would be wise. We have never discussed it, we have never studied it. As far as I know no committee has ever gone into it. But I do object to fixing an upset date in the matter of the extension of relief to those who need relief.

Mr. KING. Does not the Senator see the unwisdom of attempting to legislate upon a matter so important by tieing this as an amendment to another bill which has been given attention by a committee? It would seem to me that this matter is so important that it ought to be embodied in another bill. It is obvious, from the criticisms which are being made, that what I regard as a very excellent piece of legislation should not have its enactment imperiled by such amendments, but that we should pretermit any further consideration of this amendment and others perhaps of a like character until the Committee on Finance, or some other appropriate committee, could have an opportunity to consider them.

Mr. WALSH of Massachusetts. Mr. President——

The VICE PRESIDENT. Does the Senator from Georgia yield to the Senator from Massachusetts?

Mr. HARRIS. I yield to the Senator from Massachusetts.

Mr. WALSH of Massachusetts. I suggest to the Senator that he refrain from pressing his amendment. It is apparent from what is going on here that the bill will not be passed here to-night if various amendments are added to it and that the primary purpose for veteran legislation will be defeated. The real purpose of the session to-night is to get action on the bill authorizing loans by the Veterans' Bureau on their adjusted-service certificates, and if we press these amendments it will simply lead to a filibuster, and everything will be lost. Regardless of the merits or demerits of the Senator's amendment, I suggest that he would be rendering the best possible service to all veterans if he should refrain from pressing the amendment at this time and let us have the naked issue here and have this loan authorization bill enacted into law. For fear lest the loan bill may be defeated I must vote against the Senator's amendment.

Mr. SMOOT. The Senator must remember, too, that this will have to go to conference.

Mr. HARRIS. I understand that, and I understand that the Senator from Utah would naturally try to keep it out.

The dictionary says that the word "nominal," to which so much objection has been raised, means: "Existing in name only; not real or actual; merely named, stated, or given, without reference to actual conditions—often with the implication that the thing named is so small, slight, or the like, in comparison to what might properly be expected, as scarcely to be entitled to the name."

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

Mr. HARRIS. I yield.

Mr. LENROOT. I would like to ask the Senator whether he has considered that the present law provides that the compensation shall continue until the age of 18 years is reached or marriage shall have taken place. The Senator realizes that his amendment would continue the compensation after marriage; that is, if a woman marries a man, her compensation would continue until she is 21. I wanted to ask the Senator whether he had considered that, and whether he so intended?

Mr. HARRIS. In a few cases like that I would not object to them getting the benefit of this.

I ask for the yeas and nays on my amendment, and hope we may get a record vote upon it.

The yeas and nays were ordered, and the Chief Clerk proceeded to call the roll.

Mr. GEORGE (when his name was called). On this matter I have a pair with the senior Senator from Colorado [Mr. PHIPPS]. I am not advised how he would vote if present, and in his absence I withhold my vote. If permitted to vote, I would vote "yea."

Mr. GILLETT (when his name was called). I repeat the announcement of my pair and its transfer, and vote "nay."

Mr. MOSES (when his name was called). I have a general pair with the junior Senator from Louisiana [Mr. BROUSSARD]. In his absence I withhold my vote.

The roll call was concluded.

Mr. JONES of Washington. I desire to announce the following general pairs:

The Senator from Oklahoma [Mr. HARRELD] with the Senator from North Carolina [Mr. SIMMONS]; and

The Senator from Delaware [Mr. DU PONT] and the Senator from Florida [Mr. FLETCHER].

I am not advised how any of these Senators would vote on this question if present.

Mr. NEELY. The junior Senator from Alabama [Mr. HEFLIN] is unavoidably absent. If he were present, on this amendment he would vote "yea."

Mr. GLASS. Making the same announcement as on the previous vote, I withhold my vote.

The result was announced—yeas, 22, nays 36, as follows:

YEAS—22

Ashurst	Harris	McMaster	Smith
Blease	Harrison	Mayfield	Steck
Bratton	Howell	Neely	Stephens
Cameron	Johnson	Robinson, Ind.	Trammell
Copeland	La Follette	Schall	
Ferris	McKellar	Sheppard	

NAYS—36

Bayard	Goff	McNary	Shortridge
Bingham	Gooding	Means	Smoot
Borah	Hale	Norris	Wadsworth
Caraway	Hawes	Oddie	Walsh, Mass.
Curtis	Jones, Wash.	Pine	Walsh, Mont.
Edge	Kendrick	Ransdell	Warren
Edwards	Keyes	Reed, Pa.	Watson
Fess	King	Robinson, Ark.	Wheeler
Gillett	Lenroot	Sackett	Willis

NOT VOTING—37

Broussard	Frazier	Metcalf	Simmons
Bruce	George	Moses	Stanfield
Capper	Gerry	Norbeck	Stewart
Couzens	Glass	Nye	Swanson
Dale	Gould	Overman	Tyson
Deneen	Greene	Pepper	Underwood
Dill	Harreld	Phipps	Weller
du Pont	Heflin	Pittman	
Ernst	Jones, N. Mex.	Reed, Mo.	
Fletcher	McLean	Shipstead	

So Mr. Harris's amendment was rejected.

Mr. WALSH of Massachusetts. Mr. President, I desire to make a brief statement in reference to another pending bill affecting veterans. Many requests have been made by veterans of the World War that, regardless of the time of making applications for adjusted service certificates, all the certificates should be dated January 1, 1925, the original date for issuing certificates.

Many of the veterans were out of the country or sick in hospitals and otherwise unable to make their applications before January 1, 1925. Therefore, the 20-year period of maturity will be postponed for such veterans, and the time for procuring the loan, the two-year period, will be extended. To determine if it were feasible to have all certificates dated as of January 1, 1925, regardless of the time of application by the veteran, I presented a bill to accomplish this purpose. I also consulted the Director of the Veterans' Bureau for his views on the measure. He has replied to my inquiry, stating that such a course was impracticable, and might result in additional expense to the Government. I would like to have this letter explaining his attitude upon my proposal printed in the RECORD and be part of the record of these proceedings.

The VICE PRESIDENT. Is there objection?

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

UNITED STATES VETERANS' BUREAU,
OFFICE OF THE DIRECTOR,
Washington, February 21, 1927.

Hon. DAVID I. WALSH,
United States Senate, Washington, D. C.

MY DEAR SENATOR WALSH: Reference is made to your communication of February 16, 1927, transmitting copy of S. 5716, "A bill to amend the World War adjusted compensation act," inquiring what, if any, objections can be made to the amendment proposed.

This bill proposes to amend section 501 of the adjusted compensation act to provide that all certificates and rights conferred thereunder shall take effect as of January 1, 1925. The present provision is to the effect that the certificate shall be dated and all rights conferred thereunder shall take effect as of the 1st day of the month in which the application is filed, but in no case before January 1, 1925. The apparent purpose of the amendment is to create a loan value upon all certificates as of January 1, 1925, and to mature all certificates at the same time. You are advised that, in the opinion of the bureau, such an amendment is impractical, for the reason that it would necessitate the recall and reissuance of every certificate which does not now bear the date of January 1, 1925, of which there are more than a million in number. The loan value of every certificate would be changed. Further, the entire theory of financing the Government's obligation under these adjusted compensation certificates up to the present time would be changed, inasmuch as all policies would mature in January, 1945. I am not prepared to advise you at this time as to the possible increase in cost to the Government, but I am of the opinion that it would be considerable.

For these reasons I do not feel inclined to recommend the proposed amendment.

Very truly yours,
FRANK T. HINES, *Director.*

Mr. TYSON. Mr. President, I offer an amendment to the bill, and ask to have it read at the desk.

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

The CHIEF CLERK. On page 2, after line 21, insert the following additional proviso:

Provided, That all persons who have served as officers of the Army of the United States during the World War, other than as officers of the Regular Army, who during such service have incurred physical disability in line of duty and who have been, or may hereafter, within two years, be, rated in accordance with law at not less than 30 per cent permanent disability by the United States Veterans' Bureau, shall, from date of receipt of application by the Director of the United States Veterans' Bureau, be placed upon, and thereafter continued on, a separate retired list, hereby created as a part of the Army of the United States, to be known as the emergency officers' retired list of the Army of the United States, with the rank held by them when discharged from their commissioned service, and shall be entitled to the same privileges as are now or may hereafter be provided for by law or regulations for officers of the Regular Army who have been retired for physical disability incurred in line of duty, and shall be entitled to all hospitalization privileges and medical treatment as are now or may hereafter be authorized by the United States Veterans' Bureau, and shall receive from date of receipt of their applications retired pay at the rate of 75 per cent of the pay to which they were entitled at the time of their discharge from their commissioned service, except pay under the act of May 18, 1920: *Provided further*, That all pay and allowances to which such persons or officers may be entitled under the provisions of this law shall be paid solely out of the military and naval compensation appropriation fund of the United States Veterans' Bureau, and shall be in lieu of all disability compensation benefits to such officers or persons provided in the World War veterans' act, 1924, and amendments thereto, except as otherwise authorized herein and except as provided by the act of December 18, 1922: *Provided further*, That all persons who have served as officers of the Army of the United States during the World War, other than as officers of the Regular Army, who during such service have incurred physical disability in line of duty, and who have heretofore or may hereafter be rated less than 30 per cent and more than 10 per cent permanent disability by the United States Veterans' Bureau, shall, from date of receipt of application by the Director of the United States Veterans' Bureau, be placed upon, and thereafter continued on, the emergency officers' retired list, created by this act, with the rank held by them when discharged from their commissioned service, but without retired pay, and shall be entitled only to such compensation and other benefits as are now or may hereafter be provided by law or regulations of the United States Veterans' Bureau, together with all privileges as are now or may hereafter be provided by law or regulations for officers of the Regular Army who have been retired for physical disability incurred in line of duty: *And provided further*, That the retired list created by this act shall be published annually in the Army Register.

No person shall be entitled to benefits under the provisions of this act except he make application as hereinbefore provided and his application is received in the United States Veterans' Bureau within 24 months after the passage of this act: *Provided further*, That the said director shall establish a register, and applications made hereunder shall be entered therein as of the actual date of receipt, in the order of receipt in the Veterans' Bureau, and such register shall be conclusive as to date of receipt of any application filed under this act. The term "World War," as used herein, is defined as including the period from April 6, 1917, to July 2, 1921.

Mr. TYSON. I think the amendment is germane to the bill now before the Senate. It is, as I believe, understood by the whole Senate and therefore it is not necessary for me to make any further statement about it.

Mr. SMOOT. Mr. President, I should like to ask the Senator from Tennessee if he intends to keep the amendment before the Senate until 11 o'clock? The reason why I ask is that I am not well and I feel that I ought to go home at this time if the Senator is going to keep his amendment before the Senate until 11 o'clock. If he intends to do that, I want to be excused from the Senate, but if not and the bill is apt to pass, then I shall remain and endeavor to fulfill my duty.

Mr. TYSON. I want to get a vote on the amendment. If we can get a vote, it will only take five minutes.

Mr. SMOOT. But the Senator will not get a vote. As he can not get a vote I hope he will withdraw the amendment, but if he intends to keep it before the Senate until 11 o'clock I should like to know it.

Mr. TYSON. I have offered the amendment in good faith and I can not assume that the Senate is not going to act upon it in good faith.

Mr. BINGHAM. Mr. President, it does not seem to me that it can be offered in good faith, for this reason. The amendment is nothing more nor less than Senate bill 3027, Calendar No. 486, which the Senator from Tennessee has repeatedly tried to get passed during the session, thus far without success. It was distinctly understood under the unanimous-consent agreement that we were to discuss only two bills to-night. Nothing was said about adding another bill in the form of an amendment. No notice was given of such an intention in this case, as was done in the case of the amendment offered by the Senator from New Mexico [Mr. BRATTON]. It does not seem to me that the amendment can be offered in good faith when no notice was given.

Mr. TYSON. I resent the idea of the Senator saying that I am not acting in good faith. I want him to understand that I do act in good faith. I ask the Chair if it is not in order to offer the amendment. If the amendment is not in order, then I will withdraw it. If it is in order, I shall have to ask that it be kept where it is now.

The VICE PRESIDENT. The amendment is in order.

Mr. BINGHAM. I do not say the amendment is out of order; I simply say——

Mr. TYSON. I want to know if the Senator intends to say that I did not act in good faith in offering the amendment.

Mr. BINGHAM. Oh, no; I did not mean to make that kind of a statement.

Mr. TYSON. I want the Senator to understand that he must use other language, then. His language is entirely discourteous.

Mr. BINGHAM. I am very sorry; I had no intention of being discourteous at all; but the Senator will realize that when the unanimous-consent agreement for to-night was entered into it was distinctly understood that only two bills were to be discussed, and not three.

Mr. TYSON. If the amendment is in order, it is in order, and, as I understand the bill before the Senate, I can offer an amendment as long as the bill itself is open to amendment.

The VICE PRESIDENT. The Senator from Tennessee is correct. The amendment is in order.

Mr. BINGHAM. There is no question about the amendment being in order. The question is that there are now three bills to be discussed this evening instead of the two bills which, under the unanimous-consent agreement, we were to consider to-night.

Mr. TYSON. Then the Senator from Connecticut himself is out of order.

Mr. REED of Missouri. Mr. President, I want to say just a word at this time. I have been favorably inclined toward the bill which the Senator from Tennessee has just offered as an amendment to the pending measure. I beg of him to withdraw his amendment and for this reason. The former soldiers who hold insurance policies were led to believe that they would be bankable at a certain time, which time has arrived, and that they could then borrow money on them. They were disappointed in that respect. A House bill, which is now before us, was brought in for the purpose of remedying that trouble and enabling the veterans to borrow a little money when it is necessary for them to have it.

We all know perfectly well that if the bill is amended in any respect which will cause any controversy or debate in the House, it can not be passed at this session of Congress. However much I might favor the bill offered as an amendment by the Senator from Tennessee, I am absolutely certain of the fact that if the amendment is attached to the bill the result will be prolonged discussion in the House of Representatives, and sufficiently prolonged at least to defeat the passage of the bill at the present session of Congress.

I think the thing we ought to have done was to have passed the bill as it came to us from the House without any amendment, and if that consideration had occurred to me I would not have voted for one amendment for which I did vote, although I favor the amendment very heartily. I favor it as a part of the substantive law. I think if we mean to help these men, some of whom are suffering, many of whom are more or less in want, the time to help them is now and the way to help them is to give them relief at this session.

I know the Senator from Tennessee offered his amendment in good faith. He has made a gallant battle for the principle. But if he adds his bill in the form of an amendment to the pending measure the result will be, I am almost certain, that his amendment and the bill itself will both fail. He simply will put so much of a load in the wagon that it will break down and will not get to town with any part of the load at all.

That is all I want to say by way of observation. It seems to me the situation is perfectly plain and I beg the Senator to withdraw his amendment. Then perhaps we can get his bill through at the next session. Unless I change my mind about it for good reasons which I do not now know, I shall be very glad to help him get it through at the next session.

Mr. JONES of Washington. Mr. President, I want to appeal to the Senator from Tennessee to withdraw his amendment. I voted twice for his bill. I voted twice to take it up at this session. I shall be glad to vote for the passage of the bill. My judgment is that unless by 11 o'clock to-night we pass the pending measure, which has come to us from the House, we will not pass it at all this session. I feel that this evening is about the only opportunity we will have to pass it. I am satisfied that if the Senator insists upon his amendment being kept before the Senate, we will not pass the bill at all. We will not get a vote on it by 11 o'clock. As a friend of his bill, as one who, as I said, has voted twice for it and voted twice at this session to take it up, I appeal to the Senator to withdraw his amendment.

Mr. TYSON. Mr. President, I regret exceedingly that the situation is as it is. I have tried very hard to get the bill passed. I think if we could get a vote the Senate would pass it overwhelmingly. Only 10 or 12 Senators are opposed to the bill, and they are the ones who are holding up the pending bill. I am not holding it up. It seems to me that it is a very bad thing when 10 or 12 Senators can hold up the whole Senate and keep another Senator from getting a bill through, and thus keep these people from getting relief who have been trying for seven years to get relief. It strikes me that something ought to be done about it. I think that it is indefensible that the Senate will permit a bill to be held up when a large majority of the Senators want to have it passed.

I am not holding up the bill providing for relief for the veterans. I am only undertaking to get it arranged in some way so that it can be voted on in the Senate. I do not want to keep the veterans from getting an opportunity to have their loans. The Senator from Missouri and the Senator from Washington have appealed to me in regard to the matter, and it appears that they are going to put the blame on me in the event the bill does not pass. I do not want to be put in that attitude.

Mr. MOSES. Mr. President, will the Senator yield for a suggestion?

Mr. TYSON. I yield to the Senator from New Hampshire.

Mr. MOSES. In view of the solicitude which has been expressed for the Tyson bill, may I suggest to the Senator that he withhold his amendment in order to ask for a unanimous-consent agreement for a time on which we may vote on the Tyson bill, let us say at 3 o'clock to-morrow afternoon?

Mr. TYSON. That is a very good suggestion and I thank the Senator from New Hampshire for making it. I now ask unanimous consent that we may vote upon Senate bill 3027 to-morrow afternoon at 3 o'clock.

The VICE PRESIDENT. Is there objection?

Mr. LENROOT. Mr. President, the request for unanimous consent would require a roll call.

The VICE PRESIDENT. The clerk will call the roll to ascertain whether a quorum is present.

The legislative clerk proceeded to call the roll.

Mr. BINGHAM. Mr. President, in order not to delay proceedings any further, it will be unnecessary to complete the roll call, because it is my intention to object.

Mr. REED of Pennsylvania. Mr. President, a point of order. The calling of the roll can not be interrupted.

The VICE PRESIDENT. A quorum call can not be interrupted.

Mr. ROBINSON of Arkansas. That is true; but the Senator from Connecticut has announced his purpose to object after the roll call is completed. Therefore I suggest to the Senator from Pennsylvania that the proper procedure is to save the time which would be expended in completing the roll call, vacate the proceedings under the roll call, and let the Senator from Connecticut make his objection if he insists upon doing it.

Mr. REED of Pennsylvania. It is really a matter of indifference whether we waste time in this way or in some other way.

Mr. MOSES. The time is not wasted that helps the veterans.

Mr. ROBINSON of Arkansas. Mr. President, I ask unanimous consent that proceedings under the roll call be vacated.

Mr. CURTIS. I hope that request will be granted.

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

Mr. ROBINSON of Arkansas. Mr. President, the bill which is embraced in the amendment proposed by the Senator from Tennessee has twice passed the Senate by an overwhelming vote after full discussion. The Senator from Tennessee has been attempting to secure consideration of this bill throughout the present session. It is well known that if a vote can be obtained the bill will pass a third time by even an increased majority. It is also true that if the Senator from Tennessee persists in pressing this amendment at this time it will result in the hour of 11 o'clock arriving and no vote being taken on his amendment. In all probability it will also result in the defeat of the veterans' loan bill.

In view of these facts, as a friend of the measure embraced in the amendment of the Senator from Tennessee, I add my suggestion to that of other Senators already made, that the Senator from Tennessee withdraw this amendment and that he move to proceed to the consideration of his bill at the first opportunity. If it can not be passed during this session through both Houses, it can be passed through both Houses during the next session of Congress. I believe that to press the amendment at this time will not only encompass its defeat, because of a failure to obtain a vote before 11 o'clock, but will also cause the defeat of the veterans' loan bill. So I suggest to the Senator from Tennessee that he withdraw the amendment.

Mr. MOSES. Mr. President, the honeyed words of the Senator from Arkansas would "keep the word of promise to our ear and break it to our hope." The Senator from Tennessee now has an opportunity to secure action on a bill on which he has vainly tried to secure action heretofore; and if Senators on the floor wish to debate it until 11 o'clock and thereby defeat all legislation such as we are considering to-night, let them take the responsibility; it will not rest with the Senator from Tennessee nor with me.

Mr. ROBINSON of Arkansas. Mr. President, will the Senator from New Hampshire yield to me?

Mr. MOSES. I yield the floor.

Mr ROBINSON of Arkansas. Will the Senator from New Hampshire yield for a question?

Mr. MOSES. Yes, indeed.

Mr. ROBINSON of Arkansas. Does the Senator from New Hampshire believe that there is the slightest probability of obtaining a vote before 11 o'clock on the amendment of the Senator from Tennessee? And does he not know that a number of Senators have served notice that they will discuss the amendment until the hour of 11 o'clock arrives, when, under the agreement, the Senate will adjourn?

In view of these circumstances does not the Senator from New Hampshire believe that the sound policy would be to pass the veterans' loan bill and make the issue on the retirement bill subsequently?

Mr. MOSES. Mr. President, my answer to the complicated question of the Senator from Arkansas must also necessarily be involved. If the Senator from Tennessee can procure the unanimous-consent agreement for which he has asked, namely, to vote on the so-called Tyson bill at a given hour, very well. If the Senator from Arkansas will use the blandishments and eloquence upon the whole body of his associates here that he has applied to his colleague from Tennessee, I am sure we can dispose of both these measures before 11 o'clock. [Laughter]

Mr. REED of Missouri. Mr. President, the Senator from New Hampshire states that if Senators here object to the

proposed unanimous-consent agreement, and if the Senator from Tennessee then persists with his amendment and it results in the defeat of the bill now before us, the responsibility must be upon those who have refused unanimous consent. That is true; but it is also true that we all have a responsibility. We have a responsibility to these soldiers who were led to believe, and had a right to believe, that they could bank their insurance policies and get a little money in time of necessity. We are not discharged from our responsibility to accomplish their relief merely because some Senator has objected to the consideration of a particular bill which nearly every Senator may favor.

The result will be that neither of these bills will become a law; so that the Senator from Tennessee and those whose cause he so well advocates will get nothing, and at the same time the soldiers who need this little aid will get nothing. I hope the Senator from Tennessee will relieve the difficulty. If he then wants to make a motion to proceed to the consideration of his bill to-morrow morning at 10 o'clock and to adjourn to that time, I will help sustain him.

Mr. MOSES. Oh, Mr. President, to-morrow morning, immediately after the routine business, we are to have Washington's Farewell Address read, and then we go into joint session. The Senator from Missouri knows that the suggestion he makes can not possibly be made effective. If the Senator from Missouri, however, will now make a motion that the Tyson bill shall be made a special order to-morrow, beginning at 2 o'clock, then, of course, we may accomplish something.

Mr. REED of Missouri. It is for the Senator who is in charge of the measure to make whatever motion he sees fit. I am perfectly willing that he should follow the course suggested by the Senator from Pennsylvania.

Mr. REED of Pennsylvania. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state his parliamentary inquiry.

Mr. REED of Pennsylvania. Would a motion to make the Tyson bill a special order displace the Boulder Canyon bill?

The VICE PRESIDENT. It would not displace the Boulder Canyon bill.

Mr. REED of Pennsylvania. Would it not do so if the motion were carried?

The VICE PRESIDENT. The unfinished business takes precedence over a special order.

Mr. TYSON. Mr. President, I should like to know who it is that objected to the request for unanimous consent?

Mr. BINGHAM. Mr. President, I stated that I would have to object to it. I have had no opportunity to debate the bill as yet. I was ill when it was considered on a previous occasion. I am prepared to debate it at length this evening. I am not endeavoring to avoid the necessity of debating it. As the Senator from Tennessee knows, I am very strongly opposed to the bill believing it to be not good military policy and not fair to the great body of veterans. So I should like to have an opportunity to debate it. He asks that we vote at 3 o'clock to-morrow. There is no certainty whatsoever that I can speak at all to-morrow, and I certainly can not finish this evening.

Mr. TYSON. At what time would the Senator be willing to permit a vote to be taken?

Mr. MOSES. I will yield my time to the Senator from Connecticut.

Mr. ROBINSON of Arkansas. Let me ask the Senator from Connecticut a question. Does he not feel that he can tell us all he knows about this bill within the next 15 or 20 minutes, and then enable us to act before 11 o'clock?

Mr. HARRISON. Mr. President, may I ask the Senator from Connecticut—would he not consent to a request for unanimous consent to devote, say, two hours or three hours, or any number of hours that he thinks it would take him to finish his speech, to the consideration of the bill, after which we may vote upon it; and to suggest to us some day so that we can agree upon a unanimous-consent order? Would not Thursday be satisfactory to the Senator?

Mr. NEELY. Mr. President, I object to the Senator from Connecticut having more than three hours, because there would not be anybody here to vote after that. [Laughter.]

Mr. HARRISON. I ask unanimous consent that on Thursday at 2 o'clock the Tyson bill be taken up for consideration, that two hours be devoted to it, after which time we shall vote upon the bill and all amendments thereto.

Mr. REED of Pennsylvania. I object.

Mr. HARRISON. Who objected?

Mr. REED of Pennsylvania. I objected, Mr. President.

Mr. TYSON. Mr. President, there is to be a meeting, as I understand, of the Senate on Wednesday evening. I should like to ask unanimous consent to consider this bill on Wednesday evening and to come to a vote on it at not later than half-past 10 o'clock on that evening.

The VICE PRESIDENT. There is already a unanimous-consent agreement providing for the business to be considered at the session on Wednesday evening.

Mr. NEELY. Mr. President, the request of the Senator from Tennessee would necessitate calling the roll, and, if any Senator is going to object to the request, his objection ought to be made now in fairness to those who want to pass the bill that is before the Senate before the roll call begins.

Mr. CURTIS. Mr. President, we have a unanimous-consent agreement covering the business of the session on Wednesday evening next.

Mr. McKELLAR. Why not make the request apply to Thursday night?

Mr. TYSON. I ask unanimous consent that the Senate consider this bill on Thursday night at 8 o'clock and vote on it at not later than half past ten o'clock on the same evening.

Mr. KING. Mr. President, I object.

Mr. CURTIS. Mr. President——

The VICE PRESIDENT. Objection is made. The question is on the amendment offered by the Senator from Tennessee [Mr. TYSON]. The Senator from Kansas is recognized.

Mr. CURTIS. Mr. President, if there is to be a vote on the amendment, I have nothing to say.

Mr. BINGHAM. Mr. President, is the amendment still before the Senate?

The VICE PRESIDENT. The question is on the amendment offered by the Senator from Tennessee.

Mr. BINGHAM. May I ask the Senator from Tennessee if he intends to withdraw the amendment?

Mr. TYSON. I do not intend to withdraw it now.

Mr. BINGHAM. Very well, Mr. President.

Mr. REED of Pennsylvania. Will the Senator yield to me?

Mr. BINGHAM. Yes.

Mr. REED of Pennsylvania. I suggest the absence of a quorum.

The VICE PRESIDENT. The absence of a quorum being suggested, the clerk will call the roll.

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

Ashurst	George	McMaster	Sheppard
Bayard	Gillett	McNary	Shortridge
Bingham	Glass	Mayfield	Smith
Blease	Goff	Means	Steck
Borah	Gooding	Moses	Stephens
Bratton	Hale	Neely	Trammell
Cameron	Harris	Nye	Tyson
Capper	Harrison	Oddie	Wadsworth
Caraway	Hawes	Overman	Walsh, Mass.
Copeland	Howell	Pine	Walsh, Mont.
Curtis	Johnson	Pittman	Warren
Deneen	Jones, Wash.	Ransdell	Watson
Dill	Kendrick	Reed, Mo.	Wheeler
Edge	Keyes	Reed, Pa.	Willis
Edwards	King	Robinson, Ark.	
Ferris	La Follette	Robinson, Ind.	
Fess	Lenroot	Sackett	
Frazier	McKellar	Schall	

The VICE PRESIDENT. Sixty-eight Senators having answered to their names, a quorum is present. The question is on the amendment of the Senator from Tennessee [Mr. TYSON].

Mr. BINGHAM. Mr. President, I am in favor of the bill which is before the Senate this evening. A unanimous-consent agreement was entered into whereby this bill and another bill in which a large number of Senators are interested were to be considered this evening, and no other bills. There is nothing in the Senate rules whereby any number of bills from the calendar might not be added to this bill or the other bill this evening as amendments and 40 or 50 bills not up for consideration be passed as amendments to one of these two bills. I realize that fact perfectly, Mr. President; but at the same time I do maintain, as I did before, that it is not in accordance with the spirit of the agreement which was entered into to take up this bill at this time. It should have been taken up when it properly could be brought up, and not on the time of some other bill.

Mr. President, this amendment, which is in effect Senate bill 3027, provides—

> That all persons who have served as officers of the Army of the United States during the World War, other than as officers of the Regular Army, who during such service have incurred physical disability in line of duty and who have been, or may hereafter, within two years, be rated in accordance with law at not less than 30 per cent permanent disability by the United States Veterans' Bureau, shall, from date of receipt of application by the Director of the United States Veterans' Bureau, be placed upon, and thereafter continued on, a separate retired list.

I should like to call your attention, Mr. President, to the fact that this will, in the first place, bring a tremendous amount of pressure on the United States Veterans' Bureau from officers who are not yet rated at 30 per cent permanent disability, but at something under it—say 25 per cent, or 20 per cent—to have their disability increased to 30 per cent, in order that the tremendous difference may be made in their favor between getting, if they are rated at 20 per cent disability, the $20 a month now allowed, and from $125 to $250 a month as officers on the retired list if they succeed in being rated as 30 per cent. It is quite obvious that the pressure is going to be tremendous to have them rated at 30 per cent disability; and if at any time within the next two years they can persuade some doctors to change their rating from a little less than 30 per cent up to 30 per cent, then they will come under the provisions of this bill, and they shall be placed upon a separate retired list.

Many of them think, Mr. President, that they will be placed on the same retired list with the officers of the Regular Army; but that is not so. A separate retired list is provided, to be known as the emergency officers' retired list of the Army of the United States. They are, however, although they claim to be treated in the same way or desire to be treated in the same way as regular officers, actually asking for something which most of the regular officers who served during the war, and who have been retired since, have not gotten. In other words, Mr. President, nearly all of the officers in the Regular Army at the close of the war had ranks very greatly higher than they hold to-day or than they will hold at the time of their retirement.

For instance, there were the three lieutenant generals in command of our three armies in the field in France—General Bullard, General Liggett, and one other. A bill has passed the Senate giving these retired officers—for they are now all retired—the rank of lieutenant-general. It has not yet passed the Congress. They retired with a lower grade than that which they earned during the war. There were officers during the World War of the Regular Army in the Air Service who held the rank of lieutenant colonel, and even of colonel, who very soon after the war were reduced to their original rank, which in many cases was that of captain, and some of them were retired with that rank.

Nearly all of the officers of the Regular Army who have been retired since the World War for disability or other reasons have been retired with their rank in the Regular Establishment, which is several grades less than the rank which they held during the war, whereas this bill gives the emergency officers the rank which they held at the end of the war, when they left the service. Consequently, it is greater in their favor than in that of regular officers.

In the next place, Mr. President, I should like to call your attention to the language on page 2, line 22, in which it is stated—

> That all pay and allowances to which such persons or officers may be entitled under the provisions of this law shall be paid solely out of the military and naval compensation appropriation fund of the United States Veterans' Bureau—

This is the language to which I call your particular attention—

> and shall be in lieu of all disability compensation benefits to such officers or persons provided in the World War veterans' act, 1924, and amendments thereto—

And so forth. That means, Mr. President, that the officers who are more than 30 per cent disabled, and who come under the provisions of this bill, will have to give up the disability compensation benefits which they now enjoy under the World War veterans' act of 1924, and that their widows and children will have to give up those benefits. In other words, Mr. President, if this bill becomes a law, and the officers go on the same basis as the retired officers of the Regular Army, their widows and children will not be looked after as they are at present under the World War veterans' act.

It has been said that the soldiers' organizations are for this bill. It has been said that the veterans as a whole are for this bill. I do not believe, Mr. President, that 1 per cent of the veterans understand the provisions of this bill. Probably that was said to them which was said to me the day after I was elected to a seat in this body, when a veteran came to me and said, "You are going to Washington; will you not help the disabled emergency veterans?" I said, "Certainly; I shall be glad to help them. What is it you want?" "Why," he said, "there is a bill there to give them fair play and equality, which is now denied them." I said, "I shall be glad to look into it, and if it is a proper bill, it will have my support." I did not know the provisions of this bill; the person who was speaking to me did not know its provisions; and I am sure that not 1 per cent of the veterans of the war realize that this bill actually makes the dependents of an officer, after he dies. less well off than they are to-day.

Furthermore, we are told that this bill will benefit some 1,986 officers of the World War. That is not true, Mr. President. Like many other statements that have been made about this bill by those who are angry with us for venturing to oppose it, that statement is not true. Among those 1,986 officers are 293 second lieutenants who are receiving permanent partial compensation, having over 30 per cent disability, and 292 who are receiving permanent total compensation.

The 292 second lieutenants who are to-day receiving compensation for permanent total disability get at least $100 a month, and some of them get $200 a month for double permanent disability, and, furthermore, their dependents, of course, on their death would be taken care of. Under the provisions of this bill those 292 would get only $93.75 a month. For those 292 permanently disabled, total disability second lieutenants you would decrease what they are to receive from $100 a month or more, some of them getting $150 and others $200, to $93.75. It will be replied to this, Mr. President, that they are not obliged to take this if they do not want to. Certainly not.

Section 2 provides that—

> No person shall be entitled to benefits under the provisions of this act except he make application as hereinbefore provided.

Of course, it stands to reason that those 292 permanently totally disabled second lieutenants will not apply for the benefits, so called, of an act which reduces their compensation from $100 a month to $93.75 and which does away with all benefits to their wives and children.

There is a considerable number of second lieutenants who are suffering from permanent partial but not total disability, who receive about the same as they would get under this measure. But the fact remains that there are at least 292, and probably more, officers who would not benefit by it.

It is also quite apparent that there is a very large number of officers who have more than 10 per cent but less than 30 per cent disability, who would not benefit at all unless they could persuade a board of doctors to increase their disability up to the 30 per cent limit.

Of course, it is obvious that it is going to put a very severe strain on the judgment of the doctors. To-day if they rate a man as 27 per cent, he gets $27 a month. If he is rated at 30 per cent, he gets $30 a month. But let us suppose that one of the 129 majors affected by this bill has 27 per cent disability to-day and is getting $27 a month, and comes before a kind-hearted doctor, whose heart is better than his head in this matter, as is the case with some of us, and says to him, "Doctor, can you not raise my disability by 3 per cent? Surely you are not going to be so hard-boiled as to say that all my disabilities amount to only 27 per cent. Think again, doctor, and give me an additional 3 per cent disability. Just think what it will do for me. I was a major during the war. Now I get only $27 a month, but if you can only stretch your conscience 3 per cent, then, instead of getting $27 a month, I will get $187 a month, a difference of $160 a month, or several thousand dollars in the course of a couple of years. Surely, doctor, you are not going to be so hard-boiled as to keep me down to 27 per cent."

Knowing how kind-hearted a man must be to go into that profession, and devote his life to taking care of others, and being willing to go out any hour of the day or night to take care of them, it would be a very unusual doctor who could not think it over and decide to raise the disability rating 3 per cent, or 5 per cent, or even 10 per cent, as the case might be, when the difference between 10 per cent or 20 per cent disability and 30 per cent is to-day only $10 a month, but under this bill it would be for a major over $160 a month.

Under this bill a colonel in the emergency officers' list would receive, if he had 30 per cent disability, $250 a month. If he had 20 per cent disability, he would receive $20 a month. Let us suppose two colonels serving in the same brigade, and coming from the same community, and taking part in the same engagements in France, suffering from exposure, both acquiring a certain amount of stiffness, inability to get about comfortably, and the doctors say that one of them is 20 per cent disabled because he can not put his arm up as fully and as strongly as he used to; his arm has contracted so that he can move it only 6 inches, instead of moving it through the whole circle. The other one has a slightly greater difficulty in bending and unbending, and the doctors have given him 30 per cent. Under this bill one of those colonels would get $20 a month, or $240 a year, and the other would get $250 a month,

or $3,000 a year. That seems to me, Mr. President, a very strange provision, and I do not believe that the soldiers who are asking for this bill realize the effect of many of its provisions.

There are 24 lieutenant colonels who would be affected, who to-day are getting between $10 a month and $100 a month, depending on their disability, or up to $200 a month, for double permanent disability. Most of them are getting $100 a month or less. Under this bill they would get $218 a month.

There are 58 majors suffering from permanent partial disability, and 71 suffering from permanent total disability, or 129 in all, who, under this bill would get $187.50 a month.

The war is now nearly 10 years gone by. We have had a great deal happen since then, and we have forgotton about a great many things that happened. Some of us are beginning once more to read books about the war. There was a period within two or three years after the war when books about the war were a drug on the market. I remember going into a large department store and seeing on the bargain counter several hundred books——

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

Mr. BINGHAM. I have only three minutes. I can not yield.

I remember seeing several hundred books on the bargain counter——

Mr. TYSON. Will the Senator yield if I suggest that I want to be allowed to withdraw the amendment?

The VICE PRESIDENT. Does the Senator from Connecticut yield to the Senator from Tennessee?

Mr. BINGHAM. I can not yield at this time.

Mr. TYSON. Mr. President——

Mr. BINGHAM. For what purpose does the Senator ask me to yield?

Mr. KING. Will the Senator yield?

Mr. BINGHAM. For what purpose?

Mr. KING. I wanted to ask the Senator from Tennessee if he was not rising for the purpose of offering a cloture motion.

Mr. TYSON. Mr. President, will the Senator yield just for a moment? I want to say to him that I will not offer a motion for cloture, if that was his idea.

The VICE PRESIDENT. It is in order to offer a motion for cloture at any time, whether a Senator is on his feet or not.

Mr. TYSON. If the Senator will yield I will withdraw the amendment.

Mr. CURTIS. Just a second. Is it in order to offer a motion for cloture when a matter is not pending, when another measure is before the Senate?

The VICE PRESIDENT. A petition for cloture is in order at any time.

Mr. CURTIS. A petition for cloture only for a vote on the question as to whether this amendment should be adopted? That is all it could be, and it could not be submitted until day after to-morrow.

The VICE PRESIDENT. The Chair understands the Senator from Tennessee to be about to offer a petition for cloture for his bill. Is not that correct?

Mr. TYSON. Not now. In view of the fact that a great many Senators have said that they will aid me in getting my bill up, and have practically assured me that it will be done, and that I will get the bill before the Senate, I desire now to withdraw the amendment, if the Senator will yield for that purpose.

Mr. BINGHAM. I yield for that purpose.

The VICE PRESIDENT. Without objection, the amendment of the Senator from Tennessee is withdrawn.

Mr. REED of Pennsylvania. Mr. President, when the bill gets into the Senate I shall ask for a separate vote on the amendment of the Senator from New Mexico [Mr. BRATTON], which was adopted as in Committee of the Whole.

The VICE PRESIDENT. The bill is still as in Committee of the Whole and open to amendment. If there be no further amendments to be offered, the bill will be reported to the Senate.

The bill was reported to the Senate as amended.

The VICE PRESIDENT. The question is on concurring in the amendments as made in Committee of the Whole.

Mr. REED of Pennsylvania. Mr. President, on the amendment offered by the Senator from New Mexico [Mr. BRATTON] the situation is exactly the same, and I hope that the Senator from New Mexico will heed the wise advice of the Senator from Missouri [Mr. REED], who has told the Senate, as I tried previously to tell it, that a bill in which we all believe, and which all veterans are anxious to have passed, is going to die in three minutes if the Senator persists in adhering to his amendment.

Mr. BRATTON. The Senate has voted in favor of the amendment by an overwhelming vote, and I do not believe the Senator from Pennsylvania will hold out on behalf of the substantial minority to that extent. I feel that in fairness to the majority he should not do that.

Mr. REED of Pennsylvania. Mr. President, the Senator has prevailed upon the Senate to change the established policy of the Congress without submitting his amendment to any committee, without giving us any chance to consider it, to have any hearings upon it, or to determine the wisdom of it. We do not know how many soldiers would be affected by it or what their circumstances are, and in order to put through an amendment of that sort he has deliberately caused the wreckage of a bill which the Senate was ready to pass. The same thing that he has argued now might be argued in favor of any bill, however irrelevant to the subject matter here. I implore the Senator to withdraw his amendment and let the bill pass.

Mr. BRATTON. I am acting for my colleague, who is ill, as I have explained. The Senate has voted overwhelmingly in favor of the amendment, and I appeal to the good judgment of the Senator from Pennsylvania not to persist in his course; and I do not believe he will do it under the circumstances.

Mr. SMITH. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator from South Carolina will state his inquiry.

Mr. SMITH. Can the Senator from New Mexico withdraw his amendment after the Senate, as in Committee of the Whole, adopted the amendment by an overwhelming majority?

The VICE PRESIDENT. The amendment can be withdrawn by unanimous consent. Is there objection to the withdrawal of the amendment?

Mr. BRATTON. Mr. President, I have not withdrawn the amendment.

Mr. REED of Pennsylvania. Mr. President, I think the soldiers of the country ought to know who is to blame for the failure of this measure to-night.

Mr. BRATTON. I am perfectly willing that they should know.

Mr. REED of Pennsylvania. I think they ought to realize how it was that this measure was killed after the House had passed it, after the Finance Committee of the Senate had approved it, after all the veterans' organizations had urged it; how out of a clear sky there was brought in on the floor of the Senate an amendment never submitted to any committee——

Mr. BRATTON. It has been before the committees since the 3d of February. A report was made by the director, and the committee in the House has voted upon a similar measure.

Mr. REED of Missouri. Mr. President, I ask unanimous consent that the Senate may continue in session for 30 minutes longer.

The VICE PRESIDENT. Is there objection?

Mr. REED of Pennsylvania. I object.

Mr. CURTIS. I do not think such an agreement would be proper.

The VICE PRESIDENT. Objection is made. The hour of 11 o'clock having arrived, the Senate, under the order previously made, will stand adjourned until 11 o'clock to-morrow morning.

ADJOURNMENT

Thereupon the Senate (at 11 o'clock p. m.) adjourned until to-morrow, Tuesday, February 22, 1927, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES

MONDAY, *February 21, 1927*

The House met at 12 o'clock noon.

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

Lord of heaven, Lord of earth, we bless Thee; we praise Thee that Thou hast not ceased to bestow upon us the blessing of divine care. Thy infinite right is to command the obedience, the affection, and the adoration of men. O Thou who art our light in darkness, our joy in grief, accept the offering of our grateful allegiance; may our fidelity to Thee never die out. May all the problems of our country receive the treatment of the undivided forces of Christian sympathy, sacrifice, and service. We pray that Thou wouldst give us that most excellent gift—charity—the very bond of peace and of all other virtues. It means bearing one another's burden, guarding one another's reputation, throwing the mantle of kindness over the failings and the infirmities of our brothers, and doing unto others as

we would have them do unto us. O God, it means to live righteously. Help us. Amen.

The Journals of the proceedings of Saturday and Sunday were read and approved.

MESSAGE FROM THE SENATE

A message from the Senate announced that the Senate had passed with amendments House bill of the following title, in which the concurrence of the House is requested:

H. R. 16800. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of such District for the fiscal year ending June 30, 1928, and for other purposes.

The message also announced that the Senate had passed without amendment House bills of the following titles:

H. R. 14842. An act 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;

H. R. 14920. An act 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;

H. R. 16775. An act to limit the application of the internal revenue tax upon passage tickets; and

H. R. 11278. An act to authorize the erection of a statue of Henry Clay.

The message also announced that the Senate had passed Senate bills of the following titles, in which the concurrence of the House is requested:

S. 5112. An act to provide for appointment as warrant officers of the Regular Army of such persons as would have been eligible therefor but for the interruption of their status, caused by military service rendered by them as commissioned officers during the World War;

S. 5762. An act to amend sections 4 and 5 of the act entitled "An act granting the consent of Congress to the Gallia County Ohio River Bridge Co. and its successors and assigns to construct a bridge across the Ohio River at or near Gallipolis, Ohio," approved May 13, 1926, as amended; and

S. 5699. An act relating to the admission of candidates to the Naval Academy.

The message also announced that the Senate had passed the following order:

Ordered, That the House of Representatives be requested to return to the Senate the bill (S. 4411) entitled "An act granting the consent of Congress to compacts or agreements between the States of South Dakota and Wyoming with respect to the division and apportionment of the waters of the Belle Fourche and Cheyenne Rivers and other streams in which such States are jointly interested" with all accompanying papers.

ENROLLED BILLS SIGNED

Mr. CAMPBELL, from the Committee on Enrolled Bills, reported that that Committee had examined and found truly enrolled House bills and Senate bill of the following titles, when the Speaker signed the same:

H. R. 5823. An act to amend the Code of Law for the District of Columbia in relation to the qualifications of jurors:

H. R. 9916. An act to revise the boundary of the Grand Canyon National Park in the State of Arizona, and for other purposes;

H. R. 9971. An act for the regulation of radio communications, and for other purposes;

H. R. 15414. An act to authorize the United States Veterans' Bureau to accept a title to lands required for a hospital site in Rapides Parish, La.;

H. R. 16576. An act making appropriations for the Departments of State and Justice and for the judiciary, and for the Departments of Commerce and Labor for the fiscal year ending June 30, 1928, and for other purposes;

H. R. 16863. An act making appropriations for the legislative branch of the Government for the fiscal year ending June 30, 1928, and for other purposes; and

S. 2770. An act to confer United States citizenship upon certain inhabitants of the Virgin Islands and to extend the naturalization laws thereto.

SENATE BILLS REFERRED

Under clause 2 of Rule XXIV, Senate bills of the following titles were taken from the Speaker's table and referred as indicated below:

S. 5112. An act to provide for appointment as warrant officers of the Regular Army of such persons as would have been eligible therefor but for the interruption of their status caused by military service rendered by them as commissioned officers during the World War; to the Committee on Military Affairs.

S. 5762. An act to amend sections 4 and 5 of the act entitled "An act granting the consent of Congress to the Gallia County Ohio River Bridge Co., and its successors and assigns, to construct a bridge across the Ohio River at or near Gallipolis, Ohio," approved May 13, 1926, as amended; to the Committee on Interstate and Foreign Commerce.

DISTRICT OF COLUMBIA APPROPRIATION BILL

Mr. FUNK. Mr. Speaker, I move to take from the Speaker's table the bill (H. R. 16800) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of such District for the fiscal year ending June 30, 1928, and for other purposes, with Senate amendments, disagree to the Senate amendments, and ask for a conference.

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

Mr. GARRETT of Tennessee. Reserving the right to object, Mr. Speaker, I understand this is satisfactory to the minority member of the committee?

Mr. FUNK. I am assured that is correct; at any rate, all rights will be reserved by a conference.

Mr. GARNER of Texas. "All rights reserved"—there are no rights to be reserved. The gentleman ought to state on the floor of the House he has consulted the conferee on the Democratic side and it is agreeable to him before he asks unanimous consent.

Mr. FUNK. I have consulted the gentleman.

Mr. GARNER of Texas. Well, that is all you have to do—just say so.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none and appoints the following conferees: Messrs. FUNK, SIMMONS, TINKHAM, GRIFFIN, and COLLINS.

CLAIMS OF ASSINIBOINE INDIANS

Mr. LEAVITT. Mr. Speaker, I call up the conference report on the bill (S. 2141) conferring jurisdiction upon the Court of Claims to hear, examine, adjudicate, and enter judgment in any claims which the Assiniboine Indians may have against the United States, and for other purposes.

The Clerk read the conference report.

(For conference report and statement see proceedings of the House of February 19, 1927.)

The conference report was agreed to.

ADDRESS BY MAJ. GEN. C. P. SUMMERALL

Mr. TILSON. Mr. Speaker, on last Saturday Maj. Gen. Charles P. Summerall delivered before the Army War College a very notable address on "The Human Element in War." I ask unanimous consent to extend my own remarks in regard to this address and to print the address of General Summerall in the RECORD.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. TILSON. Mr. Speaker, on last Saturday, February 19, at the Army War College, Maj. Gen. Charles P. Summerall, Chief of Staff of the Army, delivered a notable address on the subject of "The Human Element in War." It is quite generally conceded that among all American Army leaders brought out and developed by the World War, none is better qualified to speak on this subject than is General Summerall. Along with great knowledge of the profession of arms, and unusual ability, he has as his most striking characteristic the possession to a very remarkable degree of those human qualities which must be possessed by every great leader of men in war or in peace. He possesses the faculty of being able to so impress himself upon others as to transfer to them much of his own personality, and thus to extend and multiply through others his own superior qualities of mind and heart.

I wish to give to the membership of the House and to others the privilege of reading what General Summerall had to say to the students of the Army War College and to a few privileged guests on the subject of the human element in leadership. Therefore, under the leave to extend my remarks in the RECORD, I include his address, as follows:

THE HUMAN ELEMENT IN WAR

While the consideration of the human element is predominant in war, there is great necessity for comprehending it as an essential in the management of men in peace. Indeed, if one does not understand and practice the art of controlling the human element in peace, he can not do so in the test of war. It is trite to say that the human element remains, as it has ever been, the determining factor in battle. Machines and arms may be multiplied and changed, but the man who

uses them will determine the final issues of victory or defeat. The psychology of men is a definite quality. It can not be changed. To be used it must be understood and taken as it is fixed by nature. It can be used to bring about results just as successfully in garrison as in campaign. Indeed, the qualities of discipline, morale, efficiency, loyality, etc., are only evidences of the degree to which some leader has directed the psychology of his men. For example, to-day we are concerned by a high rate of desertions. Yet we find organizations where the same evil exists only slightly, if at all. Some posts have large numbers of men absent without leave, while others are proud of their good record. Most evidences of indiscipline are capable of being corrected or removed by methods that take advantage of the human element, for any given number of men are essentially the same in the human characteristics as any other like number of men. It is not so much the fault of those responsible as it is their lack of understanding and, in some cases, the aptitude to apply to few psychological principles. All of our schools should teach the theory and practice of dealing with men according to methods that are readily understood. While everyone would not be equally successful, there would be marked improvement in all standards, and the officer who lacked sufficient aptitude would subject himself to elimination.

While much has been written on psychology, the principles needed by the military leader are few; but they must be so thoroughly assimilated that they become a part of his life and personality. The following truths are stated as some of the more essential guides in directing the human element both in peace and in war:

MEN THINK AS THEIR LEADERS THINK

This is absolutely true in every echelon of military command. Thoughts are things, in that a man can not act or talk other than as he thinks. If an officer wishes to influence his men he must actually be what he desires them to become. A single disloyal remark or act will spread through the minds of his men. He not only will be unable to lead, but he will deprive them of the will or the power to follow. On the other hand, a resolute, loyal, unquestioning leader of any grade will inspire his men with his own indomitable spirit. Thus they will react upon each other and perfect confidence will make an invincible unit within its power, be it a squad or the largest command that one personality can permeate. The power of example thus becomes the measure of leadership.

ALL IMPULSES COME FROM THE TOP

From the very nature of command the minds of subordinates turn to the leader for direction. A military unit can be no stronger or more efficient than the leader. A subordinate may influence his echelon, but he will not affect other echelons or higher elements. Human nature is jealous and proud. A leader naturally resents the effort of a subordinate to instruct or guide him and is thus not receptive of influence from below. From this it follows that if a command of any size is good or bad, one has only to fix the responsibility upon the leader.

The real leader will give his subordinates credit for all of their accomplishments, but he can no more escape a similar honor from them than he can escape blame for failure. The true leader not only initiates impulses for his subordinates but he adds force to impulses from above. With a chain of such leaders an order gathers momentum, and on reaching the point of execution it strikes with an irresistible force.

MEN FIGHT FOR THEIR LEADERS

The average mind is such that it does not analyze abstract causes or even the great principles over which wars are fought. Men are elemental and practical and cling to real things. They want to have leaders. They want to admire them and they want to follow them. After the classic assaults at Plevna General Skobeleff II divided men into three categories: A small per cent have no sense of fear and are eager for combat. They will expose themselves recklessly and soon become casualties. Another very small per cent have not been endowed with enough courage to sustain them in danger, and they will soon disappear. The great majority of men in face of danger gladly surrender their wills to their leaders, and are easily controlled and guided. These are the men who properly commanded will win the battle. Danger, hardship, and tragedy develop a peculiar bond between men of all ranks, for basically human nature is the same. As one real leader has expressed it: "In the face of death all men are equal." Thus men come to have a perfect and almost childlike confidence in a successful leader. The man who in any unit shows sympathy, helpfulness, and comradeship for his men may be sure that they will fight for him. To secure this response a leader must be known to his men and must be seen by them at the point of danger as well as elsewhere. They must know not only his name and appearance but his record and they must have personal proof of his care.

MEN RESPOND TO APPROVAL RATHER THAN TO BLAME

Men do not fight for fear or for material reward. Courage and fortitude are spiritual and are not influenced by material considerations. A man fights for pride in himself and in his command. Pride is a basic element of human nature. There is no human being wholly devoid of self-respect. The soldier is especially sensitive by reason of his subordination, and when once his pride is aroused he becomes intensely solicitous and jealous of preserving it. In the same way he becomes loyal to his command and his comrades, and he would forfeit his life rather than act unworthily of them or incur the censure of those whom he respects. His sense of justice requires that his good performance be recognized, and where such recognition is withheld he experiences discouragement and depression. His richest reward is recognition by his leaders. This may vary from a simple word of approval to the highest decoration or citation according to his merits. On the contrary, censure or blame rouses the equally elemental quality of self-preservation. The man who humiliates his subordinates or who abuses his authority will forfeit their respect and arouse their antagonism or their hatred. Men want and admire firmness and positiveness, but command must be exercised so as to leave no personal sting. True discipline comes from pride and not from fear. Arbitrary and harsh measures may be easier to adopt, but they will multiply troubles out of all proportion to the gain.

The ways by which a leader's hold may be obtained on men are few and simple. He must live and conduct himself so as to be worthy of their respect. They are unerring in their perceptions, and they not only quickly discover but they abhor shams of every kind.

Men demand a reasonable degree of justice. They expect a leader to be fair and understanding. A single act of glaring injustice will injure his prestige and influence. Men must trust their leader in order to follow him.

It goes without saying that men demand the same courage and fortitude in the leader that they are expected to possess. A single evidence of timidity will end his usefulness. It is perhaps for this reason that officers have at times unduly exposed themselves and suffered unnecessary casualties.

Men are easily discouraged in the face of hardship and unreasonable tasks. With the loss of physical strength and with the exhaustion that is inseparable in campaign, the mind becomes correspondingly weakened. The leader must know how to assign missions possible of accomplishment under the conditions and to organize his resources so as to make success reasonably sure. Repeated failures can only result in a loss of confidence and in ultimate loss of morale.

Men are pleased by having their superiors know their names and something of their performances. While the limitations of higher commanders are soon reached, in the lower echelons a leader should make every effort to know his subordinates personally and make them realize his individual interest in them.

Men read the expression in the face of their leaders and are unconsciously influenced by their appearance, manner, and tone of voice. Self-control becomes, therefore, a vital attribute of a leader. To be calm, self-possessed, and self-confident is indispensable. A leader must not only believe that he is right, but he must be so sure of it that he will convince everyone else, by everything he says and does, that his plans and purposes are right. Thus he will make men sure of success even though the plans might not be the best that could be adopted.

Men are capable of understanding the tasks demanded of them and the purposes to be accomplished. They respond eagerly to the leader who will talk to them and explain their accomplishments, their situation, and the necessity for further effort. Thus they require a personal relationship toward the leader and a personal identification with his plans. Each man comes to feel an individual responsibility to perform his part even to the extent of feeling that success depends upon his own efforts. In this way the leader accomplishes not what men think they can do, but what he knows they can do. He dispels imaginary evils and obstacles and creates a state of mind and a method of thinking that add immeasurably to the fighting power of his command. Indeed, many difficulties are wholly imaginary. Defeat comes not so much from physical effects as from a state of mind which makes men reduce or cease their efforts. When properly identified with his troops, the personality of the leader remains in their minds, and in the stress of battle his influence encourages them and strengthens their resolution.

Within the limits of personal contact, men should be encouraged to go to their superiors with their difficulties and they should find help or be convinced of the reason why it can not be given. The strongest nature needs human sympathy at some time and a single act of consideration and help may change the entire career of a man for good.

These precepts may be somewhat commonplace and unscientific, but they embrace the essentials of human nature. The greatest responsibility one can have is to be entrusted with the lives and the sacrifice of men and even the fate of one's country in war. No labor is too exhaustive, no effort too great, and no detail too small for those who, as officers of the Army, have dedicated themselves to the motto "Duty, honor, and country."

DISABLED EMERGENCY OFFICERS

Mr. DICKINSON of Missouri. Mr. Speaker, in 1926, the American Legion at its last annual department convention, held at Moberly, Mo., passed a brief resolution, reading as follows:

Be it resolved, That the Missouri Department of the American Legion in convention assembled at Moberly, Mo., indorse the action of national headquarters in their support of the bill providing for the retirement of disabled emergency officers.

The resolution is duly certified and I ask unanimous consent that it may go in the RECORD at this point.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. COLLIER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by printing a resolution adopted in regular convention at Vicksburg, Miss., on August 31 last by the American Legion, Department of Mississippi, in reference to the disabled officers' bill.

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

There was no objection.

Mr. COLLIER. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

VICKSBURG, MISS., *August 30, 1926.*

Resolution

Whereas the Congress of the United States, in the selective service act of May 18, 1917, promised that all volunteer officers commissioned under that act should be "in all respects on the same footing as to pay, allowances, and pensions as officers of corresponding grades and length of service in the Regular Army"; and

Whereas of the nine classes of officers who served during the World War eight classes, namely, regular officers of the Army, Navy, and Marine Corps, provisional officers of the Army, Navy, and Marine Corps, and emergency officers of the Navy and Marine Corps have been granted by Congress the privilege of retirement for disability when incurred in line of duty, leaving only the disabled emergency officers of the Army without such retirement; and

Whereas an overwhelming majority of the Members of each Congress since the armistice has promised to correct the injustice to disabled emergency Army officers by the enactment of legislation designed to adjust the unfair conditions imposed upon these men; and

Whereas the United States Senate has twice passed measures to correct this condition—the vote in the Sixty-seventh Congress being 50 to 14, the vote in the 68th Congress being 63 to 14; and

Whereas in the present Sixty-ninth Congress of the United States there are pending two identical bills seeking to accomplish this worthy end, namely, the Tyson bill S. 3027, and the Fitzgerald bill H. R. 4548; and

Whereas the Senate Committee on Military Affairs at the first session of the current Congress favorably reported the Tyson bill and the House Committee on the World War Veterans' Legislation favorably reported the Fitzgerald bill, both of which measures are on the respective calendars of the Senate and the House awaiting a final vote; now, therefore, be it

Resolved, That the American Legion, in State convention assembled at Vicksburg, Miss., August 30 and 31, 1926, urges and demands that the principles of retirement already established for the eight other classes of officers who served during the World War be granted to the disabled emergency officers who are handicapped from the sacrifice which the Nation demanded of them during their service for America in the World War and indorses as proper legislation to accomplish this end the pending Tyson bill, S. 3027, and Fitzgerald bill, H. R. 4548; and be it further

Resolved, That all Members of the Sixty-ninth Congress be, and they hereby are, most strongly urged to lend their most active support in securing the enactment of this pending legislation as early as possible during the short session of the current Congress; and be it further

Resolved, That copies of this resolution be sent to the Vice President of the United States and to each Member of the United States Senate and House of Representatives.

Adopted in regular convention assembled in Vicksburg, Miss., August 31, 1926.

[SEAL.] R. D. MORROW,
Adjutant, the American Legion,
Department of Mississippi.

Mr. LEHLBACH. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by incorporating therein resolutions of similar import passed by the Department of New Jersey, American Legion.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. LEHLBACH. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following resolution adopted by the Department of New Jersey, American Legion, at its 1926 department convention, held at Belmar, N. J., September 9 to 11, 1926, indorsing the disabled emergency army officers' proposed legislation:

Whereas the Congress of the United States, in the selective service act of May 18, 1917, promised that all volunteer officers commissioned under that act should be "in all respects on the same footing as to pay, allowances, and pensions as officers" * * * "of corresponding grades and length of service in the Regular Army"; and

Whereas regular officers of the Army, Navy, and Marine Corps; provisional officers of the Army, Navy, and Marine Corps; and emergency officers of the Navy and Marine Corps have been granted by Congress the privileges of retirement for disability when incurred in line of duty, leaving only the disabled emergency officers of the Army without such retirement; and

Whereas an overwhelming majority of the Members of each Congress since the armistice has promised to correct the injustice to disabled emergency Army officers by the enactment of legislation designed to adjust the unfair conditions imposed upon these men; and

Whereas the United States Senate has twice passed measures to correct this condition—the vote in the Sixty-seventh Congress being 50 to 14, the vote in the Sixty-eighth Congress being 63 to 14; and

Whereas in the first session of the current Congress (the Sixty-ninth) the Senate Committee on Military Affairs favorably reported the Tyson bill, S. 3027, and the House Committee on World War Veterans' Legislation favorably reported the Fitzgerald bill, H. R. 4548, similar bills in their provision for the retirement of disabled emergency Army officers who incurred physical disability in line of duty during the World War, both of which bills are now on their respective calendars in the United States Senate and House of Representatives awaiting a final vote; and

Whereas the Hon. ROYAL C. JOHNSON, a Member of the House of Representatives from the State of South Dakota, has introduced legislation in former Congresses on this subject, has always been an ardent supporter of such measures, and, as chairman of the House Committee on World War Veterans' Legislation, which has three times favorably reported this legislation, has always cooperated with the active workers of the national legislative committee of the American Legion, who have constantly striven for the enactment of this legislation; and

Whereas the House Committee on World War Veterans' Legislation will in all probability have a committee day upon which it may bring out its own legislation for consideration and a vote on the floor of the House in the next session of the Sixty-ninth Congress: Now, therefore, be it

Resolved, That the Department of New Jersey of the American Legion, in its annual convention assembled, at Belmar, N. J., September 9–11, 1926, do, and hereby does, most heartily indorse the principles of retirement for disabled emergency Army officers as already established for the other eight classes of disabled military and naval officers of the World War, and which principles are embodied in pending measures now before the Congress—the Tyson bill (S. 3027) and the Fitzgerald bill (H. R. 4548); and be it further

Resolved, That the Members of the United States Senate and House of Representatives from the State of New Jersey be, and they hereby are, most strongly urged to lend their active support in securing the enactment of this pending legislation as early as possible in the next session of the current Congress; be it further

Resolved, That the Hon. ROYAL C. JOHNSON, as chairman of the House Committee on World War Veterans' Legislation, be, and he hereby is, instructed to continue to put forth his best efforts, both as a Legionnaire and as a Member of Congress, in support of this legislation, and should his committee not have its legislative day in the House of Representatives in the next session of this Congress, that he then, as chairman of his committee, prevail upon the Republican steering committee of the House of Representatives and the House Rules Committee to grant a special rule for the prompt consideration and vote on H. R. 4548 on the floor of the House; and be it further

Resolved, That copies of this resolution be forwarded to the President of the United States and New Jersey delegation in Congress.

INAUGURAL ADDRESS OF VICE PRESIDENT LOUIS LUDLOW, OF THE NATIONAL PRESS CLUB

Mr. ROUSE. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by printing the inaugural address of Mr. Louis Ludlow, who was recently elected vice president of the National Press Club.

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

There was no objection.

Mr. ROUSE. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

My countrymen, Mr. Kirchhofer, in his inaugural address, has given you quality, and now I am going to give you quantity. I am older than our beloved president, and prolixity is one of the privileges of age. Mr. Kirchhofer's general competency, his sound business judgment, and his whole-souled devotion to our club prompts me to remark that in honoring him we have honored ourselves. I hope we will all give him 100 per cent support and I here and now assure him of the very great pleasure it affords me to be his only vice.

Fellow countrymen, Bill Collins, who does the rough work of the Senate press gallery for Jim Preston, has a mirthful disposition and

a heart no bigger than a chigger. When it first became noised about that I would be an available candidate for the vice presidency—a noise which I assisted somewhat in generating—Bill Collins led me in a mysterious way to a quiet corner in the press gallery and said:

"When Theodore Tiller puts on that long undertaker coat of his and squares away for action there ain't no man on earth who can stand up against him in a contest of wits."

I said:

"Good Lord, Bill, don't I know it?"

I was beginning to sense something wrong.

Collins gave me the most diabolical look imaginable and went on:

"Well, if you are elected vice president, Theodore Tiller is going to be on the platform and you'll have to answer his funny cracks, and you'll have a devil of a job."

"Good Lord, Bill," I said, "if that's the case I resign right now."

I found out afterwards that Collins didn't know anything about what Tiller was going to do. He just told me that to make me jump. I took him seriously, however, and tried to withdraw from the race, but by that time I had acquired a considerable overhead in the form of mimeograph bills, stamped envelopes, clerical hire, etc., and I couldn't pull out without losing my capital. So I finally decided to stay in the race, but every night since then in my troubled dreams I have seen the frightful Tillerian ogre bob up, and have heard the swelling cadences of the eloquent Tillerian voice as it mercilessly transfixed me. Long ago, when I first attended a meeting of the club and heard Mr. Tiller deliver his five hundred and forty-ninth address on the old home town, Bainbridge, Ga., I formed the conclusion that there was no nobler orator in the world than Theodore Tiller, and that conclusion has been confirmed and strengthened by contact throughout the years. Every oration I have heard him deliver on Bainbridge since then has been better than its predecessor.

A few days ago when I met Tiller at the Capitol I sidled up to him and remarked, in a careless, off-hand way:

"Are you going to the Press Club inauguration, Theodore?"

He replied:

"I expect to."

I fiddled around for about a minute and said:

"You couldn't arrange to be called out of town unexpectedly on that day, could you, Theodore?"

He grinned in a knowing way and said:

"No; I'll be on hand."

Well, he is here, and I hope that if he gets too fresh some devoted friend of mine will lay upon him a restraining hand. I think E. B. Johns, who weighs 240 pounds in his socks, could handle Tiller. I ask Mr. Johns to look after my interests and throw him out on the first signs of any monkey business. I will thank Mr. Johns if he will move over a little closer to Mr. Tiller.

I think I ought now to clear up a misapprehension existing in certain quarters that my fast and furious wooing of office in the Press Club was the result of a whim that was born in a night. When my pyrotechnic candidacy for the vice presidency flared across the political sky one of the ablest members of this club said, in a tone that registered deep disgust:

"Why this sudden impetuosity?"

The member who made that remark didn't know me. I have been a candidate for an office in the Press Club for about 20 years—a silent, unpretentious, unobtrusive candidate. I didn't become vocal until seven weeks ago. I used to think that if I would be nice to everybody, and sit tight, the office would come to me, but during the entire 20 years nobody ever asked me to be a candidate or mentioned the subject to me in any way, shape or form. I was a candidate, all right, and I had a monopoly on the secret. Finally I realized that I probably would live to be as old as Ezra Meeker before anyone would think of asking me to run, and my mind reverted to an old Indiana adage which says:

"Unless you toot your own horn the same will not be tooted."

So I picked up my horn and gave it, as I thought, a mild and respectable toot when I sent out that brief note to all of you apprising you of my candidacy. In Indiana, where we play a robust kind of politics, anybody who would father as modest a note as that would be kicked out of the party councils on account of being a mollycoddle and a shrinking violet, but it was greeted here in the effete East with a rebound that astonished me. All of Washington must have heard the blast, judging by the letters and telephone calls that swamped me. I realized when it was too late that I had given my horn too loud a toot, but I do not know of any way to reassemble a noise, and I had to let it go.

Well, I was in for it, and during the early days of my candidacy I was as far below Gloomy Gus in the sloughs of despondency as Gloomy Gus is below a high-stepping father of triplets. Everybody I met said:

"You are running against a fine fellow and a very good candidate."

I replied that I didn't object to Dan O'Connell being a fine fellow, but I did protest most violently against him being a good candidate.

Seeing that I was so blue, my office mates, Everett Watkins and Carl Ruth, said to me:

"How would you like to have a little publicity in connection with your candidacy?"

"A little publicity would be very distasteful to me," I replied.

They looked at me with pitying glances.

"But," I added, reassuringly, "of course, of course, if it's a whole lot of publicity, that's another matter, and you may go as far as you like."

So they did their best, with the aid of two well-trained imaginations. In a little while Vice President Ludlow was getting more clean-cut, first-page publicity than ever came in a similar length of time to Vice President DAWES, not even excepting the occasion when DAWES fell asleep. I attach to this inaugural document as a part thereof clippings from the Indianapolis Star, Columbus Dispatch, Cincinnati Commercial-Tribune, Denver Post, Savannah Press, Spokane Chronicle, Dayton Herald, Fort Wayne News-Sentinel, Connersville Examiner, Terre Haute Star, Muncie Star, and Indiana McGuffeyite, designated as Exhibits A to L, inclusive. I regret to say to the press that while I have ample copies of this inaugural address for all I have no duplicates of the exhibits, but I challenge any doubting Thomases to come up here and dispute the authenticity of these originals.

My wife, always thinking in terms of helpfulness, decided that the first essential of my candidacy was sartorial improvement. She went down town to an F Street tailor and ordered two suits of clothes and an overcoat for me at one crack. She was on the verge also of ordering a full day dress suit, with pin-striped trousers and spats and a silk topper when I threatened to rebel and throw off the matrimonial yoke unless she directed her tastes into more conservative channels. I will venture to say that I was one of the best dolled-up candidates who ever ran for office. The beautiful gown I am wearing this evening, with its stunning white-collar effect, is one of my wife's creations. No expense was spared to make my personal appearance attractive to voters, and my bill for hair grease alone was tremendous.

Election day found me on the qui vive, and I want to say now that never again will I take any stock in superstitions. James P. Higgins and I walked over together to vote. Notwithstanding my petition had been well signed, I was discouraged, because C. P. Hunt had told me that very morning that once when he ran for office in the Press Club there were 72 signatures to his petition, and he supposed everything was hunky-dory for a soft and easy victory, but when the ballots were counted he had only 5 votes. About the time Hunt told me that story it began to snow. In politics snow is a bad omen.

To top off these tokens of evil portent, as I entered this room to cast my vote something shot directly in front of me from the piano to the fireplace, and I looked, and it was a cat as black as the ace of spades. When I had voted and was turning to leave the room the same blamed cat whizzed in front of me back to the piano. If I could have done so then I would have called off the election and moved to make it unanimous for my opponent.

All throughout election day Lorenzo Martin remained at the club and wore corns on his ears answering my telephone calls. Every few minutes I called up to ask if I had polled another vote. I doubt very much whether Lorenzo's right ear ever quite returned to normalcy. Late in the afternoon I was scared stiff by the heavy O'Connell vote and anybody who thinks I didn't burn up a few telephone calls has got another guess coming. Learning that my friend George Summers had gone to his lares and penates blissfully forgetful of the Press Club election, I got him on the phone and yelled a Macedonian plea into his ear.

"Do you really think you need my vote?" he asked.

"George, I think I am skinned without it," I answered.

He drilled down to the club through the snow and voted, and now I am afraid to look him in the face.

I do not care to give any publicity to my expenditures in seeking this office, and I hope Senator JIM REED'S committee will be decent and agreeable about it, but I have no objection to stating that I made one promise—and one only—to win the nomination. I wrote to A. E. Heiss, promising to support him for President of the United States in 1928 if he would throw the Traffic World block to me. As I never heard from him it is barely possible I shot in the air. I did not know when I made that promise that my friend Coolidge intends to run again, and now I am in a tight place, with my heart for Coolidge and my promise out to Heiss. On second thought, I will not be able to support either, as I recall that I am a Democrat.

Fellow countrymen, I said in my candidatorial manifesto that if I won this fight I would owe a large debt of gratitude to Washington, Jefferson, and Coolidge, whose expressions on entangling alliances, quoted in my manifesto, pulled many a vote to me. I wish on this public occasion, and with all of the emotion that can bestir a grateful soul, to acknowledge that great obligation.

On the tombs of my illustrious deceased benefactors, George Washington and Thomas Jefferson, those twin immortals of American history, I shall, at some appropriate future time, place, in beautiful floral form, the tributes of my affection, and to my distinguished contemporaneous benefactor, Calvin Coolidge, that gallant friend and militant champion who bore the burdens in the heat of the day, I shall extend

in person audible, though perhaps tremulous, manifestation of my undying gratitude.

I make no claims, my fellow countrymen, as to my general qualifications for the vice presidency, but I do advise you that you have captured a prize orator. I made that discovery myself no longer ago than the night of December 17—otherwise I would have included it in my candidatorial manifesto.

I was catapulted into the realm of oratory at the swell dinner Representative DAVEY, of Ohio, gave at the Willard Hotel to the Democratic congressional committee to boost Vic Donahey's presidential prospects. I went to that dinner to report it for my Buckeye newspapers and for no other reason on earth. Up to that moment I had never made a speech in my life. Tom Dye, Ohio State chairman, and Congressman OLDFIELD, chairman of the Democratic congressional committee, had spoken, and I was scribbling away like a Dutch uncle when Toastmaster DAVEY shot a mean look in my direction and said:

"We will now hear from the vice president."

He said that just as if he were inviting Chauncey M. Depew to step forward and make a few postprandial remarks. I fell back in the arms of Carl Ruth with a low moan. I was at the end of the table farthest from DAVEY, and there was no way to slip the information to him that I was not exactly a spellbinder.

As the Irishman would say, I was in a h—l of a fix. (That language is not mine. It is the Irishman's. I scorn such phrases.) Something had to be done. I staggered to my feet, danced around for half a minute, like a tom-tit on a pump handle, then turned my face to the east, and began to talk. I spoke for about 10 minutes and was followed by the closing speaker, Representative FINIS GARRETT, Democratic floor leader, who delivered one of his finished orations.

I don't know what I said in my speech, but after the meeting fully a dozen members of the congressional committee, who were present, showered congratulations upon me and told me I put it all over DAVEY, Dye, GARRETT, and the whole bunch. I think they were sore, because they had not been called upon to speak. However, I checked up on them by asking Congressman BROOKS FLETCHER, who is one of our modern Ciceros, what sort of an impression I made, and he said I was a regular whiz. If it be true that I have a hidden reservoir of eloquence that I never suspected, I am going to make the most of it. If this inaugural address goes over big, I am going to give up leg work and go on the Chautauqua platform, where there is easy money.

With these few preliminary remarks I shall proceed, fellow countrymen, to a discussion of the state of the Union, first directing your attention to our foreign affairs, and especially to our serious relations with Bolivia, but before I do so I think, after all, that I shall digress a moment while I tell you how I put one over on my wife. As a general proposition, my wife and I get along fine. There was a rift in the domestic lute, however, when I prepared that modest letter to members announcing my candidacy. She denounced it as being wholly undignified and unworthy of me. I said to her, and I looked her right straight in her cold gray eyes when I said it:

"Grandma, I am over 50 years old and I'm a grandfather, and you know it. I've been skating around libel statutes all my life and I have never yet been hit by one. There's nothing in that letter they can handle me for under the law, and I'm going to let her go."

"If you send out that fool letter, it will beat you," she said.

"No," I fired back. "It won't beat me. It ought to, but it won't."

"It'll cost you a thousand votes," she cried.

"Ha, ha!" I laughed. "There are only 420 voting members of the club, and, of course, I will vote for myself, and the worst possible damage it can do to me is 419 votes. So, Ba—a—a—a!" And I stuck out my tongue at her.

"Money talks," I added. "How much will you bet it will beat me? Will you bet $25?"

"I don't know how I could make $25 any slicker," she said. "Yes; I will wager that amount."

I was feeling real cocky and I said: "I'll see you and raise you 25." I knew she had inherited a little property and that I could collect.

She called me, and I took the precaution to secure two witnesses. You should have seen the look on that woman's face when I came home on election night and told her I had won. It is not the loss of the $50 that affects her so much as it is to have me swelling around and gloating over her. Now I have got the office and $50 in money and I am sitting pretty!

Fellow countrymen, returning to the subject of our international relations, it is my painful duty to direct your attention to a special dispatch from La Paz, Bolivia, which appeared in the Washington Post and the Chicago Tribune on December 9 under the caption: "Voters to be tattooed to check repeating." The dispatch follows:

"A novel idea will be tried at the general municipal elections next Sunday, consisting of semipermanently tattooing the right hands of the voters. The measure is expected to avoid the common practice of voting several times, and unless a remedy is found to blot the tattooing out immediately it may be efficacious and the Bolivian returns may hereafter show a considerable decrease."

Fellow countrymen, I regret that one of the proud Americas should have become polluted with the false and degrading doctrine that repeating is an offense that should be checkmated with such a dastardly punishment as tattooing the hands of voters. In the free atmosphere of our Western Hemisphere repeating should always be permitted and encouraged.

I recommend that diplomatic relations with Bolivia be severed. An immediate apology should be demanded. Pending the delivery of such apology Bolivia's customhouses should be seized and canals should be cut through Chile and Peru to admit American gunboats to the Bolivian border. All of the United States marines that are not required to tone up American business in Nicaragua and keep it well toned should be rushed to Bolivia. If it should develop that this pernicious doctrine has been transplanted from European countries the full power of the Monroe doctrine should be employed to avenge the insult. Guilty foreign nations, if there be such, should immediately be deprived of the advantages of the most-favored-nation clause.

A few weeks ago in this room the greatest statesman of modern times, Will Rogers, favored us with a complete, detailed review of the historic dispute over Tacna-Arica. He was uncertain whether Tacna-Arica is a country or a mouth wash, but he showed how Secretary of State Kellogg, when called upon by the disputants, Chile and Peru, to settle their quarrel of over seven decades as to which one of those countries owned Tacna-Arica, rang in a surprise on both contestants by awarding the country, or mouth wash, as the case may be, to Bolivia, which had no claims whatever upon it. As a merited punishment for Bolivia's insolence in attempting to abridge the right of repeating, I now recommend that we take this mouth wash back from Bolivia and give it to Will Rogers. That would be a simple act of justice.

Fellow countrymen, I had intended to make a more elaborate presentation of the state of the Union, but I find that my time has been too greatly consumed with introductory remarks. I had expected to advert at length to Wayne B. Wheeler's recommendation that Scotch whisky be preferred for American consumption, with which statesmanlike doctrine I find myself in hearty agreement, but I shall reserve that subject for another message.

Let me, before concluding, announce to you that my first official act on taking office is to repudiate in toto the platform on which I was elected. To us Indiana politicians a platform means nothing after the election. It is merely something to get in on and nothing to stand upon. All I said in my candidatorial manifesto in the way of fulmination against the bosses was stage stuff. When a thirty-third degree Indiana politician runs for office his first act is to attack the bosses, whether there are any bosses or not. In this club there are no bosses. We are all equals, all friends and comrades in the battle of life.

I repudiate all I said in my platform against entangling alliances. I am in favor of entangling alliances. If I can have my way, the golden strand of love will reach out and entangle me with all of you. I repeat that I repudiate my whole platform and I insert in its place a single plank of one sentence:

"Let us help one another."

The National Press Club touched the periphery of my emotional being as far back as 10 years ago when the death of my mother brought the first great calamity into my life. You know we all love our mothers. I had been out in Indiana, where we buried my mother on a blustery April day, with the rain falling in sheets. I had returned to Washington and had reopened the door of my workshop in the District National Bank Building and had seated myself at my old flat-top desk. My heart was bursting. My head fell over on the desk and it lay there while I mourned and mourned and mourned. It seemed to me that all of the light of the world had gone out. I thought of my mother and how she used to tuck me away in the trundle bed and kiss me into slumber. I know that the ways of Almighty God are inscrutable, but I couldn't understand why we had to put my mother away in the cold ground in the midst of a pouring rain.

I should not have included this in my inaugural address. It is not especially germane, and it brings a lump to my throat.

As I sat in that position, with my head on the desk, my right hand, subconsciously, toyed with a stack of unopened letters that had accumulated during my absence. This mechanical operation of the fingers finally brought within the range of my vision a letter that bore the return mark of the National Press Club. I opened it, and it was a good letter from good old Mark Goodwin, extending the sympathy of the National Press Club as only Mark Goodwin could extend it, and maybe it didn't touch the heartstrings! Mark Goodwin doesn't know it, but I have that letter among my priceless treasures to-day and it is going down to my posterity as a sacred heritage. I understand that Mark Goodwin is still the chairman of the important committee on fellowship, and as one member of the club I hope that position will be conferred upon him for life. When I think of the good he has done and of the number of letters he must have written by this time assuaging the grief of those whose hearts have been pierced I am reminded of that passage of the greatest example of inspired literature in the history of the world, the Sermon on the Mount, where the Master, standing away up there close to God, said:

"Blessed are they that mourn, for they shall be comforted."

I would like to hear Mark Goodwin preach a sermon some time on that wondrously sweet and pathetic text. And what a theme it would be for the Rev. Theodore Tiller!

The Press Club has done many nice things for me, just as it has for its entire circle. It is the greatest body of newspaper men on this planet, but it is more—it is a cooperative union of workers who assist each other in days of sunshine and take good care of those colleagues who stumble on the rocks of affliction. Not long ago I was ill—desperately ill. For four months I tottered around the brink of the grave, and you don't know how good it makes me feel to come back here and find this affectionate reception.

And so, out of the plenitude of experiences, I have come to regard the National Press Club as a great friend. It is a friend, not only when the birds sing and the flowers bloom, and soft winds caress one's brow most soothingly, but it is a friend also, and even more, in storm and stress and in the darkness of the night, and that, I guess, is the reason why I wanted to be your vice president—because I love you so.

CONSENT CALENDAR

Mr. HOWARD. Mr. Speaker, I notice by the calendar for to-day that this is consent and suspension day. I notice also that the House has awarded me 20 minutes to talk this morning. I would like to do this, because I believe I have a real message for the House and for the country, too; but also I am very fond of the fellows here, and in looking over the record I discovered there are 200 bills on the Consent Calendar, and so I can not thrust myself in between the fellows who are so anxious to get their bills passed, and I will let my talk go until some other day. [Laughter and applause.]

The SPEAKER. The Clerk will report the first bill on the Consent Calendar.

The Clerk read as follows:

A bill (H. R. 16744) to authorize a per capita payment from tribal funds to the Fort Hall Indians.

The SPEAKER. Is there objection?

Mr. LAGUARDIA. Reserving the right to object, I would like to ask the gentleman from Montana if this land was taken from the Indians for reservoir purposes by the Government?

Mr. LEAVITT. By the Government.

Mr. LAGUARDIA. And not giving the Indians any benefit of the reservoir or the income? It is not a Government reservoir, is it?

Mr. LEAVITT. The gentleman from Idaho [Mr. SMITH] is more familiar with the facts than I am.

Mr. LAGUARDIA. I will ask the gentleman from Idaho if this reservoir is a Government reservoir or a private undertaking?

Mr. SMITH. It is a Government reservoir and the work is being done by the United States Reclamation Service. A large portion of the money is being contributed by the landowners, but the Government has entire control of the works which are being constructed for the benefit of public land and to furnish a supplemental water supply for patented land.

Mr. LAGUARDIA. It is not a private undertaking?

Mr. SMITH. No.

Mr. LAGUARDIA. The money is held in trust by the Indian Bureau?

Mr. SMITH. It is in the Federal Treasury.

Mr. LAGUARDIA. Is it expected to distribute all of it?

Mr. SMITH. No; only a portion of it is to be distributed among the Indians per capita, the remaining $100,000 will be held in the Treasury for disposition by Congress later.

The SPEAKER. Is there objection?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized to withdraw from the Treasury of the United States $400,000 of the fund created by the act of May 9, 1924 (43 Stat. L., p. 118), and now on deposit therein to the credit of the Indians of the Fort Hall Reservation, Idaho, as compensation for their land submerged by the American Falls Reservoir, and to distribute said sum among said Indians equally, share and share alike, under such rules and regulations as he may prescribe.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

WILLIAM C. HARLLEE

Mr. VINSON of Georgia. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill H. R. 10485 and agree to the Senate amendment.

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

The Clerk read the title to the bill, as follows:

For the relief of William C. Harllee.

The Senate amendment was read.

The Senate amendment was agreed to.

BRIDGE BILLS

Mr. DENISON. Mr. Speaker, I ask unanimous consent that the following bridge bills may be considered as having been called up, read by title, engrossed, read a third time, and passed, and that a motion to reconsider the vote by which each of said bills are passed be laid on the table:

H. R. 16165. A bill granting the consent of Congress to the commissioners of the county of Cook, State of Illinois, to reconstruct the bridge across the Grand Calumet River at Burnham Avenue in said county and State;

H. R. 16649. A bill to extend the time for construction of a bridge across the Susquehanna River in Northumberland and Snyder Counties, Pa.;

H. R. 16652. A bill granting the consent of Congress to the Lawrenceburg (Indiana) Bridge Co., its successors and assigns, to construct, operate, and maintain a bridge across the Miami River between Lawrenceburg, Dearborn County, Ind., and a point in Hamilton County, Ohio, near Columbia Park, Hamilton County, Ohio;

H. R. 17089. A bill relative to the dam across the Kansas (Kaw) River at Lawrence, in Douglas County, Kans.;

S. 5588. An act granting the consent of Congress to the Big Sandy & Cumberland Railroad Co. to construct and maintain and operate a bridge across the Tug Fork of the Big Sandy River at Devon, Mingo County, W. Va.;

S. 5598. An act to extend the time for constructing a bridge across the Ohio River approximately midway between the city of Owensboro, Ky., and Rockport, Ind.;

S. 5620. An act granting the consent of Congress to John R. Scott, Thomas J. Scott, E. E. Green, and Baxter L. Brown, their successors and assigns, to construct, maintain, and operate a bridge across the Mississippi River; and

H. R. 17181. A bill to extend the time for constructing a bridge across the Rainy River, approximately midway between the village of Spooner, in the county of Lake of the Woods, State of Minnesota, and the village of Rainy River, Province of Ontario, Canada.

Mr. NEWTON of Minnesota. Mr. Speaker, I ask that H. R. 17181 be excepted, because a question has arisen as to a date in the bill, which may be incorrect.

The SPEAKER. Without objection, that bill will be excepted.

Mr. CANNON. Mr. Speaker, I ask that S. 5620 be temporarily excluded from the request.

The SPEAKER. Without objection, it will be excluded.

The remaining House bills were ordered to be engrossed and read a third time, were read the third time, and passed, and a motion to reconsider laid on the table. The Senate bills were ordered to be read a third time, were read the third time, and passed, and a motion to reconsider laid on the table.

Mr. DENISON. Mr. Speaker, I now send to the desk a list of bills with amendments, together with a request for unanimous consent.

The Clerk read as follows:

Mr. DENISON asks unanimous consent that the following bridge bills may be considered as having been called up, read by title, the committee amendments agreed to, the bills engrossed, read a third time, and passed, and that a motion to reconsider the vote by which each of said bills was passed was by his motion laid on the table.

H. R. 15822. A bill authorizing the County of Escambia, Fla., and others to acquire all the rights and privileges granted to the Perdido Bay Bridge & Ferry Co. by the act approved June 22, 1916, for the construction of a bridge across Perdido Bay, Ala.;

H. R. 16024. A bill to extend the time for the construction of a bridge across the Arkansas River at or near Dardanelle, Yell County, Ark.;

H. R. 16104. A bill to extend the time for the construction of a bridge across the White River in Barry County, Mo.;

H. R. 16105. A bill to extend the time for constructing a bridge across the White River in Barry County, in the State of Missouri;

H. R. 16770. A bill granting the consent of Congress to the Starr County Bridge Co. to construct and operate a bridge across the Rio Grande River;

H. R. 16773. A bill to extend the time for constructing a bridge across the Ohio River in Beaver County, Pa.;

H. R. 16778. A bill to extend the time for the construction of a bridge across the Mississippi River at Alton, Ill.;

H. R. 16116. A bill granting the consent of Congress to the Henderson Bridge Co. to construct a bridge across the Kanawha River near Henderson, W. Va.;

H. R. 16685. A bill granting the consent of Congress to the Carrollton Bridge Co. to construct and operate a bridge across the Ohio River at Carrollton, Ky.;

H. R. 16889. A bill to extend the time for the construction of a bridge across the Southern Branch of the Elizabeth River at Norfolk, Va.;

S. 5083. An act to extend the time for commencing and completing the construction of a bridge across the Ohio River at Louisville, Ky.;

S. 5596. An act granting the consent of Congress to the Dauphin Island Railway & Harbor Co. to construct and operate a bridge across the waters between the mainland and Dauphin Island, Ala.;

H. R. 16887. A bill granting the consent of Congress to George A. Hero and Allen S. Hackett to construct and operate a bridge across the Mississippi River at New Orleans, La.;

H. R. 16950. A bill granting the consent of Congress to the department of highways and public works of the State of Tennessee to construct and operate a bridge across Clinch River, Tenn.;

H. R. 16954. A bill granting the consent of Congress to the city of Blair, Nebr., to construct and operate a bridge across the Missouri River;

H. R. 16971. A bill granting the consent of Congress to the South Carolina and Georgia State highway departments to construct and operate a bridge across the Savannah River; and

H. R. 17131. A bill authorizing the construction of a bridge across the St. Lawrence River near Alexandria Bay, N. Y.

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

There was no objection.

The amendments to the several bills referred to were agreed to and the House bills ordered to be engrossed and read a third time and passed, and the Senate bills ordered to a third reading and passed.

A motion to reconsider the several votes by which the several bills were passed was laid on the table.

Mr. CANNON. Mr. Speaker, I desire to withdraw my objection to the consideration of the bill S. 5620, which I entered a few moments ago.

Mr. ROWBOTTOM. Mr. Speaker, I object to S. 5620.

The SPEAKER. The Clerk will call the next bill.

TRANSPORTATION OF BLIND PERSONS

The next business on the Consent Calendar was the bill (S. 2615) to authorize common carriers engaged in interstate commerce to transport any blind person, accompanied by a guide, for one fare.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. HOOPER. Mr. Speaker, reserving the right to object, is this necessary legislation? Is it merely permissive to common carrier to transport at all under the circumstances?

Mr. NEWTON of Minnesota. Under existing law a common carrier would not be permitted to do the very thing that is desired by this bill. Under existing law it is not possible for a common carrier to provide for the carriage of a blind person and the guide for one fare.

Mr. HOOPER. That would be discrimination under the law?

Mr. NEWTON of Minnesota. That would be discrimination under the provisions of the interstate commerce act.

Mr. HOOPER. Would it not be well to extend the scope of this bill so as to permit the transportation of people who are totally disabled in the same way that the transportation of blind people is sought to be permitted?

Mr. NEWTON of Minnesota. No. The committee considered that question, both the subcommittee and the main committee, and they did not feel it should be extended that far.

Mr. HOOPER. I do not object.

Mr. LAGUARDIA. Does the gentleman intend his measure to apply whether they are financially able to pay their passage or not?

Mr. NEWTON of Minnesota. The provision is permissible and not mandatory upon the carrier. They can grant this permit under such rules and regulations as they may see fit. I will say this, that the committee viewpoint was this: Blindness is a great affliction; they are restricted in opportunities for employment. Among the opportunities for gainful employment are those of a traveling salesman. If they travel they must pay for a guide and for his expenses. Furthermore, there is an advantage to the carriers in that they will not have to assume the same care and responsibility in transporting these people.

Mr. LAGUARDIA. But have cases of traveling salesmen who are blind been brought to the attention of the committee?

Mr. NEWTON of Minnesota. I do not know that the names specifically of traveling salesmen were brought, but members of the committee have personal knowledge of men who are blind who do travel.

Mr. LAGUARDIA. Will the gentleman accept an amendment providing for only the indigent blind?

Mr. NEWTON of Minnesota. No; I do not think an amendment of that kind would be a proper one, and I hope the gentleman will not offer such an amendment.

Mr. BLANTON. Mr. Speaker, I ask for the regular order.

The SPEAKER. The regular order is, Is there objection?

Mr. BEGG. Reserving the right to object, I would like to get a little information. This is merely a bill to help blind people. I would like to ask the gentleman responsible for the bill what is the difference between a blind man and a totally disabled soldier or any other man? So far as I am concerned I can see no difference between them. If the gentleman is willing to accept an amendment putting all unfortunates in the same class, I am willing to let the bill go; otherwise I shall feel constrained——

Mr. NEWTON of Minnesota. I hope the gentleman will not object. In the hearings before the subcommittee there appeared the commander of the World War Blind Veterans of the United States. There were two or three other representatives of blind institutions. I have a letter from Hellen Keller in support of it.

Mr. BEGG. There is not any argument necessary in regard to the question of blindness. But why is a blind man deserving of any more sympathy than a man with both legs off?

Mr. BLANTON. Will the gentleman yield?

Mr. BEGG. If I have the floor, I will yield to the gentleman.

Mr. BLANTON. We have a special select committee here on legislation for World War veterans. That committee can bring in——

Mr. BEGG. Oh, no; they can not; that is out of their province. That belongs to the Interstate Commerce Committee.

Mr. BLANTON. Why can not they bring in any kind of legislation for World War veterans?

Mr. BEGG. No; they can not amend the interstate commerce act.

Mr. BLANTON. We gave that right when we created the committee.

Mr. LAGUARDIA. The gentleman knows well, of course, that this restriction on the railroads was enacted into law by reason of great abuses——

Mr. BEGG. That is correct.

Mr. LAGUARDIA. Does the gentleman want to break through that at this time?

Mr. NEWTON of Minnesota. No; the gentleman does not; but the committee went over the question very carefully, and the committee felt from the number of cases before it in reference to blind men, and so forth, that this could be safely done; but the committee did not go to the extent generally of asking to extend it beyond that, but the committee was clearly of the opinion that if anything of that kind should be done it should be carefully considered itself. I hope the gentleman will not insist upon the inclusion of any provision which would extend the terms of the provisions of this bill, because I could not consent to it myself.

Mr. BEGG. Well, so far as I am concerned, I see no difference between an unfortunate with his legs off and an unfortunate with his eyes out. They are both to be shown every kind of consideration, and if you are going to extend favors to one class, let us do it to all of them.

Mr. BURTNESS. The present law gives a number of exceptions where individuals can be carried under free transportation. The only proposition that was before the committee when it considered this bill was that of carrying the guide for a blind man free, a proposition that certainly is not one-sided by any means, because it relieves the railroad corporation of considerable care, risk, and things of that sort. The other question of carrying people without legs, or paralytics, or ill people, or for reasons of that kind, was not before the committee. The committee has not given the consideration to that question sufficient to justify legislation, and surely the House has not sufficient information before it.

Mr. BEGG. They ought to be considered if you are going to open it up.

Mr. BURTNESS. The idea was that each one of these classes ought to stand on its own merits, and if a bill were introduced granting the same kind of favor to guides of those classes of people, that should and would be given consideration. But the gentleman will appreciate the fact that it would be difficult to differentiate between individuals of those classes and draw a line between many cases. Just how helpless should a person be? What would be the exact test? The test is much easier in the case of blind people. This is limited to the totally blind, and for that reason would not be difficult of

administration, whereas the other cases might be most difficult of administration.

The SPEAKER. Is there objection?

Mr. BEGG. I object.

The SPEAKER. Objection is heard.

DATE FOR HOLDING COURT AT MEMPHIS AND JACKSON, TENN.

The next business on the Consent Calendar was the bill (H. R. 14831) to amend section 107 of the Judicial Code.

The title of the bill was read.

The SPEAKER. Is there objection to the present consideration of this bill?

Mr. HOOPER. Reserving the right to object, Mr. Speaker, I would like to ask the gentleman from Pennsylvania [Mr. GRAHAM] if he would not accept an amendment making it the fourth Monday instead of the first Monday?

Mr. GRAHAM. There will be an amendment offered to correct an error in the bill. In answer to the inquiry of the gentleman from Michigan I will say that I have that before me and will present it when the bill is considered.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the seventh sentence of section 107 of the Judicial Code is amended to read as follows:

"Terms of the district court for the western division of said district shall be held at Memphis on the first Mondays in April and October; and for the eastern division, at Jackson, on the first Mondays in March and September."

Mr. GRAHAM. Mr. Speaker, the amendment is to strike out, on line 8, page 1, the word "first" and insert in lieu thereof the word "fourth."

The SPEAKER. The Clerk will report the amendment offered by the gentleman from Pennsylvania.

The Clerk read as follows:

Amendment offered by Mr. GRAHAM: Line 8, page 1, strike out the word "first" and insert in lieu thereof the word "fourth."

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The motion to reconsider the vote whereby the bill was passed was ordered to be laid on the table.

MOTIONS TO SUSPEND THE RULES

The SPEAKER. The Chair desires to announce that at about 3 o'clock he will begin to recognize motions for suspension. There is quite an important bill among them, and the Chair hopes that there will be a quorum present at that time. The Clerk will report the next bill.

DESIGNATION OF DISBURSING OFFICERS

The next business on the Consent Calendar was the bill (H. R. 16655) to authorize the designation of persons to act for disbursing officers and others charged with the disbursement of public moneys of the United States.

The title of the bill was read.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. BLANTON. I object.

Mr. GRAHAM. I hope the gentleman will withdraw his objection for a moment and allow an explanation.

Mr. BLANTON. I reserve it.

Mr. GRAHAM. This bill was on the calendar and was passed over on the last consent day. There were several Members who objected on account of the attitude of the surety companies with regard to their position as sureties for these officials. We had conferences in the Committee on the Judiciary with the different representatives of the departments and those who represented the surety companies, and I have received this morning the following letter expressing the views of the Treasury Department and surety companies:

Just a line to let you know that we have reached an agreement with Mr. Bond, representing the surety companies, on H. R. 16655. I am inclosing herewith a copy of the bill amended in accordance with our understanding with Mr. Bond, which, I trust, will be satisfactory to you and to the committee. It will be important, of course, to let Members of the House know that the proposed amendments are satisfactory to the surety companies as well as to us.

Sincerely yours,

OGDEN L. MILLS.

Mr. BLANTON. Mr. Speaker, will the gentleman yield?

Mr. GRAHAM. Yes.

Mr. BLANTON. The gentleman probably has found out that there is a disposition on the part of various bureau chiefs to have some one else do their work for them in practically every department of the Government. If you try to ring up and get a chief of a bureau in any of the departments this afternoon, you will probably find only about half of them in. This is just another effort to shirk work and have a sub do the work. There ought to be responsibility connected with all disbursing officers.

Mr. GRAHAM. Truly. That is exactly the point considered in the conference, the question of responsibility.

Mr. BLANTON. Instead of centralizing responsibility you are decentralizing it in this bill.

Mr. GRAHAM. No; pardon me.

Mr. GARNER of Texas. Will the gentleman yield?

Mr. GRAHAM. Yes.

Mr. GARNER of Texas. There has been so much confusion that I could not understand. Do I understand you as saying this is satisfactory to all the parties?

Mr. GRAHAM. Yes, sir; everybody.

Mr. GARNER of Texas. And that letter is signed by OGDEN L. MILLS?

Mr. GRAHAM. It is. Now, answering my friend from Texas, I would like to say that I wanted the views of the Treasury as well as others interested.

Mr. BLANTON. Mr. MILLS will probably be here to vote on this bill.

Mr. GRAHAM. Will the gentleman permit me to answer his question?

Mr. BLANTON. Certainly; but what is in my mind is that some one is seeking to shirk work.

Mr. GRAHAM. I think that can be removed for the reason that——

Mr. BLANTON. I intend to object, and my colleagues here are insisting I object now. I intend to object, because I do not believe in the policy. I object, Mr. Speaker.

Mr. CHINDBLOM. Will the gentleman reserve his objection for a moment, in view of the question asked by the gentleman from Texas [Mr. GARNER] in reference to this communication?

Mr. BLANTON. That political question can be determined later.

Mr. CHINDBLOM. It is a personal letter addressed to Mr. GRAHAM.

Mr. BLANTON. I object, Mr. Speaker.

WOOL STANDARDS

The next business on the Consent Calendar was the bill (H. R. 15476) to authorize the appropriation for use by the Secretary of Agriculture of certain funds for wool standards, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. LaGUARDIA. Mr. Speaker, reserving the right to object, who has charge of this bill, may I inquire? Inasmuch as no one seems to be in charge of the bill, I ask that it be passed over without prejudice.

The SPEAKER. The gentleman from New York asks unanimous consent that this bill may be passed over without prejudice. Is there objection?

There was no objection.

UNITED STATES COTTON FUTURES ACT

The next business on the Consent Calendar was the bill (H. R. 16470) to amend and reenact an act entitled "United States cotton futures act," approved August 11, 1916, as amended.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. BEGG. Mr. Speaker, reserving the right to object, I should like to have some information about the bill in question. When does the cotton futures act expire?

Mr. O'CONNOR of Louisiana. The act has no definite date for its expiration. It is like all other acts. Some contracts, however, made under it may run, as I understand it, until 1932.

Mr. BEGG. It does not expire until 1932?

Mr. O'CONNOR of Louisiana. I do not think there is any expiration or limitation as to how it shall run. Some contracts may not be executory, as I explained already, for some time.

Mr. BEGG. The machinery provided in the farm relief bill that was passed the other day, if it becomes a law, will do exactly the same work that is being done here, will it not?

Mr. O'CONNOR of Louisiana. No; I do not think so.

Mr. BEGG. It has exactly the same purpose.

Mr. O'CONNOR of Louisiana. No. They are totally different in purpose and effect.

Mr. BEGG. The point I want to submit to the gentleman is that nothing will suffer if this is passed over until the next Congress, nothing at all, and if the farm relief bill becomes a law there will not be any need for this legislation. If it does not become a law the gentleman will have plenty of time before 1932 to pass it.

Mr. O'CONNOR of Louisiana. I hope the gentleman will not press that objection, because the bill is for the purpose of establishing uniformity between the future markets of New York, Chicago, and New Orleans. It has been urged by the representatives of the New Orleans market really for the purpose of promoting uniformity in future trading, and because our cotton people felt a desire to be in accord with the Department of Agriculture.

Mr. LAGUARDIA. Will the gentleman yield?

Mr. O'CONNOR of Louisiana. Yes.

Mr. LAGUARDIA. Is this for the benefit of actual sales and purchases or is it intended for the benefit of ticker speculators?

Mr. O'CONNOR of Louisiana. It is for the benefit of the producers and applies to sales and purchases.

Mr. LAGUARDIA. It applies to bona fide, actual sales and the physical delivery of cotton?

Mr. O'CONNOR of Louisiana. Unquestionably.

Mr. LAGUARDIA. There is no doubt about that?

Mr. O'CONNOR of Louisiana. There is no doubt in the world about that. And if I am given the time and permitted to do so, I will fully explain the matter so as to relieve from your minds any doubts you may have on the subject.

Mr. HOOPER. Mr. Speaker, under the circumstances, I am forced to object.

ISOLATED TRACTS OF PUBLIC LAND

The next business on the Consent Calendar was the bill (H. R. 16110) to amend section 2455 of the Revised Statutes of the United States, as amended, relating to isolated tracts of public land.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That section 2455 of the Revised Statutes of the United States, as amended, be, and is hereby, amended to read as follows:

"SEC. 2455. It shall be lawful for the Secretary of the Interior to order into market and sell at public auction, at the land office of the district in which the land is situated, for not less than $1.25 an acre, any isolated or disconnected tract or parcel of the public domain not exceeding 320 acres which, in his judgment, it would be proper to expose for sale, after at least 30 days' notice by the land office of the district in which such land may be situated: *Provided*, That any legal subdivisions of the public land, not exceeding 160 acres, the greater part of which is mountainous or too rough for cultivation, may, in the discretion of the said Secretary, be ordered into the market and sold pursuant to this act upon the application of any person who owns lands or holds a valid entry of lands adjoining such tract, regardless of the fact that such tract may be not be isolated or disconnected within the meaning of this act: *Provided further*, That this act shall not defeat any vested right which has already attached under any pending entry or location."

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

A motion to reconsider the vote whereby the bill was passed was laid on the table.

CANCELLATION OF PATENTS IN FEE SIMPLE TO INDIANS FOR ALLOTMENTS HELD IN TRUST BY UNITED STATES

The next business on the Consent Calendar was the bill (S. 2714) to authorize the cancellation, under certain conditions, of patents in fee simple to Indians for allotments held in trust by the United States.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior is hereby authorized, in his discretion, to cancel any patent in fee simple issued to an Indian allottee or to his heirs before the end of the period of trust described in the original or trust patent issued to such allottee, or before the expiration of any extension of such period of trust by the President, where such patent in fee simple was issued without the consent or an application therefor by the allottee or by his heirs: *Provided*, That the patentee has not mortgaged or sold any part of the land described in such patent: *Provided also*, That upon cancellation of such patent in fee simple the land shall have the same status as though such fee patent had never been issued.

The bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider the vote by which the bill was passed was laid on the table.

STEEL RAILWAY POST-OFFICE CARS

The next business on the Consent Calendar was the bill (H. R. 4475) to provide for steel cars in the railway post-office service.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. BLANTON. Reserving the right to object, Mr. Speaker——

Mr. JOHNSON of Washington. I object, Mr. Speaker.

PENALTIES FOR ESCAPING FROM FEDERAL PENAL AND CORRECTIONAL INSTITUTIONS

The next business on the Consent Calendar was the bill (H. R. 15975) providing for the punishment of persons escaping from Federal penal or correctional institutions, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. BOYLAN. I object, Mr. Speaker.

Mr. GRAHAM. Mr. Speaker——

Mr. BOYLAN. I want time to study this bill. I do not care to withdraw my objection now. I object, Mr. Speaker.

RETIREMENT OF EMPLOYEES IN THE CLASSIFIED CIVIL SERVICE

The next business on the Consent Calendar was the bill (H. R. 13477) to amend the act entitled "An act to amend the act entitled 'An act for the retirement of employees in the classified civil service, and for other purposes,' approved May 22, 1920, and acts in amendment thereof," approved July 3, 1926, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. LAGUARDIA. Mr. Speaker, reserving the right to object, I would like to ask the gentleman from New Jersey whether striking out the words "for a two-year term," in section 2, means that when an employee has arrived at the retirement age and is held, he is held indefinitely, or does the two-year term provision still continue?

Mr. LEHLBACH. It is impossible to hold an employee indefinitely after he has arrived at the retirement age. The law provides that he must be automatically retired or get an extension for a two-year period, which from time to time may be renewed. The words, therefore, were superfluous in the original bill and might lead to a misconstruction by limiting the provisions of the section to those who have only had one two-year extension instead of several two-year extensions, and to clarify the language these words were omitted.

Mr. LAGUARDIA. And the existing provision remains for a two-year period?

Mr. LEHLBACH. Yes.

Mr. LAGUARDIA. I have no objection.

Mr. HUDSPETH. Is this the bill which was considered by the gentleman's committee a few weeks ago and upon which I appeared before the gentleman's committee?

Mr. LEHLBACH. It is.

Mr. HUDSPETH. This is a good bill, and it ought to pass.

Mr. LINTHICUM. Is it the bill I talked to the gentleman about some time ago in reference to securing certain extensions where they were not secured in time?

Mr. LEHLBACH. Yes.

Mr. LINTHICUM. Then it is a good bill.

The SPEAKER. Is there objection?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That the act entitled "An act to amend the act entitled 'An act for the retirement of employees in the classified civil service, and for other purposes,' approved May 22, 1920, and acts in amendment thereof," approved July 3, 1926, be, and the same is hereby, amended as follows:

In section 2 of said act, after the words "provided that if," in the first paragraph of said section, strike out the words "not less than 30 days before the arrival of an employee at the age of retirement."

SEC. 2. In all cases where an employee has heretofore been continued in service for a two-year term subsequent to having arrived at

the age of retirement, such continuation shall for all purposes be deemed valid, notwithstanding the time at which the certifications provided in section 2 of the act hereby amended were made.

With the following committee amendments:

Page 2, line 6, after the word "service," strike out the words "for a two-year term"; and in line 9, page 2, after the word "certifications," insert the words "by the head of the departments and the Civil Service Commission."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

A motion to reconsider the vote by which the bill was passed was laid on the table.

ADDITIONAL DISTRICT FOR NORTH CAROLINA

The next business on the Consent Calendar was the bill (S. 2849) to provide for an additional Federal district for North Carolina.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. BLANTON. Mr. Speaker, reserving the right to object——

Mr. BULWINKLE. Mr. Speaker, I hope the gentleman will not object.

Mr. BLANTON. Mr. Speaker, there are a number of these bills creating additional judges, although this particular one creates a new district.

Mr. GRAHAM. No; there are not a number of them.

Mr. BLANTON. Well, there are quite a number of such bills providing additional Federal judges. The gentleman from Iowa [Mr. GREEN] the other day was very insistent on his bill for an additional judge out in Iowa. It just so happened that at that very time the other Federal judge out in Iowa, the one who was not sick, was in Washington, and I am advised by reliable authority that he stated while he was here that he would not have one single thing to do from now until April 1; not one thing.

Mr. LAGUARDIA. And if the gentleman will yield, it was stated he was desperately ill.

Mr. BLANTON. No; I am referring to the other judge. There are two judges out there. The one who was not ill was here, and I am reliably informed that while here he stated to a prominent Iowa citizen that he did not have a thing to do and would not have anything to do until April 1, and later he will have a vacation of three months in the summer time. The docket of this judge is now practically clear. He has not a thing to do. Why does he not get busy and go over into the other Iowa district and clean up the other docket for the judge who is sick? I imagine there may be a condition very much like this down in North Carolina.

Mr. BULWINKLE. If the gentleman will permit, I will state that his imagination is entirely wrong.

Mr. BLANTON. How many months' vacation each year do these judges take in the summer time?

Mr. BULWINKLE. Yates Webb, who was formerly a Member of Congress and who is now a judge in North Carolina, tries more cases than any single judge in the United States.

Mr. BLANTON. But the gentleman does not answer my question. How many months' vacation in the summer time does Yates Webb take?

Mr. BULWINKLE. I do not know of a single month he takes.

Mr. BLANTON. Does the gentleman know he does not take three months?

Mr. WEAVER. He does not. I know that.

Mr. BLANTON. I am not going to object to this North Carolina bill. If the steering committee of the House wants to create these new districts and create these additional Federal judges, all right; but I am going to object to these other bills here where additional judges not now needed are being asked for.

Mr. GRAHAM. Will the gentleman yield for just a short statement?

Mr. BLANTON. Certainly.

Mr. GRAHAM. The delegation from North Carolina had considerable difficulty over this matter as to whether they would ask for an additional judge or an additional district. I would like to say that the delegation, senatorial and representative, are a unit in asking for it. We have a letter from our old friend, a former chairman of our committee, Judge Webb, telling in almost pathetic terms of the necessity for the creation of this district.

Mr. BLANTON. That is the only thing that leads me to make no objection. I know Judge Webb and I know he is an industrious man.

Mr. WEAVER. Mr. Speaker, I wish to put in a letter here from Judge Waddill, senior circuit judge of the United States court of appeals, as to the necessity of this district.

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

There was no objection.

The letter is as follows:

UNITED STATES CIRCUIT COURT OF APPEALS,
FOURTH JUDICIAL CIRCUIT,
Richmond, Va., January 26, 1927.

Hon. GEORGE S. GRAHAM,
Chairman Judiciary Committee,
House of Representatives, Washington, D. C.

MY DEAR JUDGE: I trust that you will pardon me for bringing to your attention the pending bill for the creation of a new judicial district in North Carolina.

The bill has twice passed the Senate and received the favorable report of your committee, as I understand, and has the indorsement of the bar and the public generally in the State of North Carolina.

It is of the utmost importance, by reason of the accumulation of work in that State and the fact that it is impossible for the two district judges to keep up the same, that relief should be afforded without delay. My purpose in writing you especially is to urge that the pending bill now on the House calendar, having passed the Senate, be taken up at the earliest moment. Having regard to the urgency of the measure and the hazard incident to securing unanimous consent, I beg that you will consider the desirability of taking up the matter under a special rule; and unless it is entirely against your judgment to do so, that you will take this action. The courts of this circuit are very much interested in this measure, and it is of the utmost importance to the public, the two district judges, and especially to Judge Webb, who simply can not carry the burden of doing the whole work of his district any longer.

I have the honor to be, yours very truly,

EDMUND WADDILL, Jr.,
Senior Circuit Judge.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That section 98 of an act entitled "An act to codify, revise, and amend the laws relating to the judiciary," approved March 3, 1911, as amended by the act of October 7, 1914, be, and the same is hereby, amended to read as follows:

SEC. 98. The State of North Carolina is divided into three districts to be known as the eastern, the middle, and the western districts of North Carolina.

The eastern district shall include the territory embraced on the 1st day of January, 1926, in the counties of Beaufort, Bertie, Bladen, Brunswick, Camden, Carteret, Chowan, Columbus, Craven, Cumberland, Currtiuck, Dare, Duplin, Edgecombe, Franklin, Gates, Greene, Halifax, Harnett, Hartford, Hoke, Hyde, Johnston, Jones, Lenoir, Martin, Nash, New Hanover, Northampton, Onslow, Pamlico, Pasquotank, Pender, Perquimans, Pitt, Robeson, Sampson, Scotland, Tyrrell, Wake, Washington, Warren, Wayne, and Wilson.

Terms of the district court for the eastern district shall be held at Raleigh on the fourth Mondays after the fourth Monday in April and October and a two weeks' civil term beginning on the second Monday in March; at Wilson on the first Mondays in April and October; at Elizabeth City on the second Mondays in April and October; at Washington on the third Mondays in April and October; at New Bern on the fourth Mondays in April and October; at Fayetteville on the fourth Mondays in March and September; and at Wilmington on the second Mondays after the fourth Monday in April and October: *Provided,* That the city of Wilson shall provide and furnish at its own expenses a suitable and convenient place for holding the district court. The clerk of the court for the eastern district shall maintain an office in charge of himself or deputy at Raleigh, at Wilmington, at New Bern, at Elizabeth City, at Washington, at Fayetteville, and at Wilson, which shall be kept open at all times for the transaction of the business of the court.

The middle district shall include the territory embraced on the 1st day of January, 1926, in the counties of Alamance, Alleghany, Ashe, Cabarrus, Caswell, Chatham, Davidson, Davie, Durham, Forsyth, Granville, Guilford, Lee, Montgomery, Moore, Orange, Person, Randolph, Richmond, Rockingham, Rowan, Stanly, Stokes, Surry, Vance, Watauga, Wilkes, and Yadkin.

The terms of the district court for the middle district shall be held at Rockingham on the first Mondays in April and October, at Durham on the first Mondays in March and September; at Salisbury on the third Mondays in April and October; at Winston-Salem on the first Mondays in May and November; at Greensboro on the first Mondays in June and December; and at Wilkesboro on the third Mondays in May and November: *Provided,* That the cities of Winston-Salem,

Rockingham, and Durham shall each provide and furnish at its own expense a suitable and convenient place for holding the district court. The clerk of the court for the middle district shall maintain an office in charge of himself or deputy at Durham, Winston-Salem, Greensboro, Wilkesboro, and at Salisbury, which shall be kept open at all times for the transaction of the business of the court.

The western district shall include the territory embraced on the 1st day of January, 1926, in the counties of Alexander, Anson, Avery, Buncombe, Burke, Caldwell, Catawba, Cherokee, Clay, Cleveland, Gaston, Graham, Haywood, Henderson, Iredell, Jackson, Lincoln, Madison, Macon, McDowell, Mecklenburg, Mitchell, Polk, Rutherford, Swain, Transylvania, and Yancey.

Terms of the district court for the western district shall be held in Charlotte on the first Mondays in April and October; at Shelby on the fourth Monday in September and third Monday in March; at Statesville on the fourth Mondays in April and October; and at Asheville on the second Mondays in May and November: *Provided*, That the city of Shelby shall provide and furnish at its own expense a suitable and convenient place for holding the court at Shelby. The clerk of the court for the western district shall maintain an office, in charge of himself or deputy, at Charlotte, at Asheville, at Statesville, and at Shelby, which shall be kept open at all times for the transaction of the business of the court.

That there shall be a judge and a district attorney appointed for the said middle district in the manner now provided by law, who shall receive the same salaries now provided by law for the judges and district attorneys of the eastern and western districts, and a marshal, clerk, and other officers in the manner and at the salaries now provided by law.

That all causes in the said middle district in equity, bankruptcy, or admiralty, in which orders and decrees have already been made and which are now in process of trial, shall continue and remain subject to the jurisdiction of the judge of that district by whom the same shall have been made and before whom the same shall have been partially tried and determined.

With the following committee amendments:

Page 2, line 1, after the word "Brunswick," insert the word "Durham."

Page 2, line 3, after the word "Gates," insert the word "Granville."

Page 2, line 4, after the word "Hertford," strike out the word "Hoke."

Page 2, line 7, after the word "Tyrrell," insert the word "Vance."

Page 3, line 6, after the word "Davie," strike out the word "Durham."

Page 3, line 6, after the word "Forsyth," strike out the word "Granville."

Page 3, line 6, after the word "Guilford," insert the word "Hoke."

Page 3, line 8, after the word "Surry," strike out the word "Vance."

Page 3, lines 11 and 12, after the word "Rockingham," strike out the words "on the first Mondays in April and October at Durham."

Page 3, line 18, after the word "Winston-Salem," strike out the comma and insert the word "and."

Page 3, line 18, after the word "Rockingham," strike out the comma and the words "and Durham."

Page 3, line 22, after the word "at," strike out the word "Durham" and insert the word "Rockingham."

Pages 4 and 5, strike out the paragraph commencing on line 21 on page 4 and ending on line 2 on page 5 and insert:

"That there shall be a judge appointed for the said middle district in the manner now provided by law who shall receive the salary provided by law for the judges of the eastern and western districts, and a district attorney, marshal, clerk, and other officers in the manner and at the salary now provided by law."

The committee amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

EXTENDING THE HOMESTEAD LAW AND PROVIDING FOR RIGHT OF WAY FOR RAILROADS IN THE DISTRICT OF ALASKA

The next business on the Consent Calendar was the bill (H. R. 15650) to amend section 10 of the act entitled "An act extending the homestead laws and providing for right of way for railroads in the District of Alaska, and for other purposes," approved May 14, 1898 (30 Stat. L. p. 409).

The SPEAKER. Is there objection?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That section 10 of the act entitled "An act extending the homestead laws and providing for right of way for railroads in the District of Alaska, and for other purposes," approved May 14, 1898 (30 Stat. L. p. 409), be, and the same is hereby, amended by adding thereto the following: "*And provided further*, That any citizen of the United States employed by citizens of the United States, associations of such citizens, or by corporations organized under the laws of the United States, or of any State or Territory, whose employer is engaged in trade, manufacture, or other productive industry, and any citizen of the United States who is himself engaged in trade, manufacture, or other productive industry, may purchase one claim, not exceeding 5 acres, of unreserved public lands in Alaska as a homestead or headquarters, under rules and regulations to be prescribed by the Secretary of the Interior, upon payment of $2.50 per acre."

With the following committee amendments:

Page 1, line 8, after the word "following," insert "after the word 'otherwise,' in line 14 of the section."

Strike out the words "*And provided further*" and insert the word "*Provided.*"

The committee amendments were agreed to.

Mr. ARENTZ. Mr. Speaker, I offer the following amendments:

The Clerk read as follows:

Page 2, line 2, after the words "United States," insert "21 years of age." In line 7, page 2, after the words "United States," insert "21 years of age." Line 9, after the word "lands," insert a comma and the words "such tract of land not to include minerals, coal, oil, or gas lands."

The amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

TO ESTABLISH A DAIRYING AND LIVESTOCK EXPERIMENT STATION AT COLUMBIA, S. C.

The next bill on the Consent Calendar was the bill (H. R. 7266) to provide for the establishment of a dairying and livestock experiment station at or near Columbia, S. C.

The Clerk read the title to the bill.

The SPEAKER. Is there objection?

Mr. LAGUARDIA. Mr. Speaker, there being no one interested in the bill at present, I ask that it be passed over without prejudice.

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

There was no objection.

AMEND STATUTES AS TO PROCEDURE IN PATENT OFFICE AND COURTS

The next business on the Consent Calendar was the bill (H. R. 13487) amending the statutes of the United States as to procedure in the Patent Office and in the courts with regard to the granting of letters patent for inventions and with regard to interfering patents.

The Clerk read the title to the bill.

The SPEAKER. Is there objection?

Mr. VESTAL. Mr. Speaker, I ask unanimous consent to substitute the bill S. 4812 for the House bill.

Mr. NEWTON of Minnesota. Reserving the right to object and I shall not object, I understand the Senate bill is identical with the House bill as reported out of the committee of which the gentleman from Indiana is chairman, and embodies the idea that the Committee on Patents of the House has been working on for a good many months.

Mr. VESTAL. I will say that this bill has been under consideration for some time and after it was amended by the House Patents Committee it was introduced in the Senate embodying the House amendment, and the Senate bill is exactly like the House bill as agreed upon.

Mr. BLANTON. Reserving the right to object, is this bill that the gentleman is seeking to substitute identical with the House bill?

Mr. VESTAL. Absolutely.

The SPEAKER. Is there objection?

There was no objection.

The Clerk read the Senate bill 4812, as follows:

[S. 4812, 69th Cong., 2d sess.]

An act amending the statutes of the United States as to procedure in the Patent Office and in the courts with regard to the granting of letters patent for inventions and with regard to interfering patents.

Be it enacted, etc., That section 4894 of the Revised Statutes of the United States be amended by striking out the words "one year" wherever they appear and substituting therefor the words "six months."

SEC. 2. That section 4897 of the Revised Statutes of the United States be amended by striking out the words "two years" wherever they appear and substituting therefor the words "one year," and by striking out the words "And upon the hearing of renewed applications preferred under this section, abandonment shall be considered as a question of fact."

SEC. 3. That section 482 of the Revised Statutes of the United States be amended to read as follows:

"SEC. 482. The examiners in chief shall be persons of competent legal knowledge and scientific ability. The Commissioner of Patents, the first assistant commissioner, the assistant commissioner, and the examiners in chief shall constitute a board of appeals, whose duty it shall be, on written petition of the appellant, to review and determine upon the validity of the adverse decisions of examiners upon applications for patents and for reissues of patents and in interference cases. Each appeal shall be heard by at least three members of the board of appeals, the members hearing such appeal to be designated by the commissioner. The board of appeals shall have sole power to grant rehearings."

SEC. 4. That section 4904 of the Revised Statutes of the United States be amended by striking out from the last sentence thereof the words "or of the board of examiners in chief, as the case may be."

SEC. 5. That section 4909 of the Revised Statutes of the United States be amended by striking out the words "board of examiners in chief" and substituting therefor the words "board of appeals."

SEC. 6. That section 4910 of the Revised Statutes of the United States be, and the same is hereby, repealed.

SEC. 7. That section 9 of the act of February 9, 1893, entitled "An act to establish a court of appeals for the District of Columbia, and for other purposes" (27 Stats. L. p. 434), be, and the same is hereby, repealed.

SEC. 8. That section 4911 of the Revised Statutes of the United States be amended to read as follows:

"SEC. 4911. If any applicant is dissatisfied with the decision of the board of appeals, he may appeal to the Court of Appeals of the District of Columbia, in which case he waives his right to proceed under section 4915 of the Revised Statutes. If any party to an interference is dissatisfied with the decision of the board of appeals, he may appeal to the Court of Appeals of the District of Columbia, provided that such appeal shall be dismissed if any adverse party to such interference shall, within 20 days after the appellant shall have filed notice of appeal according to section 4912 of the Revised Statutes, file notice with the Commissioner of Patents that he elects to have all further proceedings conducted as provided in section 4915 of the Revised Statutes. Thereupon the appellant shall have 30 days thereafter within which to file a bill in equity under said section 4915, in default of which the decisions appealed from shall govern the further proceedings in the case. If the appellant shall file such bill within said 30 days and shall file due proof thereof with the Commissioner of Patents, the issue of a patent to the party awarded priority by said board of appeals shall be withheld pending the final determination of said proceeding under said section 4915."

SEC. 9. That section 4912 of the Revised Statutes of the United States be amended by striking out the words "Supreme Court of the District of Columbia" and substituting therefor the words "Court of Appeals of the District of Columbia."

SEC. 10. That section 4913 of the Revised Statutes of the United States be amended by striking out the words "And at the request of any party interested, or of the court, the commissioner and the examiners may be examined under oath in explanation of the principles of the thing for which a patent is demanded."

SEC. 11. That section 4915 of the Revised Statutes of the United States be amended to read as follows:

"SEC. 4915. Whenever a patent on application is refused by the Commissioner of Patents, the applicant, unless appeal has been taken from the decision of the board of appeals to the Court of Appeals of the District of Columbia, and such appeal is pending or has been decided, in which case no action may be brought under this section, may have remedy by bill in equity, if filed within six months after such refusal; and the court having cognizance thereof, on notice to adverse parties and other due proceedings had, may adjudge that such applicant is entitled, according to law, to receive a patent for his invention, as specified in his claim or for any part thereof, as the facts in the case may appear. And such adjudication, if it be in favor of the right of the applicant, shall authorize the commissioner to issue such patent on the applicant filing in the Patent Office a copy of the adjudication and otherwise complying with the requirements of law. In all cases where there is no opposing party a copy of the bill shall be served on the commissioner; and all the expenses of the proceedings shall be paid by the applicant, whether the final decision is in his favor or not. In all suits brought hereunder where there are adverse parties the record in the Patent Office shall be admitted in whole or in part, on motion of either party, subject to such terms and conditions as to costs, expenses, and the further cross-examination of the witnesses as the court may impose, without prejudice, however, to the right of the parties to take further testimony. The testimony and exhibits, or parts thereof, of the record in the Patent Office when admitted shall have the same force and effect as if originally taken and produced in the suit.

SEC. 12. That section 4918 of the Revised Statutes of the United States be amended to change the phrase "may adjudge and declare either of the patents void in whole or in part" to read as follows: "may adjudge and declare either or both of the patents void in whole or in part, upon any ground."

SEC. 13. That section 4934 of the Revised Statutes of the United States be amended by striking out the following words: "On an appeal for the first time from the primary examiners to the examiners in chief, $10. On every appeal from the examiners in chief to the commissioner, $20," and substituting therefor the words "on an appeal for the first time from the primary examiners to the board of appeals, $15. On every appeal from the examiner of interferences to the board of appeals, $25."

SEC. 14. That where the day, or the last day, fixed by statute for taking any action or paying any fee in the United States Patent Office falls on Sunday, or on a holiday within the District of Columbia, the action may be taken, or the fee paid, on the next succeeding secular or business day.

SEC. 15. That this act shall take effect two months after its approval; but it shall not affect appeals then pending and heard before the examiners in chief or pending before the Commissioner of Patents or in the Court of Appeals of the District of Columbia, and that in all cases in which the time for appeal from a decision of the examiners in chief or of the Commissioner of Patents or for amendment or renewal of application had not expired at the time this act takes effect, appeals and other proceedings may be taken under the statutes in force at the time of approval of this act as if such statutes had not been amended or repealed.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

The House bill H. R. 13487 was laid on the table.

APPEAL IN PATENT SUITS

The next business on the Consent Calendar was the bill (H. R. 11840) to amend section 129 of the Judicial Code, allowing an appeal in a patent suit from a decree which is final except for the ordering of an accounting.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

Mr. VESTAL. Mr. Speaker, I ask unanimous consent to substitute for the House bill the bill S. 4957, on the Speaker's desk.

The SPEAKER. The gentleman from Indiana asks unanimous consent to substitute a similar Senate bill, on the Speaker's desk, for the House bill. Is there objection?

There was no objection.

The Clerk read the Senate bill, as follows:

Be it enacted, etc., That when in any suit in equity for the infringement of letters patent for inventions, a decree is rendered which is final except for the ordering of an accounting, an appeal may be taken from such decree to the circuit court of appeals: *Provided*, That such appeal be taken within 30 days from the entry of such decree or from the date of this act; and the proceedings upon the accounting in the court below shall not be stayed unless so ordered by that court during the pendency of such appeal.

The bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider the vote by which the bill was passed was laid on the table.

The bill H. R. 11840 was laid on the table.

INDIAN WAR PENSION BILL

The next business on the Consent Calendar was the bill (H. R. 12532) granting pensions to certain soldiers who served in the Indian wars from 1817 to 1898, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. LAGUARDIA. Mr. Speaker, reserving the right to object, I have an amendment which I desire to suggest to the bill which I think in all fairness ought to be adopted. Before I do that I ask the gentleman why the bill provides for the minor children of these veterans. It seems to me that a man who fought in the Indian wars of 1859 would not be likely to have many minor children at this time. The amendment which I offer would be, on page 1, lines 7 and 8, to add, in describing the veterans entitled to this pension, the words "and engaged in battle or actual combat in."

Mr. BLANTON. Mr. Speaker, will the gentleman yield?

Mr. LAGUARDIA. Yes.

Mr. BLANTON. Are not the minor children of those who served faithfully and bravely in our Indian wars entitled to the same consideration as are the minor children of veterans who served in the Civil War?

Mr. LAGUARDIA. I am not pressing the minor-children matter at all.

Mr. BLANTON. Very well. With regard to the other matter, suppose one of these Indian fighters was kept at the barracks to defend the barracks and the provisions and supplies, while the others were out in battle; and while actually engaged in no battles, yet the man stayed there and risked his life every day protecting the supplies. Would he not be entitled to as much consideration as the others? Under the gentleman's amendment there would not be any pension granted in all probability to those who protected camps and supplies, because the Comptroller General would hold them all down.

Mr. LAGUARDIA. Why?

Mr. BLANTON. Because he would.

Mr. LAGUARDIA. Oh, the gentleman is not justified in making that statement.

Mr. BLANTON. And where would any of them get the eye-witnesses to battles? If they were mustered into the service and out of the service, that ought to be sufficient.

Mr. LAGUARDIA. If they have the record to show that a man was in the service at the time, if they have the record to show where he was——

Mr. BLANTON. Oh, those old Indian records do not show all that. They only show where a man was mustered in and that he was mustered out.

Mr. NEWTON of Minnesota. They did not even have an adjutant.

Mr. LEATHERWOOD. Mr. Speaker, will the gentleman yield?

Mr. LAGUARDIA. Yes.

Mr. LEATHERWOOD. I trust my friend from New York will not insist upon his amendment. It would be a very unjust amendment in this kind of a bill. We have to consider the nature of the fighting these men did. Let me illustrate to the gentleman an actual occurrence.

Mr. BLACK of Texas. Mr. Speaker, I do not think any of these pension bills ought to be passed by unanimous consent. I understand that this is scheduled to come up under suspension of the rules in any event to-day.

Mr. BLANTON. That is about the same situation. Why not let it be passed now?

Mr. BLACK of Texas. I think we can have a better explanation of it under suspension of the rules.

Mr. LEATHERWOOD. Mr. Speaker, I trust the gentleman will withhold his objection. I think we can save time and clear this up just as well as we can later in the day. I trust the gentleman will not object, because this is the first bill of its kind that has done justice to the gentleman's State.

Mr. HOOPER. Does the Department of the Interior recommend this legislation?

Mr. LEATHERWOOD. Yes. I was about to illustrate to the gentleman from New York why his amendment ought not to be adopted. In the early seventies a company of United States troops fought their way to near Cheyenne, Wyo. Part of the company went out and fought a battle 40 miles out from Cheyenne, and the rest of it remained near Cheyenne and guarded the supply train. They did some skirmishing. The man who stood and guarded the supply train was in just as much danger, perhaps, as the man who went out into the engagement, but he is prohibited under existing law from getting a pension, and so it would be if the gentleman's amendment went into the bill. These fights were running skirmishes usually, and the men on the skirmish line were exposed to all of the dangers and hazards.

Mr. LAGUARDIA. If a man were on the skirmish line he would be in combat.

Mr. BLANTON. Men guarded supplies sometimes for 24 hours at a stretch.

Mr. LAGUARDIA. On page 5 of the report I find the following:

1892–1896: Troubles with renegade Apache Indians, under Kidd and Massai, in Arizona and Mexican border.

I was at the post. We were not in any danger. I remember they sent out a couple of companies. We were not in any danger and I was at the post.

Mr. BLANTON. The gentleman is speaking about one thing and this bill is about another.

Mr. LEATHERWOOD. This would be most unjust to set up a different standard here from all other pension legislation. It would create a different standard in reference to these pensions and be against these helpless men and women.

Mr. LAGUARDIA. 1892–1896, in the Apache trouble, there were four companies at Fort Apache and Huachuca. All the rest of us remained at the barracks. We were not in any danger. Let us be perfectly fair.

Mr. BLANTON. Does the gentleman, in counting up the ones now drawing pensions and the ones entitled to under this bill, appreciate that there are only 7,000 left all together?

Mr. LEATHERWOOD. Only 3,875 survivors are now on the pension roll.

Mr. LAGUARDIA. I would not object if these men were in the early campaigns, but it is these later ones, 1892, 1895, 1898. They were not serious campaigns. Let us be frank about it.

Mr. LEAVITT. Here is this distinction——

Mr. BLANTON. Let it go by.

Mr. LAGUARDIA. I withdraw the objection, but it is a bad bill.

The Clerk read as follows:

Be it enacted, etc., That any person who served 30 days or more in any military organization, whether such person was regularly mustered into the service of the United States or not, but whose service was under the authority or by the approval of the United States or any State or Territory in any Indian war or campaign, or in connection with, or in the zone of any active Indian hostilities in any of the States or Territories of the United States from January 1, 1859, to December 31, 1898, inclusive, and who is now or who may hereafter be suffering from any mental or physical disability or disabilities of a permanent character, not the result of his own vicious habits, which so incapacitate him for the performance of manual labor as to render him unable to earn a support, shall, upon making due proof of the fact, according to such rules and regulations as the Secretary of the Interior may provide, be placed upon the pension roll of the United States and be entitled to receive pension not exceeding $50 per month and not less than $20 per month, proportionate to the degree of inability to earn a support; and in determining such inability each and every infirmity shall be duly considered and the aggregate of the disabilities shown shall be rated, and such pension shall commence from the date of filing of the application in the Bureau of Pensions, after the passage of this act, upon proof that the disability or disabilities then existed, and shall continue during the existence thereof: *Provided*, That any such person who has reached the age of 62 years shall, upon making proof of such fact, be placed upon the pension roll and entitled to receive a pension of $20 per month; in case such person has reached the age of 68 years, $30 per month; in case such person has reached the age of 72 years, $40 per month; and in case such person has reached the age of 75 years, $50 per month.

SEC. 2. If any person who rendered service as described in section 1 of this act or who died in service irrespective of length of service, has since died, or shall hereafter die, leaving a widow, or minor children under the age of 16 years, such widow shall, upon due proof of her husband's death, without proving his death to be the result of his military service, be placed on the pension roll from the date of filing the application therefor under this act, at the rate of $30 per month during her widowhood, and shall also be paid $6 per month for each child of such person under 16 years of age, and in case there be no widow, or one not entitled to pension, and in the event of the death, remarriage, or forfeiture of title of the widow, the child or children under 16 years of age of the soldier shall be paid such pension until the age of 16 years, said pension, if there be no widow entitled, to commence from the date of filing application therefor after the passage of this act, and in the event of the death, remarriage, or forfeiture of title by the widow the pension to continue to the minor children from the date of such death, remarriage, or forfeiture of title: *Provided*, That in case a minor child is insane, idiotic, or otherwise permanently helpless, the pension shall continue during the life of said child, or during the period of such disability, and such pension shall commence from the date of filing application therefor after the passage of this act: *Provided further*, That said widow shall have married said soldier prior to March 4, 1917, and this section shall apply to a former widow of any soldier who rendered service as hereinbefore described, such widow having remarried either once or more after the death of the soldier, if it be shown that such subsequent or successive marriage has or have been dissolved, either by the death of the husband or husbands or by divorce without fault on the part of the wife. Such pension shall commence from date of filing application therefor in the Bureau of Pensions after the passage of this act, and any such former widow shall be entitled to and be paid a pension at the rate of $30 a month, and any former widow mentioned in this section shall also be paid $6 a month for each child of the soldier under 16 years of age: *Provided further*, That in case of any widow whose name has been dropped from the pension roll because of her remarriage, if the pension has been granted to an insane, idiotic, or otherwise helpless child, or to a child or children under the age of 16 years, she shall not be entitled to a renewal of pension under any act until the pension to such child or children terminates, unless such child or children be a member or members of her family and cared for by her, and upon renewal of pension to such widow payment of pension to such child or children shall cease.

SEC. 3. The period of service performed by beneficiaries under this act shall be determined, first, by reports from the records of the War Department, where there are such records; second, by reports from the records of the General Accounting Office showing payment by the

United States, where there is no record of regular enlistment, or muster into the United States military service; and third, when there is no record of service or payment for same in the War Department or the General Accounting Office by satisfactory evidence from muster rolls on file in the several State or Territorial archives; fourth, where no record of service has been made in the War Department or General Accounting Office and there is no muster roll or pay roll on file in the several States or Territorial archives showing service of the applicant, or where the same has been destroyed by fire or otherwise lost, or where there are muster rolls or pay rolls on file in the several State or Territorial archives but the applicant's name does not appear thereon, the applicant may make proof of service by furnishing evidence satisfactory to the Commissioner of Pensions: *Provided*, That the want of a certificate of discharge shall not deprive any applicant of the benefits of this act.

SEC. 4. From and after the fourth day of the next month after the approval of this act the rate of pension to surviving soldiers of the various Indian wars and campaigns who are now on the pension roll or who may hereafter be placed thereon under the acts of July 27, 1892, June 27, 1902, and May 30, 1908, as amended by the act of February 19, 1913, or under the act of March 4, 1917, shall be $30 per month if 68 years of age, $40 per month if 72 years of age, and $50 per month if 75 years of age, and that the rate of pension to the widows who are now on the pension roll or who may hereafter be placed thereon under the said acts shall be $30 per month: *Provided, however*, that nothing in this act shall be so construed as to reduce any pension under any law, public or private, and that hereafter pensions granted under the acts referred to in this section shall commence from the date of filing of application therefor in the Bureau of Pensions.

SEC. 5. No claim agent, attorney, or other person shall contract for, demand, receive, or retain a fee for service in preparing, presenting, or prosecuting claims for the increase of pension provided for in this act; and no more than the sum of $10 shall be allowed for such service in other claims thereunder, which sum shall be payable only on the order of the Commissioner of Pensions; and any person who shall, directly or indirectly, otherwise contract for, demand, receive, or retain a fee for service in preparing, presenting, or prosecuting any claim under this act, or shall wrongfully withhold from the pensioner or claimant the whole or any part of the pension allowed or due to such pensioner or claimant under this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall for each and every offense be fined not exceeding $500 or be imprisoned not exceeding one year, or both, in the discretion of the court.

The bill was ordered to be engrossed and read the third time, was read the third time, and passed.

A motion to reconsider the vote by which the bill was passed was laid on the table.

TO AMEND SECTION 128, JUDICIAL CODE

The next business on the Consent Calendar was the bill (H. R. 12442) to amend section 128, subdivision (b), paragraph 1, of the Judicial Code as amended February 13, 1925, relating to appeals from district courts.

The Clerk read the title of the bill.

The SPEAKER. Is there objection?

Mr. CAREW. Mr. Speaker, I think the bill ought to be explained, and I reserve the right to object.

Mr. GRAHAM. Mr. Speaker, the bill is a very simple one. It is removing an element of doubt from the act which was passed by the Senate and House covering the matter of procedure on appeal on writs of error, and so forth, the general bill we passed. In the act it provides for an appeal to review the interlocutory orders or decrees of the district courts which are specified in section 129. It would seem there is a distinction between a district court of the United States and a Territorial district court, and it is simply to make the right of appeal to cover this and remove the ambiguity. It is a matter which is recommended by the courts and the Department of Justice, and there seems to be no objection to it.

Mr. LINDSAY. Mr. Speaker, I object.

GRANTING PUBLIC LANDS TO THE CITY OF GOLDEN, COLO.

The next business on the Consent Calendar was the bill (H. R. 16017) granting public lands to the city of Golden, Colo., to secure a supply of water for municipal and domestic purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection? [After a pause.] The Chair hears none.

The Clerk read as follows:

Be it enacted, etc., That for the purpose of securing an adequate supply of water for domestic and municipal purposes for the use of the city of Golden, Colo., there is hereby granted to the said city the lands described as follows: In Clear Creek County, Colo., township 4 south, range 72 west of the sixth principal meridian; southeast quarter of the northeast quarter and east half of the southeast quarter of section 8, and the southwest quarter of the northwest quarter and southwest quarter of section 9, and the northeast quarter of northeast quarter of section 18; total, 360 acres, more or less, on condition that the said city shall make payment for such lands at the rate of $1.25 per acre to the receiver of the United States Land Office of Denver, Colo., within one year after approval of this act: *Provided*, That there shall be reserved to the United States all oil, coal, or other mineral deposits found at any time in the lands, and the right to prospect for, mine, and remove the same: *Provided further*, That the grant herein made is subject to any valid existing rights or easements on said lands, and that upon failure of the city to make use of the lands herein granted, in accordance with the purpose of this act, all rights hereunder shall cease and such lands revert to the United States.

The bill was ordered to be engrossed and read the third time, was read the third time, and passed.

A motion to reconsider the vote by which the bill was passed was laid on the table.

The SPEAKER. The Clerk will report the next bill.

EASEMENT TO THE CITY OF FORT WAYNE, IND.

The next business on the Consent Calendar was the bill (H. R. 16281) to grant to the city of Fort Wayne, Ind., an easement over such Government property.

The title of the bill was read.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Treasury is hereby authorized and directed to grant to the city of Fort Wayne, Ind., an easement over the western portion of lot 113, original plat of such city, being a strip of land 10 feet wide and 150 feet long, extending along the east side of Clinton Street south from the corner of Berry Street, such 10-foot strip being a portion of the present post-office site; such easement to continue so long as the land shall be used exclusively for street purposes.

With a committee amendment, as follows:

Page 2, line 1, add the following: "*Provided, however*, That the United States shall retain the right to have that portion at the base of the present tower which encroaches approximately 1 foot and 3 inches on the aforesaid 10-foot strip remain in place, undisturbed, as though such grant had never been made: *And provided further*, That the city of Fort Wayne, as a consideration for such grant, shall perform all necessary work incident to the relocation of the steps, changes in entrance, approaches, and the grounds of the said post-office site; such work shall be performed under the direction and to the satisfaction of the Treasury Department, all without expense to the United States."

The SPEAKER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

A motion to reconsider the vote whereby the bill was passed was ordered to be laid on the table.

TREATIES WITH CHINA

The next business on the Consent Calendar was the resolution (H. Con. Res. 46) 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.

The title of the resolution was read.

The SPEAKER. Is there objection to the present consideration of the resolution?

Mr. LINEBERGER. Mr. Speaker, I reserve the right to object.

Mr. BEEDY. Reserving the right to object, Mr. Speaker, does the gentleman from California object?

Mr. LINEBERGER. I think I shall object. It looks as if this were a case where Congress directs the President in a matter relating to foreign affairs. The Congress has a legislative duty, not an executive duty.

Mr. BEEDY. Reserving the right to object, Mr. Speaker, I would like to ask the chairman of the Committee on Foreign Affairs if he thinks it good policy, when a civil war is raging in China and the Cantonese army is now pressing in the direction of Shanghai, to give a direction to the President when the question of whether a government in China is ultimately to emerge is hanging in the balance? Why do this, in view of the statement of our Secretary of State, as set forth on page 11

of the report, that our Government at all times has been and is now ready to negotiate a treaty with China, when the trouble is that there is no accredited agent of the Chinese people with whom to take up this matter, and therefore action is held in abeyance? Why at this time make this suggestion that we desire to impress the people of China with the fact that our Government has been friendly and is friendly, and when we negotiate we want to give them sundry rights through their accredited agent?

Mr. LINEBERGER. I intend to object if the gentleman from Maine does not.

Mr. BEEDY. I object.

The SPEAKER pro tempore (Mr. SNELL). Objection is heard. The Clerk will report the next bill.

APPEALS FROM DISTRICT COURTS

Mr. SUTHERLAND. Mr. Speaker, I ask unanimous consent to return to Calendar No. 899, the bill H. R. 12442, to which the gentleman from New York objected a moment ago. I understand he has withdrawn his objection.

The SPEAKER pro tempore. The gentleman from Alaska asks unanimous consent to return to Calendar No. 899, H. R. 12442. Is there objection?

Mr. DENISON. Reserving the right to object, Mr. Speaker, I have not had time to read that bill. I would like to inquire whether or not the gentleman's bill includes appeals from the district court of the Canal Zone?

Mr. SUTHERLAND. I am not clear as to the status of the district court on the Canal Zone.

Mr. DENISON. I will ask the gentleman to let that bill be passed over until I can look it over. I want to be sure about it before it is passed. There are several laws covering the district court on the Canal Zone.

The SPEAKER pro tempore. Objection is heard. The Clerk will report the next bill.

OIL AND GAS MINING LEASES ON EXECUTIVE ORDER INDIAN RESERVATIONS

The next business on the Consent Calendar was the bill (H. R. 15021) to authorize oil and gas mining leases upon unallotted lands within Executive order Indian reservations.

The title of the bill was read.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. LAGUARDIA. Mr. Speaker, I ask unanimous consent that it be passed over without prejudice.

Mr. SPROUL of Kansas. I object.

The SPEAKER pro tempore. Objection is heard. The Clerk will report the next bill.

SILVER BELL ON THE BATTLESHIP "NEW ORLEANS"

The next business on the Consent Calendar was the bill (H. R. 13483) authorizing the Secretary of the Navy, in his discretion, to deliver to the custody of the Louisiana State Museum, of the city of New Orleans, La., the silver bell in use on the battleship *New Orleans*.

The title of the bill was read.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Navy is authorized, in his discretion, to deliver to the custody of the Louisiana State Museum, of the city of New Orleans, La., for preservation and exhibition the silver bell which was in use on the battleship *New Orleans: Provided*, That no expenses shall be incurred by the United States for the delivery of such silver bell.

With a committee amendment, as follows:

Page 1, line 6, strike out the word "battleship" and insert in lieu thereof the word "cruiser."

The SPEAKER pro tempore. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

The title of the bill was amended to accord with the text.

A motion to reconsider the vote, whereby the bill was passed, was ordered to be laid on the table.

The SPEAKER pro tempore. The Clerk will report the next bill.

THIRD AND FOURTH CLASS DOMESTIC PARCELS

The next business on the Consent Calendar was the bill (H. R. 14701) to extend collect-on-delivery service and limits of indemnity to third and fourth class domestic parcels on which the first-class rate of postage is paid.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. LAGUARDIA. Mr. Speaker, reserving the right to object, I ask unanimous consent to pass over the bill without prejudice.

The SPEAKER pro tempore. The gentleman from New York asks unanimous consent that this bill be passed over without prejudice. Is there objection?

There was no objection.

DEMURRAGE CHARGES

The next business on the Consent Calendar was the bill (H. R. 14703) to authorize the Postmaster General to impose demurrage charges on undelivered collect-on-delivery parcels.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. LAGUARDIA. Mr. Speaker, reserving the right to object, I took this up with the Member introducing the bill and suggested an amendment. I do not want to press the amendment if the gentleman is not ready; but this bill ought to provide a time limit, and we should not leave parcel-post matters entirely within the discretion of the Postmaster General. At this time we happen to have a Postmaster General who is favorable to parcel post, but it took two generations to have the parcel post law enacted, and we should not do this in this way. I ask unanimous consent to have the bill passed over without prejudice.

The SPEAKER pro tempore. The gentleman from New York asks unanimous consent that the bill be passed over without prejudice. Is there objection?

There was no objection.

PUBLICLY OWNED LANDS BY THE STATE OF OREGON

The next business on the Consent Calendar was the bill (S. 722) to authorize the selection of certain publicly owned lands by the State of Oregon.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. BLACK of Texas. Reserving the right to object, Mr. Speaker, I notice that the Department of Agriculture recommends the enactment of this bill but that the Secretary of the Interior has disapproved it.

Mr. SINNOTT. At the time the Secretary of the Interior wrote his report the Government and the railroad company did not have a settlement. These lands could be exchanged without the need of legislation, but they are not technically unappropriated public lands. They were taken away from the railroad company under a decision of the Supreme Court. The Supreme Court held that the railroad company had an interest in the lands at $2.50 an acre, so Congress revested title in some 4,000,000 acres of land and provided that the railroad company should receive $2.50 an acre for each acre of land. Since that time the Government has settled with the railroad company.

Mr. BLACK of Texas. If the gentleman can give us any assurance that since that settlement the Department of the Interior now approves the bill, that would be a different matter; but in view of the very positive disapproval of the bill by the Secretary of the Interior, I would feel it my duty to object.

Mr. SINNOTT. Let me explain the situation to the gentleman. The Secretary says that the Oregon and California land-grant fund might lose $50,000.

Mr. BLACK of Texas. Mr. Speaker, I shall object at this time.

NEW MEXICO COLLEGE OF AGRICULTURE AND MECHANIC ARTS

The next business on the Consent Calendar was the bill (S. 4910) granting certain lands to the State of New Mexico for the use and benefit of the New Mexico College of Agriculture and Mechanic Arts for the purpose of conducting educational, demonstrative, and experimental development with livestock, grazing methods, and range forage plants.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That there is hereby granted to the State of New Mexico for the use and benefit of New Mexico College of Agriculture and Mechanic Arts, located at State College, N. Mex., to be used for the purpose of conducting educational, demonstrative, and experimental development with livestock, grazing methods, and range forage plants, the following-described lands out of the unreserved and unappropriated public domain situated in the State of New Mexico, to wit:

All of township 20 south, range 1 west, New Mexico principal meridian, except sections 1 to 5, both inclusive; north half of northeast quarter of section 8, north half and southeast quarter of section 9, all of sections 10 to 13, both inclusive; north half, southeast quarter, and north half of southwest quarter of section 14, northeast quarter and east half of northwest quarter of section 15, all of section 16, northeast quarter and north half of northwest quarter of section 24, all of section 32, that part of sections 30 and 31 lying south and west of the Rio Grande River and all of section 36 therein; all of township 20 south, range 1 east, New Mexico principal meridian, except sections 2, 16, 32, and 36 therein; all of southwest quarter of southwest quarter of section 19 and all of sections 30 and 31 in township 20 south, range 2 east, New Mexico principal meridian; all of the east half of the southeast quarter and the southeast quarter of the northeast quarter of section 13, and the east half of the east half of section 24, in township 20 south, range 2 west, New Mexico principal meridian; all of section 1 and the east half of section 12, township 21 south, range 1 west, New Mexico principal meridian; all of township 21 south, range 1 east, New Mexico principal meridian, except sections 2, 16, 24, 25, 30, 31, 32, and 36, and the southwest quarter of the southwest quarter of section 29 therein; and all of sections 6, 7, and 18 in township 21 south, range 2 east, New Mexico principal meridian: *Provided*, That the control and management of said lands shall be vested exclusively in the board of regents of the said New Mexico College of Agriculture and Mechanic Arts, and the State of New Mexico shall make no charge against nor collect any rental from said college for the possession and use thereof.

SEC. 2. Such grant shall not include any land which, on the date of the approval of this act, is covered by any existing bona fide right or claim under the laws of the United States, unless and until such right or claim is relinquished or extinguished, except that lands embraced in permits to prospect for oil, gas, or other minerals shall be included in the grant to the State, the minerals therein being reserved to the United States as provided in section 3 hereof.

SEC. 3. There is hereby reserved to the United States all minerals that may be found in the lands granted by the provisions hereof, together with the right of the United States, its permittees, lessees, or grantees, at any time, to prospect for, mine, and remove such minerals.

SEC. 4. In the event that the lands herein granted, or any part thereof, shall cease to be used for the purposes specified in section 1, or shall be used for any other purpose foreign to those for which this grant is made, title thereto shall thereupon revert to the United States.

The bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider the vote whereby the bill was passed was laid on the table.

EQUITABLE USE OF THE WATERS OF THE RIO GRANDE

The next business on the Consent Calendar was the joint resolution (H. J. Res. 345) amending the act of May 13, 1924, entitled "An act providing a study regarding the equitable use of the waters of the Rio Grande," etc.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the present consideration of the resolution?

Mr. LAGUARDIA. Mr. Speaker, reserving the right to object, I assume this bill, looking toward negotiations with Mexico, anticipates action on the Boulder Dam proposition. Is not that so?

Mr. GARNER of Texas. Not necessarily.

Mr. LAGUARDIA. That is going to be a very important question between the United States and Mexico if it goes through and the water is diverted into the Imperial Valley.

Mr. GARNER of Texas. The object of this resolution is to permit the two Governments to get together through their joint commissions and determine whether or not their mutual interests are such that they can make an agreement as to the waters both of the Colorado and the Rio Grande.

Mr. LAGUARDIA. Of course, I am interested in the Colorado.

Mr. GARNER of Texas. Without the extension of this resolution to the Colorado they can not consider the two projects together, and that is the object of the resolution.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The Clerk read the resolution, as follows:

Resolved, etc., That the act of May 13, 1924, entitled "An act providing for a study regarding the equitable use of the waters of the Rio Grande below Fort Quitman, Tex., in cooperation with the United States of Mexico," is hereby amended to read as follows:

"That the President is hereby authorized to designate three special commissioners to cooperate with representatives of the United States of Mexico in a study regarding the equitable use of the waters of the lower Rio Grande and of the lower Colorado Rivers, with a view to their proper utilization for irrigation and other beneficial uses. One of the commissioners so appointed shall be an engineer experienced in such work. Upon completion of such study the results shall be reported to Congress.

"SEC. 2. There is hereby authorized to be appropriated out of any moneys in the Treasury not otherwise appropriated such amounts as may be necessary for carrying out the provisions hereof."

With the following committee amendments:

Page 2, line 1, strike out the words "United States" and insert the word "Government."

Page 2, lines 3, 4, and 5, strike out the words "with a view to their proper utilization for irrigation and other beneficial uses" and insert the words "for the purpose of securing information on which to base a treaty with the Government of Mexico relative to the use of the waters of these rivers."

Page 2, line 13, after the word "amounts," insert the words "not to exceed $50,000."

The committee amendments were agreed to.

Mr. SWING. Mr. Speaker, I offer an amendment.

The SPEAKER pro tempore. The gentleman from California offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment by Mr. SWING: Page 2, line 10, at the end of section 1, insert "The commission may also, with the concurrence of Mexico, make a study of the Tia Juana River with the view of having a treaty governing the use of its waters."

Mr. SWING. Mr. Speaker, this amendment simply gives the commission created by this bill the authority of studying the use of the waters of the other remaining interboundary river, the Tia Juana, at the same time it is making its study of the Colorado and Rio Grande.

The city of San Diego, with a population of 150,000 people, has totally exhausted all local sources for domestic water. The Tia Juana River offers an opportunity, should a treaty be made with Mexico, providing for its joint use, to store water that today runs to waste and pipe the same or a portion of it from a reservoir proposed to be created on the international boundary to the city of San Diego.

The United States Government has about a dozen Navy and Army activities at San Diego, and these activities are the largest users of water from the city system. The city is having difficulty in meeting their demands. It becomes therefore important, if possible, to have a treaty negotiated with Mexico regarding the use of the water of this river. In my opinion it will take very little time and very little money for the commission to look into this matter.

I have a letter here from the Secretary of State in which he states he personally sees no objection to my amendment, and also a letter from Dr. Elwood Mead, the chairman of the Rio Grande Commission, wherein he states he sees no objection to the inclusion of the Tia Juana River in their studies. The Senate Foreign Affairs Committee has already unanimously reported out such an amendment, and I hope the gentleman who has introduced the bill and the gentleman who is in charge of it for the committee will agree to my amendment.

Mr. GARNER of Texas. Mr. Speaker, I do not want to detain bills that are behind this one. I agreed with the gentleman from California to accept this amendment in order that the resolution might pass. I could not have passed it otherwise. I am not in entire sympathy with the amendment, but as a matter of good faith I hope the House will adopt it.

The amendment was agreed to.

The joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

A motion to reconsider the vote by which the joint resolution was passed was laid on the table.

TETON COUNTY, WYO.

The next business on the Consent Calendar was the joint resolution (H. J. Res. 282) authorizing the acceptance of title to certain lands in Teton County, Wyo., adjacent to the winter elk refuge in said State established in accordance with the act of Congress of August 10, 1912 (37 Stat. L. p. 293).

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. Is there objection to the present consideration of the joint resolution?

There was no objection.

Mr. WINTER. Mr. Speaker, I ask unanimous consent to substitute Senate joint resolution (S. J. Res. 120).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wyoming?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

Senate Joint Resolution 120

Joint resolution authorizing the acceptance of title to certain lands in Teton County, Wyo., adjacent to the winter elk refuge in said State established in accordance with the act of Congress of August 10, 1912 (37 Stat. L. p. 293).

Resolved, etc., That the Secretary of Agriculture be, and he is hereby, authorized to accept, on behalf of and without expense to the United States, from the Izaak Walton League of America, or its authorized trustees, a gift of certain lands in Teton County, Wyo., described as the south half of section 4; the east half of the southeast quarter of section 5; the southwest quarter of the southeast quarter of section 5; the south half of the southwest quarter of section 5; the southeast quarter of the northeast quarter of section 7; the east half of the southeast quarter of section 7; the southwest quarter of the southeast quarter of section 7, and lot 4 of section 7; all of section 8; the north half of the northeast quarter of section 9; the north half of the northwest quarter of section 9; and the southwest quarter of the northwest quarter of section 9; the north half of the northeast quarter of section 17; lot 1 of section 18; and the east half of the northwest quarter of section 18; all in township 41 north, range 115 west, of the sixth principal meridian, including all the buildings and improvements thereon, and all rights, easements, and appurtenances thereunto appertaining, subject to the conditions that they be used and administered by the United States, under the supervision and control of the Secretary of Agriculture, for the grazing of, and as a refuge for, American elk and other big-game animals, and that they be known as the Izaak Walton League addition to the winter elk refuge: *Provided*, That upon the conveyance of said lands to the United States, as herein provided, they shall become a part of the winter elk refuge established pursuant to the authority contained in the act of August 10, 1912 (37 Stat. L. p. 293), and shall be subject to any laws governing the administration and protection of said refuge.

The joint resolution was ordered to be read a third time, was read the third time, and passed.

A similar House joint resolution was laid on the table.

COURTS OF ALASKA, HAWAII, AND THE VIRGIN ISLANDS

Mr. SUTHERLAND. Mr. Speaker, I ask unanimous consent to return to Calendar No. 899, the bill H. R. 12442, inasmuch as the committee has agreed on certain amendments.

The SPEAKER pro tempore. The gentleman from Alaska asks unanimous consent to return to Calendar No. 899; is there objection?

Mr. DENISON. Mr. Speaker, I objected a few moments ago. I am withdrawing my objection with the understanding they are going to propose an amendment to the bill.

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That section 128, subdivision (b), paragraph first, of the Judicial Code as amended February 13, 1925, be amended to read as follows:

"First, To review the interlocutory orders or decrees of the district courts, including the district courts of Alaska, Hawaii, Virgin Islands, and Canal Zone, which are specified in section 129."

SEC. 2. Section 1339 of the compiled laws of Alaska, 1913, is hereby repealed.

Amendment offered by Mr. SUTHERLAND:

Page 1, line 8, after the word "Islands," strike out "and Canal Zone"; page 1, line 8, after the word "Hawaii," insert "and the."

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

A motion to reconsider the vote by which the bill was passed was laid on the table.

METROPOLITAN POLICE FORCE OF THE DISTRICT OF COLUMBIA

The next business on the Consent Calendar was the bill (H. R. 16397) to transfer the United States park police force to the Metropolitan police force of the District of Columbia, to confer additional functions upon the Metropolitan police, and to repeal the provision of law requiring street-railway companies to pay the salaries of certain policemen, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. HOOPER. I object.

Mr. BLANTON. Will the gentleman withhold his objection a moment?

Mr. HOOPER. Certainly.

Mr. BLANTON. I just want to state to the gentleman the purpose of the bill. The bill prevents a duplication of effort on the part of 61 policemen here whose effort every day is duplicated by those of the Metropolitan police. It would save this Government at least $50,000 a year.

Mr. HOOPER. But does not the gentleman think the Government of the United States should have the right to police its own property, such as the Lincoln Memorial and other national property?

Mr. BLANTON. The Government does not police its own property in the gentleman's city; it does not in my city; it does not in New York or in Philadelphia; it does not in Chicago or St. Louis or San Francisco. Such property there is policed by the local constabulary of the city.

Mr. COLTON. Will the gentleman yield?

Mr. BLANTON. Certainly.

Mr. COLTON. Why does not the gentleman include the Capitol police and the Smithsonian Institute police?

Mr. BLANTON. Oh, there is a reason for the Capitol police. There is a reason for the House Office Building police and the Senate Office Building police. I have no interest in the matter except to save money for the Government, and I simply wanted to call the attention of the gentleman to the fact that he is preventing the saving of about $50,000 a year.

CANCELLATION OF SCREEN-WAGON CONTRACTS

The next business on the Consent Calendar was the bill (H. R. 15905) to authorize the Postmaster General to cancel a certain screen-wagon contract, and for other purposes.

The Clerk read the title to the bill.

The SPEAKER pro tempore. Is there objection?

Mr. LAGUARDIA. Reserving the right to object, it seems to me this is a very bad policy, canceling contracts. Does not the gentleman from Mississippi think this is going too far?

Mr. COLLIER. I believe in keeping contracts, but the Government has changed this contract twice on this man. This young fellow took the contract, and at first he made a little out of it, but now he has lost nearly everything he has made. He is losing now some $200 a month on the contract. He is not asking for back pay; he is not asking for a new contract; he is asking to be relieved from a contract which the Government itself has changed twice.

Mr. SPROUL of Illinois. And we have passed this kind of legislation several times.

Mr. COLLIER. Yes.

Mr. LAGUARDIA. In this case it is true that the Government entered into the contract for screen-wagon and also for two horse-drawn vehicles for use in the city delivery and collection service. He expected to make his money on the horse-drawn wagon, but they rescinded that part of the contract. Now he wants them to rescind the whole contract.

Mr. COLLIER. The Government is not making this kind of a contract any longer, and the Postmaster General says that this imposes an undue hardship on the contractor and is not in accordance with the Budget.

Mr. LAGUARDIA. Very well, Mr. Speaker, I do not object to this bill, but I still think it is a bad precedent.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That if the Postmaster General finds that any formal written contract now in force for transporting the mails in the city of Jackson, in the State of Mississippi, in regulation screen vehicles was entered into before the present unusual expansion of business and increase in cost for such service, and that the contract price agreed to be paid for the service to be rendered thereunder is now inequitable and unjust because of the increased cost and expense occasioned the contractor in handling the unusual volume of mail incident to the expansion of business, the Postmaster General is authorized, in his discretion, with the consent of the contractor and his bondsmen to cancel such contract.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

SELECTION OF LANDS BY THE STATE OF OREGON

Mr. SINNOTT. Mr. Speaker, I ask unanimous consent to return to Calendar No. 910, the bill (S. 722) to authorize the selection of certain publicly owned lands in the State of Oregon. The gentleman who made the objection no longer objects.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The Clerk read the bill (S. 722), as follows:

Be it enacted, etc., That with the approval of the Secretary of the Interior and the Secretary of Agriculture, and under such conditions as they may prescribe, the publicly owned lands within the following-described areas are hereby made available for selection of the State of Oregon under the act of February 28, 1891 (26 Stat. p. 796), for a period of five years from the passage of this act:

Township 23 south, range 10 west, Willamette meridian: Sections 3, 11, 15, 21, 23, 27, and west half northeast quarter, northwest quarter, northwest quarter southwest quarter of section 33; section 9, east half and east half west half; section 29, east half east half.

Township 22 south, range 10 west, Willamette meridian: Section 15, southeast quarter southeast quarter; section 21, all; section 23, southwest quarter northeast quarter, west half, southeast quarter; section 27, all; section 33, east half and east half west half.

The bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

GRANTING RIGHT OF WAY TO IMPERIAL COUNTY, CALIF.

The next business on the Consent Calendar was the bill (H. R. 11487) granting a right of way to the county of Imperial, State of California, over certain public lands for highway purposes.

The Clerk read the title to the bill.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That there be, and there hereby is, granted to the county of Imperial, State of California, for public-highway purposes, all the right, title, and interest of the United States of America in and to all or any of the following-described parcels of land situated in the county of Imperial, State of California, to wit:

A strip of land 100 feet wide lying 50 feet on each side of the following-described center line: Beginning at the southeast corner of the northeast quarter of section 18, township 12 south, range 12 east, San Bernardino base and meridian; thence west along the line between the north half and the south half of said section 18 to the west line of said section.

Also a strip of land 50 feet wide adjoining and lying along the south side of the following-described line: Beginning at the southeast corner of the northeast quarter of section 14, township 12 south, range 12 east, San Bernardino base and meridian; thence west along the line between the north half and the south half of said section 14 to the west line of said section.

Also a strip of land 100 feet wide lying 50 feet on each side of the following-described center line: Beginning at the southeast corner of the northwest quarter of section 14, township 12 south, range 11 east, San Bernardino base and meridian; thence west along the line between the north half and the south half of said section 14 to the west line of said section.

With the following committee amendments:

Page 1, line 3, strike out the words "That there be, and there hereby is, granted" and insert "That the Secretary of the Interior be, and he hereby is, authorized, in his discretion, to grant."

Page 2, after line 18, add the following:

"*Provided*, That the Secretary of the Interior be, and he hereby is, authorized, as a condition precedent to the granting of said parcels of land for the purposes herein specified, to prescribe such conditions, to impose such limitations and reservations, and to require such bonds or undertakings as he may deem necessary in order to protect valid existing rights in and to said lands, including reclamation and public water reserve purposes."

The committee amendments were agreed to.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

HOSPITALIZATION OF PERSONS DISCHARGED FROM THE UNITED STATES NAVY OR MARINE CORPS WHO HAVE CONTRACTED TUBERCULOSIS IN THE LINE OF DUTY WHILE IN THE NAVAL SERVICE

The next business on the Consent Calendar was the bill (H. R. 12708) for the hospitalization of persons discharged from the United States Navy or Marine Corps who have contracted tuberculosis in the line of duty while in the naval service.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That any person discharged from the United States Navy or Marine Corps who has developed tuberculosis contracted in the line of duty while in the naval service shall be entitled to necessary or required hospitalization for such disease in any Government hospital designated for the treatment of tuberculosis.

The bill was ordered to be engrossed and read the third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

ADDITIONAL PAY FOR MEN ASSIGNED TO SUBMARINES

The next business on the Consent Calendar was the bill (H. R. 14251) to provide additional pay for enlisted men of the United States Navy assigned to duty on submarine vessels of the Navy.

The Clerk read the title to the bill.

The SPEAKER pro tempore. Is there objection?

Mr. BLACK of Texas. Reserving the right to object, I notice in the bill as originally drawn there was a proviso at the end of the bill, and of this proviso the Secretary of the Navy states as follows:

I have presented this matter to the President, who has instructed me to advise you that the additional expenditure which would be involved under the legislation which you propose would be in conflict with his financial program. The President desires me to state, however, that if this proposed legislation be amplified by a further provision to the effect that the additional pay shall not exceed for any fiscal year the amount required to pay the total average number of enlisted men who would be entitled to said pay during any such year at an average rate of $15 per month each, it would not be in conflict with his financial program.

The Committee on Naval Affairs has struck out that proviso which the President recommended and which was concurred in by the Bureau of the Budget.

Mr. UPDIKE. Mr. Speaker, the reason the committee struck out this proviso in this bill is because it would authorize the Secretary of the Navy, in his discretion, to give to the noncommissioned officers more pay than to the enlisted men doing the same service on board submarines. Under the present law enlisted men attached to the submarine service receive in addition to their pay $5 per month. They also get a dollar a day for every day that the submarine dives, not to exceed $15 during any calendar month. The maximum pay that a man can receive is $20 per month. Under the proposed amendment this would permit the Navy Department to differentiate between submarines cruising with the fleet and those assigned on shore—that is, men who were coming in who are not qualified and not familiar with all of the machinery on board submarines would be enabled to get the same pay as those who have familiarized themselves and put themselves through the submarine school. Therefore, the Navy Department recommended that this legislation be passed in this form, and the Secretary of the Navy agreed to the striking out of this paragraph in the proviso.

Mr. BLACK of Texas. There is nothing in the report to show that the Secretary of the Navy recommended that the proviso be put into the bill.

Mr. VINSON of Georgia. The effect of the proviso would be to make the pay in accord with the total amount appropriated now. The effect of striking out the proviso would be that probably the pay for the submarine service will be increased over what it is to-day, because we are raising the compensation of the men who served on submarines.

Mr. BLACK of Texas. Does the gentleman think that the proviso should be adopted?

Mr. VINSON of Georgia. I think the bill should be adopted as reported from the committee, because we think this work is so hazardous that these men should receive extra compensation for the service.

Mr. BLACK of Texas. They would receive it. The only limitation is that it must not exceed an average of $15 per month, and that is recommended by the Bureau of the Budget.

Mr. VINSON of Georgia. Thirty dollars a month.

Mr. BLACK of Texas. I know, but that the average shall not exceed $15 per month.

Mr. VINSON of Georgia. That is it.

Mr. BLACK of Texas. Of course individuals can receive as much as $30 a month, but the Bureau of the Budget and President say that we ought to hold it down to an average of $15 per month.

Mr. VINSON of Georgia. Yes; but after inquiry we are of opinion that the Bureau of the Budget reached the wrong decision. I trust the gentleman will not object.

Mr. BLACK of Texas. I shall not object, but I shall vote against the committee amendment.

The SPEAKER pro tempore. The Clerk will report the bill.

The Clerk read the bill, as follows:

Be it enacted, etc., That hereafter, in lieu of the additional pay now authorized by law, an enlisted man of the United States Navy assigned to duty aboard a submarine vessel of the Navy shall receive pay, under such regulations as may be prescribed by the Secretary of the Navy, at the rate of not exceeding $30 per month, in addition to the pay and allowances of his rating and service: *Provided*, That the total additional pay herein authorized shall not exceed for any fiscal year the amount required to pay the number of enlisted men allowed by the authorized complements of all submarines in commission during any such year at an average rate of $15 per month.

With the following committee amendments:

On page 1, in line 7, after the word "of" where it occurs the second time, insert "not less than $5 per month, and," and on line 9, after the word "service" strike out the colon and the words: "*Provided*, That the total additional pay herein authorized shall not exceed for any fiscal year the amount required to pay the number of enlisted men allowed by the authorized complements of all submarines in commission during any such year at an average rate of $15 per month each."

The SPEAKER pro tempore. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

A motion to reconsider the vote by which the bill was passed was laid on the table.

BRIDGE ACROSS ELIZABETH RIVER, IN THE COUNTY OF NORFOLK, VA.

Mr. DENISON. Mr. Speaker, the House this morning passed the bill H. R. 16889, a bridge bill, providing for the construction of a bridge across the southern branch of the Elizabeth River near the cities of Norfolk and Portsmouth, in the county of Norfolk, State of Virginia. A similar Senate bill is now on the Speaker's table. I ask unanimous consent to vacate the proceedings by which the bill was passed and to consider the Senate bill at this time.

The SPEAKER pro tempore. The gentleman from Illinois asks unanimous consent to vacate the proceedings by which the bill H. R. 16889 was passed and to consider a similar Senate bill, S. 5585, at the present time. Is there objection?

There was no objection.

The Clerk read the Senate bill, as follows:

Be it enacted, etc., That the time for beginning and completing the construction of the bridge across the southern branch of the Elizabeth River, authorized by the act of Congress entitled "An act granting the consent of Congress to O. Emmerson Smith, F. F. Priest, W. P. Jordan, H. W. West, C. M. Jordan, and G. Hubard Massey to construct, maintain, and operate a bridge across the southern branch of the Elizabeth River, at or near the cities of Norfolk and Portsmouth, in the county of Norfolk, in the State of Virginia," approved May 22, 1926, be, and the same is hereby, extended to one and three years, respectively, from May 22, 1927.

SEC. 2. The right to alter, amend, or repeal this act is hereby expressly reserved.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider the vote by which the bill was passed was laid on the table.

MODIFICATION OF AGREEMENTS MADE FOR SETTLEMENT OF CERTAIN CLAIMS

The next business on the Consent Calendar was the bill (H. R. 15131) to authorize the Secretary of the Navy to modify agreements heretofore made for the settlement of certain claims in favor of the United States.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. LAGUARDIA. Mr. Speaker, reserving the right to object, as I understand, all this bill does is to permit certain claims that are now secured by promissory notes prior to the maturity of the notes.

Mr. GAMBRILL. That is correct.

Mr. LAGUARDIA. That is a rather unusual thing. It seems strange that somebody wants to pay to the United States ahead of the time when the money is due.

Mr. GAMBRILL. These obligations extend over a considerable period. Some of them go to 1942. It is the desire of some of the debtors to make settlement with the Government at this time.

Mr. LAGUARDIA. At a discount of 4½ per cent.

Mr. GAMBRILL. I am going to offer two committee amendments which I believe will be accepted in that respect.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Navy be, and he is hereby, authorized, in his discretion, to accept in full settlement from debtors of the United States the present value of all noninterest-bearing obligations for the repayment of money advanced to said debtors to assist them in carrying out contracts with the United States entered into during the late war, such contracts having been executed by the Secretary of the Navy on behalf of the United States or by others acting under his authority.

Mr. GAMBRILL. Mr. Speaker, I offer the following committee amendment.

The Clerk read as follows:

Amendment offered by Mr. GAMBRILL: Page 1, line 5, after the word "value," insert "reckoned at the rate of 4¼ per cent per annum, simple interest."

Mr. DAVEY. Mr. Speaker, I offer the following amendment to the committee amendment.

The Clerk read as follows:

Amendment to the amendment offered by Mr. DAVEY: Strike out in the amendment the words "simple interest."

The SPEAKER pro tempore. The question is on agreeing to the amendment to the committee amendment.

Mr. GAMBRILL. Mr. Speaker, I rise in opposition to the amendment to my amendment. The effect of the amendment is to discount these obligations at compound interest. The matter was fully considered by the Committee on Naval Affairs and it was determined that the discount should be at simple interest. The difference between compound interest and simple interest will amount to a loss to the Government of $27,804.43. In view of the action taken by the committee in reporting out this bill with simple interest, I hope that the amendment proposed by the gentleman from Ohio will not prevail.

Mr. DAVEY. Mr. Speaker, just a word of explanation in reference to my amendment. This whole matter arises out of a war contract. A certain concern in my district, in response to the urgent request of the Government, greatly extended its factory capacity, and then on the sudden termination of the war found itself with vastly more factory space than required for its normal use, and the Government has a mortgage on that extra plant. These notes, without interest, run over a period of some 15 years. Now, as a matter of fact, the Government contract with this concern in this matter has embarrassed them. It has been a white elephant on their hands ever since.

Mr. BUTLER. But does the gentleman desire his constituents to pay a compound interest or simple interest? The gentleman's amendment would have the effect of paying compound interest. I suggest to the gentleman he let it go——

Mr. DAVEY. If the gentleman will pardon me. These are noninterest-bearing notes, and the discount would be at compound interest just the same as with ordinary commercial paper.

Mr. WOODRUFF. Will the gentleman yield?

Mr. DAVEY. I will.

Mr. WOODRUFF. Is it not a fact that this concern of which the gentleman speaks is at this time wanting to dispose of this entire property?

Mr. DAVEY. Oh, yes.

Mr. WOODRUFF. And the only reason why they can not dispose of it is on account of the lien the Government has against them.

Mr. DAVEY. Well——

Mr. WOODRUFF. Is it not a further fact that if this bill is put through the House and Senate as proposed it simply forces the gentleman's people—I think the gentleman is quite within his rights and he is entirely proper—to get out of business and to get rid of an undesirable investment?

Mr. DAVEY. Here is the exact situation: The concern in question is in a bad way financially, and the question involved here is whether they can work out a plan to dispose of this white elephant and get back on their feet; and if that is not done, in my judgment the Government may have the factory on its hands instead of the money.

Mr. LAGUARDIA. If the gentleman will permit, in all fairness to the gentleman who introduced the bill which was reported by a committee and comes here on the Consent Calendar, there is no objection made; but now the gentleman springs an amendment on us at this time. The gentleman is only jeopardizing his own bill.

Mr. WOODRUFF. If the gentleman will yield. Now, the committee's proposition was to grant to this concern a discount

at simple interest. The gentleman's amendment is to put in a discount rate at compound interest, and it will cost the Government $27,000 to grant that compound discount.

Mr. DAVEY. On several million dollars.

Mr. WOODRUFF. Is it not a fact this concern of which the gentleman speaks had an offer for this property——

Mr. DAVEY. I do not know.

Mr. WOODRUFF. That is the information that came to the Committee on Naval Affairs—and the reason why they have not disposed of it at this time was due to this lien against the property.

Mr. DAVEY. A further suggestion, that the language as it would be if my amendment is enacted is the language written by the Navy Department exactly, and a representative came in my office just the other day and proposed this very language.

Mr. VINSON of Georgia. That may be true.

Mr. BUTLER. I want to say to my friend that we would not have reported this bill if we had thought it would take $28,000.

The SPEAKER pro tempore. The question is on agreeing to the amendment offered by the gentleman from Ohio [Mr. DAVEY.]

The question was taken, and the amendment was rejected.

The SPEAKER pro tempore. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The SPEAKER pro tempore. The Clerk will report the next section of the bill.

The Clerk read as follows:

SEC. 2. The words "present value," for the purpose of this act, shall be the outstanding amount of each obligation, reduced by the interest thereon from the date of settlement to the date of its maturity, such interest to be computed.

With a committee amendment, as follows:

Page 2, line 7, after the word "computed," strike out "at the highest rate being paid at the time of settlement on any bonds of the United States" and insert "at 4¼ per cent simple interest per annum."

Mr. GAMBRILL. Mr. Speaker, I do not recall that amendment. May we have it read again?

The amendment was again read.

Mr. GAMBRILL. Mr. Speaker, I offer an amendment to the committee amendment.

The SPEAKER pro tempore. The Clerk will report the amendment offered by the gentleman from Maryland.

The Clerk read as follows:

Amendment offered by Mr. GAMBRILL: Page 2, strike out all of section 2.

The SPEAKER pro tempore. The question is on agreeing to the amendment offered by the gentleman from Maryland.

Mr. LAGUARDIA. Mr. Speaker, I rise in opposition, for the purpose of asking what that does to the bill. Why strike out section 2?

Mr. GAMBRILL. Because if section 2 is adopted it will cost the Government for the settlement of these obligations about $108,000.

Mr. DAVEY. Section 2 would make it unfair to the Government.

Mr. GAMBRILL. If you take the present value of each obligation, reduced by the amount of interest, and you have an obligation of $10,000, which would be for 25 years at 4¼ per cent interest, the Government would not receive anything.

The SPEAKER pro tempore. The question is on agreeing to the amendment offered by the gentleman from Maryland.

The amendment was agreed to.

The question is on the engrossment and third reading of the bill as amended.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

A motion to reconsider the vote whereby the bill was passed was ordered to be laid on the table.

The SPEAKER pro tempore. The Clerk will report the next bill.

NAVAL RESERVE AND MARINE CORPS RESERVE

The next business on the Consent Calendar was the bill (H. R. 15212) to amend section 24 of the act approved February 28, 1925, entitled "An act to provide for the creation, organization, administration, and maintenance of a naval reserve and a Marine Corps reserve."

The title of the bill was read.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. BLACK of Texas. I object.

The SPEAKER pro tempore. Objection is heard. The Clerk will report the next bill.

NAVAL RADIO STATION, MARSHFIELD, OREG.

The next business on the Consent Calendar was the bill (H. R. 16284) to authorize the Secretary of the Navy to dispose of the former naval radio station, Marshfield, Oreg.

The title of the bill was read.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. LAGUARDIA. Reserving the right to object, Mr. Speaker, I would like to ask the gentleman has this station been dismantled?

Mr. WOODRUFF. I understand it has been destroyed.

Mr. LAGUARDIA. Is there radio machinery there?

Mr. BEGG. Why is it that every time we sell a piece of land we continue to put it in the building fund? I did not intend, when I voted for that building fund, to let the Navy spend it in any way it wanted.

Mr. WOODRUFF. The gentleman should understand that the Navy can not spend any fund without the consent of Congress.

Mr. BEGG. Why not put this into the Treasury, and if they need any money for the building fund, let them be made to prove their case.

Mr. WOODRUFF. In the naval establishment certain expenditures can be made without coming to Congress. This could be used for that purpose without coming to Congress.

Mr. BEGG. I think it is poor policy on the part of Congress to allow that. If the gentleman will accept an amendment turning this fund into the Treasury, I shall not object to the passage of the bill.

Mr. WOODRUFF. It makes no difference whether it goes into this fund or into the special-construction fund. It is all in the Treasury.

Mr. BEGG. They ought to be able to prove their case.

Mr. WOODRUFF. There has not been a time when such a matter was recommended that the Navy has not proven its case before the committee.

Mr. LAGUARDIA. Reserving the right to object, Mr. Speaker, it is understood, then, that an amendment will be offered, either by the gentleman from Ohio [Mr. BEGG] or some one else, putting a period after line 10 and striking out lines 1 and 2 of page 2? Is that the amendment?

Mr. BEGG. No. On page 2, line 1, after the word "Treasury," insert the words "of the United States," and cut out the rest.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. BEGG. With the understanding that the amendment will be accepted, I will withdraw the objection.

The SPEAKER pro tempore. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Navy be, and he is hereby, authorized to dispose of the land and improvements comprising the former naval radio station, Marshfield, Oreg., in like manner and under like terms, conditions, and restrictions as prescribed for the disposition of certain other naval radio stations by the act entitled "An act to authorize the disposition of lands no longer needed for naval purposes," approved June 7, 1926 (44 Stat. p. 700), and the net proceeds from the sale of said radio station shall be deposited in the Treasury to the credit of the naval public works construction fund created by section 9 of said act.

Mr. BEGG. Mr. Speaker, I suggest an amendment on page 2, line 1, to strike out all the rest of the bill after the word "Treasury" and insert the words "of the United States."

Mr. LAGUARDIA. Should it not be paid into the Treasury of the United States?

Mr. BEGG. Yes; it should be paid into the Treasury of the United States.

The SPEAKER pro tempore. The Clerk will report the amendment offered by the gentleman from Ohio.

The Clerk read as follows:

Amendment offered by Mr. BEGG: On page 2, line 1, strike out the word "deposited" and insert the words "paid into," and after the word "Treasury," in the same line, strike out the remainder of the bill and insert the words "of the United States."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill as amended.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

A motion to reconsider the vote whereby the bill was passed was ordered to be laid on the table.

TRANSPORTATION OF BLIND PERSONS

Mr. NEWTON of Minnesota. Mr. Speaker, I ask unanimous consent to return to the consideration of Senate bill 2615, the blind bill, which is No. 877 on the calendar. I understand that the gentleman from Ohio [Mr. BEGG], who objected, has given further consideration to the bill and now has no objection to its consideration.

The SPEAKER pro tempore. The gentleman from Minnesota asks unanimous consent to return to the consideration of Senate bill 2615. Is there objection?

Mr. LAGUARDIA. Mr. Speaker, there were other objections besides that of the gentleman from Ohio, and the gentleman should not spring a unanimous-consent request of that kind in this manner.

Mr. NEWTON of Minnesota. The gentleman from Minnesota was not aware that any persons questioned the bill at all with the exception of the gentleman from Ohio [Mr. BEGG] and the gentleman from New York, who has just spoken, but the gentleman from New York did not indicate that he had any objection to the bill, and the gentleman from Minnesota was not aware that anyone else indicated any objection.

The SPEAKER pro tempore. Is there objection?

Mr. LAGUARDIA. I object.

DISPENSARY, UNITED STATES NAVAL STATION, GUANTANAMO, CUBA

The next business on the Consent Calendar was the bill (H. R. 16580) to authorize the Secretary of the Navy to declare the naval dispensary at the United States naval station, Guantanamo, Cuba, to be a naval hospital, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. LAGUARDIA. Mr. Speaker, reserving the right to object, what is the difference between a dispensary and a hospital?

Mr. WOODRUFF. I will say for the benefit of the gentleman from New York that at the present time a dispensary is available at Guantanamo for the 1,000 men usually kept there. That dispensary has only 16 beds, and whenever the scouting fleet is there they have with the fleet the hospital ship *Mercy*. The Navy Department and the Naval Affairs Committee propose to transform the dispensary into a hospital, to have a ward containing 50 beds and to retire the naval hospital ship *Mercy*, and thereby save to the Treasury of the United States $200,000 yearly.

Mr. LAGUARDIA. Do you intend to put the *Mercy* out of commission?

Mr. WOODRUFF. Yes; and save $200,000 per year.

Mr. LAGUARDIA. It is understood, then, that you intend to build a ward containing 50 beds and have the hospital ship *Mercy* go out of commission?

Mr. WOODRUFF. Absolutely; and thus save the cost of operating that ship.

Mr. LAGUARDIA. Under those circumstances I have no objection.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Navy is hereby authorized, in his discretion, to declare the naval dispensary at the United States Naval Station, Guantanamo, Cuba, to be a naval hospital, and to make the necessary alterations, extensions, and additions to the said dispensary buildings in order to enlarge and adapt them for a hospital of approximately 50 patients at a total cost of not to exceed $50,000.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

A motion to reconsider the vote whereby the bill was passed was laid on the table.

FORT PECK INDIAN RESERVATION

The next business on the Consent Calendar was the bill (H. R. 10976) to amend the act entitled "An act for the survey and allotment of lands now embraced within the limits of the Fort Peck Indian Reservation, in the State of Montana, and the sale and disposal of all the surplus lands after allotment," approved May 30, 1908, as amended, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read as follows:

Be it enacted, etc., That all coal and other minerals, including oil and gas, in the tribal lands within the Fort Peck Indian Reservation, Mont., not disposed of at the time of the passage of this act under the provisions of the act entitled "An act for the survey and allotment of lands now embraced within the limits of the Fort Peck Indian Reservation in the State of Montana, and the sale and disposal of all the surplus lands after allotment," approved May 30, 1908, as amended, are hereby reserved specifically to the Indians on such reservation, and the title to all mineral deposits reserved to the United States in lands within such reservation and not disposed of at the time of the passage of this act is hereby reinvested in such Indians. Leases covering such land for coal or other minerals, including oil and gas, and such mineral deposits, respectively, may be made by the Indians of the Fort Peck Reservation through their tribal council, with the approval of the Secretary of the Interior and under such rules and regulations as he may prescribe.

With the following committee amendment:

Strike out all of section 1 and insert:

"That the act of May 30, 1908 (35 Stats. p. 558), providing for the allotment, sale, and disposal of lands on the Fort Peck Indian Reservation, Mont., is hereby amended by specifically reserving to the Indians having tribal rights on said reservation the oil and gas in the tribal lands undisposed of on the date of the approval of this act; and leases covering such land for oil and gas may be made by the Indians of the Fort Peck Reservation through their tribal council, with the approval of the Secretary of the Interior and under such rules and regulations as he may prescribe."

The committee amendment was agreed to.

The Clerk read as follows:

SEC. 2. (a) That the title to certain lands on the Fort Peck Indian Reservation, Mont., reserved for agency, school, and other administrative purposes (embracing 4,000.94 acres), pursuant to the provisions of section 3 and 16 of such act, as amended, is hereby reinvested in the Indians having tribal rights on the Fort Peck Reservation, subject to the continued use of such lands for administrative purposes as long as needed for such purposes in the discretion of the Secretary of the Interior.

(b) The Secretary of the Treasury is authorized and directed to deduct the sum of $5,117.52, representing the purchase price of such lands at the rate of $1.25 per acre, from moneys in the Treasury arising from the proceeds of the sale of lands disposed of under the provisions of such act, as amended, and to credit the same to the United States as payment for the lands, title to which is reinvested in accordance with the provisions of this section.

SEC. 3. That section 15 of such act, as amended, is amended to read as follows:

"SEC. 15. That after deducting the expenses of the commission of classification, appraisement, and sale of the lands, and such other incidental expenses as may necessarily be incurred, including the cost of survey of said lands, the balance realized from the proceeds of the sale of the lands in conformity with the provisions of this act shall be paid into the Treasury of the United States and placed to the credit of said Indian tribe, to draw 4 per cent per annum, the principal and interest to be expended from time to time by the Secretary of the Interior as he may deem advisable for the benefit of said Indians in suitable per capita cash payments. The remainder of all funds deposited in the Treasury, realized from such sale of lands herein authorized, together with the remainder of all other funds now placed to the credit of or that shall hereafter become due to said tribe of Indians, shall be allotted in severalty to the members of the tribe, the persons entitled to share as members in such distribution to be determined by the Secretary of the Interior."

SEC 4. That the classifications and appraisements of lands embraced within the Fort Peck Indian Reservation in effect at the time of the passage of this act shall be deemed final and conclusive, and no further classifications or appraisements of any such lands shall be made.

With the following committee amendment:

Strike out all of sections 3 and 4.

The committee amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

A motion to reconsider the vote whereby the bill was passed was laid on the table.

OSAGE INDIANS IN OKLAHOMA

The next business on the Consent Calendar was the bill (H. R. 16074) to amend section 2 of the act of Congress of March 3, 1921 (41 Stat. L. p. 1249), entitled "An act to amend section 3 of the act of Congress of June 28, 1906, entitled 'An act for the division of the lands and funds of the Osage Indians in Oklahoma, and for other purposes.'"

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. LAGUARDIA. Mr. Speaker, reserving the right to object, may I ask whether this depletes the funds of this tribe?

Mr. HASTINGS. None whatever. It does not affect the funds of the tribe. It only relates to the question of damages to the surface where people go on and drill.

Mr. LEAVITT. It is for the benefit of the tribe.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That section 2 of the act of March 3, 1921 (41 Stat. L. p. 1249), entitled "An act to amend section 3 of the act of Congress of June 28, 1906, entitled 'An act for the division of the lands and funds of the Osage Indians in Oklahoma, and for other purposes,'" be, and the same is hereby, amended to read as follows:

"SEC. 2. The bona fide owner, lessee, or occupant of the surface of lands in the Osage Nation in Oklahoma shall be compensated, as his interest may appear, and under rules and regulations to be prescribed by the Secretary of the Interior, for damages to crops and improvements occasioned by the oil or gas lessees, their servants, or agents in going upon such premises and in carrying on oil or gas mining operations. Such surface owner, lessee, or occupant shall also be compensated, as his interest may appear, and under rules and regulations to be prescribed by the Secretary of the Interior, for such other damages, including those arising out of pollution of ponds or streams and out of injuries to the surface of lands, as are caused by the negligence of the oil or gas lessees, their servants, or agents in developing or operating oil or gas properties in said Osage Nation. All claims for damages arising under this section shall be settled by arbitration; but either party shall have the right to appeal to the courts, without consent of the Secretary of the Interior, in the event he is dissatisfied with the award to or against him. The award shall be in writing and shall be filed in the office of the superintendent of the Osage Indian Agency within 10 days after it is made, and thereupon the said superintendent shall give the parties written notice thereof by personal service or registered mail. Unless appealed from within 60 days after service or mailing of said notice, the award shall become final. The appeal herein authorized shall consist of filing an original action in the United States district court for the district in which Osage County is or may hereafter be situated to enlarge, modify, or set aside the award; and in any such action, upon demand of either party, the issues both of law and of fact shall be tried de novo. Arbitration or a bona fide offer in writing to arbitrate shall constitute condition precedent to the right to sue for such damages, and the United States district court shall have exclusive original jurisdiction in such causes."

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

A motion to reconsider the vote whereby the bill was passed was laid on the table.

UNITED STATES COTTON FUTURES ACT

Mr. O'CONNOR of Louisiana. Mr. Speaker, I ask unanimous consent to return to No. 885 on the Consent Calendar, H. R. 16470.

The SPEAKER pro tempore. The gentleman from Louisiana asks unanimous consent to return to Calendar No. 885, H. R. 16470. Is there objection?

There was no objection.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

Mr. O'CONNOR of Louisiana. Mr. Speaker, I ask unanimous consent to substitute Senate bill 4974, which is identical in language with the House bill.

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

There was no objection.

The Clerk read the Senate bill, as follows:

Be it enacted, etc., That the act entitled "United States cotton futures act," approved August 11, 1916, as amended, be amended as follows:

In section 6, after the words "established by the sale of spot cotton," strike out the following words: "In the market where the future transaction involved occurs and is consummated, if such market be a bona fide spot market; and in the event there be no bona fide spot market at or in the place in which such future transaction occurs, then, and in that case, the said differences above or below the contract price which the receiver shall pay for cotton above or below the basis grade shall be determined by the average actual commercial differences in value thereof, upon the sixth business day prior to the day fixed, in accordance with the sixth subdivision of section 5, for the delivery of cotton on the contract," so that section 6 as amended will read as follows:

"SEC. 6. That for the purposes of section 5 of this act the differences above or below the contract price which the receiver shall pay for cotton of grades above or below the basis grade in the settlement of a contract of sale for the future delivery of cotton shall be determined by the actual commercial differences in value thereof upon the sixth business day prior to the day fixed, in accordance with the sixth subdivision of section 5, for the delivery of cotton on the contract, established by the sale of spot cotton in the spot markets of not less than five places designated for the purpose from time to time by the Secretary of Agriculture, as such values were established by the sales of spot cotton, in such designated five or more markets: *Provided*, That for the purpose of this section such values in the said spot markets be based upon the standards for grades of cotton established by the Secretary of Agriculture: *And provided further*, That whenever the value of one grade is to be determined from the sale or sales of spot cotton of another grade or grades, such value shall be fixed in accordance with rules and regulations which shall be prescribed for the purpose by the Secretary of Agriculture."

The bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider the vote whereby the bill was passed was laid on the table.

House bill 16470 was laid on the table.

APPORTIONMENT OF WATERS OF THE BELLE FOURCHE AND CHEYENNE RIVERS

The SPEAKER pro tempore. The Chair lays before the House the following message from the Senate:

Ordered, That the House of Representatives be requested to return to the Senate the bill (S. 4411) entitled "An act granting the consent of Congress to compacts or agreements between the States of South Dakota and Wyoming with respect to the division and apportionment of the waters of the Belle Fourche and Cheyenne Rivers and other streams in which such States are jointly interested," with all accompanying papers.

Is there objection to complying with the request of the Senate?

There was no objection.

TRANSPORTATION OF BLIND PERSONS

Mr. NEWTON of Minnesota. Mr. Speaker, the gentleman from New York [Mr. LAGUARDIA] has withdrawn his objection to No. 877, Senate 2615, and I ask unanimous consent to return to that number on the calendar.

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

There was no objection.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That paragraph (1) of section 22 of the interstate commerce act, as amended, is amended by striking out the colon immediately preceding the first proviso of such paragraph and inserting in lieu thereof a semicolon and the following: "nothing in this act shall be construed to prohibit any common carrier from carrying any totally blind person accompanied by a guide at the usual and ordinary fare charged to one person, under such reasonable regulations as may have been established by the carrier."

The bill was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider the vote by which the bill was passed was laid on the table.

THE SEQUOYAH ORPHAN TRAINING SCHOOL

The next business on the Consent Calendar was the bill (H. R. 16207) to authorize an appropriation to enable the Secretary of the Interior to provide an adequate water supply for the Sequoyah Orphan Training School near Tahlequah, Cherokee County, Okla.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That there is hereby authorized to be appropriated the sum of $12,000, or so much thereof as may be necessary, to enable the Secretary of the Interior to drill and equip a well and impound the water in order to furnish an adequate supply of water for the use of the Sequoyah Orphan Training School near Tahlequah, Cherokee County, Okla.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

A motion to reconsider the vote by which the bill was passed was laid on the table.

THE CODE OF LAW OF THE DISTRICT OF COLUMBIA

The next business on the Consent Calendar was the bill (H. R. 16217) to amend an act entitled "An act to establish a Code of

Law for the District of Columbia," approved March 3, 1901, and the acts amendatory thereof and supplementary thereto.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. O'CONNOR of New York. Mr. Speaker, I reserve the right to object, so I may direct a question to the chairman of the Committee on the Judiciary. May I ask the gentleman from Pennsylvania to take this opportunity to explain to the Members of the House something that is in the mind of a great number of them, why on Saturday, when he had the opportunity, he did not call up the longshoremen's compensation bill? I do not think the gentleman from Pennsylvania is going to have any objection to answering this question, because it is important he answer it.

Mr. BEGG. If the gentleman will yield to me, this is consent day. Let us not inject something else. Let us get on with these bills, because the Members want the bills passed on.

Mr. O'CONNOR of New York. It is the only opportunity we have to find out whether there is going to be another opportunity to consider the longshoremen's compensation bill.

Mr. BEGG. The gentleman can ask the gentleman from Pennsylvania about that out in the lobby and spend an hour on it perhaps.

Mr. O'CONNOR of New York. Several Members have asked me the question and I would like to have the gentleman from Pennsylvania answer.

Mr. GRAHAM. Mr. Speaker, I think it will save time if I answer my friend from New York. I thought it was too important a bill to call up at the last end of the last day of the week. I thought it ought to have a time and an opportunity by itself, and I had no other thought in my mind except that. Finally, when there was so much discussion here, I said, "Call it up and go on with it," but then matters had so changed that the Rules Committee did not call it up. I had not the power to call it up. I could not move in the matter without the Rules Committee.

Mr. O'CONNOR of New York. Will the gentleman state that the RECORD shows he made such a statement as "Call it up" or a statement offering to call it up?

Mr. GRAHAM. I can not say that, because I do not know that the statement was taken down by the reporter. I went to the chairman of the Committee on Rules and I went also to the majority leader upon this side of the House and expressed my desire, and I am now doing all in my power to have the bill called up and put on its passage just as quickly as it can be reached.

Mr. O'CONNOR of New York. Will the gentleman inform the Members of the House now interested whether or not a definite date has been set when an opportunity will be given to the Members to vote on this bill?

Mr. GRAHAM. I can only tell the gentleman what I have been informed by the majority leader and by the chairman of the Committee on Rules—that as soon as the deficiency bill and two other matters are disposed of this bill, in all human probability, will have its place. I am relying upon that.

Mr. LAGUARDIA. Will the gentleman yield?

Mr. O'CONNOR of New York. Yes.

Mr. LAGUARDIA. In all fairness to the Rules Committee—and I am not here to defend the Rules Committee—it was announced Saturday by the chairman that they had their opportunity to call it up, and the chairman was ready to call it up, and consulted the wishes of the chairman of the Committee on the Judiciary.

Mr. BEGG. Mr. Speaker, I demand the regular order.

The SPEAKER pro tempore. The gentleman from Ohio demands the regular order. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read as follows:

Be it enacted, etc., That the act to establish a Code of Law for the District of Columbia, approved March 3, 1901, and the acts amendatory thereof and supplementary thereto, constituting the Code of Law for the District of Columbia, be, and the same are hereby, amended as follows:

Strike out section 1110 and insert in lieu thereof:

"SEC. 1110. Clerk's fees: For filing actions at law and suits in equity and for all services to be performed therein, except as hereinafter provided, $10.

"2. For filing the following-named cases and for all services to be performed therein, except as otherwise provided in paragraphs 5 and 6 hereof:

"Lunacy cases, $15; District Court cases, condemnation and libel, $15; deportation cases, $10; requisition cases, $10; habeas corpus cases, $10; feeble-minded cases, $7.50; adoption cases, $5; cases substituting trustees, $3; change of name cases, $5; intervening petitions in any case, $5; docketing judgments of the municipal court, $2.50; and plea of title cases, $10.

"3. Upon the perfecting of any appeal to the Court of Appeals of the District of Columbia there shall be charged and collected by the clerk from the party or parties prosecuting such appeal an additional fee in said suit or proceeding of $5.

"PAR. 5. For each additional trial or final hearing, upon a reversal by the Court of Appeals of the District of Columbia, or following a disagreement by a jury or the granting of a new trial or rehearing by the court, there shall be charged and collected by the clerk from the party or parties securing such reversal, new trial, or rehearing the further sum of $5: *Provided, however,* That the clerk shall not be required to account for any such fee not collected by him in any criminal case: *Provided further,* That nothing herein contained shall prohibit the court from directing by rule or standing order the collection, at the time the services are rendered, of the fees herein enumerated from either party, but all such fees shall be taxed as costs in the respective cases.

"PAR. 6. In any case where attachments, executions, scire facias proceedings, or rules are issued the following fees shall be charged and collected by the clerk in addition to the fees hereinbefore provided: For each writ of attachment and each copy, $1; for each writ of execution, $1.50; for each writ of scire facias and each copy, $1; for each rule and each copy certified, 50 cents.

"Par. 7. That in addition to the fees for services rendered in cases, hereinbefore enumerated, the clerk shall charge and collect, for miscellaneous services performed by him and his assistants, except when on behalf of the United States, the following fees:

"1. For issuing any writ or a subpœna for a witness not in a case instituted or pending in the court from which it is issued, 50 cents for each writ and copy or subpœna and copy.

"2. For filing and indexing any paper, not in a case or proceeding, 25 cents.

"3. For administering an oath or affirmation, not in a case or proceeding pending in the court where the oath is administered, 25 cents.

"4. For an acknowledgement, certificate, affidavit, or countersignature, with seal, 50 cents.

"5. For taking and certifying depositions to file, 20 cents for each folio of 100 words, and if taken stenographically 15 cents per folio additional for the stenographer.

"6. For copy of any record, entry, or other paper; and the comparison thereof, 15 cents for each folio of 100 words.

"7. For filing præcipe or requisition and searching the records of the court for judgments, decrees, or other instruments or suits pending, or bankruptcy proceedings, including certifying of the results of such search, 60 cents for the first name and 25 cents for each additional name embraced in the certificate.

"8. For receiving, keeping, and paying out money in pursuance of any statute or order of court, including cash bail or bonds or securities authorized by law or order of court to be deposited in lieu of other security, 1 per cent of the amount so received, kept, and paid out, or of the face value of such bonds or securities.

"9. For making and comparing a transcript of record on appeal or writ of error when required or requested, 15 cents for each folio of 100 words.

"10. For comparing any transcript, copy of record, or other paper not made by the clerk with the original thereof, 5 cents for each folio of 100 words.

"11. For making a final record in any case at the request of either party or upon order of court in a particular case, 15 cents for each folio of 100 words: *Provided, however,* That when any such final record is made upon order of court the fees therefor shall be taxed in the costs of the case.

"12. For admission of attorneys to practice, $2 each; for certificate of admission to be furnished upon request, $2 additional.

"13. For each marriage license, $2.

"14. For each certified copy of marriage license and return, $1.

"15. For each certified copy of application for marriage license, $1.

"16. Registering clergymen's authorizations to perform marriages and issuing certificate, $1.

"17. For each certificate of official character, including the seal, 50 cents.

"18. For filing and recording each notice of mechanic's lien, $1.

"19. For entering release of mechanic's lien, 50 cents for each order of lienor; 75 cents for each undertaking of lienee."

With the following committee amendments:

At the end of page 6, insert the following:

"20. For recording physicians', optometrists', and midwives' licenses, 50 cents each.

"SEC. 2. This act shall take effect on the 1st day of July, 1927."

The committee amendments were agreed to.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

A motion to reconsider the vote by which the bill was passed was laid on the table.

AUTHORIZING SECRETARY OF THE INTERIOR TO EXPEND CERTAIN INDIAN TRIBAL FUNDS FOR INDUSTRIAL PURPOSES

The next business on the Consent Calendar was the bill (H. R. 16840) to authorize the Secretary of the Interior to expend certain Indian tribal funds for industrial purposes.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized to set aside as revolving reimbursable funds the sums indicated below from the money on deposit in the Treasury of the United States to the credit of the several Indian tribes, and, in his discretion, to expend said amounts in the construction of homes for individual members of the respective tribes and in the purchase for sale to them of seed, animals, machinery, tools, implements, building material, and other equipment and supplies, under such rules and regulations as he may prescribe:

Cheyenne River, S. Dak., $25,000; Fort Apache, Ariz., $75,000; Fort Hall, Idaho, $50,000; Fort Peck, Mont., $25,000; Jicarilla, N. Mex., $25,000; Klamath, Oreg., $250,000; Mescalero, N. Mex., $35,000; and Shoshone, Wyo., $50,000; in all, $535,000. Repayments shall be credited to said revolving funds and may be again expended for similar purposes until no longer required therefor, when the unexpended balances, together with future repayments, shall be returned to the fund from which taken: *Provided*, That the Secretary of the Interior is also hereby authorized, under such rules and regulations as he may prescribe, to make advances therefrom to Indians having irrigable allotments, to assist them in the development and cultivation thereof, and to old, disabled, or indigent allottees for their support, to remain a charge and lien against their lands until paid.

The bill was ordered to be engrossed and read the third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

AMENDING AN ACT TO PROVIDE FOR THE ALLOTMENT OF LANDS FOR THE CROW TRIBE OF INDIANS

The next business on the Consent Calendar was the bill (H. R. 16845) to amend section 1 of the act approved May 26, 1926, entitled "An act to amend sections 1, 5, 6, 8, and 18 of an act approved June 4, 1920, entitled 'An act to provide for the allotment of lands of the Crow Tribe, for the distribution of tribal funds, and for other purposes.'"

The Clerk read the title to the bill.

The SPEAKER pro tempore. Is there objection?

Mr. BEGG. Reserving the right to object, I would like to ask the gentleman from Montana why these competent Indians should not have the privilege of leasing their lands as they wish?

Mr. LEAVITT. Congress passed a bill to allow the Indians to do that, but they found that advantage was being taken in making leases too far in advance. A delegation of the Indians have addressed me and requested that this bill be introduced in order to protect the Indians while they are learning how to handle their lands.

Mr. BEGG. In other words, they are competent under the supervision of the Government?

Mr. LEAVITT. Oh, no; but this fixes a limit on the time before the expiration of one lease when they can negotiate another.

Mr. LaGUARDIA. What is the limit?

Mr. LEAVITT. On agricultural lands 18 months, and on grazing lands 12 months.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That section 1 of the act approved May 26, 1926, entitled "An act to amend sections 1, 5, 6, 8, and 18 of an act approved June 4, 1920, entitled 'An act to provide for the allotment of lands of the Crow Tribe, for the distribution of tribal funds, and for other purposes,'" be, and it hereby is, amended by inserting in section 1, after the sentence reading, "No lease shall be made for a period longer than five years," the following:

"*And provided further*, That no lease of grazing lands now in force or hereafter made shall be renewed, or any of the lands embraced within the same be re-leased, prior to one year before the termination of such lease: *And provided further*, That no lease of farming lands now in force or hereafter made shall be renewed, or any of the lands embraced within the same be re-leased, prior to 18 months before the termination of such lease."

The bill was ordered to be engrossed and read a third time, was read the third time, and passed.

Mr. LEAVITT. Mr. Speaker, I ask unanimous consent to include the statement of the Indians as part of my remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Montana?

There was no objection.

The letter is as follows:

WASHINGTON, D. C., *January 27, 1927.*

The Hon. SCOTT LEAVITT,

House of Representatives, Washington, D. C.

DEAR MR. LEAVITT: We, as delegates of the Crow Tribe of Indians, request that you introduce a bill to amend section 1 of the act approved May 26, 1926, entitled "An act to amend sections 1, 5, 6, 8, and 18 of an act approved June 4, 1920, entitled 'An act to provide for the allotment of lands of the Crow Tribe, for the distribution of tribal funds, and for other purposes,'" by inserting in section 1 after the sentence reading, "No lease shall be made for a period longer than five years," the following:

"*And provided further*, That no lease covering farming or grazing lands now in force or no lease hereafter made shall be re-leased or renewed prior to six months of the expiration of the term of such lease."

The reason for this amendment is that while we think it simply is declaring what is already the law, nevertheless, it will be beneficial to the tribe and its members in meeting a condition which has arisen. We know that on the Crow Reservation certain persons have taken some leases, and are endeavoring to obtain other leases to begin one, two, or even more years from the date the lease is made. This creates a condition of overlapping leases.

The Supreme Court of the United States held in the case of the United States *v.* Noble (237 U. S. 74), as to leases in the Quapaw Tribe of Indians, that "overlapping leases of Indian allotments are abnormal, and the practice of making them facilitates abuses in dealing with ignorant and inexperienced Indians." It also held that at common law there was no right to make leases to begin operation at unreasonable periods in the future, and that the leases made with the Quapaws to begin in the future were illegal. It held this in the Quapaw case as to certain Indians whose lands, though patented to them in fee, nevertheless, were subject to restrictions and trust patents.

It set aside these Quapaw leases as unlawful.

While we are convinced because of this decision that these overlapping leases which are being taken are illegal, the members of our tribe are confronted with the fact that the lessees taking these leases are threatening to take the Indians into court who made the leases. This would involve them in delay, expense, and litigation. In order to meet this condition we have drafted the proposed amendment which we think will meet the situation and clarify and remove all doubts.

We trust you will have the legislation enacted during the present Congress.

Yours very truly,

JAMES CARPENTER,
FRANK YORLOTTER,
HARRY WHITEMAN,
Delegates of the Crow Tribe of Indians.

BRIDGE ACROSS THE MISSISSIPPI RIVER

Mr. CANNON. Mr. Speaker, I asked awhile ago that action be deferred on the bill S. 5620, a bridge bill. I have conferred with the gentleman from Illinois [Mr. DENISON] and he has consented that I ask unanimous consent to return.

The SPEAKER pro tempore. That is the bill that the gentleman asked to be excepted from the motion of the gentleman from Illinois with reference to bridge bills?

Mr. CANNON. Yes.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The Clerk read the bill, as follows:

[S. 5620, 69th Cong., 2d sess.]

An act granting the consent of Congress to John R. Scott, Thomas J. Scott, E. E. Green, and Baxter L. Brown, their successors and assigns, to construct, maintain, and operate a bridge across the Mississippi River

Be it enacted, etc., That the consent of Congress is hereby granted to John R. Scott, Thomas J. Scott, E. E. Green, and Baxter L. Brown, their successors and assigns, to construct, maintain, and operate a bridge and approaches thereto across the Mississippi River at a point suitable to the interests of navigation, between a point at or near the northern city limits of the city of St. Louis, in the State of Missouri, and a point opposite in the State of Illinois, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906, and subject to the conditions and limitations contained in this act.

SEC. 2. There is hereby conferred upon John R. Scott, Thomas J. Scott, E. E. Green, and Baxter L. Brown, their successors and assigns, all such rights and powers to enter upon lands and to acquire, condemn, occupy, possess, and use real estate and other property needed for

the location, construction, operation, and maintenance of such bridge and its approaches and terminals as are possessed by railroad corporations for railroad purposes or by bridge corporations for bridge purposes in the State in which such real estate or other property is situated, upon making just compensation therefor, to be ascertained and paid according to the laws of such State, and the proceedings therefor shall be the same as in condemnation and expropriation of property in such State.

SEC. 3. The said John R. Scott, Thomas J. Scott, E. E. Green, and Baxter L. Brown, their successors and assigns, are hereby authorized to fix and charge tolls for transit over such bridge, and the rates of toll so fixed shall be the legal rates until changed by the Secretary of War under authority contained in the act of March 23, 1906.

SEC. 4. After the completion of such bridge, as determined by the Secretary of War, either the State of Missouri, the State of Illinois, any political subdivision of either of such States, within or adjoining which any part of such bridge is located, or any two or more of them jointly, may at any time acquire and take over all right, title, and interest in such bridge and its approaches, and any interest in real property necessary therefor, by purchase or by condemnation in accordance with the laws of either of such States governing the acquisition of private property for public purposes by condemnation. If at any time after the expiration of 20 years after the completion of such bridge the same is acquired by condemnation, the amount of damages or compensation to be allowed shall not include good will, going value, or prospective revenues or profits, but shall be limited to the sum of (1) the actual cost of constructing such bridge and its approaches, less a reasonable deduction for actual depreciation in value, (2) the actual cost of acquiring such interest in real property, (3) actual financing and promotion cost, not to exceed 10 per cent of the sum of the cost of constructing the bridge and its approaches and acquiring such interest in real property, and (4) actual expenditures for necessary improvements.

SEC. 5. If such bridge shall be taken over or acquired by the States or political subdivisions thereof as provided in section 4 of this act, and if tolls are charged for the use thereof, the rates of toll shall be so adjusted as to provide a fund sufficient to pay for the cost of maintaining, repairing, and operating the bridge and its approaches, to pay an adequate return on the cost thereof, and to provide a sinking fund sufficient to amortize the amount paid therefor as soon as possible under reasonable charges, but within a period not to exceed 25 years from the date of acquiring the same. After a sinking fund sufficient to pay the cost of acquiring the bridge and its approaches shall have been provided, such bridge shall thereafter be maintained and operated free of tolls, or the rates of toll shall thereafter be so adjusted as to provide a fund of not to exceed the amount necessary for the proper care, repair, maintenance, and operation of the bridge and its approaches. An accurate record of the amount paid for acquiring the bridge and its approaches, the expenditures for operating, repairing, and maintaining the same, and of the daily tolls collected shall be kept and shall be available for the information of all persons interested.

SEC. 6. The said John R. Scott, Thomas J. Scott, E. E. Green, and Baxter L. Brown, their successors and assigns, shall within 90 days after the completion of such bridge file with the Secretary of War a sworn itemized statement showing the actual original cost of constructing such bridge and its approaches, the actual cost of acquiring any interest in real property necessary therefore, and the actual financing and promotion costs. The Secretary of War may at any time within three years after the completion of such bridge, investigate the actual cost of constructing the same, and for such purposes the said John R. Scott, Thomas J. Scott, E. E. Green, and Baxter L. Brown, their successors and assigns, shall make available all of its records in connection with the financing and the construction thereof. The findings of the Secretary of War as to actual original cost of the bridge shall be conclusive, subject only to review in a court of equity for fraud or gross mistake.

SEC. 7. The right to sell, assign, transfer, and mortgage all the rights, powers, and privileges conferred by this act is hereby granted to John R. Scott, Thomas J. Scott, E. E. Green, and Baxter L. Brown, their successors and assigns, and any corporation to which or any person to whom such rights, powers, and privileges may be sold, assigned, or transferred, or who shall acquire the same by mortgage foreclosure or otherwise, is hereby authorized and empowered to exercise the same as fully as though conferred herein directly upon such corporation or person.

SEC. 8. The right to alter, amend, or repeal this act is hereby expressed reserved.

The bill was ordered to be read the third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

BRIDGE ACROSS RAINY RIVER

Mr. NEWTON of Minnesota. Mr. Speaker, I ask unanimous consent to take up the bill H. R. 17181, the bridge bill, on the calendar, which was taken out of the motion of the gentleman from Illinois [Mr. DENISON].

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

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That the time for commencing and completing the construction of the bridge authorized by the act of Congress approved May 4, 1925, to be built across the Rainy River between the village of Spooner, Lake of the Woods County, State of Minnesota, and the village of Rainy River, Province of Ontario, Canada, is hereby extended for two years from the date of approval hereof.

SEC. 2. That the right to alter, amend, or repeal this act is expressly reserved.

Mr. NEWTON of Minnesota. Mr. Speaker, I move to amend, in line 5, by striking out the word "May" and insert the word "March," which was a typographical error.

The Clerk reported the amendment, as follows:

Line 5, strike out the word "May" and insert the word "March."

The amendment was agreed to.

The bill was ordered to be engrossed and read a third time, was read a third time, and passed.

A motion to reconsider was laid on the table.

THE DEVELOPMENT OF EDUCATION IN THE LABOR MOVEMENT

Mr. ZIHLMAN. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. ZIHLMAN. Mr. Speaker, practically one-half of the annual report submitted recently by the Commissioner of Education to the Secretary of the Interior deals with the general development in the field of public education for the fiscal year 1925–26.

Impressive progress is reported in the conduct of rural school systems, in the reorganization of city school curricula, in the matters of school hygiene, industrial, commercial, and adult education, and in the increasing importance to education of the public libraries. Such reports are indeed gratifying to those of us who watch the developments in education with so much hope.

Of course, there are also many educational developments not within the scope of this report, so many that it is almost impossible to keep in touch with them all. I would like, however, under leave to extend my remarks to describe briefly one experiment as being perhaps one of the most important developments in a new field of education—workers' education. I think it an experiment well worth knowing about and keeping in touch with.

This experiment—and it has really passed the critical stage of experimentalism now—is unique in that it is the first and so far the only resident college for trade-union men and women in the United States. It is called Brookwood, and operates under a charter of incorporation granted by the State of New York.

The purpose of Brookwood—it has become almost a creed of faith—is clearly stated in its bulletin and articles of incorporation. It is as follows:

Save for the fact that it stands for a new and better order, motivated by social values rather than pecuniary ones, Brookwood is not a propagandist institution. It seeks the truth, free from dogma and doctrinaire teaching. It believes that the labor and farmer movements constitute the most vital, concrete force working for human freedom, and that by exerting a wise social control they can bring in a new era of justice and human brotherhood.

Men and women who desire to be effective and useful in the labor and farmer movements need, in the first place, a point of view, a method of approach to their problems—respect for facts, willingness to face facts, ability to dig out relevant facts, and to solve problems and make generalizations on the basis of facts.

In the second place, they need the means for progressively shaping a policy with regard to the main issues confronting the organized workers at the present time.

Thirdly, they need a certain amount of training in the technique of labor-union administration and of activities such as speaking, writing, organizing, teaching, in which they may be called upon to engage. Brookwood seeks to provide an education along these lines. It is, then, a school to educate workers to work in the workers' movement.

The transformation of these ideals into what economists call a "going concern," the building up of equipment, personnel, and teaching policies, is a story too long to tell here. It has both bright and gloomy chapters, for, like most idealistic experiments, Brookwood has had to fight for existence more than once.

As we look at it to-day, however, a leader in workers' education in the United States, we find in the organization of the school itself the secret of its success and the promise of its future progress. Brookwood "controls" itself, its educational policy, its personnel, and its community life. Being an incorporated body, it conducts its own business with the outside world. Being an independent, somewhat isolated, community—did I say the school is located in the hills of Westchester County, 40 miles north of New York City?—it is faced with the need of a workable educational and community program. It has decided that a functional democracy is the most efficient and effective form of government it can adopt.

Accordingly each group in the community—faculty, students, administrative staff—has jurisdiction over matters pertaining exclusively to that group, and an elected representative body administers the policies and activities for the community as a whole. This body is called the board of directors, and includes 10 members of the labor movement, active trade-unionists all, 5 faculty members, 2 student members, and 2 representatives of the graduate-student group.

The board appoints, on nomination by the membership groups in the corporation, an executive committee of three trade-union directors, not over five faculty members, and one director each from the graduate and student groups.

This board has not, like most boards of directors, unlimited powers. The striking thing about Brookwood from an educational point of view is the freedom guaranteed its teachers. This is more than a mere slogan. The articles of incorporation expressly state that teachers—

> are to be accorded the fullest possible freedom to investigate and set forth the truth, since it is clearly undesirable that a school carried on under the auspices of the labor movement and serving that movement should fall into the same error of suppressing fredom of thought and expression which both the labor movement and intelligent educationalists deplore in the case of other institutions of learning.

Moreover, although the board of directors may "hire and fire" faculty members, it is provided that appointment or dismissal by the board when it involves the question of teaching ability shall be only upon the recommendation of the members of the faculty; in other words, that the faculty is the sole judge of its own qualifications.

The Brookwood faculty—all members of the American Federation of Teachers—at present consists of six full-time professors, one of whom is on leave of absence for a year studying postwar labor conditions in France for the social science department of Columbia University. A. J. Muste, chairman of faculty, and instructor in foreign labor and current events, has been with the school since its beginning, having come to Brookwood from an official position in the Textile Workers' Union.

Other faculty members, including Josephine Colby, teacher of English, David Saposs, labor problems, and Arthur Calhoun, director of studies and instructor in social sciences, have all taken active part in the labor movement, and have years of teaching experience and studying behind them.

From the beginning Brookwood has maintained a close connection with the labor movement through its faculty, students, and the "labor cooperating committee," a group of trade unionists who aided in launching Brookwood in the fall of 1921. These pioneers are all members of the labor group of the corporation, in addition to official representatives of trade unions that have established scholarships at the school. No less than 20 national trade unions in the United States and all of the important State federations of labor and city central bodies throughout the country have officially indorsed Brookwood. Most of them are contributing to its official support either through the establishment of scholarships or through other contributions. The school is affiliated with the Workers' Education Bureau of America, which is the agency through which the American Federation of Labor carries on its work in the field of adult education.

At present there are 42 students at the college, all trade-unionists. They represent 12 States and two foreign countries, and 18 industries, including coal mining, textile, transportation, building, and needle trades. Some of them have had but little previous training; some are college educated; all have been active in the labor movement, but each has had a different industrial experience. Obviously, throwing open the field of workers' education to students of such diversified backgrounds presents a real problem; how has it been met at Brookwood?

The regular course extends over two years, on the theory that adjustment to the tools and processes of intellectual activity—and in many cases it is a very difficult adjustment for the mine or factory worker to make—can not be made adequately in less than a year, and that during the second year the student may apply his newly acquired technique to the immediate problem of work in the labor movement.

During the first year, therefore, correlated, introductory courses are given in the social sciences, and such subjects as public speaking, writing, and statistical methods. There is a course known for lack of a better name, "How to Study," and there are special courses in current events and labor dramatics.

The second-year courses emphasize the more technical problems of the labor movement, such as trade-union organization, structure and administration, labor legislation, labor journalism, and advanced social sciences. A comparative course on foreign labor movements runs through the second year. Seminars in labor movement strategy and workers' education at the end of the second year serve to tie together the two years' work.

In addition to all this, are innumerable extra lectures, forums, conferences, and discussion groups, to which outside labor leaders contribute from their experience. As a member of the faculty said during the earlier days of the school (and the situation certainly has not changed for the better):

> We have six classes of two hours each on six mornings in the week. We do manual work, taking care of the pigs and the road. Monday evenings we have a debate on some labor or industrial subject. Wednesday evenings we have an outside speaker on a similar subject. Every Friday we have a current events labor discussion, and the rest of the time people spend in studying—when they aren't doing something else.

This raises a point that has not been mentioned yet, the cooperative aspect of the community life. In its early days, both students and faculty members divided their time nearly equally between academic pursuits and manual labor about the place. There was a great deal to be done in those days—small cabins to be built to house the students, improvements to be made in the main building, a large, two-wing, colonial house, road building, ditch digging, potato peeling, and other small but equally necessary tasks. Brookwood was establishing itself in the world then, and its very existence depended on the cooperative efforts of the group.

Since then it has become less and less necessary for the students and teachers to take time from their studies for community work, and to-day every student in the community is asked to put in only one hour of work a day for six days a week. This may be washing dishes, waiting on tables, sweeping, loading coal, hauling lumber for the new faculty house built entirely by student labor, or stoking the furnace—it is all accepted cheerfully and willingly as a necessary part of the Brookwood life.

With such cooperation the present equipment of the school has been built up, until to-day it can comfortably accommodate 40 students, 6 instructors (3 of them with families of their own, and 6 members of the staff employed for work in the office, kitchen, or about the grounds.

But there is no rest for the righteous, and eager students in increasing numbers are clamoring for admittance to Brookwood. Present facilities are wholly inadequate; students have to sleep in wooden shacks, study in a crowded library, attend lectures in a dusty basement room intended originally for a laundry. It is with the belief that Brookwood has proved its place in the labor movement that it is doing vitally important work, even under serious limitations, and could do a great deal more, that the administration has launched a building and endowment fund campaign for $2,000,000. Part of this will be set aside to permanently endow salaries and part will be used to improve the inadequate equipment. The impressive list of well-known sponsors for this campaign bears significant testimony to the importance which educators, labor leaders, civic and liberal leaders throughout the country attach to this labor college. As one of them, a professor at Columbia University, has said:

> When I think what could be done with a fund of $2,000,000 devoted to the purposes you serve at Brookwood, vistas open up which seem greater than any others I can conceive. If only your work there can be made more permanent in some such way, you will have established one of the most hopeful institutions of our contemporary life.

It is an interesting institution, this Brookwood Labor College is. And it is more than interesting, it is truly worth while, for it is an educational institution which truly educates, for it makes its students think, and best of all it helps its students help themselves. It gives to the rank and file of the organized labor movement of America an opportunity to secure valuable information and factative data which, in the humdrum of their daily routine life, they have not been able in other ways to obtain, and then it makes these men and women think and truly

consider the factative data they obtain. An institution like Brookwood is serving so valuable a purpose that I felt, Mr. Speaker, that it was worthy of some notice by us.

FORT HALL INDIAN IRRIGATION PROJECT

The next business on the Consent Calendar was the bill (H. R. 16287) for the irrigation of additional lands within the Fort Hall Indian irrigation project in Idaho.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of the bill.

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $145,000 for the extension of the irrigation system over an area of 9,670 acres within the Fort Hall project, Idaho, between Fort Hall and Gibson.

With the following committee amendment:

Page 1, line 8, after the word "Gibson," insert: "*Provided*, That the lands to be benefited shall bear their pro rata share of the cost of providing irrigation facilities therefor which shall include a proper proportionate share of rehabilitating the Fort Hall project as provided for in the act of May 24, 1922 (42 Stats., pp. 552–568), and that the amount herein authorized to be appropriated, or so much thereof as may be expended, together with the proper proportionate share of the cost of providing irrigation facilities, as determined by the Secretary of the Interior, for this land that was expended out of the funds authorized to be appropriated by the said act of May 24, 1922, shall be reimbursed on a per acre basis by the lands benefited; and that in case of lands still held in Indian ownership for which irrigation facilities shall be provided under the provisions of this act, there is created a first lien against such lands which shall be recited in any patent issued therefor and shall be enforced by the Secretary of the Interior under such rules and regulations and conditions as he may prescribe: *Provided further*, That in case of any lands not held in Indian ownership that may be benefited hereby, the owners of such lands shall be required to execute an agreement with said Secretary of the Interior creating a first lien against such lands to assure repayment of the proper proportionate share of the construction cost prior to the delivery of water to any such lands: *And provided further*, That upon payment of the total per acre cost assessable against any tract or tracts involved, the Secretary of the Interior may execute a release of such lien for such tract or tracts."

The committee amendment was agreed to, and the bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

DISABLED EMERGENCY OFFICERS

Mr. WILLIAMS of Texas. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by inserting therein certain resolutions passed at the Eighth Annual Convention, American Legion, department of Texas, September 8, 9, and 10, 1926, respecting retirement of disabled emergency Army officers, and also a resolution respecting the same subject passed by the Legislature of Texas.

The SPEAKER. Is there objection?

There was no objection.

Mr. WILLIAMS of Texas. Mr. Speaker, under leave to extend, I insert the following resolutions:

House Concurrent Resolution 22

Whereas there are nine classes of officers in the World War, the regular, provisional, and emergency officers of the Navy, Marine Corps, and Army; and

Whereas eight of these classes have been granted by the Congress honorable retirement for their wounds and disabilities received as a result of their services in camp and field; and

Whereas the emergency Army officers who fought heroically, as evidenced by more than 2,000 battle deaths in France, have alone failed to receive the honorable retirement accorded all other classes of officers; and

Whereas there are 1,646 of these disabled emergency Army officers now suffering from disabilities received on the field of battle whose honorable retirement has not been granted by Congress; and

Whereas we are informed that legislation is pending in both Houses of Congress, being reported favorably by their respective committees and now on the calendar of each House (the Tyson bill, S. 3027; the Fitzgerald bill, H. R. 4548): Therefore be it

Resolved by the house (the senate concurring), That we do urgently request our Members in Congress to use their best efforts to have this legislation removing this discrimination passed at this session of Congress. Be it

Resolved further, That the clerk of the house of representatives and the senate join in sending a copy of this resolution o each United States Senator and Member of the House of Representatives from Texas.

BARRY MILLER,
President of the Senate.
W. V. HOWERTON,
Secretary of the Senate.
ROBERT LEE BOBBETT,
Speaker of the House.
M. LOUISE SNOW,
Chief Clerk of the House.

Excerpt from the minutes of the eighth annual convention, American Legion, Department of Texas, Amarillo, Tex., September 8, 9, 10, 1926

Whereas the Congress of the United States, in the selective service act of May 18, 1917, promised that all volunteer officers commissioned under that act should be "in all respects on the same footing as to pay, allowances, and pensions as officers * * * of corresponding grades and length of service in the Regular Army"; and

Whereas regular officers of the Army, Navy, and Marine Corps; provisional officers of the Army, Navy, and Marine Corps; and emergency officers of the Navy and Marine Corps have been granted by Congress the privileges of retirement for disability when incurred in line of duty, leaving only the disabled emergency officers of the Army without such retirement; and

Whereas an overwhelming majority of the Members of each Congress since the armistice has promised to correct the injustice to disabled emergency Army officers by the enactment of legislation designed to adjust the unfair conditions imposed upon these men; and

Whereas the United States Senate has twice passed measures to correct this condition, the vote in the Sixty-seventh Congress being 50 to 14, the vote in the Sixty-eighth Congress being 63 to 14; and

Whereas in the first session of the current Congress, the Sixty-ninth, the Senate Committee on Military Affairs favorably reported the Tyson bill, S. 3027, and the House Committee on World War Veterans' Legislation favorably reported the Fitzgerald bill, H. R. 4548, similar bills in their provision for the retirement of disabled emergency Army officers who incurred physical disability in line of duty during the World War, both of which bills are now on their respective calendars in the United States Senate and House of Representatives awaiting a final vote; and

Whereas the House Committee on World War Veterans' Legislation will, in all probability, have a committee day upon which it may bring out its own legislation for consideration and vote on the floor of the House in the next session of the Sixty-ninth Congress: Now, therefore, be it

Resolved, That the Department of Texas of the American Legion, in its annual convention assembled at Amarillo, Tex., this 10th day of September, 1926, do, and hereby does, most heartily indorse the principles of retirement for disabled emergency Army officers as already established for the other eight classes of disabled military and naval officers of the World War, and which principles are embodied in pending measures now before the Congress—the Tyson bill (S. 3027) and the Fitzgerald bill (H. R. 4548): Be it further

Resolved, That the Members of the United States Senate and House of Representatives from the State of Texas be, and hereby are, most strongly urged to lend their active support in securing the enactment of this pending legislation as early as possible in the next session of the current Congress.

A DELEGATE. I move its adoption.

A DELEGATE. I second the motion.

The CHAIR. The motion is carried and the resolution is adopted.

WOODROW WILSON

Mr. BARKLEY. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by inserting therein an editorial from the Miami Daily News in commemoration of Woodrow Wilson.

The SPEAKER. Is there objection?

There was no objection.

Mr. BARKLEY. Mr. Speaker, under leave to extend, I insert the following editorial from the Miami Daily News:

IN MEMORIAM

The third anniversary of the death of Woodrow Wilson will be observed quietly throughout the country to-day. It would not be surprising were the opportunity accepted to compare the stalwart foreign policies which he advocated with the haphazard course of the ship of state of the last six years.

More than 13 years ago Woodrow Wilson, having inherited difficulties with Mexico and other Latin-American states, uttered a warning which

comes back to us now as a voice from the grave to plague us for having ignored or rejected a fundamental truth.

"It is a very perilous thing," he said, "to determine the foreign policy of a nation in the terms of material interest."

This was one of the "polished phrases" and a sample of the "fine rhetoric" which lesser minds seized upon in their efforts to ridicule the great mind which gave them birth.

Had we taken that warning to heart, would this country be involved in disputes with Mexico, Nicaragua, and China to-day?

It has been the fate of all of our great Presidents to feel the barbs of criticism, but few, if any, were ever made the victim of such organized attack as was Woodrow Wilson.

He came to the highest office within the gift of the people better prepared to discharge its duties than any of his predecessors. He entered upon those duties with an enthusiasm born of the determination to succeed. He expended all of the great brain power with which he was so rarely endowed and spared not his body in the gigantic tasks which were thrust upon him during his second term.

He passed through periods of the greatest elation, the deepest depression, the utmost joy, and the profoundest sorrow. He walked with head above the crowd, yet never lost the common touch. He was a many-sided man, aloof, yet near; distant, yet understanding.

He believed in his star of destiny and followed it. He charted a course and never wavered in the face of obstacles which it presented.

No figure of the World War attained to greater popularity at home and abroad and none drank deeper of the cup of humiliation. The same public opinion which placed him upon the highest pedestal at sunrise crucified him before night. And then, in penitent mood, sought to heal his wounds and nurse him back to health.

Broken on the wheel of duty, he fought on alone. He submitted to the diabolically conceived senatorial inquisition which penetrated to his sick room and sought grounds upon which to divest him of his power. In the pain-racked body on the bed that committee found a mind so alert that it retired in haste to hide its face in shame.

Retiring from office in 1921, Woodrow Wilson went into seclusion to appear only on two occasions to reply to the felicitations of friends who gathered to honor him upon his birthday. From his lips came no criticism of his successor. Once he voiced the fear that France was again tending toward militarism. In his last address he paid his respects to "a group in the United States Senate who preferred personal partisan motives to the honor of their country and the peace of the world."

Peace of the world was closer and dearer to him than anything else. He had called upon America's youth to bring it about. He had pledged it to the mothers of America who had so willingly given their sons to the slaughter. But peace of the world he was not destined to see while he lived. Still, he believed it would come; believed it with all his heart. The war spirit would burn itself out through lack of combustible material. The consciousness of the people had been touched by him. The folly of war had been brought home to them. Time would cause them to assert their right to determine for themselves the line which divides injustice and justice, and he died in the faith that the popular mind would agree that "justice is a greater thing than any kind of experience. America has always stood for justice and always will stand for it. Puny persons who are now standing in the way will presently find that their weakness is no match for the strength of a moving Providence."

How prophetic! To-day the American people, as with one voice, demand justice in our relations with our neighbors to the south and across the Pacific. People are thinking and deciding for themselves, just as Woodrow Wilson predicted they would.

It was given to Mr. Wilson to see public reaction set in in his favor months before he died, and to grow so rapidly that his passing struck sorrow into the humblest home. His hold upon the common people was weakened, but never broken. His fortitude in his long period of confinement touched the American heart. It was an unvoiced appeal for the justice which he loved and which had been denied to him when he needed it most.

His was a record of which every loyal American can be proud. He left to us a heritage to cherish. He stood for all that is clean in politics; he was the champion of fair play; he broke down barriers that had withstood the assaults of centuries; the words he uttered and the encouragement he gave changed the map of the world. Above all, he made men think. He awakened in them the knowledge that they are their own masters.

Woodrow Wilson, living, was great. Woodrow Wilson, dead, is greater. America honors his memory to-day, not for what he was, or what he did, so much as for what he advocated.

On the tablet which will survive the ages is written in bold relief his last charge to the American people: "The future is in our hands, and if we are not equal to it, the shame will be ours and none other's."

BRIDGE ACROSS THE OHIO RIVER AT LOUISVILLE

Mr. THATCHER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on the bill S. 5083, a bridge bill passed to-day.

The SPEAKER. Is there objection?

There was no objection.

Mr. THATCHER. Mr. Speaker, this bill (S. 5083) provides for an extension of one year from April 2, 1927, for the time of beginning the construction of a proposed bridge across the Ohio River between Louisville, Ky., and Jeffersonville, Ind., and an extension of three years for the completion of the bridge. At the last session I introduced a bill (H. R. 9599) granting the consent of Congress for the construction, maintenance, and operation of this bridge, and same was enacted into law, receiving Executive approval on April 2, 1926.

No actual work has been commenced on the actual construction of this bridge. In Louisville at the November election, 1926, a proposed bond issue to make the bridge free of all tolls and to be paid for by the city of Louisville was defeated. Probably at the November election, 1927, there will be voted on the question of issuing bonds for the sum necessary to construct the bridge—about $5,000,000—with tolls to run not exceeding 30 years, as provided in the bill passed at the last session, to pay the cost of construction.

The Senate, at this session, passed the present measure (S. 5083) extending the times of beginning and completion, as already mentioned, but annexed certain engineering specifications based on the assumption that two old Ohio River bridge acts—one of December 17, 1872, and the other of February 14, 1883—were yet in force. The Interstate and Foreign Commerce Committee of the House, which committee handles bridge bills in the House, took the position that the two acts last named were repealed by the general bridge act of 1906. The Chief of Engineers also took this position, holding that all engineering questions should be left to the War Department agreeably to the act of 1906.

Thereupon, the House committee struck out the provisions of the Senate bill (S. 5083) and rewrote the bill as follows:

That the times for commencing and completing the construction of the bridge authorized by the act entitled "An act granting the consent of Congress to the city of Louisville, Ky., to construct a bridge across the Ohio River at or near said city," approved April 2, 1926, are hereby extended one and three years, respectively, from April 2, 1927.

SEC. 2. That the act of Congress entitled "An act to authorize the construction of bridges across the Ohio River and to prescribe the dimensions of the same," approved December 17, 1872, and the act supplementary thereto, approved February 14, 1883, are hereby repealed.

And the House committee amended the title so as to read: "A bill to extend the times for commencing and completing the construction of a bridge across the Ohio River at Louisville, Ky., and to repeal certain former bridge laws."

The House committee and the Chief of Engineers believed that it might be well in this bill to expressly repeal the two old laws, whose actual repeal was made, as they have believed, by the act of 1906.

The report of the House Interstate and Foreign Commerce Committee fully explains these matters in its report on S. 5083. It is believed to be of such importance to Members of the Congress, as well as to the general public, that it is here inserted:

REPORT

The Committee on Interstate and Foreign Commerce, to whom was referred the bill (S. 5083) to supplement the act entitled "An act granting the consent of Congress to the city of Louisville, Ky., to construct a bridge across the Ohio River at or near said city," approved April 2, 1926, having considered the same, report thereon with amendments and as so amended recommend that it pass.

Amend the bill as follows:

Strike out all after the enacting clause and insert the following in lieu thereof:

"That the time for commencing and completing the construction of the bridge authorized by the act entitled 'An act granting the consent of Congress to the city of Louisville, Ky., to construct a bridge across the Ohio River at or near said city,' approved April 2, 1926, are hereby extended one and three years, respectively, from April 2, 1927.

"SEC. 2. That the act of Congress entitled 'An act to authorize the construction of bridges across the Ohio River and to prescribe the dimensions of the same,' approved December 17, 1872, and the act supplementary thereto, approved February 14, 1883, are hereby repealed."

Amend the title so as to read:

"To extend the times for commencing and completing the construction of a bridge across the Ohio River at Louisville, Ky., and to repeal certain former bridge laws."

This is a bill which passed the Senate and was referred to the Committee on Interstate and Foreign Commerce.

On April 2, 1926, Congress passed an act entitled "An act granting the consent of Congress to the city of Louisville, Ky., to construct a bridge across the Ohio River at or near said city." That bill was passed in the usual form of all bills of similar character that are now being passed by Congress. The present Senate bill contains two provisions, one extending the times for beginning and completing the construction of the bridge authorized by the act of 1926. Under the general bridge law all bridges authorized by acts of Congress must be commenced within one year and completed within three years from the date of approval of the granting act. This bill simply extends the times for beginning and completing the construction of the bridge another year longer than the original act.

The first section of the Senate bill, however, is very unusual in that it specifies somewhat in detail some of the important specifications for the bridge. It provides that it may be constructed without a draw span, and in lieu thereof have a fixed span; and that the vertical clearance of such fixed span, as well as the vertical clearance of the channel span should be not less than the vertical clearance of the canal lift span, when raised to its highest position, in the existing Pennsylvania Railroad Bridge over the Ohio River at Louisville, Ky.

It will thus be seen that the Senate bill enters into certain engineering questions and provides certain plans and specifications for the bridge that is authorized to be constructed at the point in question. In former years Congress did embody plans and specifications for bridges over navigable waterways of the United States when it authorized by special act the construction of such bridges. As the country grew in population and the necessity for the construction of more bridges arose, it was found to be wholly impracticable and unwise for Congress to undertake to enter into such intricate engineering questions as are involved in the construction of railway and highway bridges. Congress has not the time or the facilities for making the necessary investigation and having the necessary hearings in order to determine the width of spans and the height and type of the bridges that ought to be authorized in order to protect the interests of navigation on such rivers. Therefore, in 1906 Congress changed its entire policy by enacting a general bridge law.

The act of March 23, 1906, provides that thereafter no bridge over any navigable waterway of the United States should be begun or constructed until the plans and specifications shall have been presented to the Secretary of War and Chief of Engineers and received their approval. That act provides in detail how such plans and specifications and blue prints and all other necessary information should be presented to the Chief of Engineers and the Secretary of War. Hearings are held and all questions connected with the type and plans of the proposed structure, as well as its location, are thoroughly investigated and passed upon by the Chief of Engineers and the Secretary of War, and they must have their approval before the bridge can be constructed. Since the passage of that act Congress has not, in the passage of bridge bills, provided the type or specifications of the bridges, but merely grants the franchise to construct them. And all special bridge bills provide that the bridges must be constructed in accordance with the provisions of the act of March 23, 1906.

It seems, however, that in 1872 Congress passed a bill providing in detail for the kind and character of bridges that could be constructed over the Ohio River and in 1883 an amendatory act thereto was also passed providing in somewhat more detailed language for the construction of such bridges. These acts were passed long years before the general bridge law of March 23, 1906, was passed. While the act of March 23, 1906, did not expressly repeal the old bridge laws of 1872 and 1883, providing for the construction of bridges over the Ohio River, it has always been the view of the Secretary of War and the Chief of Engineers that such prior acts were repealed by implication, and no further attention has been given to such prior acts. They have been considered as repealed and it is the judgment of the Committee on Interstate and Foreign Commerce that the general bridge law of March 23, 1906, did by inference repeal those former laws.

But in the case of a bridge that was authorized to be constructed over the Ohio River at Louisville, Ky., by the act of April 2, 1926, fear has been expressed by those interested in the structure that the old acts of Congress are still in force, and that their provisions with reference to the construction of bridges over the Ohio River still obtain as part of the law governing such structures. So long as there is any doubt upon that question, conflicting views will be expressed and difficulty will be experienced in financing structures that are to be built over the Ohio River. It is the desire of the office of the Chief of Engineers that that doubt be removed by an express repeal of those former acts. The provisions of the first section of the Senate bill were inserted because of doubt as to the repeal of the act of 1872 and the act of 1883.

Your committee believes that it would not be in harmony with the policy that has been followed since the passage of the general bridge law of March 23, 1906, to insert in individual bridge bills any specific provisions with reference to the plan and type and dimensions of bridges. Those are technical engineering questions which Congress itself has no facilities to investigate and determine. Those duties have been conferred by Congress upon the Chief of Engineers and the Secretary of War, and the committee believes that the same policy should be carried out with reference to the construction of this bridge. Therefore the committee has amended the Senate bill by striking out all after the enacting clause and has inserted in section 1 of the amended bill the usual and ordinary language to extend the times for beginning and completing the bridge, authorized by the act of April 2, 1926, and has added a new section expressly repealing the old acts of 1872 and 1883. The effect of this provision will be that those old acts will be expressly repealed and all doubt will be removed as to the question as to whether they were actually repealed by implication by the act of March 23, 1906. The Secretary of War and the Chief of Engineers recommends and asks that this action be taken and the committee believes that it is the proper course to follow.

Accordingly the committee recommends that the Senate bill as amended be passed.

It may be added that the War Department has given formal assurance that the engineering features embodied in the original measure (S. 5083) will be acceptable. Section 1 of the original measure (now stricken out) by the House, set forth the engineering features, the engineers, acting for the city of Louisville, have indicated as being desirable, and that section was as follows:

That the bridge authorized to be constructed over the Ohio River by the act entitled "An act granting the consent of Congress to the city of Louisville, Ky., to construct a bridge across the Ohio River at or near said city," approved April 2, 1926, may be constructed without a draw span and in lieu thereof a fixed span may be constructed. The vertical clearance of such fixed span, as well as the vertical clearance of the channel span to be constructed for high-water navigation, shall be not less than the vertical clearance of the canal lift span, when raised to its highest position, in the existing Pennsylvania Railroad bridge over the Ohio River at Louisville, Ky.

DECORATION DAY

Mr. RANKIN. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD upon the subject of Decoration Day, and include therein an editorial from the Washington Post.

The SPEAKER. Is there objection?

There was no objection.

Mr. RANKIN. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following editorial from the Washington Post, which reflects a sentiment that I am sure will appeal to all right-thinking Americans:

When Congress authorized the Secretary of War to accept from the commander in chief of the Grand Army of the Republic a tablet to be placed in the amphitheater in Arlington to commemorate the designation of May 30 of each year as Memorial Day, it was provided that the inscription on the tablet should reproduce the order of Gen. John A. Logan, who when commander in chief of the Grand Army first designated May 30 as Memorial Day.

The tablet thus authorized to be placed permanently in the amphitheater may be dedicated on Memorial Day of this year, provided that the "thin blue line" can agree upon the inscription to be cut in the marble slab. The commander in chief is inclined to insist that the entire order No. 11, which is the official designation of the Logan edict, shall be included. But at the fifty-ninth encampment of the Department of the Potomac, which assembled in Washington last week, it was resolved that some of the words of that order should be deleted before the slab is placed permanently in the amphitheater.

First, it is shown that if every word of the original is reprodueed there will be 1,127 more letters than are in the Gettysburg address of President Lincoln. But the Logan order was written in May, 1868, and there was naturally more bitterness toward the former enemies of the "boys in blue" than there is to-day. Besides, there lie side by side in Arlington the sons of the veterans of Lee's army as well as those of Grant's.

The war with Spain and the World War helped to fill many of the graves on those hillsides across the Potomac, and the veterans of the Grand Army residing in Washington who have frequent occasion to visit "the bivouac of the dead" feel that the memorial tablet can best serve its purpose if the bitter words of the original order are eliminated. They have therefore joined in recommending that extracts only be cut into the slab, and it is to be hoped that the slab may be placed with proper ceremonies on Decoration Day next, with this inscription:

"The 30th day of May, 1868, is designated for the purpose of strewing with flowers, or otherwise decorating the graves of comrades who died in defense of their country during the late rebellion, and whose bodies now lie in almost every city, village, and hamlet churchyard in the land. In this observance no form or ceremony is prescribed, but posts and comrades will, in their own way, arrange such fitting services and testimonials of respect as circumstances may permit.

"Let no vandalism of avarice or neglect, no ravages of time, testify to the present or to the coming generations that we have forgotten as

a people, the cost of a free and undivided republic. If other eyes grow dull and other hands slack, and other hearts cold in the solemn trust, ours shall keep it well as long as the light and warmth of life remain in us. Let us, then, at the time appointed, gather around their sacred remains, and garland the passionless mounds above them with choicest flowers of springtime; let us raise above them the dear old flag.

"It is the purpose of the commander in chief to inaugurate this observance with the hope that it will be kept up from year to year."

AMENDING THE FEDERAL HIGHWAY ACT

Mr. OLDFIELD. Mr. Speaker, I ask unanimous consent for the present consideration at this time of the bill H. R. 16551, No. 1012 on the Consent Calendar. This is an emergency matter so far as my State is concerned.

The SPEAKER. The gentleman states that it is a matter of emergency?

Mr. OLDFIELD. It is a matter of great emergency to my State.

Mr. DOWELL. Mr. Speaker, I reserve a point of order to section 2 of the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That notwithstanding any provision of the act entitled "An act to provide that the United States shall aid the States in the construction of rural post roads, and for other purposes," approved July 11, 1916, or any act amendatory thereof or supplementary thereto, the Secretary of Agriculture may extend, on the same basis and in the same manner as in the construction of any free bridge, Federal aid under such acts, in the construction of any toll bridge and approaches thereto, by a State, States, county, or counties, or any other political subdivision of any such State, States, county, or counties within any State or States, upon the condition that all of the tolls received from the operation thereof, less the actual cost of operation and maintenance, are applied in the complete repayment to the State, States, county, or counties within any State or States, or any other political subdivision thereof, of its part of the cost of construction of such bridge and upon the further condition that at such time the payment of tolls shall cease and the bridge shall thereby and thereafter become a free bridge.

With the following committee amendment:

Strike out all after the enacting clause and insert: "That notwithstanding any provision of the act entitled 'An act to provide that the United States shall aid the States in the construction of rural post roads, and for other purposes,' approved July 11, 1916, or of the Federal highway act, the Secretary of Agriculture may extend, on the same basis and in the same manner as in the construction of any free bridge, Federal aid under such acts, in the construction of any toll bridge and approaches thereto, by any State or States, or political subdivision or subdivisions thereof, upon the condition that such bridge is owned and operated by such State or States, or political subdivision or subdivisions thereof, and that all tolls received from the operation thereof, less the actual cost of operation and maintenance, are applied to the repayment to the State or States, or political subdivision or subdivisions thereof, of its or their part of the cost of construction of such bridge, and upon the further condition that when the amount contributed by such State or States, or political subdivision or subdivisions thereof, in the construction of such bridge shall have been repaid from the tolls, the collection of tolls for the use of such bridge shall thereafter cease, and the same shall be maintained and operated as a free bridge.

"SEC. 2. That nothing contained in the act entitled 'An act to provide that the United States shall aid the States in the construction of rural post roads, and for other purposes,' approved July 11, 1916, or in the Federal highway act, shall be construed to prohibit the Secretary of Agriculture from granting Federal aid, in accordance with the provisions of such acts, in respect of a road or highway, because such road or highway leads directly to or from a toll bridge or toll ferry."

Mr. DOWELL. Mr. Speaker, I make the point of order against section 2 for the reason that the committee has no jurisdiction over the subject reported in section 2. I make the further point of order that it is not germane to section 1 of the bill. I call the Speaker's attention to Rule XI and to the reference there, to the effect that it has generally been held that a committee may not report a bill whereof the subject matter has not been referred to it by the House. The subject matter in section 2 of this bill is not referred under the rules of the House to the Committee on Interstate and Foreign Commerce. It is a subject which goes naturally to the Committee on Roads, and it has no place before the Committee on Interstate and Foreign Commerce. There are instances where a matter has been referred to the wrong committee, and where the committee makes report and where objection is not made the committee then secures jurisdiction, but nothing has been referred to this committee upon that subject. It has been reported without any reference of any kind, and under the decisions there can be no question but that committee has no jurisdiction.

I call the attention of the Speaker to section 4355, volume 4, of Hinds' Precedents:

It has generally been held that a committee may not report a bill whereof the subject matter has not been referred to it by the House.

There was no reference of this particular part of this bill to this Committee on Interstate and Foreign Commerce. The committee has no jurisdiction of the subject matter under the general rules of the House and it is not in order. I quote further from Hinds' Precedents, section 4355:

Mr. Samuel F. Vinton, of Ohio, objected to the reception of the bill, on the ground that the subject matter of the bill had not been referred to the committee which reported it to the House, either by resolution or by the rules or otherwise.

Debate arose.

Mr. Stephens urged that the principle involved was one of great parliamentary importance, whether any one of the standing committees of the House had power to originate and report bills upon any subject that had not been either generally or specially referred to it.

The Speaker decided that the bill was not in order from the Committee on Public Expenditures, not being a subject referred to them by the rules or the action of the House.

Mr. Speaker, this ruling, so far as I am able to ascertain, has been generally followed by the Chair in rulings on this subject. It seems to me that where a committee has taken a subject which has never been referred to it and is not referred to it by the general rules of the House, the Chair must hold that it has no jurisdiction to pass upon it and report a bill. I insist upon the point of order.

The SPEAKER. The Chair is ready to rule, unless the gentleman from Arkansas desires to argue the point of order.

Mr. OLDFIELD. I have no desire to do so.

Mr. DENISON. Mr. Speaker, may I make some observations on the point of order? As to the question of jurisdiction that presents some difficulties I will have to admit, but, Mr. Speaker, this matter was not referred to the committee at the request of our committee, but it was first referred to the committee of which the gentleman from Iowa is the chairman.

Mr. DOWELL. I beg the gentleman's pardon, that is not the subject that was referred to the committee that I made the point of order first on. The gentleman will note my point of order is as to section 2 which was not in the bill referred to our committee.

Mr. DENISON. The House committee made only one amendment to the bill introduced. We struck out all after the enacting clause and rewrote the bill and put in some new matter. If objection goes to anything it goes to the whole amendment.

Mr. DOWELL. Oh, no.

Mr. DENISON. Mr. Speaker, let me make this observation. The bill was referred to the Committee on Roads and at the request of the gentleman from Arkansas who introduced it, with the approval of the chairman of the Committee on Roads, it was referred to the Committee on Interstate and Foreign Commerce. The bill having been referred to that committee, the committee acted upon it. The bill was not in the form the committee thought it ought to be, and we struck out all after the enacting clause and rewrote it in its present form. Now I think under these circumstances, the bill having been sent to our committee with the knowledge and consent of the chairman of the Committee on Roads the objection will not lie as to the question of jurisdiction; but even so the point is not well taken. But on the question of germaneness, I call attention to this. The Federal aid road act, section 1, contains this language:

Provided, That all roads constructed under the provisions of this act shall be free from tolls of all kinds.

That is the provision of the Federal aid road act that this bill pertains to. Then there is a further provision:

That necessary bridges and culverts shall be deemed parts of the respective roads covered by the provisions of this act.

In other words, the Federal aid road act contains a provision that all roads constructed under its provisions must be free from tolls and contains the further provision, namely, that necessary bridges and culverts shall be deemed parts of the roads. Now, this bill as originally introduced and referred to our committee, liberalizes these provisions of the Federal aid road act and permits an expenditure of Federal-aid funds on the construction of toll bridges that are built by States and political subdivisions such as counties and cities, and as it was

introduced it also permitted the expenditure of Federal-aid funds not only on bridges but on the bridges and their approaches. So the rewritten bill divided it into two sections and put a further provision that the Secretary of Agriculture might expend Federal-aid funds on roads leading up to a toll bridge and leading away from a toll bridge. There is no question in my mind as to the germaneness of section 2, as an amendment to section 1. They pertain to the same subject exactly. One specifies toll bridges and approaches, the other refers to roads leading up to and away from a toll bridge. I think the whole thing is germane, but outside of that there is but one amendment made by the committee; and it seems to me that the point of order, if good at all, ought to go to the whole committee amendment.

The SPEAKER. The Chair is ready to rule. The point of order is made against section 2 of the bill on the ground that the committee to which it was referred had no authority to report on this subject. The second point is made that it is not germane. The Chair doubts very much if the Committee on Interstate and Foreign Commerce has jurisdiction over the matter contained in section 2.

But without deciding unnecessarily on that point, the Chair is clearly of the opinion that section 2 is not germane to section 1. He, therefore, sustains the point of order. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill as amended.

The bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

A motion to reconsider the vote whereby the bill was passed was ordered to be laid on the table.

PUNISHMENT OF PERSONS ESCAPING FROM FEDERAL PENAL INSTITUTIONS

Mr. GRAHAM. Mr. Speaker, the gentleman from New York, who objected to the consideration of Calendar No. 890, the bill H. R. 15975, has withdrawn his objection and has authorized me to ask unanimous consent to return to Calendar No. 890 for its consideration.

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent to return to Calendar No. 890, the bill H. R. 15975, which was objected to this morning. Is there objection?

Mr. LaGUARDIA. I object.

The SPEAKER. The gentleman from New York objects.

NORTHERN PACIFIC LAND GRANTS

Mr. SINNOTT. Mr. Speaker, I ask unanimous consent to consider House Joint Resolution 363, amending the joint resolution entitled "Joint resolution directing the Secretary of the Interior to withhold his approval of the adjustment of the Northern Pacific land grants, and for other purposes," approved June 5, 1924.

The SPEAKER. The gentleman from Oregon asks unanimous consent to consider House Resolution 363, which the Clerk will report by title.

The Clerk read as follows:

Joint resolution (H. J. Res. 363) amending the joint resolution entitled "Joint resolution directing the Secretary of the Interior to withhold his approval of the adjustment of the Northern Pacific land grants, and for other purposes," approved June 5, 1924.

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

There was no objection.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

Resolved, etc., That the joint resolution entitled "Joint resolution directing the Secretary of the Interior to withhold his approval of the adjustment of the Northern Pacific land grants, and for other purposes," approved June 5, 1924, be, and the same is hereby, amended as follows: "That where in said joint resolution there appears the word and figures 'March 4, 1926,' the same shall be amended to read 'June 1, 1928.'"

SEC. 2. That the present members of the joint committee appointed under said resolution shall continue to act until the termination of the Seventieth Congress: *Provided, however*, That where a vacancy will occur among the Senate members of said committee due to their retiring from Congress on March 4, 1927, the President of the Senate may fill such vacancy.

With a committee amendment as follows:

Page 2, after line 7, insert a new section as follows:

"SEC. 3. That the Attorney General of the United States be, and he hereby is, authorized and directed to advise the said joint committee as to what legal or legislative action should, in his judgment, be taken in the matter of the adjustment of the said Northern Pacific land grants."

The SPEAKER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the House joint resolution.

The House joint resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

A motion to reconsider the vote whereby the resolution was passed was ordered to be laid on the table.

ORDER OF BUSINESS TO-MORROW

Mr. SNELL. I desire to make a statement in regard to the program to-morrow, about which several Members have inquired. I have just consulted with the minority leader, and it is expected now that the medicinal liquor bill will be called up immediately after the conclusion of the exercises in memory of George Washington.

REPORT OF CONFEREES REPRESENTING NEW YORK STATE WATER POWER COMMISSION

Mr. GARRETT of Tennessee. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by inserting therein the report and minutes of the conferees representing the New York State Water Power Commission at the conference with the Federal Power Commission made to the Governor of New York on July 16, 1923.

The SPEAKER. The gentleman from Tennessee asks unanimous consent to extend his remarks by inserting the report of the conferees representing the New York State Power Commission. Is there objection?

Mr. TILSON. Reserving the right to object, how extensive a document is that?

Mr. GARRETT of Tennessee. I imagine it will take about five pages of the CONGRESSIONAL RECORD. I wanted to extend it in the RECORD in the Appendix.

Mr. TILSON. The gentleman himself has examined it?

Mr. GARRETT of Tennessee. With very minute care.

Mr. CHINDBLOM. Has it any relation to any legislation now pending?

Mr. GARRETT of Tennessee. Yes. It has relation to a bill introduced by myself which is now pending before the Committee on Interstate and Foreign Commerce. It has just this relation, that it carries out the theory of the bill which I introduced.

Mr. CHINDBLOM. Of course, I would not object.

The SPEAKER. Is there objection?

There was no objection.

Mr. GARRETT of Tennessee. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following report and minutes of conferees representing New York State Water Power Commission at conference with Federal Power Commission to the governor at Albany, N. Y., July 16, 1923:

OFFICE OF THE ATTORNEY GENERAL,
THE CAPITOL, ALBANY, N. Y.,
Albany, July 16, 1923.

To the GOVERNOR,
The Capitol, Albany, N. Y.:

On behalf of the water power commission of this State, we beg to report that we recently had a conference at Washington with the Federal Power Commission, pursuant to section 613 of the State conservation law, providing that our commission should cooperate with any authorities of the Federal Government in an endeavor to harmonize any conflicting claims of the State and Federal Governments to control over the leasing or licensing of the use of waters for power purposes, to the end that the water-power resources of the State may be accelerated. This conference has resulted to a great extent in a conciliation of views of the two commissions as to their respective jurisdiction over the licensing of water-power projects, and we deem the matter to be of sufficient importance to call for this formal report in writing to you. We file with you herewith the minutes of the conference.

In order to cover the subject fully, we shall divide our report chronologically into the following subdivisions:

1. The situation prior to the enactment of the Federal water power act on June 10, 1920 (41 Stat. L. 1063);
2. The Federal water power act;
3. The suit of the State of New York, in the United States Supreme Court, against the Federal Power Commission and the Attorney General of the United States;
4. The answer filed by those defendants in that litigation;
5. The conference; and
6. Conclusion and recommendations.

I. THE SITUATION PRIOR TO THE ENACTMENT OF THE FEDERAL WATER POWER ACT

The United States and the various member States, for many years, have exercised joint jurisdiction over navigable streams within the limits of the respective States. The State exercises such jurisdiction because of its proprietary rights; and the proposition is long established that the authority of a member State over navigable waters within its boundaries is plenary, subject only to such action as Congress may take in the execution of its powers under Article I, section 8, of the United States Constitution conferring power on Congress to regulate commerce among the several States and with foreign nations. Conversely, the proposition is also long established that this power of Congress to regulate commerce is complete in itself, and may be exercised to its utmost extent, and acknowledges no limitations other than are prescribed in the Constitution. But this power of Congress is solely for the purpose of regulating commerce, and bestows no power on Congress to give original authority to anyone whatever to utilize the waters of a member State for the development of water power. The State having proprietary rights in navigable waters within its boundaries is primarily the "franchise-giving" or "licensing" authority. The United States having at least a veto power under its above-described authority is the "consenting" authority. Both must concur. For many years prior to the enactment of the Federal water power act, this joint control over navigable waters was well settled, and any State, municipality, corporation, or individual desiring to institute any project in a navigable stream was required to obtain licenses, permits, or consents from both Governments.

II. THE FEDERAL WATER POWER ACT

The Federal water power act deals primarily with water power rather than navigation, and if the Federal Power Commission attempted to apply the provisions of the act, in all their length and breadth, to water power development in navigable streams within the boundaries of member States, there would undoubtedly be an invasion of State rights. The fundamental question as to the act is how it will be applied. To explain. It first must be particularly noted that the act defines a "State" as "a State admitted to the Union (i. e., a member State) the District of Columbia, and any organized Territory of the United States." It defines "navigable waters" as "those parts of streams or other bodies of waters, over which Congress has jurisdiction, under its authority to regulate commerce with foreign nations and among the several States," etc. Congress, in enacting this Act, was not dealing exclusively with the development of water power in navigable streams within the boundaries of member States. It was dealing also and to a large extent with water power in navigable streams within the District of Columbia and in Territories and also with water power upon lands and waters which the United States itself owned within the boundaries of member States. Congress indisputably had full constitutional authority to legislate, without limit, as to water power in the District of Columbia and Territories and also as to any and all properties or waters owned by the United States within the boundaries of member States. It also had a certain and wholly distinct constitutional authority to legislate as to navigable waters within the boundaries of member States. In respect to the District of Columbia and the Territories and also in respect to any and all properties and waters owned by the United States within the boundaries of member States its power to legislate is of the character of a "franchise-giving" or "licensing" authority. In respect to navigable waters within the boundaries of member States its authority to legislate is of the character of a "consenting" authority, although there can be no basic objection to a statutory provision that such "consent" should be given in the form of a Federal "permit" or "license" issued by a Federal "commission."

The debates in Congress attending the passage of the water power act were of a character calculated to disturb those who were interested in State rights, and the first point of criticism which the States were called upon to make against the provisions of the act was that it was drawn so as to make no distinction between the exercise of the separate functions of the United States Government, or so as to make no distinction between the different classes of properties over which Congress had jurisdiction of the one character or the other. Thus, the title to the act is "An act to create a Federal Power Commission, to provide for the improvement of navigation, the development of water power, the use of public lands in relation thereto, and to repeal section 18 of the river and harbor appropriation act approved August 8, 1917, and for other purposes." The question which arose on the doorstep of the consideration of the act was whether there is such confusion that the proper administration of the act would necessarily result in the Federal Power Commission treating properties of the State in navigable streams within the boundaries of member States in the same way as the properties of the United States within the boundaries of member States or in the District of Columbia or the Territories. Similar instances of statutes of Congress which have confused various functions or powers of the United States and which, for such reason, have been held to be unconstitutional either in whole or in part, will be found in the Trade-Mark cases, the Civil Rights' cases, and the Employers' Liability cases.

The water power act also contained a number of specific provisions which, if held by the Federal commission to apply to navigable streams within the boundaries of member States, would constitute a clear invasion of the constitutional rights of States. Some of these will be taken up at a later point in this report.

III. SUIT IN THE UNITED STATES SUPREME COURT

The last State administration was called upon to consider this Federal legislation, and to determine what, if anything, should be done to protect the constitutional rights of the State of New York in navigable streams within the boundaries of New York State. Hon. Elon R. Brown, and, upon his death, Charles A. Collin, Esq., were successively retained as special counsel to the attorney general to protect the rights of the State. Mr. Brown instituted a suit in the United States Supreme Court by the State of New York against the Federal Power Commission and the United States Attorney General, praying an injunction against these officers, restraining them from enforcing the Federal power act as against this State. An original bill was filed and was met by a motion to dismiss. Thereupon, an amended bill was filed, which dealt in greater detail than the original bill with the various water power projects of the State of New York, and what the last State administration conceived might be a threatened invasion thereof by the Federal Power Commission.

IV. THE DEFENDANTS' ANSWER

On January 1, 1923, your administration came into office, and thereafter the defendants filed their answer to the amended bill. The attorney general of New York called a conference at Albany between himself, Deputy Attorney General Edward G. Griffin, Mr. Collin, Hon. George E. Van Kennan, counsel to the State water power commission, and Hon. John Godfrey Saxe, whom the attorney general had retained as special counsel under this administration.

It appeared that the defendants, by their new answer, instead of threatening to apply the Federal power act in such a manner as to invade the rights of New York, set forth a number of specific allegations or admissions, which indicated that the Federal Power Commission recognized State rights and entertained an intent, in good faith, to work in harmony with the State of New York.

For instance, the defendants, in referring to applications pending before the Federal commission for licenses and permits in the State of New York, specifically alleged in its answer that the grant of such licenses and permits is in pursuance of the paramount power of the Federal Government over navigation, and is and would be no interference with any right of the State, set up in the amended bill or otherwise. While they alleged that they would act upon such applications, they also alleged that, by the act (sec. 9 (b)), an applicant for a license from the Federal commission must submit to the commission satisfactory evidence that the applicant has complied with the requirements of the laws of the State within which the project is to be located, and that they have not issued a license to any applicant in the State of New York who has not complied with the requirements of the laws of New York, and have not threatened and do not intend to issue a license to any applicant who has not so complied with the laws of the State, that they are not exercising, have not threatened to exercise, and do not intend to exercise exclusive control over any properties or streams in said State.

Counsel have painstakingly analyzed the amended bill and the said answer, and the latter contains further valuable admissions tending to clarify the situation; but it is unnecessary to weigh down this report with a detailed analysis.

On April 5, 1923, Mr. Saxe, at the request of the attorney general of New York, rendered an exhaustive confidential opinion in respect to respective rights of the United States and the State over navigable waters, and the availability of the pending suit as a means to obtain a decision in favor of the State in respect to any conflict of jurisdiction between the United States and the State of New York regarding water-power development, and he concluded his opinion by advising an early conference between the State water power commission and the Federal Power Commission, looking to cooperation and the acceleration of development of our water-power resources. Mr. Collin authorized Mr. Saxe to state that he concurred in the opinion. Thereafter a further conference was held at the attorney general's office at Albany, and it was decided that before counsel commenced the taking of testimony in the pending suit in the United States Supreme Court, the State water power commission should hold an early conference with the Federal Power Commission.

V. THE CONFERENCE AT WASHINGTON

This conference was held on May 10, 1923, and we submit herewith, in printed form, the minutes thereof.

The Federal Power Commission consists of three members, all Cabinet officers—the Secretary of War, the Secretary of the Interior, and the Secretary of Agriculture. The two Secretaries last named were present in person, and also Hon. O. C. Merrill, the secretary of the

commission. The Secretary of War and Solicitor General were duly represented. The New York State commission was represented by the attorney general and the State engineer and surveyor, and by Deputy Attorney General Griffin, Mr. Collin, and Mr. Saxe.

Hon. Carl Sherman, attorney general, who headed the New York delegation, opened the conference by pointing out that it had come about in view of the New York statute which imposes a duty upon the State commission to cooperate with the Federal commission with respect to reconciling, if possible, and harmonizing any conflicting claims. "If there is a conflict, we want to know it, and maybe we can harmonize these differences of opinion, or maybe we can get to the point where there is some way of testing any disputed question."

He stated the fundamental propositions, in part, as follows:

"We believe that after the Federal Government has exercised its supervision with respect to navigation, water power, as such, developed on navigable streams is the property of the State, and the State may develop the same without further Federal interference; that if the State then seeks to license it to private enterprises, that the State has such power; that it is the State which may derive a revenue therefrom if anyone may derive a revenue from private enterprise for the development of water power; and that if either the Federal Government or the State may eventually recapture the power after granting a private license for a term of years, the State is the one that eventually would take the ownership, under proper legal regulations, of the water power after the term of the license had expired."

1. RECAPTURE

The first point in controversy which was taken up was the provisions of section 14 of the water power act which would indicate that the United States Government might assert the right to recapture, for its own purposes, the power development on navigable streams in New York which constitutionally belong to the State by reason of its proprietary rights. This section, so far as material, reads as follows:

"SEC. 14. (Authority of United States to take over projects—compensation, condemnation.) That upon not less than two years' notice in writing from the commission, the United States shall have the right upon or after the expiration of any license to take over and thereafter to maintain and operate any project or projects as defined in section 3 hereof, and covered in whole or in part by the license; * * * upon the condition that, before taking possession, it shall pay the net investment of the licensee in the project or projects taken * * * plus such reasonable damages, if any to property of the licensee * * * not taken, as may be caused by the severance therefrom of property taken * * *: *Provided*, That the right of the United States or any State or municipality to take over, maintain, and operate any project licensed under this act at any time by condemnation proceedings upon payment of just compensation is hereby expressly reserved."

The Federal commission, at the conference, took a position as to these recapture provisions that virtually removed them from controversy. Mr. Merrill, replying to questions of Attorney General Sherman and speaking for the Federal commission, said:

"With respect to the question as to the right of the Federal Government to recapture property under license at the end of the license period, it is our opinion that the act itself does not grant that authority; that the authority must rest, in so far as the Federal Government has it in its constitutional powers, and its constitutional powers at the present time would limit it to the right to take property for governmental purposes, and that for such purposes it does not need to have the Federal water power act at all * * *. That provision * * * is not primarily to give the United States ownership, but to enable it to serve as an agency for securing for States and municipalities this ownership of property at the end of 50 years—that was the primary purpose for which that legislation was enacted by Congress * * *. The provision, then, is primarily for the benefit of the States and municipalities, if they desire for the next 50 years to go into the business of municipal ownership."

There was also involved in this identical question the incidental question whether the Federal Power Commission would insist upon inserting in such licenses as it hereafter grants in New York a condition permitting recapture by the United States at the end of the license period. The conditions under which all licenses shall be issued are set forth in detail in section 10 of the act and do not expressly recite any condition permitting recapture. Section 10, however, provides that licenses may contain:

"(*g*) Such other conditions not inconsistent with the provisions of this act as the commission may require."

The commission in one permit (not license) which it has granted has inserted a condition for recapture. We, therefore, deemed it important to ascertain the policy of the commission in this respect; and Mr. Merrill, in reply to a question from Mr. Saxe, said:

"It was expressed in that particular permit—the Niagara permit, I think you are talking about—in order to clear up certain aspects of it. We do not generally put it in our licenses."

We thus have a definite understanding between the two commissions, that the provisions of section 14 were not enacted pursuant to any attempt of the United States Government to recapture our properties licensed by it, and that a recapture condition will not ordinarily be inserted in Federal licenses. New York State, therefore, is in a position, where, if at any time the Federal Power Commission adopts a different policy and attempts to apply the recapture provisions to New York properties, New York can readily raise the question in the pending or future litigation, and establish that the constitutional rights of New York are being invaded by threatened misapplication of these provisions, which the Federal commission may properly apply to properties of the United States but can not apply to properties in streams of a member State.

2. FEDERAL CHARGES

The State of New York is also concerned with the provisions of section 10e, relating to the conditions to be inserted in Federal licenses which suggest that the Federal commission might claim the right to exploit State water power for its own financial benefit.

This subdivision first provides that one of the conditions to be inserted in a license is that the licensee "shall pay to the United States reasonable annual charges for the purpose of reimbursing the United States for the cost of the administration of this act." There is no objection to this provision.

The section then provides that these reasonable annual charges shall also include a charge "for recompensing the United States for the use, occupancy, and enjoyment of its land or other property." There is no provision that the United States is to be recompensed for the use, occupancy, and enjoyment of State "lands or other property." The question thus arose as to what construction the Federal Power Commission places upon this language. Mr. Merrill, speaking for the commission, unequivocally declared that the act "was never intended as a revenue-producing measure"; and when Mr. Saxe requested his interpretation of the section in question, he replied:

"Mr. MERRILL. I said 'on navigable streams in general.' If the Government has property—property of the United States, like that of the new Troy Dam, for which license was issued to Henry Ford—there is a charge for that. If the Government owns the land, as it does in the West, there is an additional charge for that; but the general situation on navigable streams is that it merely makes charges for reimbursing the costs of administration.

"Mr. SAXE. You have confirmed, in that respect, our view of it."

It thus appears that New York, at this time, has nothing to fear as to the United States insisting on a condition in its licenses for power development in New York streams providing for the exaction of charges for State land or other property.

3. JURISDICTION AS TO SELECTION OF LICENSEES

One of the most important questions discussed at the conference was whether the Federal commission might assert any right to grant a license to an applicant who was not satisfactory to the State commission. The Federal power act provides, as follows:

"SEC. 9. That each applicant for a license shall submit to the commission * * * (b) satisfactory evidence that the applicant has complied with the requirements of the law of the State within which the proposed project is to be located with respect to bed and banks and to the appropriation, diversion, and use of water for power purposes and with respect to the right to engage in the business of developing, transmitting, and distributing power, and in any other business necessary to effect the purpose of a license under this act."

We directed a number of inquiries to the commission involving its construction of this section. Mr. Saxe, at one point, asked the commission what its position would be if the New York commission should grant one application to "A," and A and a contestant "B" then made application to the Federal commission, would the latter have jurisdiction to grant a license to B instead of to A? Mr. Merrill answered this question as follows:

"Mr. MERRILL. In the first place, it could not be granted to anyone who had not complied with the requirements of section 9b of the Federal act. Assume that only A had done this. The commission would, nevertheless, under the act, have authority to say that it will not issue a license to A because it is not satisfied with A's plan.

"Mr. GRIFFIN. You would not regard it as unreasonable to grant a license to Company B?

"Mr. MERRILL. They must have such authority from the State as is comprehended within section 9 of our act—the right to occupy beds and banks and divert the water, and the right to engage in the work of developing power.

"Mr. GRIFFIN. They must have, first, a license from the State water power commission, and second, satisfactory plans?

"Mr. MERRILL. If the license from the State covered those items named in the act.

"Mr. GRIFFIN. As I take it, the worst situation that could possibly arise is that there would be a deadlock. * * * You would not presume to have authority to settle it for the State over the head of the State of New York, and, on the other hand, the State of New York could not settle the question without the approval of your commission. That is about the substance of it?

"Mr. MERRILL. Yes. * * * I think it would be advisable for the two agencies to confer before acting. That is what we are working for in each of the States."

4. EXTENT OF POWER OF FEDERAL COMMISSION TO DETERMINE "ADEQUACY OF PLANS

Throughout the conference, one subject was repeatedly mentioned, which Mr. Merrill referred to as a "shadow of conflict." This question was whether, if the State commission should grant a license and the Federal commission should be satisfied as to the way the water power would be taken from the stream so far as navigation was concerned, does the Federal commission assert the right to go beyond that and look into the "adequacy" of the power development as a whole? Thus Mr. Merrill, at one point, said:

"Mr. MERRILL. Now, of the two plans presented which were of equal merit and one of the applicants had State authority and the other one did not, the only ground upon which the commission could deny it would be upon the alleged ground that the applicant did not provide for an 'adequate' development.

"Mr. SHERMAN. Do you speak, then, of the 'adequate' development of water power, or do you use the term 'adequate' with respect to adequate protection of navigation?

"Mr. MERRILL. No; 'adequate' as a whole.

"Mr. SAXE. That is just where the distinction we are contending for comes in.

"Mr. MERRILL. That is a point upon which we would not fully agree from a theoretical standpoint; the question is whether we can agree from a practical standpoint."

Later on the Attorney General brought up this question again, saying:

"Mr. SHERMAN. There seems to be now one question that might bring about a conflict, and that is your use of the word 'adequacy' * * *. Do you remember whether you used that term as to 'inadequacy' with respect to navigation, or 'inadequacy' with respect to water power?

"Mr. MERRILL. To the development as a whole.

"Mr. GRIFFIN. The Federal Power Commission claims a right not only to regulate navigation but also to regulate any water power arising incidentally to that navigation; that is your broad claim?

"Mr. MERRILL. I think that is pretty fairly understood. If you will consider that regulation means that it assumes the right to determine whether the structures put into that river make reasonable 'adequate' use of the resources, but when it comes to regulating rates or service in that project or any matters in connection with its operation other than keeping the plan from going to pieces, it is left entirely to the State.

"Mr. SHERMAN. As I say, the State will stand by its position that after recognizing the Federal power and authority over navigation with respect to water power, the Federal authorities shall not be the judge of the 'adequacy' of a power project as such.

"Colonel KELLY. The State has been reserving its rights on that business ever since I have been in the Government service, and yet there has been case after case come along, and when there was a specific case under consideration there has been no particular difficulty about getting together."

5. THE BARGE CANAL

The conference also considered the application of the act to New York's principal development—the barge canal. The answer filed in the pending suit specifically concedes that the act "has no application to structures placed in navigable waters prior to the approval of said act," and that "the defendants have not taken, or threatened any action in regard thereto, and have formed no opinion as to whether any statute of the United States imposed upon them any duty in the premises."

At the conference Colonel Kelly explained the position of the Federal commission as to the barge canal as follows:

"There is a tacit understanding, and has been for a number of years * * * It has been recognized by Congress that since the State undertook this barge canal all the waters pertaining to that barge canal were given over to the State to do what it pleased with it, and the Federal Government has not exercised any jurisdiction over it. * * * And that is the underlying reason that this commission has started up on the same principle, that they are not going to exercise any jurisdiction over the barge canal functions in so far as it pertains to the waters taken for navigation purposes in that canal."

And again:

"Unless the policy were changed, the United States would not exercise any authority over this water."

6. STATE DEVELOPMENT OF WATER POWER

The Federal water power act expressly recognizes and enforces the policy which your excellency has so strongly advocated that State water power may be developed by the State itself under its ownership and State control, section 7 of the act expressly providing that the Federal commission, in issuing permits or licenses, shall give preference to applications by States and municipalities. The Federal commission has also put itself unequivocally on record as willing to enforce this principle. In the amended bill filed by the last State administration the State alleged that the defendants intended and threatened to prevent the State from continuing the construction of certain water-power projects and from commencing construction of certain other water-power projects. The defendants met this allegation by specifically alleging that section 7 of the act imposes upon the Federal commission the duty to give preference to the plans of any State, and they allege that the plans of New York State have not been submitted to the Federal Commission or to any agency of the United States.

The situation in New York is that to-day we have no adequate statute authorizing State development and the State of New York can not take advantage of the Federal act nor the commission's willingness to enforce it without an adequate enabling statute. At the conference Mr. Griffin brought up this point and Mr. Merrill declared:

"Mr. MERRILL. It will license them as a matter of course unless they are so plainly inadequate that it would be unjustified. Of course, it has technically the same right to pass upon the plans of the State as on anybody else."

The foregoing analysis will sufficiently indicate the importance and breadth of the conference; other points were raised and discussed, but they are sufficiently covered in the minutes. For all practical purposes in the immediate future, the pending suit against the Federal officials has accomplished the objects for which it was brought. The acceptance by the defendants, in their answer, of the leading propositions constituting the basis of the complaint, and the full and frank confirmation thereof at this conference between the representatives of the Federal and State commissions, have apparently settled the principal propositions for which the State of New York has contended and which the Federal Power Commission had previously seemed unwilling to accept. The disavowal by the Federal Power Commission of any intention to interfere with power developments in connection with the barge canal, and the expression of willingness to cooperate with the State and the International Joint Commission in State development of the power possibilities of the Niagara and St. Lawrence Rivers, without claiming a proprietary right on the part of the Federal Government to share in profits therefrom, has now cleared the way, so far as the Federal Government is concerned, for power developments on those boundary streams by virtue of the concerted action of the State, the Federal Power Commission, and the International Joint Commission. We believe that this conference marks a long step forward in cooperation between the Federal and State Governments in the development of New York's water power.

The State of New York has reason to be vigilant as to the future construction and administration of the Federal act. The debates in Congress and the broad terms of the act itself make it clear that there are those who are unconcerned with the constitutional rights of member States. On the other hand, the Federal Power Commission has apparently done no overt act which violates any State rights, and there is strong basis for confidence in the future arising out of this conference between the two commissions that the Federal commission will continue to recognize joint control and intends no act in derogation of State's rights.

We fully concur in your excellency's message to the legislature, dated March 5, 1923, that New York's water power "must be developed in accordance with the enlightened thought of to-day, by the State itself, under State ownership and State control, to the end that all of the people may be able to realize the individual benefit which should flow to them from their own resources and their own property." We fully concur with you that the next step to be taken is appropriate State legislation to carry out this policy, which would mean the immediate development by the State of the undeveloped water power available on the Niagara and St. Lawrence. We believe that the absence of such a statute jeopardizes the rights of the State in its relations with the Federal Government.

New York is in a position to-day to own and control all its water-power development upon its inland and border streams. How long she can maintain that position depends wholly upon her own disposition by appropriate enabling legislation to make use of them. If the State is not able to obtain from its own legislature a grant of favorable legislation, it makes little difference whether it is the Federal commission or the State commission which licenses the State's power to private interests. In either case the water power of the State will be out of the hands of the people of New York, who really own it. The people, who are deeply interested in the development of New York's water power, have reason to be more apprehensive of opposition within the State to needed legislation authorizing State development of water power than it has of a possible refusal by the Federal Government to execute a formal consent to the State's plans after such legislation is obtained and the State's plans are from time to time formulated and presented to the Federal Government.

We therefore respectfully recommend:

1. That we do not commence the taking of testimony in the present suit at the present time, but, with the permission of the United States Supreme Court, permit the suit to stand along for the present, unless and until the Federal Power Commission should change its present conciliatory position;

2. That the State of New York, at the earliest possible moment, enact the statute for State development recommended in your message of March 5, 1923, so that the rights of New York may not be jeopardized and the development of its water power delayed because of the absence of such a statute;

3. That the State water-power commission continue in close touch with the Federal Power Commission and endeavor to harmonize from time to time any conflicting claims which may arise, to the end that the development of the water-power resources of the State may be accelerated;

4. That during the coming session of Congress Federal bills relating to water power be carefully scrutinized, and that the State be represented at any and all committee hearings in respect to any measures which may affect the rights of New York.

Yours respectfully,

CARL SHERMAN.
DWIGHT B. LA DU.
EDWARD G. GRIFFIN.
CHARLES A. COLLIN.
JOHN GODFREY SAXE.

Minutes of conference between Federal Power Commission and New York State Water Power Commission, held at the office of the Secretary of the Interior, at Washington, D. C., on May 10, 1923, at 3 p. m.

Present: Hon. Hubert Work, Secretary of the Interior; Hon. Henry C. Wallace, Secretary of Agriculture. Members of the Federal Power Commission: Hon. O. C. Merrill, executive secretary Federal Power Commission; Col. William Kelly, chief engineer Federal Power Commission; Maj. Lewis W. Call, chief counsel Federal Power Commission, appearing also for the Solicitor General; Mr. J. F. Lawson, assistant attorney, Federal Power Commission.

Hon. Carl Sherman, attorney general of the State of New York; Hon. Dwight B. La Du, state engineer and surveyor of the State of New York. Members of the New York State Water Power Commission: Hon. Edward G. Griffin, deputy attorney general, New York; Mr. John Godfrey Saxe, Mr. Charles A. Collin, special counsel to the attorney general, New York.

"Mr. SHERMAN. This is a conference between the two commissions and their representatives, in view of the fact that the New York law imposes a duty upon our commission to cooperate with your commission with respect to reconciling, if possible, and harmonizing any conflicting claims as to authority over water power to the end that the development of the water power resources of the State of New York may be accelerated. This is just a general discussion of what your commission feels its rights and general powers are, and, on our part, where we tell you what we think that our rights and powers are; and if there is a conflict we want to know it, and maybe we can harmonize these differences of opinion, or maybe we can get to the point where there is some way of testing any disputed question.

"Secretary WORK. That is good. Now, proceed to present what you think are your rights and powers on the proposition.

"Mr. SHERMAN. The State of New York is concerned primarily with three types of water power in navigable streams. There are the so-called boundary streams, which include the St. Lawrence and Niagara Rivers; the surplus waters in the barge canal, which is a State-owned canal; and with respect to other streams that I might designate generally as inland streams."

Now, we recognize that there is general Federal authority for supervision over streams with respect to controlling their navigability, and the State of New York recognizes that the Federal Government must be consulted before navigation can be impeded and as to what way it should be impeded, and that the Federal engineers must, of course, protect the Government under that power.

We recognize, too, that there are treaty obligations of the Federal Government with the Canadian Government, and that there is in existence an international commission with respect to international waters, and, of course, there is some authority in that commission to arrange between the different governments for disposition of water power.

Otherwise the State of New York claims ownership and sovereignty over all lands under navigable streams within the boundaries of the State and their banks, beds, and waters, with the consequent right to use and dispose of any portion thereof; and we believe that, after the Federal Government has exercised its supervision with respect to navigation, water power as such, developed on those streams is the property of the State, and the State may develop the same without further Federal interference; that if the State then seeks to license it to private enterprises, that the State has such power; that it is the State which may derive a revenue therefrom if anyone may derive a revenue from private enterprise for the development of water power; and that if either the Federal Government or the State may eventually recapture the power after granting a private license for a term of years, the State is the one that eventually would take the ownership, under proper legal regulation, of the water power after the term of the license had expired.

Now, that is the State's position.

Secretary WORK. Yes.

Mr. MERRILL. With respect to the question as to the right of the Federal Government to recapture property under license at the end of the license period, it is our opinion that the act itself does not grant that authority; that the authority must rest, in so far as the Federal Government has it, in its constitutional powers; that its constitutional powers at the present time would limit it to the right to take property for governmental purposes, and that for such purposes it does not need to have the Federal water power act at all, the Federal water power act merely serving to fix the measure of value if properties are so taken; and that the purposes for which the Government of the United States may take over any project at the end of 50 years will be determined by its constitutional powers at that time. If they are not changed in the 50 years, it can take them over only for governmental purposes then, as now; that provision of the act giving reserved authority to the United States to take over properties at the end of 50 years—to take them away from its first licensee, either for its own purposes or to grant them to others—is not primarily to give the United States ownership but to enable it to serve as an agency for securing for States and municipalities this ownership of property at the end of 50 years—that was the primary purpose for which that legislation was enacted by Congress.

Without this legislation the States can take over these properties at the end of 50 years only by condemning and paying "just compensation." Under the provisions of this law the State can either condemn or take them at the price fixed in the law, which we believe would be less than it would be required to pay if it had to go into the courts and condemn. The provision, then, is primarily for the benefit of the States and municipalities if they desire within the next 50 years to go into the business of municipal ownership.

Mr. GRIFFIN. Would the Federal Water Power Commission object if at any time prior to the expiration of the 50-year period, or immediately, the State, by purchase or by the exercise of its right of eminent domain, should take possession of a water-power project licensed by the Federal commission?

Mr. MERRILL. Section 14 of the act reserves in States and municipalities the right to take over any licensed project by condemnation proceedings upon payment of just compensation.

Mr. GRIFFIN. All right. And that would be regardless of any purpose that we might want to use it for, whether our own development or some public development.

Mr. MERRILL. I do not think the purpose enters at all into the question. It is simply "Have you the constitutional and statutory authority to condemn?" If you have, the statute reserves that right in respect to properties under license.

Mr. GRIFFIN. There has been some question as to whether we had to take it over for a specific purpose.

Mr. MERRILL. No purpose is expressed in the statute.

Mr. SHERMAN. How about the question of revenue, Mr. Merrill?

Mr. MERRILL. The act provides for the collection of charges for one purpose only, as far as projects on navigable streams are concerned—for reimbursing the United States for the cost of the administration of the act—and it was never intended as a revenue-producing measure. As I have told a former representative of your office, in discussing it at my office, in my judgment there is nothing whatever in the Federal water power act that inhibits the State from making any license charges or imposing any taxes——

Mr. SAXE. If I may interrupt, does not the act provide that in addition to the charges for administration there is also a provision that the United States may make a charge for the purpose of recompensing it for the use, occupancy, or enjoyment of its lands or other property?

Mr. MERRILL. I said, "On the navigable streams in general." If the Government has property—property of the United States like that of the new Troy Dam for which license was issued to Henry Ford—there is a charge for that. If the Government owns the land, as it does in the West, there is an additional charge for that; but the general situation on navigable streams is that it merely makes charges for reimbursing the costs of administration.

Mr. SAXE. You have confirmed in that respect our view of it. I will tell you the real difficulty the State of New York is laboring under. The United States Government under this act is really exercising two entirely different functions. So far as its own water properties are concerned—so far as water properties in Territories are concerned—it has under the Constitution plenary jurisdiction, it can do anything it wants to do. So far as navigable waters within States are concerned, its function is entirely different, it is merely a function of consent to the extent of making sure that a State project does not interfere with navigation. In other words, so far as its own property is concerned its function is more a franchise-giving function; so far as water properties within States are concerned our contention is that it is a mere consent jurisdiction. And if that is the final solution between the two boards and it is fully agreed to by the two boards that the application of the act works out that way, I doubt if there will be very much disagreement between them about a great many of the provisions contained in this act, which are entirely proper where applied to the properties which the United States Government owns. If those provisions should be applied to the State's property within navigable streams, they would, in our

opinion, be entirely void, and the action of the Federal Power Commission, if it attempted to apply them as to State properties, as to navigable streams, would be an excess of power under the Constitution attempted to be exercised by the Federal commission.

Mr. MERRILL. What are those two specific powers?

Mr. SAXE. The two chief ones have already been adverted to. Any attempt to recapture the State water-power properties—I will just tell you a word about that. There is nothing in the Federal act which provides that the license shall contain any recapture provisions. The details of the license are set forth in full, and at the very end of the license section there is sort of a grab-bag provision that the commission may insert in addition such other conditions as it may require. Now, we are informed that in certain cases—for instance, in one case in New York—you are actually putting your recapture provision into your license. We claim that you have not any right to put any recapture provisions into our New York licenses because our New York properties belong to the riparian owner and to the State, as sovereign over all riparian owners. When you put a recapture provision in there there is a certain attempt on the part of the Federal Water Power Commission by way of license to indicate that you have got jurisdiction over our own property more than the consenting nature, to wit, in the nature of an ownership or a franchise-giving power. That, I think, is the point of distinction.

Mr. MERRILL. It was expressed in that particular permit—the Niagara permit I think you are talking about—in order to clear up certain aspects of it. We do not generally put it in our licenses, because the licenses are issued under the act and the act provides——

Mr. SAXE. I understand you generally do not put that in your licenses?

Mr. MERRILL. It simply is not expressed in the license; but we consider it as much a part of the license as if it were in the license.

Mr. SHERMAN. We may suppose that the licensees that the State might want to favor would be the same ones that the Federal commission would want to favor, or give the grant. But, as a concrete example, you have issued this license in the lower Niagara to the Niagara, Lockport & Ontario, is it?

Mr. MERRILL. Niagara, do you say?

Mr. SHERMAN. The lower Niagara.

Mr. MERRILL. The preliminary permit?

Mr. SHERMAN. The preliminary permit. Soon you will act on the final application after the survey and plans are properly presented. If in the eyes of your commission, the Niagara, Lockport & Ontario is the proper company to have that grant, you will issue the final permit under the act? Now, suppose our commission—the State commission—should want to give its grant to the contesting company, the Gorge Railroad Co. I think the treaty waters are not involved in that application, are they?

Mr. MERRILL. I rather think they are. Yes; I think it is a matter that has to go before the International Joint Commission. They would not be interested, I assume, in the parties.

Mr. SHERMAN. They would be interested in the matter—the water to be taken from the river under a certain plan. Suppose that consent were obtained from the New York commission by the Gorge Co., and assume that otherwise the United States Engineers' regulations were properly complied with, just as the other company, the Niagara Co., would be required to do. Now, the State commission says, "We want this permit to go to the Gorge plant." Your commission says, "It should go to the Niagara Co." What would the situation be then, do you think?

Mr. MERRILL. Do you recall a provision of the statute that a license can be issued only to some one who has certain specified State authority? If there are contesting applicants for the same site, both can not have this specified authority.

Mr. SHERMAN. No.

Mr. MERRILL. If both could and did have this authority from the State, you would put it up to us to decide between them. If only the one has the necessary authority, we can not under our statute grant it to the other.

Mr. SHERMAN. Suppose we grant it to another and the Federal commission refused to grant?

Mr. MERRILL. There is a possibility we might get into a deadlock. We are, however, dealing with the authorities of some 20 or 30 States, and there has not yet arisen an instance of conflict between this commission and the State authorities in deciding to whom a license should be granted.

Mr. SAXE. If I could interrupt for a moment, if the distinction, as I suggested, is recognized by both commissions, should not we act first because we are really the franchise-giving power as to navigable waters in New York State, and should not you approve or disapprove after we have acted?

Mr. MERRILL. Our general practice is to secure, either formally or informally, the consent of the State authorities before granting a license. Ordinarily, before granting permits if there is any probability——

Mr. SAXE. In this case you have granted a license to the independent company, whereas the contestant is the riparian owner.

Mr. MERRILL. We granted a permit——

Mr. SAXE. I mean a permit.

Mr. MERRILL. To the only one of the two applicants, in my judgment, that appeared to have the State authority at the time. They came before us with an act of the Legislature of the State of New York just as the Lockport Co. came before us with a permit from the State of New York. We have not acted in any case in the State of New York except where applicants have appeared before us with authority, statutory or otherwise, from the State. We have not acted on a single St. Lawrence case because it is involved in the international situation. We have not even granted a permit, because until the recent State act there was no authority for anybody from the State of New York, so far as we could see.

Mr. SHERMAN. I think this is clearing up.

Mr. MERRILL. This is a matter, Mr. Secretary, in which we have exercised extreme care. It has been our experience that we have had no difficulty in reaching agreements with State authorities, and while technically, if everyone stood on his extreme rights, there are plenty of chances to reach disagreement and deadlock, we have assumed that people in a reasonable frame of mind can get together, and we have found that to be the fact.

Mr. SHERMAN. For the time being at least, in such instances in which the State of New York grants no permission, the Federal Power Commission would not grant its permit?

Mr. MERRILL. The commission would not grant a preliminary permit if it was certain it could not under the statute grant a license to the applicant.

Mr. SHERMAN. Mr. Merrill, do you believe that the commission could link up various projects so that they might become interstate in character and thereby come under the control of the Interstate Commerce Commission or some other commission that the Government might put in control?

Mr. MERRILL. I do not think it can come under the Interstate Commerce Commission. It could not without new legislation. The Federal water power act provides that the Federal Power Commission may have jurisdiction in cases of interstate transmission of power if the adjacent States can not agree or ask its intervention.

Mr. GRIFFIN. What we had in mind, Mr. Merrill, was the suggestion made by Governor Pinchot in his open letter that under license of your commission all power, we will say, in the St. Lawrence might be linked into interstate transmission lines, and then under regulation or protection of price by your commission all of that power might be diverted from New York and sold, for instance, in Pennsylvania; or New York be left only so much of that power as this commission in its discretion might see fit to let New York have. The question right on the point is, Do you believe that regulation of operation or prices remains with the State, or can that under the present law be transferred to your commission?

Mr. MERRILL. I think in general it is with the State.

Mr. GRIFFIN. I notice that in your answer the Federal commission is not attempting to regulate. I wonder if that is simply an expression of present policy.

Mr. MERRILL. It is a provision of the statute that the commission has no authority in intrastate regulation of rates and service if there is a State commission for that purpose. It has authority in interstate only if the adjacent States get into conflict and can not agree.

Mr. GRIFFIN. Well, of course, and from our experience with the railroads—the conflict between the control over State commerce and interstate commerce—we know that control over interstate commerce generally prevails. What I have in mind is whether your commission claims authority to say that 90 per cent of the power generated, we will say, at Croil Island in the St. Lawrence shall go by transmission lines into Pennsylvania and only 10 per cent may be distributed in New York.

Mr. MERRILL. I could not answer. I would have to consider that. I would have my doubt of that. I would have more doubt than I would have of the constitutionality of any State law prohibiting exportation.

Mr. SHERMAN. One more question, Mr. Merrill: Suppose the State granted a State license, say, in the St. Lawrence, and the treaty, if the treaty waters were involved, the proper application made, an arrangement made to apply to the joint commission, and that then application were made to the Federal commission, could the Federal commission refuse to issue its permit—either the preliminary permit or the final license?

Mr. MERRILL. I think it has the authority to do so; but it can not be assumed that it would exercise that authority except on good ground. I presume likewise the State has the authority to deny to any applicant such authorization as is required under State law, but it is to be assumed that the State will not do it except for good reason.

Mr. SHERMAN. I want to eliminate in my question all question of proper regulation by the Federal Government, such as compliance with the Secretary of War's proper regulations; but, assuming everything

is complied with excepting the grant of water-power rights, could the Federal commission then nevertheless refuse to grant the license?

Mr. MERRILL. I think it can not waive its authority to grant or not to grant, because there must be authority from the Federal Government in order to go into a navigable stream, and the Federal Power Commission is the only agency of the Federal Government to grant that authority under the statute.

Mr. SHERMAN. Maybe I did not make myself clear. After the Federal commission is satisfied as to the way this water power will be taken from the stream, can it go beyond that, nevertheless, and say this particular company shall not have it? Suppose you have contesting companies and the State makes its finding—the State commission decides to give it to the A company, but for some reason or other the B company may be favored by the Federal commission. Now, the Federal commission is satisfied. Assume that the plans for taking out the water are identical, so that there is not any conflict as to the way or method in which it may be taken out. The Federal commission is satisfied as to that. The question is simply as to which of the two companies should have it. Could the Federal commission nevertheless deny it?

Mr. MERRILL. If it did, it would have to deny it on the alleged ground of noncompliance with the statute. I think, under the assumption you have made, it would be an abuse of discretion if it did it.

Mr. SHERMAN. Yes; I see.

Mr. MERRILL. The commission under its statute would be interested in certain things: It is interested in securing the navigation in a form which is approved by the commission; it is interested in securing the best scheme of development; and the statute provides that as between contesting applicants it shall give consideration to the applicant whose plans are best adapted. Now, of two plans presented which were of equal merit, and one of the applicants had State authority and the other one did not, the only ground upon which the commission could deny it would be upon the alleged ground that the plan did not provide for an adequate development, which would be, under the conditions assumed, a subterfuge.

Mr. SHERMAN. Do you speak, then, of the "adequate" development of water power, or do you use the term "adequate" with respect to adequate protection of navigation?

Mr. MERRILL. No; "adequate" as a whole.

Mr. SAXE. That is just where the distinction we are contending for comes in.

Mr. MERRILL. You are assuming, in bringing up the shadow of conflict there, that the engineers of the State and the engineers of the commission can not agree on what is a reasonable development.

Mr. SAXE. Here is the proposition: Supposing the State gives its license or franchise to Company A. Company A comes before you and asks for a Federal license. Company B also comes in with what you may think is a better scheme of water-power development. Our contention is that your only jurisdiction—we having granted the license to Company A—is to find out if that is "adequate" so far as navigation is concerned; and that if the statute goes further than that, the statute does not apply to navigable waters within the boundaries of member States.

Mr. MERRILL. That is a point upon which we would not fully agree from a theoretical standpoint; the question is whether we can agree from a practical standpoint.

Mr. SAXE. Take this Niagara development case that you have before you now. We have both applications before us. Suppose we granted the application to the riparian owner, you had not acted on either, and both of them came down before you, and you find that both of those two companies were equally satisfactory to the State of New York, so far as water-power development was concerned, and you find that both of them were equal so far as navigation rights were concerned—neither of them affected navigation at this point—would you have jurisdiction to grant a license to Company B in place of Company A?

Mr. MERRILL. In the first place, it could not be granted to anyone who had not complied with the requirements of section 9 (b) of the Federal act. Assume that only A has done this. The commission would nevertheless under the act have the authority to say that it will not issue a license to A because it is not satisfied with A's plan.

Secretary WALLACE. Nothing mandatory under the law over this commission from the State.

Mr. GRIFFIN. You would not regard it unreasonable to grant a license to Company B?

Mr. MERRILL. They must have such authority from the State as is comprehended within section 9 of our act—the right to occupy beds and banks and to divert the water, and the right to engage in the work of developing power.

Mr. GRIFFIN. They must have, first, a license from the State water-power commission, and, second, satisfactory plans.

Mr. MERRILL. If the license from the State covers those items named in the act.

Mr. GRIFFIN. As I take it, the worst situation that could possibly arise is that there would be a deadlock. The Federal commission could not grant unless the State was satisfied. I use the wrong word in saying "grant." But the applicant would not have power to proceed with the development under the State license, not having procured the Federal; and vice versa the one who had obtained the Federal and had not obtained the State would not be permitted to proceed. And then we would have to try to get together, or we would have a deadlock. You would not presume to have authority to settle it for the State over the head of the State of New York, and on the other hand the State of New York could not settle the question without approval from your commission. That is about the substance of it?

Mr. MERRILL. Yes.

Mr. SHERMAN. I do not think we are far apart.

Mr. MERRILL. I think it would be advisable for the two agencies to confer before acting. That is what we are working toward in each of the States. Whenever any application is filed with us we take no action on it before it is reported to the State, and where we have representatives in the field we have them deal with the administrative officers of the States, so that the two can act together and act concurrently, and we are finding it works very satisfactorily.

Mr. GRIFFIN. And as a matter of comity you would naturally expect that the State commission would confer, formally or informally as the case may be, with the Federal commission.

Mr. MERRILL. That is being done.

Mr. SHERMAN. I think some misunderstanding is due to this fact: Your commission granted this lower Niagara license—the preliminary permit—and you said you would not have granted it unless it had the consent of the State of New York.

Mr. MERRILL. An act of the State legislature.

Mr. SHERMAN. There may be some misunderstanding; but I think that the State of New York does not consider that grant effective—the old grant of the Niagara Lockport Power Co.—as to development since the enactment of the State water power act.

Mr. MERRILL. I don't know how that was. The State water power act was not in effect when the permit was issued.

Mr. SHERMAN. That may be the reason for the misunderstanding. We assumed that you had granted this permit even though the State of New York had not granted it.

Mr. MERRILL. As I say, we have occasionally granted preliminary permits where there appeared no probability of conflict, because we knew that the matter had to be settled before license was issued; but where there is probability of conflict we have not recently granted preliminary permits except after the approval of the State authorities unless the applicant appeared to have already complied with such requirements of State law as our act specifies.

There is no getting away from the position that these matters can not be satisfactorily handled unless the two agencies, whose authority to a certain extent does overlap, work together. Let me refer to one instance—that Lockport case—where the applicant came before us for the authority to divert 500 second-feet of water from the Niagara River into the barge canal, and came before us with a permit from the State, agreeing to transport that 500 second-feet of water. I went up to Albany last January and conferred with your commissioner of conservation and, while I did not get the chance of talking to Mr. La Du, his representative was there, and I asked that the authorities of the State of New York give us the data about the canal—whether in their judgment the diversion of that water would interfere with navigation; how it should be got through the canal; if it should not go through the canal, where they wanted it to go—and told them that, as far as I was concerned, in my recommendations to the commission I would meet the wishes of the State of New York.

Mr. LA DU. Yes; and I appeal for a little more time, and I ask at this time how much more time will be required——

Mr. MERRILL. The matter still rests.

Mr. LA DU. My investigation with reference to bringing that 500 second-feet for the canal waited until the canal was opened. I assigned an engineer to that work, and he is working on it now. I will get to you as soon as possible the result of my investigation, and I will come down and go over it with you in the very near future. I think that is better than to write a letter here. What we want to determine is whether we might not use that 500 second-feet for ourselves; and it might be proper to ask now, if we do need that 500 second-feet for canal purposes, would we be permitted to take that 500 second-feet?

Mr. MERRILL. For navigation?

Mr. LA DU. Yes.

Mr. MERRILL. Is not that right recognized under the treaty? Such use does not come out of the allowance for power that is set forth in the treaty.

Mr. LA DU. Supposing I, as State engineer, have got a little power scheme all of my own. Supposing we want to bring that 500 second-feet down through the canal at some future time. We use that water for navigation and also for power purposes. Would that be permitted?

Mr. MERRILL. If you are taking no more water than you need for navigation, the treaty would cover it. If you wish to divert water solely for power, the authorization of this commission would be necessary.

Mr. GRIFFIN. There can be no question, in view of the denials in the Solicitor General's answer, that the Federal Power Commission claims no right to look into the adequacy of development carried on

by the State itself. It will allow its license to the State either as matter of course or——

Mr. MERRILL. It will license them as a matter of course unless they are so plainly inadequate that it would be unjustified. Of course, it has technically the same right to pass on the plans of the State as of anybody else.

Mr. GRIFFIN. Then the reason you do not claim the right to license such projects is that if the State at a later time should start to build the power house to utilize surplus waters of the canal, then you would require us to come here for a license.

Mr. MERRILL. You would not otherwise have authority, any more than anybody else.

Mr. GRIFFIN. I speak only of the navigation of the barge canal.

Mr. MERRILL. No authorization from this commission is required for navigation use alone.

Colonel KELLY. There is a tacit understanding, and has been for a number of years. I do not think it is of record particularly; but it has been recognized by Congress that since the State undertook this barge canal all of the waters pertaining to that barge canal were given over to the State to do what it pleased with it, and the Federal Government had not exercised any jurisdiction over it. They debated that jurisdiction on the barge canal before the Troy Dam was built. That includes the Mohawk River. And that is the underlying reason that this commission has started up on the same principle that they are not going to exercise any jurisdiction over the barge canal functions in so far as it pertains to the water taken for navigation purposes in that canal.

Mr. LA DU. In other words, in case the State should deem it advisable to divert water entirely within the boundary of the State for use in any structure built for barge canal purposes, we might have to come to the United States Government for a permit to develop that power and to use it for municipalities.

Colonel KELLY. Unless the policy were changed, the United States would not exercise any authority over this water.

Mr. SHERMAN. But in no event could anybody else use the water without the approval of the State of New York.

Colonel KELLY. I think that applies.

Mr. SHERMAN. There just seems to be now one question that might bring about a conflict—everything else would seem to be pretty much understood—and that is your use of the word "adequacy." Now, I think you have said you were not quite prepared. You wanted to read something over when we were discussing that before. Do you remember whether you used that term as to "inadequacy" with respect to navigation or "inadequacy" with respect to water power?

Mr. MERRILL. To the development as a whole.

Mr. SHERMAN. And I wonder if we should not obtain your view on that?

Mr. MERRILL. Off hand I should say that a project on the St. Lawrence, for example, if it provided for 400,000 horsepower when 1,000,000 were available would not be approved by the commission unless it were agreed that the project would eventually be fully developed.

Mr. LA DU. We should not.

Mr. MERRILL. You would not, of course.

Mr. GRIFFIN. The Federal Power Commission claims the right not only to regulate navigation but also to regulate any water power arising incidentally to that navigation. That is your broad claim?

Mr. MERRILL. I think that is pretty fairly stated, if you will consider that "regulation" means that it assumes the right to determine whether the structures put into that river make reasonably "adequate" use of the resource; but when it comes to the question of regulating rates and service in that project, or any matters in connection with its operation other than keeping the plant from going to pieces, it is left entirely to the State.

Mr. GRIFFIN. That is a very fair statement. In other words, if there were two applicants, and they both had a proposition and their plans approved for the development of so many horsepower, the attitude of your commission would be to accept the one which we favored, they both being equal so far as power and navigation were concerned.

Mr. MERRILL. Decidedly.

Mr. SHERMAN. If you will permit me, then, I will read from the report of the subcommittee on dams and water powers, dated February 25, 1909, by Chief Justice Taft when he was Secretary of War. This the State of New York has adopted for its position, Judge Taft's ruling in that report. You are probably familiar with it.

Mr. MERRILL. No.

Mr. SHERMAN. I would like to read it now. Maybe that would be helpful. I am quoting now from that report:

"But even if it had been a navigable stream, and even if the application had been made, and properly made, to this department to say whether this would interfere with navigation, if the department concluded that it would not interfere with navigation, then it is not within the power of the department to withhold its expressing such an opinion and granting such a permit so far as the United States is concerned for the purpose of aiding the State in controlling the water power. All the United States does, assuming it to be a navigable stream, is merely to protect the navigation of the stream. With reference to water power it has no function except in respect to water power which it itself creates by its own investment in property—that it itself owns—but with respect to the water power of a navigable stream which may be exercised without reference to the use of the river for a navigable purpose, that is controlled by the laws of the State."

That is about the position of New York.

Mr. MERRILL. You accept Judge Taft rather than Senator Root?

Mr. SHERMAN. We accept Judge Taft's ruling. If we can get you to say, "We accept that," we are pretty much in accord.

Mr. MERRILL. We can not, of course, say that; but for any practical purpose I do not think it is necessary that we should.

Colonel KELLY. Judge Taft's statement was based on the statement of the laws which were on the statute books at that time, which were the laws of 1899, in which you will find the duties of Secretary of War in regard to navigable waters. Since that time there are additional statutes.

Mr. SHERMAN. It may have been, and nevertheless the department had broad powers under that statute. I think the judge had reference to constitutional powers.

Mr. SAXE. The additional statute that has been placed upon the statute books is this new water power act which is perfectly proper as to property which the United States owns, and the main question is the question of application and that question of application should be determined according to this report which the Attorney General has just referred to rather than for the United States to attempt to assert power regulation over State navigable streams.

Mr. SHERMAN. As distinguished from regulation of navigation.

Mr. SAXE. Absolutely.

Colonel KELLY. You have brought a case to test that.

Mr. SHERMAN. One of the additional reasons we are here is that the answer of the Government, while it left some room for doubt, practically conceded certain rights in the State such as we have discussed here. So maybe there is not any lawsuit——

Mr. COLLIN. They conceded so much that we thought there might not be any real conflict.

Secretary WORK. Did I understand you to say that there was no case pending which you could set up to work from? There is no case pending now? You just want to clear the ground for future contingencies.

Mr. COLLIN. There was no specific case where there was direct conflict—where they have said, "You can do some particular thing," and the State has said, "You can not do it."

Mr. GRIFFIN. There is not any pending issue in the Supreme Court at this time. The answer of the Government is mostly pleas in avoidance or separate defenses or denials of what we claim is the Government position. So we have not any sharply drawn issue to-day, so far as I can personally see, except one fact, as to the right of the Government, not only to control navigation, but also its seemingly claimed right to control water power, which arises as an incident to navigation. That seems to me to be the only sharply drawn conflict; and so far as your commission is administratively concerned, you do not seem at this time really in a practical way to press your ultimate claim to its logical conclusion.

Mr. COLLIN. The action that is now pending in the Supreme Court has arisen from our construing the Federal water power act as possibly attempting to give the Federal Government much larger powers and jurisdiction than the Federal commission has construed, and it would seem as though this conference pretty nearly eliminates the reasons for commencing that action.

Mr. MERRILL. That is what I told your people in Albany last January.

Secretary WORK. The Supreme Court of the State or the United States?

Mr. COLLIN. The Supreme Court of the United States.

Mr. MERRILL. There are no grounds of conflict that reasonable people can not avoid.

Mr. COLLIN. The answer brought us to this conference to see whether there was a real controversy—a real conflict—that we assumed would arise from the commission's asserting the powers that seemed to be given by the Federal water power act.

Mr. MERRILL. I think you alleged in your bill powers greater than Congress gave, and overlooked certain express limitations in the act itself.

Mr. SAXE. Well, the debates in Congress indicated that the terms of the act might be construed to give you far broader powers than those which you are attempting to exercise; but we construed the act just as you are construing it, except this one question which is involved in the word "adequacy," and the answer by the Government indicated that very possibly the Government was construing it the same way we did. I thought we might open the door for future conferences, and if the disagreements became sharp we could immediately have a test case.

Mr. SHERMAN. I am going to come back again to this question of "adequacy" as applied to navigation, or "adequacy" as applied to water power regarding which I quoted from that report of Judge Taft,

and ask you after you have considered it further, Mr. Merrill, if you can give us any further views on it. There is no hurry about it, but maybe there will be an opportunity to straighten that out.

Mr. MERRILL. There is one rule laid on the commission:

"That all licenses issued under this act shall be on the following conditions:

"(a) That the project adopted including the maps, plans, and specifications shall be such as in the judgment of the commission will be best adapted to a comprehensive scheme of improvement and utilization for the purposes of navigation, of water-power development, * * *" (sec. 10).

The commission has to take into account uses other than navigation under that provision of the law; but, as I say, there is no necessary conflict that need arise there between people who are endeavoring to reach the same end.

Mr. SHERMAN. Yes; excepting, of course, this commission, the present Federal commission, is not to be here forever, and it might be fruitful to have either a definite understanding if there is a possibility of a conflict, although it may not mean anything at this time. We are getting along all right, and probably shall continue to do so, and perhaps there won't be a concrete example where there will be a real conflict for years to come, or perhaps never. But the State takes the position, and I can sum up, as I have said, in the words of Judge Taft. If the commission disagrees with respect to that, let us straighten out even that at some future time by presenting a proper controversy to the court.

Mr. MERRILL. That is is the only way, of course, that that could be answered, because any conclusion the present commission might make might not be followed by a succeeding commission.

Mr. SHERMAN. As I say, the State will stand by its position, that, after recognizing the Federal power and authority over navigation, with respect to water power, the Federal authorities shall not be the judge of the adequacy of a water-power project as such.

Colonel KELLY. The State has been reserving its rights on that business ever since I have been in the Government service, and yet there has been case after case come along, and when there was a specific case under consideration there has been no particular difficulty about getting together. Every time that comes up the general question is brought into issue.

Mr. SHERMAN. It is comforting that there should not be any great conflict by reason of what we have learned to-day, that there can be no license issued by the Federal Government to any interest that has not the State's consent. That eliminates the question of conflict pretty much, as I said. The worst that could happen then would be that there would be a deadlock, that the State will not see any Federal commission giving licenses over the head of the State commission. So I say, even if there is that slight conflict, it is pretty much eliminated for present purposes as long as it is recognized that the Federal authorities, if there is a disagreement with the State, can not supersede the State and give a grant in disregard of the State's position.

Mr. GRIFFIN. It was the late Senator Brown's conception that the Federal Power Commission would as a practical matter claim as navigable—and therefore jurisdiction over—practically every stream in New York except brooklets; that it would include every river that was loggable; that it would include waters that had not been navigated for years.

Mr MERRILL. I am rather inclined to think that Senator Brown had such difficulty in making his case that he had to strain it. There are several decisions of the commission published in its annual reports, of its findings with regard to navigability. It has two classes of streams: Those which are navigable in fact, or which are suitable for navigation, which are wholly under the statute; and those other cases of the nonnavigable sections of navigable streams, and nonnavigable tributaries, where construction would affect navigability of the navigable sections. In proposing development of those nonnavigable sections and nonnavigable tributaries, a man may come to the commission or not as he pleases. He may take his chances and go ahead. If he comes to the commission and files a declaration of intention, then the commission makes a finding, and if the commission says that the proposed development would affect the interests of interstate or foreign commerce he has to take out a license; if they say it would not, he proceeds under State law with no further liability to the Federal Government. If he proceeds without filing his declaration, and if in fact, either now or in the future, the structures that he puts in there affect the navigable capacity of the stream below, he is subject to the prohibitions of the act of 1899, and his structure may be required to be removed. A man can keep out of this difficulty if he wishes.

Mr. GRIFFIN. Take nonnavigable tributaries. The commission is only interested in the diversion of the water. If the water is returned to the nonnavigable stream, we assume that it will not affect the navigability of the stream.

Mr. MERRILL. The only cases that have come up so far of nonnavigable sections are storage propositions. If there is no storage involved——

Mr. SHERMAN. I am going to get back to that Niagara, Ontario & Lockport temporary permit that was granted. The Federal commission acted favorably on the application on the assumption that the applicant who received it had full State consent.

Mr. MERRILL. Yes.

Mr. LAWSON. That was granted February 21, and your act was passed May 21. Your law must be retroactive.

Mr. MERRILL. The commission has not acted——

Mr. SHERMAN. There is a disagreement between the State, I think, and this particular company as to the effect of the old grant. This company claims that it has some future power, and the State takes the position that it had simply the rights of water power that were in contemplation at that time and not any general rights. There may be litigation. There may be further legislation. We had assumed that the Federal commission had acted without taking into consideration as to whether the State had given its consent or not.

Mr. LAWSON. It was a special act of the legislature.

Mr. MERRILL. We have not acted on any case in the State of New York where there has not been presented to us what we deemed adequate State authority.

Mr. GRIFFIN. Referring to the Black River, are you sufficiently familiar with the physical location of our water powers in any general way to say just what classes of streams you regard as nonnavigable tributaries and just the names of some streams that you regard as navigable waters?

Mr. MERRILL. That is pretty difficult. I presume the Hudson and the Delaware would be classified as navigable streams.

Colonel KELLY. The Mohawk was a navigable stream, and I presume could be so construed; but I think if you will go over the long record that has been piled up in connection with the barge canal you will find the United States Government considered whether it would build the canal, and the State took it up. Since that time, the uniform action of the Federal Government has been to tell the State, "Go ahead and do what you want to. It is your project."

Mr. LA DU. I think that statement is quite true. I have been connected with the State 27 years, and I know that was the case with regard to Troy Dam.

Colonel KELLY. I do not think you can put the barge canal and the streams that are a part of it in a general class with all the rest.

Mr. GRIFFIN. I spoke of water power arising as an incident to navigation. I suppose the commission properly conceives that many water powers arise entirely independent of navigation and don't regard all water power as an incident to some kind of navigation, do you?

Colonel KELLY. The Federal water power act contemplates, however, navigable streams. If anybody is going to develop for power, the development shall be made in such a way as to get the benefit for navigation at the same time.

Mr. GRIFFIN. Does every power in every conceivable stream affect navigation?

Mr. MERRILL. Colonel Kelly is speaking only of navigable streams.

Mr. GRIFFIN. Is it possible to speak of any developments that do not affect navigation at all?

Colonel CALL. There are many that do not come under the jurisdiction of this commission and never will.

Mr. MERRILL. Fully 90 per cent of New York streams are outside.

Mr. GRIFFIN. Take the lower Niagara Gorge; is that navigable?

Secretary WORK. You do not mean that 90 per cent of the streams do not contribute to a navigable stream? What do you construe the attorney's question to mean? Where does the navigable stream end when you come out? Little streams flow into big.

Mr. GRIFFIN. My question is all premised on Senator Brown's theory. If that were true, the commission would merely claim jurisdiction over every little power development, no matter where it was situated in New York, whether on the Hudson or on the upper reaches of the Hudson or back in the woods some place on a little power stream.

Mr. MERRILL. The position Senator Brown took was absurd unless it was taken for purposes of argument.

Mr. GRIFFIN. That is what we want to get at.

Mr. SHERMAN. The fact of the matter is that there are a lot of small water-power developments in small streams that do not pay any attention to the Federal commission, nor do they, either, to the State commission. They go right ahead and nobody bothers them.

Mr. LA DU. Otherwise they come for authority to build little dams.

Mr. MERRILL. If you will look over the commission's decisions on the Saco River in Maine, the upper Connecticut, the Menominee in Wisconsin, and—what was the later one in New Hampshire? The Merrimac—you will find that it has not taken any such position.

Secretary WORK. Anything further, gentlemen?

Mr. SHERMAN. I think that is all.

(The conference then adjourned at 4.20 p. m.)

PURCHASE OF FEED AND SEED GRAIN

Mr. JOHNSON of South Dakota. Mr. Speaker, I move to suspend the rules and pass the bill S. 5082.

The SPEAKER. The gentleman from South Dakota moves to suspend the rules and pass the bill S. 5082. The Clerk will report it by title.

The Clerk read as follows:

A bill (S. 5082) authorizing an appropriation of $8,600,000 for the purchase of seed grain, feed, and fertilizer to be supplied to farmers in the crop-failure areas of the United States, and for other purposes.

The SPEAKER. Is a second demanded?

Mr. RAINEY. I demand a second.

Mr. JOHNSON of South Dakota. Mr. Speaker, I ask unanimous consent that a second be considered as ordered.

The SPEAKER. The gentleman from South Dakota asks unanimous consent that a second be considered as ordered. Is there objection?

There was no objection.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of Agriculture is hereby authorized, for the crop of 1927, to make advances or loans to farmers in the drought and storm stricken areas, comprising what are known as the Northwestern States and cotton States of the United States where he shall find that special need for such assistance exists for the purchase of wheat, oats, corn, barley, and flax seed, legume seed, for seed purposes, for nursery stock, of feed and fertilizer, and, when necessary, to procure such seed, feed, and fertilizers and sell same to such farmers. Such advances, loans, or sales shall be made upon such terms and conditions and subject to such regulations as the Secretary of Agriculture shall prescribe, including an agreement by each farmer to use the seed and fertilizer thus obtained by him for crop production. A first lien on the crop to be produced from seed and fertilizer obtained through a loan, advance, or sale made under this section shall, in the discretion of the Secretary of Agriculture, be deemed sufficient security therefor. The total amount of such advances, loans, or sales to any one farmer shall not exceed the sum of $300. All such advances or loans shall be made through such agencies as the Secretary of Agriculture shall designate. For carrying out the purposes of this act there is hereby authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of $8,600,000, to be immediately available: *Provided*, That of said amount not more than $2,500,000 shall be used for loans, advances, or sales for fertilizer in drought-stricken areas, in the cotton States of Georgia and South Carolina and western Alabama, and not more than $600,000 shall be used for loans, advances, or sales for fertilizer or fertilizer material or nursery and sugar cane stock in storm-stricken areas in Florida and Louisiana: *Provided*, That not less than $5,000,000 of this fund shall be available in the States of South Dakota, North Dakota, and Montana.

SEC. 2. That any person who shall knowingly make any false representation for the purpose of obtaining an advance, loan, or sale under this act shall upon conviction thereof be punished by a fine of not exceeding $1,000 or by imprisonment not exceeding six months, or both.

The SPEAKER. The gentleman from South Dakota is recognized for 20 minutes.

Mr. JOHNSON of South Dakota. Mr. Speaker, Senate bill 5082 originated in the House when I prepared and introduced House bill 15973. An identical bill was introduced in the Senate by Senator NORBECK, was amended, and is the bill under consideration. Instead of reporting the House bill, Senate bill 5082 was reported by the House committee. If it passes to-day it needs only the President's signature.

It provides for a loan by the Government of $8,600,000 for "the purchase of wheat, oats, corn, barley, and flaxseed, legume seed, for seed purposes, of nursery stock, of feed and fertilizer; and, when necessary, to procure such seed, feed, and fertilizers and sell same to such farmers." It is for the crop of 1927, and it is to make advances of loans to farmers in drought and storm-stricken areas comprising what is known as the Northwestern States and the cotton States of the United States.

I do not propose to take up the time of this House to tell of the difficulties that the farmers of the country are in. For two weeks in the House and in the Senate we have listened to speech after speech from gentlemen coming from all parts of the United States, from Florida to Tennessee, and from Tennessee to Texas, from Texas to Washington, and back to Illinois, and then up to Maine, showing the distress among the farmers.

It must be conceded that they are in a terrific plight, particularly in parts of the country where they have not had a good crop.

The benefits of this bill are not confined to certain States. It is true that $5,000,000 of it is confined to the three States of North and South Dakota, and Montana. Not more than $2,500,000 is to be used in the cotton States of Georgia, South Carolina, and Alabama, and $600,000 in Florida and Louisiana. There is a half million dollars not allocated in any way, and I call your attention to the fact that much of the rest of the bill is permissive.

Two weeks ago, when the bill was not forced to a vote, the gentleman from Illinois [Mr. RAINEY] desired $15,000 for a little storm-stricken area in Illinois. I am informed by the Department of Agriculture that they will take cognizance of the hearings before the committee, and of what is said on the floor of this House in the allocation of these funds. Personally, I am clear that the State of Illinois would secure for that little storm-stricken area $25,000 or $50,000, which, no doubt, would be all that would be necessary for the purchase of corn there. I am also clear that the States of Kansas and Nebraska would be entitled to come in under the provisions of this bill, and any other parts of the United States that are in the Northwest, or in the cotton States. If there should be a storm, even after Congress adjourns, they would be entitled to come in under the unallocated portions of the bill.

I am not going to discuss the bill further because I have very little time. This is no precedent. There have been three of these bills passed by Congress in 1921, 1922, and 1924. They do not provide gifts, but loans. These loans made under the provisions of the bill provide that a farmer, to secure any portion of the money, must sign a note and give a lien on the crop. He must also have his land ready to put a crop in.

Of the loans previously made, in 1922, 76 per cent of the loan was returned to the Government and in 1921, 68 per cent was returned to the Government. They are still collecting and practically all of the money will be repaid. I will say that in my opinion this bill will not cost the Government to exceed $1,000,000.

Mr. MICHENER. Will the gentleman yield?

Mr. JOHNSON of South Dakota. Yes.

Mr. MICHENER. The gentleman says this does not establish a precedent. Has the Government ever before made an appropriation for the purchase of fertilizer in order to increase production?

Mr. JOHNSON of South Dakota. I will say to the gentleman from Michigan that there was one such loan made, I believe, although I am not certain about that. However, I know that loans have been made with reference to seed, to which I was referring particularly.

Mr. MICHENER. Just where is this money for fertilizer to go?

Mr. JOHNSON of South Dakota. A large part of this will go to South Carolina, in the district represented by the gentleman from South Carolina [Mr. MCSWAIN]. The Department of Agriculture has made a complete and comprehensive survey of this entire situation and they report that for two years there has been practically no crop in that area. Then, too, a part of the money for fertilizer will go into Georgia and Alabama.

Mr. MICHENER. As a matter of fact, is the emergency due to the fact that the soil is worn out and needs replenishing and is the Government going to establish the precedent of furnishing fertilizer for worn-out land?

Mr. JOHNSON of South Dakota. No.

Mr. FULMER. Will the gentlemen permit me to answer the gentleman from Michigan?

Mr. JOHNSON of South Dakota. I will let the gentleman from South Carolina answer the gentleman, although I could answer him.

Mr. FULMER. I will say to the gentleman that the soil is splendid but they have to use fertilizer every year and it is just as important to have fertilizer for wheat, oats, and corn as it is for cotton.

Mr. JOHNSON of South Dakota. As a matter of fact, they have had no rain there for a long time.

Mr. MICHENER. That is the point I am making. They have to use fertilizer every year, so that it is not a real emergency, and if we are to be called upon to furnish fertilizer where it is needed every year we are treading on a dangerous path.

Mr. FULMER. It is an emergency when you consider the fact that we have had a drought for two years.

Mr. JOHNSON of South Dakota. I wish to say to the gentleman from Michigan that the reason for this item this year is because they have had no rain there for the last two years. It is not for the purpose of entering into a general policy of furnishing fertilizer, but they are in the same situation as we are in the Northwest where we did not have rain.

Mr. MICHENER. What effect has fertilizer on rain or rain on fertilizer?

Mr. JOHNSON of South Dakota. You can not grow a crop without rain.

Mr. MICHENER. You are providing the fertilizer, why not provide the rain. [Laughter.]

Mr. JOHNSON of South Dakota. God Almighty will have to do that.

Mr. MICHENER. Now, with respect to nursery stock, where is the nursery stock to go?

Mr. JOHNSON of South Dakota. That goes to Florida.

Mr. MICHENER. Is that due to an emergency?

Mr. JOHNSON of Washington. That is due to the terrific storm they had there.

Mr. MICHENER. It is purely an emergency?

Mr. JOHNSON of South Dakota. Purely an emergency.

Mr. MICHENER. We are not starting a general reforestation policy by this appropriation?

Mr. JOHNSON of South Dakota. Absolutely not; and I want to say in this connection right now that I do not like these precedents any better than the gentleman from Michigan does, and if it were not because of an extreme emergency this measure would not be brought before the House; it would not be indorsed by the Budget as it has been, and it would not be indorsed by the Department of Agriculture.

Mr. MICHENER. There are some sand lands in northern Michigan where they need fertilizer. They do not happen to be in my district, but would there be any chance for the farmers up there, who can not grow crops without fertilizer, to get some of this fertilizer appropriation?

Mr. JOHNSON of South Dakota. Not unless there has been a drought up there. In that case I think Michigan would be a Northwestern State.

Mr. WEFALD. Will the gentleman yield?

Mr. JOHNSON of South Dakota. Yes.

Mr. WEFALD. When the gentleman speaks about the Northwestern States, does that include Minnesota?

Mr. JOHNSON of South Dakota. Certainly.

Mr. ROMJUE Will the gentleman yield?

Mr. JOHNSON of South Dakota. Yes.

Mr. ROMJUE. How many States have these areas referred to in the bill?

Mr. JOHNSON of South Dakota. The entire Northwestern States and the cotton States. Roughly speaking this would include a great part of the United States.

Mr. ROMJUE. Does the report specifically set up the areas?

Mr. JOHNSON of South Dakota. No; it states Northwestern States and the cotton States.

I reserve the balance of my time, Mr. Speaker.

Mr. RAINEY. Mr. Speaker, this is a pork-barrel bill almost without a precedent in the history of this House. Of course, farmers are in a distressed condition, and we have been hearing about it for a long time.

Let me call attention to some of the provisions of this bill. The bill appropriates not more than $2,500,000 for purchases of fertilizers and for other advances in the cotton States and not more than $600,000 for fertilizer, nursery stock, and so forth, in Florida and Louisiana. Now, bearing in mind that this bill permits not more than these expenditures in these States, let me call your attention to the last clause in the bill:

Provided, That not less than $5,000,000 of this fund shall be available in the States of South Dakota, North Dakota, and Montana.

In other words, these three States are going to get $5,000,000, and it is made obligatory upon the Department of Agriculture to spend that much there, and they can also get as much more out of the other appropriations as is not needed in those particular sections.

We have had appropriations before for South Dakota, North Dakota, and Montana. In 1921 and in 1922 we had appropriations for this purpose for South Dakota and North Dakota, and Montana, Idaho and Washington, and when we had appropriations applying to these five States the appropriation in 1921 amounted to only $1,900,000, and in 1922 to $1,300,000 and odd. Now, cutting out the States of Idaho and Washington and leaving alone in this appropriation the States of South Dakota, North Dakota, and Montana, we have this remarkable provision that not less than $5,000,000 of this amount shall be expended in these three States.

This appropriation applies only to drought and storm-stricken areas of the Northwestern States and to drought and storm-stricken areas of the cotton States. It is nonsense to say that this bill can be applied to any flood-stricken area. I have pending before the Committee on Agriculture a bill asking for an appropriation of $100,000 for flood-stricken sections in Illinois, where 9,183 people at the present time, in 14 counties, are being taken care of by the Red Cross, and where the losses have been between $15,000,000 and $20,000,000 due to a flood unprecedented in the history of this country. There was no pork in that proposition. Other gentlemen are here asking for appropriations for their flood-stricken sections in other States, and we are told by the gentleman from South Dakota that any attempt to amend this bill, which carries at least $5,000,000 worth of pork for his State and the adjoining States, will result in the defeat of this measure. Do not send it back to the Senate, his position is, because of it goes back to the Senate, he says, in effect, the Senate has seen the error of its ways, and you can not pass it through the Senate.

Mr. BEGG. Will the gentleman yield?

Mr. RAINEY. Yes.

Mr. BEGG. As I understand it, there is no absolute destitution or immediate relief in the bill. It is simply a question of assisting the farmers to regain their feet and begin producing crops. Is not this working just to the contrary of the measure we passed last week, when we appropriated money to get rid of the surplus crops? We are now appropriating $8,500,000 to increase the surplus. Is not that, in a measure, just exactly what we are doing?

Mr. RAINEY. Why, not at all. In the McNary bill we made an appropriation for the purpose of establishing a price, and it is to be repaid by the farmers. Here is a bonus which might give to 50,000 farmers in these three States $100 apiece.

Mr. BEGG. How about the contribution toward the purchase of fertilizer?

Mr. RAINEY. That is worse than any of it. That establishes a precedent which may be continued for all the years, and if you furnish fertilizer for the States where they need it—and all the States in the old South need it—why not furnish horses and why not furnish mules for them and why not feed the negroes while they are making the crops?

I reserve the balance of my time, Mr. Speaker.

Mr. JOHNSON of South Dakota. Mr. Speaker, how much time have I remaining?

The SPEAKER. The gentleman has 11 minutes.

Mr. JOHNSON of South Dakota. I yield five minutes to the gentleman from New Jersey [Mr. FORT].

Mr. FORT. Mr. Speaker and gentlemen of the House, the gentleman from Illinois [Mr. RAINEY] has misread the language of this bill. He stated that its provisions required the expenditure of $5,000,000 of the money in the State of North Dakota and other sums in other States. The language of the bill is that that amount shall be available for loans in that State, but there is no obligatory requirement that it shall be expended.

The precedents of this legislation in the House are three in number. In 1921, 1922, and 1924 Congress made similar appropriations. These appropriations, like the one carried in this bill, were for loans to be secured in every instance by a first lien on the crops raised, and have been habitually made, under the discretion granted the Secretary of Agriculture, only after investigation both of the financial responsibility and the moral responsibility of the borrower.

Of the loans previously made under this type of legislation, 72 per cent of those made under the first bill, 77 per cent of those made under the second bill, and 58 per cent of those made under the 1924 law have been completely repaid, principal and interest.

Mr. RANKIN. On the part that is unpaid the lien is gone.

Mr. FORT. No; the loans have been renewed and new mortgage liens taken on the crop. That has been done on the 1926 crop, according to the report of the Department of Agriculture. Money was paid in 1926 on loans made in 1921.

Mr. KETCHAM. Will the gentleman yield?

Mr. FORT. Yes.

Mr. KETCHAM. Is it not true that this group of men in distress at this time have never been in distress before?

Mr. FORT. That is true. There is one other motive for my favoring this, and that is the distress is not merely among the farmers but the banks are closed in the entire section. In the Dakotas particularly, where this distress exists due to the crop failure, there are few banks.

Now, these loans are limited to $300, and in the experience of the Government the average loan applied for has been $125. The experience of the Government, as I have said, in this section of the country where loans have previously been made is that 75 per cent of the loans have been repaid in spite of the fact that distress has continued.

Mr. LINTHICUM. How much were the appropriations in previous years?

Mr. FORT. I have not those figures in mind. Now, I want to add one other thing. The South Dakota section, which is as large as my entire State of New Jersey, and which has had this distress this last year, has not heretofore suffered from drought. This is an abnormal occurrence. They have had two droughts, one succeeding the other, and that coupled with the failure of the banks puts them in such a position that unless the Government loans them the money, as they have done to other sections of the country, they can not plant a crop. It it not a gift; it is a loan of a type which in our past experience has been repaid, principal and interest. [Applause.]

Mr. RAINEY. I yield five minutes to the gentleman from Oklahoma [Mr. CARTER].

Mr. CARTER of Oklahoma. Mr. Speaker, I have never been placed in the attitude of the dog in the manger. Nor am I in that attitude now. But I do not believe that this bill ought to pass. [Applause.] I do not think it ought to be passed because it is unfair, sectional, and discriminatory against those States not named in the bill.

I admire my friend from South Dakota [Mr. JOHNSON]. I always like to follow him. He is efficient, active, aggressive, and an all-round amiable chap, and if he gets this bill through Congress allocating this amount of money to his State, to the utter disregard of the rights of all other States, his people ought to keep him in Congress for the balance of his natural life. [Laughter.]

Mr. JOHNSON of South Dakota. Will the gentleman yield?

Mr. CARTER of Oklahoma. No; I have only five minutes. I will yield if the gentleman will give me more time.

Five million dollars will go to North and South Dakota and Montana; two and a half million dollars for Georgia, South Carolina, and Alabama; $600,000 for Florida and Louisiana; in all, $8,100,000, out of a total of $8,600,000, and the other 35 or 40 States of the Union may participate in what is left if they can make the proper showing.

The only reason that I have heard urged here why this bill should be passed in its present form and should not be amended is that if it is amended the Senate would kill it; that the Senate would not stand for it any further; that the Senate would filibuster it to death. Mr. Speaker, during my service in Congress I have served on some 50 or 100 conference committees. I do not recall ever yet walking into a conference committee when that same threat failed to be made by the managers at the other end of the Capitol. I doubt not that every man who has been on a conference committee has had the same experience.

Yet not in one instance on the committee on which I served has such a threat ever been carried into execution. Even so, has this branch of Congress become reduced to such a low state that we must surrender all of our rights to legislate? Have we reached that low stage of imbecility when we must not cross a "t" or dot an "i" of some bill that comes over from another legislative body, because, forsooth, Calphurnia has not had pleasant dreams?

Mr. MOREHEAD. Mr. Speaker, will the gentleman yield?

Mr. CARTER of Oklahoma. Yes.

Mr. MOREHEAD. It was stated by the gentleman from South Dakota that perhaps the State which I represent might need help. I do not think that Nebraska needs any help.

Mr. CARTER of Oklahoma. Let us not have any discussion upon that phase of it, because the gentleman's State has not got a Chinaman's chance to get it under this bill.

Mr. MOREHEAD. But we do not want it.

Mr. CARTER of Oklahoma. It is said that seed must be supplied. What kind of seed? Wheat, oats, barley, corn, flaxseed. Why was that great staple of the country, cottonseed, left out of the bill? We were advised by a Member of the House that if cottonseed were put in and it went back to the Senate, it would be killed. My friends, in my opinion this House will never reach that high state which was intended by the Constitution, and which the people expect of it, until it begins to assert its independence of every other agency on the face of the globe and not be frightened by these blustering bluffs.

Mr. McSWAIN. Mr. Speaker, will the gentleman yield?

Mr. CARTER of Oklahoma. Yes.

Mr. McSWAIN. Does the gentleman remember that Senator SMITH, of South Carolina, objected to an amendment in the Senate and opposed it and succeeded in defeating the amendment to include cottonseed upon the ground that there was no need for cottonseed?

Mr. CARTER of Oklahoma. If the Senator from South Carolina made any such statement as that, then he knows very little about the cotton section of the Southwest; and, again, that brings us back to the point that this is strictly a sectional bill and is unfair and discriminatory against all sections not named by its terms.

Mr. RAINEY. Mr. Speaker, I yield four minutes to the gentleman from Texas [Mr. JONES].

Mr. JONES. Mr. Speaker, when a habit is once formed, it is very hard to shake off. This is the third time within a period of five years that the section to be benefited primarily by this bill has been before the Congress asking for this character of legislation. I think it is a bad policy for Congress to pursue, to embark upon such a proposition as this. It is opening up a Pandora's box. Snakes are likely to run all over the country, because if we embark on a policy of furnishing aid to this or that section merely because it happens to be in need, there is no place for the Government to stop. It seems paradoxical in this House that we can pass a bill carrying $250,000,000 to relieve the farmer's distress because he is producing a surplus and then within a few days, out of the same till, make an appropriation which, if it has any effect, will tend to increase the surplus. It seems to me that the one doctrine makes the other inadvisable. If it is advisable to pass one bill, it should not be advisable to pass the other. If we start on this kind of a policy there is no stopping place, and we will create absurdity after absurdity. There are thousands of articles grown in this country. We will be appropriating for everything from peanuts to polywogs, and it will require an omnibus bill.

Mr. JOHNSON of South Dakota. Mr. Speaker, will the gentleman yield?

Mr. JONES. I regret that I have not the time. Even if the procedure were entered upon, we ought to adopt a national instead of a sectional policy. Every year there are always sections of the United States that are in distress. An amendment was offered in committee that was first carried in committee which would have stricken out the names of the States and make this money available for use in any section of the country where it might be needed. If we are to adopt any policy of this kind, that is the kind that should be adopted. The three States, which were the chief reason the other bills were passed, are the ones that get $5,000,000 of the $8,000,000 herein appropriated. This bill when it was originally introduced was confined to just three States, and these other States would not have been suggested but for the fact that the original bill was drafted to be confined to three States. A whole bunch of other States are now included and still the bill remains sectional. This House should refuse to pass this bill; and if it passes any bill of the kind, the wisdom of which I seriously doubt, it should be a national bill. We should not appropriate money one day to relieve distress caused by a surplus and then turn around and appropriate money the next day to increase the surplus.

Mr. JOHNSON of South Dakota. Mr. Speaker, I would like to have somebody from the South discuss this for a moment, and I yield four minutes to the gentleman from South Carolina Mr. [McSWAIN].

Mr. McSWAIN. Mr. Speaker and gentlemen of the House, it is with a feeling of unfeigned sorrow that I recall and here recite the conditions prevailing in that part of South Carolina which I represent in part, and continuing from there on to Georgia, that justifies our appeal for relief to the Federal Government. We in that part of the country, like all Americans, are an independent, self-reliant people. But the condition that confronts us now is not due to our indolence or our indifference or our laziness, but it is due to Providence in that for two years, 1925 and 1926, we have not during the growing season received sufficient rainfall to make crops. In 1925 in the months of August, September, and October there was practically no rain, and crops which had grown to a state of sap and milk before the end of summer simply withered up. Again in 1926 there was practically no rainfall in May, June, and July, and the seed that had been put in the ground lay there and never germinated, so that when finally the rain did come the first of August the seed came up, but before the crop came to maturity the frost caught it. What is the undisputed fact? Here is the Federal Reserve Bulletin of the month of February, 1926, which just came to my desk on Saturday, and in it I find these facts. First, as I said, we are self-reliant people. The first year we could stand it, but the second year, coming directly following the first, broke many of our banks. It rendered our people unable to pay interest on their mortgages, and the tenant class of farmers on the property this year will be unable to strike a lick in order to make a crop unless they get help from this or from some source among our people.

Now, for the month of December, 1926, the Federal reserve statistics show that there failed 114 banks with deposits of about $45,000,000. And in what States? All these banks were for the most part in South Carolina, Georgia, North Dakota, Minnesota, Iowa, Kansas, Arkansas, and Texas. In the agricultural sections of our part of the South Atlantic States, those Northwestern States, and the Southwestern States where droughts have occurred the banks that rely upon the farming people for the payment of indebtedness that has been incurred in the making of crops have gone to the wall, and our people to-day are facing a disastrous condition. Old people, 75 and 85 years of age, say it is not comparable in economic distress to the worst condition that we have passed through since the days immediately following the Civil War. So we feel the circumstances are such as to justify these people that have a proud history, suffering a condition that is no fault of their own morally but by that Providence by whose grace they must labor and live, in asking that this condition be helped. Something has been said about fertilizer. I will tell you, just like

my friend from South Carolina Mr. FULMER says, that to ask our people to undertake to grow a crop in these sandy and gravelly soils of the South Atlantic States without fertilizer will be asking them to expend their labors during the whole year 1927 absolutely in vain. [Applause.]

The SPEAKER. The time of the gentleman has expired.

Mr. RAINEY. Mr. Speaker, how much time have I remaining?

The SPEAKER. The gentleman has four minutes remaining.

Mr. RAINEY. No; I think I have more than that. The gentleman from Texas yielded back some time; I had nine minutes, and he had four minutes, and he yielded back some time.

The SPEAKER. The gentleman from Texas had only a fraction of a minute left.

Mr. RAINEY. I used four out of my nine minutes. I was advised that I had nine minutes. I yield the remainder of my time to the gentleman from Mississippi [Mr. RANKIN].

Mr. RANKIN. Mr. Speaker, I rise to appeal to the membership of the House to vote this motion down. If you do, we can then bring this bill up under the regular rules of the House and have a chance to amend it.

There is absolutely no reason, no justice, and no moral excuse for excluding from the terms of this bill those flood sufferers in the various flood-stricken sections of the country and attempting to confine $5,000,000 of this appropriation to three supposedly drought-stricken States of the West.

I went before the Agricultural Committee and I appealed to them to include in this measure the people who have recently suffered from the flood in the Tombigbee River Valley in eastern Mississippi and western Alabama. Hundreds of homes were flooded or washed away. Thousands of cattle, horses, hogs, mules, and chickens were drowned in that flood. Many people were drowned. There is no way to calculate the number of negroes who lost their lives in the flood. Yet the gentleman from South Dakota [Mr. JOHNSON] appeared before the Committee on Agriculture and opposed an amendment to take care of those unfortunate people in this bill for fear it might interfere with this inquitous clause that confines $5,000,000 of the appropriation to the States of North Dakota, South Dakota, and Montana. Are you going to indorse such unmitigated selfishness?

I am not sure but that those people would call for but very little of this fund. But you ought not to ignore these unfortunate people and pass this political bill.

If you are going to start out on that kind of policy, ignoring the real sufferers and paying political debts out of the Treasury, then it is time to call a halt and kill all of this legislation. I ask you to vote down this motion, as we did the other day, and give us a chance to vote on it under the regular rules of the House so that we can amend it.

They say some Senators will kill it if it is amended, and give that as the reason why they are afraid to give us a chance to amend a bill which requires $5,000,000 of this money to be expended in North Dakota, South Dakota, and Montana. On the face of it it is an outrage to bring in such a bill as that and ask this House to pass it, under suspension of the rules. I sincerely trust you will vote down this motion, and let the matter come before the House in the regular way, and try it on its merits, give us the right to amend it, as we should have, and not come here and force this political pork barrel bill through the House in this way.

If you will make this a uniform proposition, so that the Secretary of Agriculture may use this money where it is needed and where it is necessary, very well. Although I do not agree ordinarily with this class of legislation I would not oppose it. But I will be perfectly frank with you, I doubt the propriety of legislation of this kind at any time. [Applause.]

The SPEAKER. The time of the gentleman from Mississippi has expired.

Mr. JOHNSON of South Dakota. I would like to make a statement in all kindness. The gentlemen opposing this bill have been the ones who did not come before the committee at the proper time and present their claims.

Mr. RANKIN. The gentleman does not want to make that statement. He and I went before the committee at the same time.

Mr. JOHNSON of South Dakota. The gentleman from Mississippi, if he wants to take care of the flood sufferers, should appear before the committee and present a measure, I will be for it. If the gentleman from Illinois [Mr. RAINEY] wants to take care of the flood sufferers in his neighborhood, all he has to do is to introduce a bill and pass it. If the gentleman from Oklahoma [Mr. CARTER] desires to take care of those who have suffered losses in his neighborhood, all he has to do is to introduce a bill and pass it.

I did not want this sum to be allocated. I would like to have discretion given entirely to the Secretary of Agriculture to dispose of these funds. The Senate has amended the bill and allocated all but $500,000 to stipulated sections.

Mr. CARTER of Oklahoma. Mr. Speaker, will the gentleman permit a short question?

Mr. JOHNSON of South Dakota. I can not yield.

I am sure the gentleman from Mississippi and the gentleman from Illinois and the gentleman from Oklahoma, if they can make a showing, can have some allocation made. If they succeed in killing the bill, they will prevent their constituents from getting relief out of the $500,000 unallocated.

Mr. CARTER of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. JOHNSON of South Dakota. No; I can not yield.

Mr. CARTER of Oklahoma. I do not blame the gentleman. I would not, if I were in his place, either.

The SPEAKER. The gentleman from South Dakota moves to suspend the rules and pass the bill.

The question was taken.

The SPEAKER. In the opinion of the Chair, two-thirds having voted in the affirmative——

Mr. RAINEY. Mr. Speaker, I ask for a division.

The SPEAKER. The gentleman from Illinois asks for a division.

The House divided; and there were—ayes 208, noes 49.

Mr. RAINEY. Mr. Speaker, I call for the yeas and nays.

The SPEAKER. The gentleman from Illinois calls for the yeas and nays. Those in favor of taking this vote by yeas and nays will rise and stand until they are counted. [After counting.] Twenty-six gentlemen have arisen—not a sufficient number.

So, two-thirds having voted in the affirmative, the motion to suspend the rules and pass the bill was agreed to.

CONSTRUCTION AT MILITARY POSTS

Mr. JAMES. Mr. Speaker, I present for printing under the rule the conference report on the bill (H. R. 15547) to authorize appropriations for construction at military posts, and for other purposes.

The SPEAKER. Ordered printed.

PENSIONS

Mr. ELLIOTT. Mr. Speaker, I move to suspend the rules and pass H. R. 13450, granting pensions and increase of pensions to widows and former widows of certain soldiers, sailors, and marines of the Civil War, and for other purposes, with an amendment.

The SPEAKER. The gentleman from Indiana moves to suspend the rules and pass House bill 13450, with an amendment, which the Clerk will report.

The Clerk read the bill, as follows:

Be it enacted, etc., That the widow or remarried widow of any person who served in the Army, Navy, or Marine Corps of the United States during the Civil War for 90 days or more, and was honorably discharged from such service, or regardless of the length of service was discharged for or died in service of a disability incurred in the service and in the line of duty, such widow or remarried widow having been married to such soldier, sailor, or marine prior to the 27th day of June, 1905, shall be paid a pension at the rate of $40 per month, but nothing in this act shall be construed as decreasing the rate of pension granted by any other act.

SEC. 2. That the pension or increase of the rate of pension herein provided for, as to all persons whose names are now on the pension roll, or who are now in receipt of a pension under existing law, shall commence at the rates herein provided on the fourth day of the next month after the approval of this act; and as to persons whose names are not now on the pension roll, or who are not now in receipt of a pension under existing law but who may be entitled to a pension under the provisions of this act, such pensions shall commence from the date of filing application therefor in the Bureau of Pensions after the approval of this act in such form as may be prescribed by the Secretary of the Interior: *Provided*, That the issue of a check in payment of a pension for which the execution and submission of a voucher was not required shall constitute payment in the event of the death of the pensioner on or after the last day of the period covered by such check, and it shall not be canceled, but shall become an asset of the estate of the deceased pensioner.

SEC. 3. That no claim agent, attorney, or other person shall contract for, demand, receive, or retain a fee for services in preparing, presenting, or prosecuting claims for the increase of pension provided for in this act; and no more than the sum of $10 shall be allowed for such services in other claims thereunder, which sum shall be payable only on the order of the Commissioner of Pensions; and any person who shall directly or indirectly otherwise contract for, demand, receive, or retain a fee for services in preparing, presenting, or prosecuting any claim under this act, or shall wrongfully withhold from

the pensioner or claimant the whole or any part of the pension allowed or due to such pensioner or claimant under this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall for each and every such offense be fined not exceeding $500 or be imprisoned not exceeding one year, or both, in the discretion of the court.

SEC. 4. That all acts and parts of acts in conflict with or inconsistent with the provisions of this act are hereby modified and amended only so far and to the extent as herein specifically provided and stated.

The SPEAKER. Is a second demanded?

Mr. UNDERWOOD. Mr. Speaker, I demand a second.

Mr. ELLIOTT. Mr. Speaker, I ask unanimous consent that a second may be considered as ordered.

The SPEAKER. The gentleman from Indiana asks unanimous consent that a second may be considered as ordered. Is there objection?

There was no objection.

The SPEAKER. The gentleman from Indiana is recognized for 20 minutes and the gentleman from Ohio for 20 minutes.

Mr. ELLIOTT. Mr. Speaker and gentlemen of the House, this bill as amended will grant an increase of $10 per month to approximately 195,000 widows of Civil War veterans who are now receiving a pension of $30 per month under existing law. It will probably cost $23,000,000 for the first year. Nobody can give the exact amount it will cost, owing to the fact that these widows are dying at the rate of about 2,000 each month. The old veterans are dying at a rapid rate, and some of them are leaving widows who would come under the terms of this bill. The average age of these widows is about 76 years.

During the present Congress more than 8,000 bills have been introduced into this House to grant pensions to these widows by special act of Congress, and this House has passed a large number of them. A few days ago we passed a bill containing 1,382 special acts, 932 of which were increases to Civil War widows. These bills were introduced by over 300 Members of this House. This bill went to the Senate and has been reported for passage by the Senate Committee on Pensions, and they have added 474 more cases to it.

Mr. COLE. Will the gentleman yield?

Mr. ELLIOTT. Yes.

Mr. COLE. Taking into consideration the deaths, will this bill increase the total amount of pensions to be paid this year?

Mr. ELLIOTT. About $22,000,000 or $23,000,000.

Mr. COLE. But the gentleman should deduct those who will cease to draw pensions, so that at the end of the year we will not be paying out any more; in other words, at the end of the first year you will probably not have paid out more for pensions than we paid out last year.

Mr. ELLIOTT. It is my understanding, I will say to the gentleman from Iowa, that if this bill is passed and becomes a law it will cost the Government the first year somewhere in the neighborhood of $23,000,000 more than the Government will pay out to these widows under existing law.

Mr. COLE. But the gentleman has already stated that 2,000 widows are dying each month. Will not that decrease the existing pension roll to about the same extent?

Mr. ELLIOTT. But the widows of soldiers who are dying will come onto the roll so that you can not tell anything about it.

Mr. THATCHER. Will the gentleman yield?

Mr. ELLIOTT. Yes.

Mr. THATCHER. What is the condition of a similar bill in the Senate, if there is such a similar bill?

Mr. ELLIOTT. The Senate Committee on Pensions a few days ago reported a bill granting $40 a month to these same people, but provided that they had to be 70 years of age before they would draw any benefit under the terms of the bill; that would leave some of the people who will be benefited by this bill on the outside.

Mr. KINDRED. Would the gentleman mind telling me the essential features of this bill by which the widows of Civil War veterans will be benefited beyond that now provided in existing law?

Mr. ELLIOTT. One hundred and ninety-five thousand widows will get an increase of $10 a month over the amount they are now drawing. That is all this bill does.

Mr. NEWTON of Minnesota. Will the gentleman yield?

Mr. ELLIOTT. Yes.

Mr. NEWTON of Minnesota. Did the committee consider the grading of pensions, with the maximum at $50, based upon age?

Mr. ELLIOTT. The committee did not.

Mr. HASTINGS. Will the gentleman yield?

Mr. ELLIOTT. Yes.

Mr. HASTINGS. I do not believe I exactly understood the gentleman's answer to the inquiry of the gentleman from New York. Does not the present bill give all of the widows who married Civil War veterans prior to the 27th day of June, 1905, $50 a month?

Mr. ELLIOTT. There is an amendment which cuts it to $40.

Mr. HASTINGS. Last year we enacted legislation that gave all of those widows who were married to and were living with Civil War veterans during the war $50, did we not?

Mr. ELLIOTT. We did.

Mr. HASTINGS. And those who married subsequent to the Civil War and prior to this date, namely, June 27, 1905, are to be allowed a pension of $40?

Mr. ELLIOTT. That is it.

Mr. HASTINGS. I stepped out of the Chamber, but is this bill called up under suspension of the rules?

Mr. ELLIOTT. It is.

Mr. HASTINGS. So it can not be amended?

Mr. ELLIOTT. It can not be amended.

Mr. HASTINGS. I am sorry, because I would be in favor of giving them $50 a month.

Mr. ELLIOTT. I want to say in conclusion, gentlemen, that if we do not pass this bill now, you are going to be confronted in the Seventieth Congress with a flood of bills for special acts, which are going to simply swamp the Invalid Pensions Committee of this House, and if you are going to take care of the cases of poverty and destitution among these widows the proper way to do it is by general act and not by special act, which takes care of some to the exclusion of other meritorious cases.

Mr. HOWARD. Will the gentleman yield?

Mr. ELLIOTT. Yes.

Mr. HOWARD. I have heard it repeatedly stated here in the House by those who ought to know that this House can do anything by unanimous consent, so I think if the chairman of the committee will ask for unanimous consent to pass this bill at the rate of $50 a month the House will give that unanimous consent.

Mr. KETCHAM. Will the gentleman yield?

Mr. ELLIOTT. Yes.

Mr. KETCHAM. Am I correct in my understanding there will be no requirement of an application on the part of those who now receive the $30 rate in order to get this additional $10; it will simply come along automatically.

Mr. ELLIOTT. I will say to the gentleman from Michigan that the bill provides that the ones who are already receiving a pension will be entitled to draw their increased pension from the fourth day of the next month following the passage of this bill.

Mr. KETCHAM. Without application?

Mr. ELLIOTT. Without application.

Mr. ELLIS. But only $40?

Mr. ELLIOTT. Forty dollars.

Mr. Speaker, I yield two minutes to the gentleman from Indiana [Mr. UPDIKE].

Mr. UPDIKE. Mr. Speaker and gentlemen of the House, I am very sorry this bill does not provide $50 a month as a pension for the widows of the veterans of the Civil War. I think they are justly entitled to that amount, but in view of the fact it would have been almost impossible to get such a bill before the House, I am glad to give them this additional $10 a month. I am very glad, indeed, to have the opportunity of voting for this bill. [Applause.]

Mr. UNDERWOOD. Mr. Speaker, I yield three minutes to the gentleman from New York [Mr. SOMERS].

Mr. SOMERS of New York. Mr. Speaker, possibly the fault lies with me, but I must confess I can not understand the psychology of this House. A very few minutes back we voted $8,600,000 to relieve a condition in the West—a very generous move. We are now called upon to vote to relieve another condition which I think demands remedying. Yet in this we are not so generous. We are called upon to relieve some of the old widows of the Civil War soldiers; and I want to say at this point that when the bill came before our committee the bill that I voted on to bring before the House was a bill which provided for increasing the pension to $50 a month. The committee, as far as I know, are all of the same opinion. Unfortunately there is no chance of passing this bill unless the reduction is made. The committee, realizing this, has brought forth the present bill. I think every man in this House sees the fairness of giving these widows the greater sum [applause], and, for the life of me, I can not understand why we should hesitate to do what we consider the right thing now. Neither the gentleman from Ohio nor myself are opposed to this bill, but in asking for a second we both had in mind the idea of protesting against the cut of $10 that is now forced on this House.

Mr. O'CONNELL of New York. Will the gentleman yield?

Mr. SOMERS of New York. Yes.

Mr. O'CONNELL of New York. Is the gentleman making the statement that the committee passed one bill in the committee and reported another to the House?

Mr. SOMERS of New York. I made the statement that the only bill I voted on in the committee was a bill which provided $50 a month.

Mr. UNDERWOOD. Mr. Speaker, I do not have any further requests for time.

I desire to say that all the members of our committee favored increasing the pension of widows of our Civil War veterans to $50 per month. Since it is not possible, under the suspension rule, to pass a bill carrying that rate, I will gladly support the pending measure which will grant a merited increase of $10 per month to all the widows who were married prior to June 27, 1905. [Applause.]

The SPEAKER. The question is on the motion of the gentleman from Indiana [Mr. ELLIOTT] to suspend the rules and pass the bill.

The question was taken, and in the opinion of the Chair the vote was unanimous.

So, two-thirds having voted in favor thereof, the rules were suspended, and the bill was passed.

TREATY RELATIONS WITH CHINA

Mr. PORTER. Mr. Speaker, I move to suspend the rules and pass concurrent resolution (H. Con. Res. 46) with a committee amendment.

The SPEAKER. The gentleman from Pennsylvania moves to suspend the rules and pass House Concurrent Resolution 46 as amended, which the Clerk will report.

The Clerk read as follows:

Whereas the United States in its relations with China has always endeavored to act in a spirit of mutual fairness and equity and with due regard for the conditions prevailing from time to time in the two countries, and since the development of conditions in China makes it desirable that the United States at the present time, in accordance with its traditional policy, should take the initiative in bringing about a readjustment of its treaty relations with China: Therefore be it

Resolved by the House of Representatives (the Senate concurring), That the President of the United States be, and he hereby is, respectfully requested to enter into negotiations with duly accredited agents of the Republic of China, authorized to speak for the people of China, with a view to the negotiation and the drafting of a treaty or of treaties between the United States of America and the Republic of China which shall take the place of the treaties now in force between the two countries, which provide for the exercise in China of American extraterritorial or jurisdictional rights or limit her full autonomy with reference to the levying of customs dues or other taxes, or of such other treaty provisions as may be found to be unequal or nonreciprocal in character, to the end that henceforth the treaty relations between the two countries shall be upon an equitable and reciprocal basis and will be such as will in no way offend the sovereign dignity of either of the parties or place obstacles in the way of realization by either of them of their several national aspirations or the maintenance by them of their several legitimate domestic policies.

The SPEAKER. Is a second demanded?

Mr. MOORE of Virginia and Mr. BEEDY rose.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. BEEDY. Mr. Speaker, I am opposed to the bill, and demand a second.

Mr. PORTER. Mr. Speaker, I ask unanimous consent that a second be considered as ordered.

The SPEAKER. Without objection a second will be considered as ordered.

There was no objection.

Mr. BEEDY. Mr. Chairman, I yield three minutes to the gentleman from New York [Mr. WAINWRIGHT].

Mr. WAINWRIGHT. Mr. Speaker and gentlemen of the House, I hesitate to oppose this resolution, because I yield to no one in my sympathy with the aspirations of the Chinese people to become a great free people, with a government that can deal on terms of equality with the governments of the other great powers. But I question the wisdom at this time of passing any such resolution as the one under consideration. I believe we are entrenching upon a field which just at this moment we should enter with very great compunction and great caution. This resolution, at this time, is absolutely unnecessary, because it calls upon the President to do something that the Secretary of State has already declared our Government is prepared to do. If enacted, it would tend to commit our Government far beyond the declaration of the State Department. It goes much further than requesting the mere negotiation upon the subject of extraterritoriality and customs autonomy. It would commit our Government to the denunciation of all of the treaties that now exist between China and ourselves. Furthermore, it seems to me to be most inexpedient and unwise to take this action at a time when China is aflame, at a time when the armies of the Canton government are at war with the armies of the Northern government with grave danger to our nationals in China and particularly when they are to-day approaching Shanghai, where there are American citizens, American investments and property, as well as the citizens and subjects of the other powers—at a time when our State Department has asked these warring factions to adopt a measure which can best assure the safety of our people, namely, to neutralize the foreign settlements in the city of Shanghai, which request both factions have flatly refused to accede to. And these are the people to whom we are making this gesture, holding out this olive branch. It would be almost an evidence of puerility and weakness on our part, and might be looked upon as a mere effort to ingratiate ourselves and propitiate them, at this particular time. I do not think there is any question as to what the attitude of our people will ultimately be, but I do not believe this is the time to hamper the free action of our State Department by any such action. Again, I call attention to a singular omission in all this testimony on which the Foreign Affairs Committee has acted, to which the gentleman from Pennsylvania has called our attention, embodied in the committee report. Is there any evidence or expression here as to attitude of our State Department on this resolution? No, there is not, and unless a measure of this kind has the full support and full force of the approval of the responsible department of our Government, charged with foreign affairs, I do not think we should adopt it. [Applause.]

Mr. BEEDY. Mr. Speaker, I yield two minutes to the gentleman from California [Mr. LINEBERGER.]

Mr. LINEBERGER. Mr. Speaker, I opposed this resolution when it came before the House two or three hours ago upon the Consent Calendar. While I do not desire to criticize any one, I think an important resolution of this kind should not be considered as it is here to-day under suspension of the rules, where there is no opportunity to amend it from the floor or to move to recommit the resolution to the committee. I quite agree with all the gentleman from New York [Mr. WAINWRIGHT] has said regarding the inadvisability and the inexpediency of passing such a resolution as this at this time. I was in China a year ago this last summer, and I know something of the situation that exists there between the various warring factions. There are not merely two factions, there are at least three, and probably back behind the scenes a half dozen. In the second place, I have always opposed, as a matter of principle, and I now oppose any attempt on the part of this House to usurp the Executive functions of the President, and especially his treaty-making prerogatives. In spirit, at least, it is clearly anticonstitutional to my mind.

Mr. BLACK of New York. Mr. Speaker, will the gentleman yield?

Mr. LINEBERGER. I regret I have not the time to yield. Our duties and functions here I conceive to be legislative and not executive. We do not even ratify treaties when they are once made; that is a function of the Senate and not of the House. We are not authorizing or requesting the President to do a single thing which he has not the power to do and in which he is not now engaged in doing, and I am not in favor of exalting the Foreign Affairs Committee of the House at the expense of the Department of State or of the President of the United States. I think it is wholly unnecessary and unworthy of this great legislative body and I shall therefore vote against the bill. [Applause.]

The SPEAKER pro tempore. The time of the gentleman from California has expired.

Mr. BEEDY. Mr. Speaker, I yield one minute to the gentleman from New York [Mr. CROWTHER].

Mr. CROWTHER. Mr. Speaker, this is just another example of back-seat driving, and I think it is time, as some of the speakers have said who preceded me, that we should leave matters of this kind in the hands of the President and the Secretary of State. I do not think it advisable for either the Congress or the press to keep shouting instructions from the back seat to men who are equipped by knowledge and experience to adjust these tremendously important international affairs.

Mr. BLACK of New York. Will the gentleman yield?

Mr. CROWTHER. I can not yield. This resolution confers no authority on the President other than he now possesses, and I think the folks on the back seat should sit tight, and be exceedingly economical with their vocabulary, under the existing circumstances. [Applause.]

Mr. BEEDY. Mr. Speaker, I yield one minute to the gentleman from Maryland [Mr. HILL].

Mr. HILL of Maryland. Mr. Speaker and gentlemen, I asked the chairman of the committee proposing this resolution, a few minutes ago, if this conferred any power upon the President which he did not possess at the present time. He said it did not. I asked if this bill directed the President to do anything in the negotiations suggested. He said it did not. There is a very serious situation existing in China. I am not expressing an opinion as to the merits or the demerits of the extraterritorial matters and other things dealt with in this resolution. The President of the United States is charged with the treaty-making power and the State Department is acting in this matter, and I do not think this House should attempt to interfere in the matter at this time.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. BEEDY. I yield one minute to the gentleman from New York [Mr. BACON].

Mr. BACON. Mr. Speaker, I want to make it very clear that this resolution is simply directing the State Department to do what it is now trying to do and has been trying to do since the Washington conference. Therefore I ask unanimous consent at this point in the debate to insert in the RECORD the statement of the Secretary of State, which he made on January 26, 1927.

The SPEAKER pro tempore. The gentleman from New York asks unanimous consent to revise and extend his remarks in the RECORD. Is there objection?

Mr. CONNALLY of Texas. Mr. Speaker, reserving the right to object, will the gentleman from New York state the position of the Department of State in reference to this resolution?

Mr. BACON. The gentleman from Texas will know after reading the statement.

Mr. CONNALLY of Texas. I am asking if the gentleman from New York knows what the Secretary of State's position is in regard to this resolution?

Mr. BACON. I am not authorized to speak for the Department of State.

Mr. CONNALLY of Texas. I am asking if the gentleman knows.

Mr. BACON. I know what is in this document, which is a statement of the Secretary of State which he made and gave to the press.

Mr. CONNALLY of Texas. Will the gentleman say the Department of State is opposed to this resolution?

Mr. BACON. Frankly, I do not know. Personally, as far as my own stand is concerned, I am not opposed to this resolution, because I think the matter has gone so far that it would now be a mistake to go back. The defeat of this resolution might be misconstrued by China. Fundamentally, I am opposed to the House of Representatives undertaking to direct the Executive to make a treaty.

The SPEAKER pro tempore. Is there objection? [After a pause]——

Mr. BLACK of New York. Mr. Speaker, reserving the right to object, I have no objection if the gentleman will insert in the RECORD that the gentlemen who opposed the Porter resolution voted to go into the World Court, although that was a matter of foreign relations.

Mr. BACON. The gentleman asks about something I know nothing about.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York? [After a pause.] The Chair hears none.

The statement is as follows:

STATEMENT BY THE HON. FRANK B. KELLOGG, SECRETARY OF STATE

DEPARTMENT OF STATE,
January 26, 1927.

At this time, when there is so much discussion of the Chinese situation, I deem it my duty to state clearly the position of the Department of State on the questions of tariff autonomy and the relinquishment of extraterritorial rights.

The United States has always desired the unity, the independence, and the prosperity of the Chinese Nation. It has desired that tariff control and extraterritoriality provided by our treaties with China should as early as possible be released. It was with that in view that the United States made the declaration in relation to the relinquishment of extraterritoriality in the treaty of 1903 and also entered into the treaty of Washington of February 6, 1922, providing for a tariff conference to be held within three months after the coming into force of the treaty.

The United States is now, and has been ever since the negotiation of the Washington treaty, prepared to enter into negotiations with any Government of China or delegates who can represent or speak for China not only for the putting into force of the surtaxes of the Washington treaty but entirely releasing tariff control and restoring complete tariff autonomy to China.

The United States would expect, however, that it be granted most-favored nation treatment and that there should be no discrimination against the United States and its citizens in customs duties, or taxes, in favor of the citizens of other nations or discrimination by grants of special privileges and that the open door with equal opportunity for trade in China shall be maintained; and further, that China should afford every protection to American citizens, to their property, and rights.

The United States is prepared to put into force the recommendations of the extraterritoriality commission, which can be put into force without a treaty at once, and to negotiate the release of extraterritorial rights as soon as China is prepared to provide protection by law and through her courts to American citizens, their rights, and property.

The willingness of the United States to deal with China in the most liberal spirit will be borne out by a brief history of the events since making the Washington treaty. That treaty was ratified by the last one of the signatory powers on July 7, 1925, and the exchange of ratifications took place in Washington on August 6, 1925. Before the treaties finally went into effect and on June 24, 1925, the Chinese Government addressed identic notes to the signatory powers asking for the revision of existing treaties. On the first of July, 1925, I sent instructions to our minister in Peking, which instructions I also communicated to all the other Governments, urging that this should be made the occasion of evidencing to the Chinese our willingness to consider the question of treaty revision. I urged that the powers expedite preparations for the holding of the special conference regarding the Chinese customs tariff and stated that the United States believed that this special tariff conference should be requested, after accomplishing the work required by the treaty to make concrete recommendations upon which a program for granting complete tariff autonomy might be worked out. The delegates of the United States were given full powers to negotiate a new treaty recognizing China's tariff autonomy. At the same time, I urged the appointment of the commission to investigate extraterritoriality, with the understanding that the commission should be authorized to include in its report recommendations for the gradual relinquishment of extraterritorial rights. Prior to this, the Chinese Government urged the United States to use its influence with the interested powers to hasten the calling of the conference on tariff matters and the appointment of the extraterritorial commission and for each government to grant to its representatives the broad power to consider the whole subject of the revision of the treaties and to make recommendations upon the subject of the abolition of extraterritorial rights. This was in harmony with the views of the United States. Accordingly, on September 4, 1925, the United States and each of the other powers having tariff treaties with China evidenced their intention to appoint their delegates to the tariff conference. By a note which has been published, the powers informed China of their willingness to consider and discuss any reasonable proposal that might be made by the Chinese Government on the revision of the treaties on the subject of the tariff and also announced their intention of appointing their representatives to the extraterritorial commission for the purpose of considering the whole subject of extraterritorial rights and authorizing them to make recommendations for the purpose of enabling the governments concerned to consider what, if any, steps might be taken with a view to the relinquishment of extraterritorial rights. Delegates were promptly appointed and the Chinese tariff conference met on October 26, 1925.

Shortly after the opening of the conference and on November 3, 1925, the American delegation proposed that the conference at once authorize the levying of a surtax of 2½ per cent on necessaries, and, as soon as the requisite schedules could be prepared, authorize the levying of a surtax of up to 5 per cent on luxuries, as provided for by the Washington treaty. Our delegates furthermore announced that the Government of the United States was prepared to proceed at once with the negotiation of such an agreement or agreements as might be necessary for making effective other provisions of the Washington treaty of February 6, 1922. They affirmed the principle of respect for China's tariff autonomy and announced that they were prepared forthwith to negotiate a new treaty which would give effect to that principle and which should make provision for the abolition of likin, for the removal of tariff restrictions contained in existing treaties and for the putting into effect of the Chinese national tariff law. On November 19, 1925, the committee on provisional measures of the conference, Chinese delegates participating, unanimously adopted the following resolution:

"The delegates of the powers assembled at this conference resolve to adopt the following proposed article relating to tariff autonomy with a view to incorporating it, together with other matters, to be hereafter agreed upon, in a treaty which is to be signed at this conference.

"The contracting powers other than China hereby recognize China's right to enjoy tariff autonomy; agree to remove the tariff restrictions which are contained in existing treaties between themselves, respectively, and China; and consent to the going into effect of the Chinese national tariff law on January 1, 1929.

"The Government of the Republic of China declares that likin shall be abolished simultaneously with the enforcement of the Chinese national tariff law; and further declares that the abolition of likin shall be effectively carried out by the first day of the first month of the eighteenth year of the Republic of China (January 1, 1929)."

Continuously from the beginning of the conference, our delegates and technical advisers collaborated with the delegates and technical advisers of the other powers, including China, in an effort to carry out this plan—viz, to put into effect the surtaxes provided for in the Washington treaty, and to provide for additional tariff adequate for all of China's needs until tariff autonomy should go into effect. Until about the middle of April, 1926, there was every prospect for the successful termination of the conference to the satisfaction of the Chinese and the other powers. About that time the government which represented China at the conference was forced out of power. The delegates of the United States and the other powers, however, remained in China in the hope of continuing the negotiations, and on July 3, 1926, made a declaration as follows:

"The delegates of the foreign powers to the Chinese customs tariff conference met at the Netherlands Legation this morning. They expressed the unanimous and earnest desire to proceed with the work of the conference at the earliest possible moment when the delegates of the Chinese Government are in a position to resume discussion with the foreign delegates of the problems before the conference."

The Government of the United States was ready then and is ready now to continue the negotiations on the entire subject of the tariff and extraterritoriality or to take up negotiations on behalf of the United States alone. The only question is with whom it shall negotiate. As I have said heretofore, if China can agree upon the appointment of delegates representing the authorities or the people of the country, we are prepared to negotiate such a treaty. However, existing treaties which were ratified by the Senate of the United States can not be abrogated by the President but must be superseded by new treaties negotiated with somebody representing China and subsequently ratified by the Senate of the United States.

The Government of the United States has watched with sympathetic interest the nationalistic awakening of China and welcomes every advance made by the Chinese people toward reorganizing their system of Government.

During the difficult years since the establishment of the new régime in 1912, the Government of the United States has endeavored in every way to maintain an attitude of the most careful and strict neutrality as among the several factions that have disputed with one another for control in China. The Government of the United States expects, however, that the people of China and their leaders will recognize the right of American citizens in China to protection for life and property during the period of conflict for which they are not responsible. In the event that the Chinese authorities are unable to afford such protection, it is, of course, the fundamental duty of the United States to protect the lives and property of its citizens. It is with the possible necessity for this in view that American naval forces are now in Chinese waters. This Government wishes to deal with China in a most liberal spirit. It holds no concessions in China and has never manifested any imperialistic attitude toward that country. It desires, however, that its citizens be given equal opportunity with the citizens of the other powers to reside in China and to pursue their legitimate occupations without special privileges, monopolies, or spheres of special interest or influence.

Mr. BEEDY. Mr. Speaker and gentlemen of the House, the administration of our foreign affairs is one of the most delicate functions to be performed by the Government. The House should proceed with caution upon any attempt to interfere with the Executive in this behalf.

In discussing this resolution, for the brief time at my disposal, I wish it understood from the outset that irrespective of the passage of this resolution, there is nobody here who is not the friend of the struggling Republic of China. [Applause.]

China to-day is attempting to write her declaration of independence. Her struggle ought to appeal, and it does appeal, to every liberty-loving American. I myself desire to express my sympathy for poor, struggling China in this hour of her great trial. I want my country to do her utmost to free China from the curse of unequal treaties and foreign misrule. We all agree as to the desirability of revising the treaties. But to pass this resolution is not the proper way to set about the task. I, therefore, have no hesitancy in opposing the resolution.

At the outset I want to acquit my esteemed friend from Pennsylvania [Mr. PORTER], the chairman of the Committee on Foreign Affairs, and the committee itself of all blame in this matter. He and they are friends of China. They are seeking to help her. They honestly think this is the way to help her. There I disagree with them.

At this point let me give the House a bit of comparatively recent history. You will remember that in 1911 Dr. Sun Yat-sen was elected President of the Chinese Republic. In the old capital of Nanking, on the banks of the Yangtze River he was installed in power. There being no other hope of an immediate termination of the war then raging in China, he resigned the Presidency. Thereupon he sought to promote the peace of China and the well-being of his people by assisting in establishing in power the foreign favorite, Yuan Shih-Kai. All this he did upon the understanding that Kai would honor the Chinese constitution and serve the cause of the Chinese Republic. Yuan Shih was thereupon indorsed by the foreign powers and financed by foreign bankers, including those in Tokyo.

But no sooner had he been installed in power than he repudiated his promises, forswore allegiance to the constitution, refused to recognize the parliament, and proscribed all Chinese Republicans. He stood for a monarchy in China. He made himself a virtual emperor. Assisting in that betrayal of the people's cause there stood close to his elbow V. K. Wellington Koo and the present so-called Chinese minister, Dr. Sao-ke Alfred Sze, who is in this House at this moment.

Koo having become minister of state in this monarchical government, abhorrent to the masses in China, Doctor Sze was sent here to America as minister and spokesman for this ill-founded Peking régime.

Now that the Chinese Republicans have repudiated the Peking usurpers; now also that Koo himself has repudiated Doctor Sze and joined drives with Chang Tsao Lin, Doctor Sze suddenly sees in this resolution a means for a coup and a bid for retention in power through having been instrumental in causing the House to make a friendly gesture to China. He is the prime mover behind the resolution.

A very pertinent question was asked here, Why introduce this resolution when the State Department has long expressed a willingness to and is even now anxious to revise the treaties with China? I call your attention to page 11 of the committee report.

The State Department asserts that it has been, ever since 1922, and is now ready—

to continue the negotiations upon the entire subject of the tariff and extraterritoriality or to take up negotiations on behalf of the United States alone if that is necessary.

Says the committee report.

The Secretary of State of the United States in a statement issued under date of January 26, 1927, declared:

The Government of the United States was ready then and is ready now to continue the negotiations on the entire subject of the tariff and extraterritoriality or to take up negotiations on behalf of the United States alone. The only question is with whom it shall negotiate. As I have said heretofore, if China can agree upon the appointment of delegates representing the authorities or the people of the country, we are prepared to negotiate such a treaty.

The question perplexing the State Department is, with whom it shall deal as really representing China. The State Department knows very well that Doctor Sze now represents no government in China. But the chairman of our Committee on Foreign Relations is an honorable gentleman and he makes clear in the report the real aim of the resolution. He says on page 11:

The chairman of your committee is in entire accord with this statement by the Secretary of State. It clears the way for the opening of negotiations between the United States and China on the matters in controversy by the transmission of a message to China through the Chinese minister to the United States, Dr. Sao-ke Alfred Sze, who in daily contact with our Government is recognized as the official representative of the Republic of China, requesting the "appointment of delegates representing the authorities or the people of the country" (China). Such action is eminently fair, as it will give China the option of negotiating with the United States in conjunction with the other powers or separately.

The gentleman from Pennsylvania [Mr. PORTER] sees no problem in negotiating with China. In this regard he evidently disagrees with our State Department. He would, therefore, put pressure on the Executive to begin negotiations at once through the instrumentality of Doctor Sze. But Members of the House, if it is wise for the Executive to utilize Doctor Sze in any attempt to help China through a revision of the treaties, it can be done without the passage of this resolution.

Doctor Sun was a deserving Chinese hero, a lover of his race, and a sincere advocate of popular rule for China under her own constitution. At his death a clause in his will enjoined it upon his people to free themselves of the unequal treaties. Let America help in giving effect to his will in the

interest of a free China. But let us not be misled as to the proper course to be pursued. Let the Executive perform this task in his own way. Let us take no step to "clear the way for the opening of negotiations—through Dr. Sao-ke Alfred Sze," who helped to betray the cause of the great Chinese patriot, Dr. Sun Yat-sen.

This House under the circumstances should withhold action. In this hour of civil strife in China, when the republican army of the Cantonese is knocking almost at the very gates of Shanghai, this House should bide the outcome, not with a request for certain action by our Executive in this crisis. We should refrain from any action which might later be interpreted as our desire to bolster up the waning power of an ambitious spokesman for a mere fraction of the warring peoples of China.

Let us now bespeak our message of friendship, good will, and best wishes to the struggling masses of China; let us now express the hope that the Chinese people may succeed in their attempt to throw off the yoke of an unwelcome monarchy, to set up once more their own constitution and to administer their own government through the chosen representatives of 400,000,000 sovereign Chinese. [Applause.]

Mr. FAIRCHILD. Will the gentleman now yield? The gentleman certainly does not wish to have an incorrect statement remaining in the RECORD. I asked the gentleman several times to yield.

Mr. BEEDY. I did not yield because I did not want the gentleman to interrupt me at that time. I now yield and shall be glad to answer any question.

Mr. PORTER. The gentleman read into the RECORD the statement that Doctor Sze was in daily contact with the Government of China?

Mr. BEEDY. Yes; with the Government of China.

Mr. PORTER. Why, no; with our Government. There is nothing in the report about the Government of China, because he has not been over there for years.

Mr. BEEDY. I called special attention to the statement of our Secretary of State as set out on page 11 of the committee report. May I ask the gentleman what is the need of passing this resolution to enable Doctor Sze to communicate with our Government? He can talk to our Government at any time.

Mr. PORTER. The reason is that he is the accredited representative of China. No one questions that.

Mr. BEEDY. He was.

Mr. PORTER. He is now. He either is or he is not.

Mr. BEEDY. I claim that he is repudiated even by his own faction in Peking, while daily developments in China are discrediting him as a representative of the Chinese people. Mr. Speaker, I yield one minute to the gentleman from Illinois [Mr. CHINDBLOM].

Mr. CHINDBLOM. Mr. Speaker, I am very sorry to have to disagree with the great Committee on Foreign Affairs on the pending resolution, but in view of the authority given by the Constitution to the President alone to negotiate treaties by and with the advice and consent of the Senate, I can not vote for a resolution which provides that the President of the United States is requested to enter into negotiations for the purpose of negotiating a treaty. I do not think it is a proper action for the House to request the President of the United States to negotiate a treaty. [Applause.] We have heretofore expressed our views upon international questions and we have stated our approval of certain policies both foreign and domestic, but I do not believe we have ever requested the President to negotiate a treaty and set out the terms upon which the House believes the President should negotiate such treaty. I am very sorry indeed to disagree with the distinguished chairman and other gentlemen upon the Committee on Foreign Affairs,

Mr. Speaker, extending my remarks under the leave granted, I desire to say that quite recently I opposed the acceptance by the House of a bill passed by the Senate which in my opinion contains revenue legislation which, under the Constitution, must originate in the House of Representatives.

The same document gives the exclusive authority to act upon treaties to the Senate and excludes the House of Representatives from any effective action in such matters. I think it is best that the coordinate branches of the Congress, as well as of the entire Government, confine themselves principally to the duties imposed upon them by the fundamental law. I do not mean to say that extraordinary conditions and situations may not arise in which the House may properly express its opinions even upon foreign questions, but I specifically and emphatically protest against any "request" or "advice" to the President for the preparation and negotiation of specific treaties. I earnestly hope, as I am sure does every Member of the House, that the purposes stated in the resolution will be achieved in the proper constitutional way, but it is not necessary, and I am sure it will not be helpful, for the House to take such extraordinary action as is contained in the pending resolution. I will repeat the language:

That the President of the United States be, and he hereby is, respectfully requested to enter into negotiations—

And so forth. I note with pleasure that the word "forthwith," which originally occurred after the word "requested," has been omitted by amendment of the Committee on Foreign Affairs. If the resolution had merely expressed the sentiment or opinion of the House upon the questions involved, I might have supported the measure, for the purpose of showing my sincere sympathy for and interest in the people of China and our relations with that historic nation, but I can not extend that support to the resolution in its present form.

The SPEAKER pro tempore. The time of the gentleman from Illinois has expired. The question is: Shall the rules be suspended and the bill passed?

The question was taken; and on a division (demanded by Mr. LINEBERGER) there were—ayes 100, noes 32.

Mr. LINEBERGER. Mr. Speaker, I object to the vote and make the point of order that a quorum is not present.

The SPEAKER pro tempore. The gentleman from California makes the point of order that a quorum is not present. The Chair will count. [After counting.] One hundred and seventy-two Members are present, not a quorum.

Mr. HILL of Maryland. Mr. Speaker, I move that the House do now adjourn.

The question was taken; and on a division (demanded by Mr. HILL of Maryland) there were—ayes 73, noes 78.

So the motion was not agreed to.

The SPEAKER pro tempore. The question is on the motion to suspend the rules and pass the House concurrent resolution. The Doorkeeper will close the doors, the Sergeant-at-Arms will notify absent Members, and the Clerk will call the roll.

The question was taken; and there were—yeas 262, nays 43, answered "present" 3, not voting 124, as follows:

[Roll No. 35]

YEAS—262

Abernethy	Doughton	Kearns	Parks
Ackerman	Dowell	Keller	Patterson
Adkins	Drewry	Kemp	Peavey
Allgood	Driver	Kerr	Peery
Almon	Dyer	Ketcham	Perkins
Andresen	Eaton	Kiefner	Perlman
Appleby	Edwards	Kiess	Porter
Arentz	Elliott	Kincheloe	Pou
Auf der Heide	Ellis	Kindred	Quin
Ayres	Englebright	Kurtz	Rainey
Bachmann	Eslick	Kvale	Ramseyer
Bailey	Esterly	LaGuardia	Rankin
Bankhead	Fairchild	Lampert	Ransley
Barbour	Faust	Lankford	Rathbone
Beers	Fish	Larsen	Reece
Black, N. Y.	Fisher	Lazaro	Reed, Ark.
Black, Tex.	Fitzgerald, Roy G.	Lea, Calif.	Reed, N. Y.
Bland	Fletcher	Leatherwood	Reid, Ill.
Blanton	Foss	Leavitt	Robinson, Iowa
Bloom	French	Lehlbach	Robsion, Ky.
Bowles	Frothingham	Letts	Rogers
Bowling	Furlow	Linthicum	Rutherford
Bowman	Gambrill	Little	Sabath
Box	Garber	Lowrey	Sanders, N. Y.
Briggs	Garner, Tex.	Lozier	Sanders, Tex.
Brigham	Garrett, Tenn.	Luce	Sandlin
Britten	Garrett, Tex.	Lyon	Schafer
Browne	Gasque	McClintic	Scott
Buchanan	Gifford	McFadden	Shallenberger
Bulwinkle	Gilbert	McKeown	Shreve
Burton	Glynn	McLaughlin, Mich.	Simmons
Busby	Goodwin	McLeod	Sinclair
Byrns	Graham	McMillan	Sinnott
Campbell	Green, Fla.	McReynolds	Smith
Cannon	Griest	McSwain	Smithwick
Carss	Griffin	McSweeney	Snell
Carter, Okla.	Hadley	Magee, Pa.	Somers, N. Y.
Chalmers	Hale	Magee, N. Y.	Speaks
Chapman	Hall, Ind.	Magrady	Spearing
Clague	Hammer	Major	Sproul, Kans.
Cole	Hardy	Martin, Mass.	Stalker
Collier	Harrison	Menges	Stobbs
Collins	Hastings	Michener	Strong, Kans.
Connally, Tex.	Hawley	Miller	Strong, Pa.
Connery	Hickey	Milligan	Summers, Wash.
Connolly, Pa.	Hill, Ala.	Montgomery	Swank
Cooper, Ohio	Hill, Wash.	Mooney	Swing
Cooper, Wis.	Hoch	Moore, Ohio	Taylor, N. J.
Corning	Hogg	Moore, Va.	Taylor, W. Va.
Coyle	Howard	Morgan	Temple
Crosser	Huddleston	Morrow	Thompson
Crumpacker	Hudson	Murphy	Thurston
Dallinger	Hudspeth	Nelson, Me.	Tillman
Darrow	Hull, Morton D.	Nelson, Wis.	Tilson
Davenport	Hull, William E.	Newton, Minn.	Tinkham
Davey	Jacobstein	Norton	Tolley
Davis	Johnson, Ill.	O'Connell, N. Y.	Treadway
Deal	Johnson, S. Dak.	O'Connell, R. I.	Underhill
Dickinson, Iowa	Johnson, Tex.	O'Connor, La.	Underwood
Dickinson, Mo.	Johnson, Wash.	Oliver, Ala.	Upshaw
Dominick	Kahn	Oliver, N. Y.	Vaile

Voigt	Welsh, Pa.	Wilson, La.	Wurzbach
Warren	White, Kans.	Wilson, Miss.	Wyant
Watres	Whitehead	Wolverton	Zihlman
Weaver	Whittington	Woodruff	
Wefald	Williamson	Wright	

NAYS—43

Aldrich	Denison	McDuffie	Rubey
Allen	Douglass	MacGregor	Sears, Nebr.
Arnold	Fitzgerald, W. T.	Mapes	Taber
Aswell	Gardner, Ind.	Michaelson	Thomas
Beedy	Hersey	Moore, Ky.	Vincent, Mich.
Brand, Ohio	Hill, Md.	Morehead	Vinson, Ky.
Canfield	Hooper	Nelson, Mo.	Wainwright
Chindblom	James	O'Connor, N. Y.	Wason
Cochran	Johnson, Ind.	Prall	White, Me.
Cox	Lanham	Ragon	Wood
Crowther	Lineberger	Romjue	

ANSWERED "PRESENT"—3

Bacon	Burtness	Thatcher

NOT VOTING—124

Andrew	Evans	Kirk	Steagall
Anthony	Fenn	Knutson	Stedman
Bacharach	Fort	Kopp	Stevenson
Barkley	Frear	Kunz	Strother
Beck	Fredericks	Lee, Ga.	Sullivan
Begg	Free	Lindsay	Sumners, Tex.
Bell	Freeman	McLaughlin, Nebr.	Swartz
Berger	Fulmer	Madden	Sweet
Bixler	Funk	Manlove	Swoope
Boies	Gallivan	Mansfield	Taylor, Colo.
Boylan	Gibson	Martin, La.	Taylor, Tenn.
Brand, Ga.	Golder	Mead	Timberlake
Browning	Goldsborough	Merritt	Tincher
Brumm	Gorman	Mills	Tucker
Burdick	Green, Iowa	Montague	Tydings
Butler	Greenwood	Morin	Updike
Carew	Hall, N. Dak.	Newton, Mo.	Vare
Carpenter	Hare	Oldfield	Vestal
Carter, Calif.	Haugen	Parker	Vinson, Ga.
Celler	Hayden	Phillips	Walters
Christopherson	Holaday	Pratt	Watson
Cleary	Houston	Purnell	Weller
Colton	Hull, Tenn.	Quayle	Welch, Calif.
Cramton	Irwin	Rayburn	Wheeler
Crisp	Jeffers	Rouse	Williams, Ill.
Cullen	Jenkins	Rowbottom	Williams, Tex.
Curry	Johnson, Ky.	Schneider	Wingo
Dempsey	Jones	Sears, Fla.	Winter
Dickstein	Kelly	Seger	Woodrum
Doyle	Kendall	Sosnowski	Woodyard
Drane	King	Sproul, Ill.	Yates

So, two-thirds having voted in favor thereof, the rules were suspended and the House concurrent resolution was passed.

The Clerk announced the following pairs:

Until further notice:

Mr. Butler with Mr. Crisp.
Mr. Anthony with Mr. Rouse.
Mr. Sweet with Mr. Bell.
Mr. Vare with Mr. Lindsay.
Mr. Wheeler with Mr. Carew.
Mr. Vestal with Mr. Steagall.
Mr. Williams of Illinois with Mr. Fulmer.
Mr. Begg with Mr. Gallivan.
Mr. Irwin with Mr. Wingo.
Mr. Burdick with Mr. Hayden.
Mr. Carter of California with Mr. Taylor of Colorado.
Mr. Bacharach with Mr. Stedman.
Mr. Yates with Mr. Quayle.
Mr. Madden with Mr. Oldfield.
Mr. Cramton with Mr. Montague.
Mr. Fenn with Mr. Brand of Georgia.
Mr. Mills with Mr. Kunz.
Mr. Free with Mr. Barkley.
Mr. Golder with Mr. Mead.
Mr. Purnell with Mr. Boylan.
Mr. Manlove with Mr. Jones.
Mr. Seger with Mr. Cullen.
Mr. Newton of Missouri with Mr. Doyle.
Mr. King with Mr. Evans.
Mr. Welch of California with Mr. Goldsborough.
Mr. Jenkins with Mr. Jeffers.
Mr. Timberlake with Mr. Johnson of Kentucky.
Mr. Browning with Mr. Woodrum.
Mr. Curry with Mr. Hull of Tennessee.
Mr. Fort with Mr. Williams of Texas.
Mr. Freeman with Mr. Hare.
Mr. Gibson with Mr. Weller.
Mr. Green of Iowa with Mr. Greenwood.
Mr. Sproul of Illinois with Mr. Tydings.
Mr. Rowbottom with Mr. Vinson of Georgia.
Mr. Pratt with Mr. Tucker.
Mr. Morin with Mr. Frear.
Mr. Parker with Mr. Sullivan.
Mr. Merritt with Mr. Drane.
Mr. Christopherson with Mr. Stevenson.
Mr. Kopp with Mr. Dickstein.
Mr. McLaughlin of Nebraska with Mr. Sears of Florida.
Mr. Carpenter with Mr. Rayburn.
Mr. Kendall with Mr. Cleary.
Mr. Houston with Mr. Martin of Louisiana.
Mr. Boies with Mr. Celler.
Mr. Watson with Mr. Mansfield.
Mr. Taylor of Tennessee with Mr. Lee of Georgia.
Mr. Updike with Mr. Schneider.
Mr. Swoope with Mr. Berger.
Mr. Bixler with Mr. Beck.

The result of the vote was announced as above recorded.

DEFICIENCY APPROPRIATION BILL—CONFERENCE REPORT

Mr. WOOD. Mr. Speaker, I present a conference report on the 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, for printing under the rule.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Craven, its principal clerk, announced that the Senate insists upon its amendments to the bill (H. R. 16800) entitled "An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of such District for the fiscal year ending June 30, 1928, and for other purposes"; disagreed to by the House of Representatives, and agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and had appointed as conferees on the part of the Senate Mr. PHIPPS, Mr. JONES of Washington, Mr. CAPPER, Mr. GLASS, and Mr. KENDRICK.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 15547) entitled "An act to authorize appropriations for construction at military posts, and for other purposes."

The message also announced that the Senate disagrees to the amendment of the House of Representatives to the bill (S. 1640) entitled "An act authorizing the Secretary of Agriculture to establish a national arboretum, and for other purposes," and requests a conference with the House on the disagreeing votes of the two Houses thereon, and had appointed as conferees on the part of the Senate Mr. MCNARY, Mr. NORRIS, and Mr. SMITH.

ENROLLED BILLS SIGNED

Mr. CAMPBELL, from the Committee on Enrolled Bills, reported that that committee had examined and found truly enrolled House and Senate bills of the following titles, when the Speaker signed the same:

H. R. 11278. An act to authorize the erection of a statue of Henry Clay;

H. R. 14842. An act 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;

H. R. 14920. An act 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;

H. R. 16775. An act to limit the application of the internal revenue tax upon passage tickets;

S. 1155. An act for the relief of Margaret Richards;

S. 1515. An act to extend the benefits of the employees' compensation act of September 7, 1916, to Daniel S. Glover;

S. 1517. An act authorizing and directing the Secretary of the Treasury to pay to W. Z. Swift, of Louisa County, Va., the insurance due on account of the policy held by Harold Rogis;

S. 1899. An act for the relief of Delaware River Towing Line;

S. 2090. An act for the relief of Alfred F. Land;

S. 2353. An act to amend the military record of Leo J. Pourciau;

S. 2474. An act for the relief of the Riverside Contracting Co.;

S. 2619. An act for the relief of Oliver J. Larkin and Lona Larkin; and

S. 2899. An act for the relief of the owner of the American steamship *Almirante* and owners of the cargo laden aboard thereof at the time of her collision with the U. S. S. *Hisko*.

REPUBLICAN CAUCUS

Mr. WOOD. Mr. Speaker, I wish to announce there will be a Republican caucus in this Chamber at 8 o'clock to-night.

ERECTION OF MONUMENT ON KILL DEVIL HILL, KITTY HAWK, N. C.

Mr. LUCE. Mr. Speaker, it was contemplated to have one more motion to-day to suspend the rules in the matter of a bill from the Committee on the Library. I know of nobody who is opposed to the bill nor of anyone who desires to address himself to it. If controversy should arise, I will withdraw the motion; but pending the discovery of that fact, I move to suspend the rules and pass the bill (S. 4876) providing for the erection of a monument on Kill Devil Hill, at Kitty Hawk, N. C., commemorative of the first successful human attempt in history at power-driven airplane flight, with three amendments, one by the committee, and the insertion of the same word in two places, coming from myself.

The SPEAKER pro tempore. The gentleman from Massachusetts moves to suspend the rules and pass the bill S. 4876, as amended, which the Clerk will report.

The Clerk read the bill, as follows:

[S. 4876, 69th Cong., 2d sess.]

An act providing for the erection of a monument on Kill Devil Hill, at Kitty Hawk, N. C., commemorative of the first successful human attempt in history at power-driven airplane flight

Be it enacted, etc., That there shall be erected on Kill Devil Hill, at Kitty Hawk, in the State of North Carolina, a monument in commemoration of the first successful human attempt in all history at power-driven airplane flight, achieved by Orville Wright on December 17, 1903; and a commission to be composed of the Secretary of War, the Secretary of the Navy, and the Secretary of Commerce is hereby created to carry out the purposes of this act.

SEC. 2. That it shall be the duty of the said commission to select a suitable location for said monument, which shall be as near as possible to the actual site of said flight; to acquire the necessary land therefor; to superintend the erection of the said monument; and to make all necessary and appropriate arrangements for the unveiling and dedication of the same when it shall have been completed.

SEC. 3. That such sum or sums as Congress may hereafter appropriate for the purpose of this act are hereby authorized to be appropriated.

SEC. 4. The design and plans for the monument shall be subject to the approval of the Commission of Fine Arts and the Joint Committee on the Library.

The SPEAKER pro tempore. Is a second demanded?

A second was not demanded.

Mr. LUCE. Mr. Speaker, the reading of the bill has told almost the whole story. I may add that the occasion for immediate action comes from a desire to get this monument completed by December of next year and to arrange for proper dedicatory ceremonies to which foreign nations shall be invited.

The committee amendment is the last section, which follows the usual plan of having the design of the monument approved by the Commission on Fine Arts. Also in this instance the Joint Committee on the Library has been inserted in order that the legislative branch may have some control over the size and probable cost of the monument before the plans have too far advanced. In addition, the amendments I myself suggest are the insertion of the word "human" in the title and in the body of the resolution by reason of the fact that after the committee had considered the matter and reported, it was brought to our attention that Professor Langley had actually achieved the flying of large-sized models to a distance of a mile or so some seven years before the Wright flight, and the friends of Professor Langley desired that what is in effect a historical statement in the title and the body of the bill shall be accurate. Unless there are some questions or some comments to be made, I will ask for a vote.

The SPEAKER pro tempore. The question is on the motion to suspend the rules and pass the bill.

The question was taken; and two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

THE CAPPER-KETCHAM BILL

Mr. ASWELL. Mr. Speaker, I ask unanimous consent to extend my remarks on the Capper-Ketcham bill.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. ASWELL. Mr. Speaker, the so-called Capper-Ketcham bill for agricultural extension work presents a remarkable situation. For some unaccountable reason the propaganda for it is so widespread that not only chambers of commerce, rotary clubs, bankers' associations, farm organizations, packers, grain dealers, and so forth, are lobbying for it, but the most amazing fact is that a carbon copy of a telegram comes through the mail signed by Frank O. Lowden, which gives a distinct Republican political kick to the propaganda so widespread. I am for this bill in principle, whole-heartedly, without reference to Republican candidates, because it is for the boys' and girls' clubs of America. But I am insistent and shall continue to be that one amendment shall be adopted before the bill is enacted into law. The amendment I shall propose in the committee and stand for in the House is that on page 3, line 6, after the words "salaries of," insert:

The salaries of men and women extension agents in equitable proportions in the counties of the different States.

I demand that women have equal opportunity in this service, and I shall oppose the bill unless women get this recognition.

This amendment I shall propose is in exact harmony and in response to the demands of the General Federation of Women's Clubs, ably represented by the distinguished and scholarly Mrs. Maggie W. Barry, chairman, department of the American home, General Federation of Women's Clubs. Mrs. Barry and her federation know more about this question than either you or I could hope to know. We shall act wisely if we accept without reservation this dependable wisdom.

In view of my long experience in school and college work, I am familiar with the detailed facts which I now present.

The additional sums appropriated under the provisions of this act shall be subject to the same conditions and limitations as the additional sums appropriated under such act of May 8, 1914, except that (1) at least 80 per cent of all appropriations under this act shall be utilized for the payment of salaries of extension agents in counties to carry on extension work in agriculture and home economics, principally with "boys and girls and women."

This language means that $9,800,000, when the act matures, must be used for salaries of agents in counties "to carry on extension work in agriculture and home economics with 'boys and girls and women.'" Four million eight hundred thousand will be Federal funds and a like amount must be offsetting funds in the States under provisions of act of May 8, 1914. As an administration proposition this money can be used in only one of two ways; (1) in putting on additional agents, or (2) in combination with funds under the original act to pay part salaries of present and future agencies. In either case the agents will be confronted with a mandatory inhibition from the Congress of the United States to refrain principally from working with any male person who has passed the age of adolescence. This is a new departure in the promotion of agriculture.

Some of the States have almost as many women agents doing home demonstration work with girls and women as they have men agents working with boys and men. These States have applications on file from county authorities and appropriations available to put on men and women agents to do extension work in agriculture and home economics. This is simply a normal increase in obedience to the Smith-Lever law and under the stimulation thereof. If this amendment is adopted, these counties can not proceed in the regular order which Congress itself established. Untold confusion will ensue. In some States the quota of women agents is low. If the colleges and counties undertake to make up this deficiency with these new funds, they will find that this language requires such agents to work principally with "boys and girls and women." It does not even say "boys or girls and women." It does not say "boys and girls or women." "Women" seems to be the thing the cat dragged in. Thus these agents will have to scrutinize carefully a fellow if he has on long trousers, and if he has come to manhood, they must not work with him in any important way.

In 141 of the wealthier counties there are club agents who work with boys and girls altogether. Under this amendment they will have to take on the women; but they, too, will have to steer their principal activities away from that rather large part of our citizenship known as mere men. And all these things must be done in the name of farm and home making! But some one will say that the administrative authorities of the colleges, with the cooperation of the United States Department of Agriculture, will simply spread these additional funds latitudinally over those now being used in extension work in counties and then appoint new agents upon the same pro rata basis. Then all the agents, including those who have done the best work with adult farmers, will be confronted with the injunction that they must work principally "with boys and girls and women." It will be noted that this bill carries more appropriation than the original act. The 80 per cent provided in this bill equals the total Federal appropriation in the Smith-Lever law. Thus the farmers who are men are "principally excluded from the benefits of half of the total funds, and they run the risk of minor consideration in all of them." But some one may say that the authorities of the colleges and the United States Department of Agriculture can give instructions so that agents drawing salaries under this act can avoid the language of the law.

In other words, they must be diplomatic and ambidextrous enough to work "principally" with the sons and daughters and the mother and, at the same time, give the old man a little agricultural hand-out on the side. This language will hold for all the men and women agents who get salaries under this bill.

Congress is responsible for establishing extension work in two grand divisions, agriculture and home economics. The mission is to the farm and the home. Why should the fundamental nature of the law be changed by trajecting "boys and girls" club work athwart the whole basic plan? Can not boys do their best work on their fathers' farms and with their fathers' aid? Will not these boys soon be men? Why turn away from them

then? Does not it require the best efforts of women agents working with girls and women to develop and maintain the home, that greatest of all our fundamental institutions for training of character, integrity, and efficiency? If Congress is to regulate the administration of these funds, then it should see to it that its original purposes are carried out—that a fair and just share should go into the salaries of women agents. Just to tag on the word "woman" at the end of this amendment does not say that any more women should be appointed as agents. At present there are 2,606 men and 1,133 women agents in the county agency work. The club agents are divided as follows: 177 men and 73 women. This includes supervisors. Even if club agents are employed, there should be more women club agents to give instruction in matters pertaining to the home. So a simple amendment calling for a reasonable number of women agents will not restrict the States and it will conduce to efficiency. The work with boys and girls must be done by men and women. An amendment calling for men and women agents in counties will not embarrass the colleges, and it will not disrupt the whole organization.

One of the main points of differentiation between the Smith-Lever and the Smith-Hughes laws is that the Smith-Lever makes no age distinction, while the Smith-Hughes provides for instruction of boys and girls below college grade. The very nature of this amendment invites conflict with the vocational education people. By tying the boys and girls together in such fashion we assume group instruction, which is the Smith-Hughes province, instead of demonstrations in farming and home making with organization as an incidental feature, which is extension work.

Attention should be drawn to the fact that 80 per cent of the funds provided in this bill must be spent in the counties of the whole country. Just so it is 80 per cent of the total. It does not have to be 80 per cent in each State. One State may use 100 per cent in counties and another 60 per cent, and the law will be complied with on this point.

The bill in regard to agricultural trains gives the signal to open the throttle with full steam ahead on such trains. I shall demand that women have equal chance with men to do this work, which is in harmony with all primary facts on this vital question.

INDIAN WAR PENSION BILL

Mr. JOHNSON of Texas. Mr. Speaker, I ask unanimous consent to extend my remarks on the bill (H. R. 12532) increasing the pensions of Indian war veterans which was passed to-day.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. JOHNSON of Texas. Mr. Speaker, as a member of the Pension Committee of the House, I was one of the three composing the subcommittee who drafted this bill.

Its purpose is to do justice to those who defended the frontiers in any Indian war or campaign, or in connection with, or in the zone of, any active Indian hostilities. In 1892 the first Indian war pension act was passed; it was amended in 1902, again in 1908, and the present law was last amended on March 4, 1917. The present rate of pension for Indian war soldiers is $20 per month, and for the widows of such soldiers $12 per month. The veterans of no other war receive such small amounts. Civil War veterans now receive from $50 to $72 per month. Spanish war veterans receive about the same amount, and World War veterans a larger sum.

Under the terms of this bill, Indian war soldiers would receive a minimum of $20 per month and a maximum of $50 per month, dependent upon the degree of disability or the attained age of the veteran. The rates are practically the same as the Spanish War pension act approved by the President on May 1, 1926.

Aside from the question of disability, it provides a rate of $20 a month for those 62 years of age, $30 for those 68, $40 for those 72, and $50 for those 75 years of age or older.

Section 2 provides a pension for the widows of such soldiers who married them prior to March 4, 1917, at the rate of $30 per month, with an additional allowance of $6 a month for each child of the soldier who is under 16 years of age.

The increase in rates to be automatically applied to those already pensioned under general law beginning on the fourth day of the next month after the approval of this act.

Those affected by the proposed law are few in number. According to report made to our committee last May by the Secretary of the Interior, there were then on the pension rolls 3,875 Indian war survivors, and 3,067 widows of deceased Indian war veterans. The number is growing less each year for all of them are well advanced in years.

Quite a number of these old soldiers live in the State of Texas, and perhaps a majority of them live in what is known as the Western States, or in the great Southwest.

The service they rendered their country in protecting the frontiers, and in the preservation of life and property can not be measured in dollars and cents. They endured the same hardships and privations, displayed the same dauntless courage, and risked their lives with the same abandon, as have the American soldiers of all wars. A just government should give them the same recognition and the same compensation in their declining years. They are not numerous enough to flood Congress with letters or petitions in their behalf. They are old, most of them are poor, their political influence is limited and circumscribed, because they are few in number and scattered in many States, but the Congress of the United States should not adjourn at this session without passing this bill and thereby give recognition to the justice of their cause.

EXTENSION OF REMARKS

Mr. BLOOM. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by inserting a speech delivered by Dr. Nicholas Murray Butler on lawlessness.

Mr. STALKER. Mr. Speaker, I object.

LEAVE OF ABSENCE

By unanimous consent leave of absence was granted to—

Mr. HARE (at the request of Mr. DOMINICK) on account of illness.

Mr. GIBSON (at the request of Mr. BRIGHAM), indefinitely, on account of illness.

ADJOURNMENT

Mr. TILSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 58 minutes p. m.) the House adjourned until to-morrow, Tuesday, February 22, 1927, at 12 o'clock noon.

COMMITTEE HEARINGS

Mr. TILSON submitted the following tentative list of committee hearings scheduled for Tuesday, February 22, 1927, as reported to the floor leader by clerks of the several committees:

COMMITTEE ON APPROPRIATIONS

(10.30 a. m.)

Second deficiency bill.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. DENISON: Committee on Interstate and Foreign Commerce. H. R. 17128. A bill granting the consent of Congress to the State of Indiana, its successors and assigns, to construct, maintain, and operate a bridge across the Ohio River, and permitting the State of Kentucky to act jointly with the State of Indiana in the construction, maintenance, and operation of said bridge; without amendment (Rept. No. 2171). Referred to the House Calendar.

Mr. STALKER: Committee on the District of Columbia. S. 2322. An act to provide for the elimination of the Michigan Avenue grade crossing in the District of Columbia, and for other purposes; without amendment (Rept. No. 2172). Referred to the Committee of the Whole House on the state of the Union.

Mr. WAINWRIGHT: Committee on Military Affairs. S. 2597. An act authorizing the President to appoint and retire certain persons first lieutenants in the Medical Corps, United States Army, without amendment (Rept. No. 2173). Referred to the Committee of the Whole House on the state of the Union.

Mr. STALKER: Committee on the District of Columbia. S. 3888. An act to provide for the elimination of grade crossings of steam railroads in the District of Columbia, and for other purposes; without amendment (Rept. No. 2174). Referred to the Committee of the Whole House on the state of the Union.

Mr. STALKER: Committee on the District of Columbia. S. 5435. An act to provide for the widening of C Street NE., in the District of Columbia, and for other purposes; without amendment (Rept. No. 2175). Referred to the Committee of the Whole House on the state of the Union.

Mr. LUCE: Committee on the Library. H. R. 17156. A bill to authorize the construction of new conservatories and other necessary buildings for the United States Botanic Garden; without amendment (Rept. No. 2176). Referred to the Committee of the Whole House on the state of the Union.

By Mr. HILL of Maryland: Committee on Military Affairs. H. R. 17222. A bill to authorize an additional appropriation for Fort McHenry, Md.; without amendment (Rept. No. 2177).

Referred to the Committee of the Whole House on the state of the Union.

Mr. HILL of Maryland: Committee on Military Affairs. H. R. 17243. A bill to authorize appropriations for construction at military posts, and for other purposes; with amendment (Rept. No. 2178). Referred to the Committee of the Whole House on the state of the Union.

Mr. HAUGEN: Committee on Agriculture. H. R. 16350. A bill to provide for the collection and publication of statistics of tobacco by the Department of Agriculture; with amendment (Rept. No. 2185). Referred to the House Calendar.

Mr. HAUGEN: Committee on Agriculture. H. R. 17227. A bill providing for horticultural experiment and demonstration work in the southern Great Plains area; with amendment (Rept. No. 2186). 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. UNDERHILL: Committee on Claims. S. 1752. An act for the relief of the Near East Relief (Inc.); without amendment (Rept. No. 2179). Referred to the Committee of the Whole House.

Mr. UNDERHILL: Committee on Claims. S. 2197. An act for the relief of Paul B. Belding; with amendment (Rept. No. 2180). Referred to the Committee of the Whole House.

Mr. WOLVERTON: Committee on War Claims. S. 2722. An act for the relief of the Muscle Shoals, Birmingham & Pensacola Railroad Co., the successor in interest of the receiver of the Gulf, Florida & Alabama Railway Co.; without amendment (Rept. No. 2181). Referred to the Committee of the Whole House.

Mr. UNDERHILL: Committee on Claims. H. R. 3283. A bill for the relief of William Bardel; with amendment (Rept. No. 2182). Referred to the Committee of the Whole House.

Mr. UNDERHILL: Committee on Claims. H. R. 17230. A bill for the relief of Olof Nelson; without amendment (Rept. No. 2183). Referred to the Committee of the Whole House.

CHANGE OF REFERENCE

Under clause 2 of Rule XXII, committees were discharged from the consideration of the following bills, which were referred as follows:

A bill (H. R. 17211) granting a pension to Abbie F. Daniels; Committee on Pensions discharged, and referred to the Committee on Invalid Pensions.

A bill (H. R. 14806) granting a pension to Richard F. Gray; Committee on Invalid Pensions discharged, and referred to the Committee on Pensions.

PUBLIC BILLS AND RESOLUTIONS

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

By Mr. ARNOLD: A bill (H. R. 17264) to extend the time for commencing and completing the construction of a bridge across the Wabash River at city of Mount Carmel, Ill.; to the Committee on Interstate and Foreign Commerce.

By Mr. DICKSTEIN: A bill (H. R. 17265) to amend section 29 of the radio act of 1927; to the Committee on the Merchant Marine and Fisheries.

By Mr. QUIN: A bill (H. R. 17266) authorizing the Secretary of the Interior to sell and patent certain land in Louisiana and Mississippi; to the Committee on the Public Lands.

By Mr. ZIHLMAN: A bill (H. R. 17267) to authorize the closing of certain streets in the subdivision known as Wesley Heights, in the District of Columbia; to the Committee on the District of Columbia.

By Mr. MENGES: A bill (H. R. 17268) to authorize the coinage of 50-cent pieces in commemoration of the one hundred and fiftieth anniversary of the meeting of the Continental Congress at York, Pa., September 30, 1777, and for other purposes; to the Committee on Coinage, Weights, and Measures.

By Mr. MORIN: A bill (H. R. 17269) to provide for the policing of military roads leading out of the District of Columbia; to the Committee on Military Affairs.

By Mr. CANNON: A bill (H. R. 17270) granting the consent of Congress to R. A. Breuer, H. L. Stolte, John M. Schermann, O. F. Nienhueser, and Robert Walker, their successors and assigns, to construct, maintain, and operate a bridge across the Missouri River; to the Committee on Interstate and Foreign Commerce.

By Mr. GOODWIN: A bill (H. R. 17271) to extend the time for constructing a bridge across the Mississippi River between the city of Anoka, in the county of Anoka, and the village of Champlin, in the county of Hennepin, State of Minnesota; to the Committee on Interstate and Foreign Commerce.

By Mr. EDWARDS: A bill (H. R. 17272) authorizing an appropriation of $250,000 with which to acquire sea island cottonseed and to reestablish the growing thereof; to the Committee on Agriculture.

By Mr. ENGLEBRIGHT: A bill (H. R. 17273) to exempt from taxation income derived from the mining of gold; to the Committee on Ways and Means.

By Mr. GASQUE: A bill (H. R. 17274) to amend the immigration act of 1924; to the Committee on Immigration and Naturalization.

By Mr. GRAHAM: A bill (H. R. 17275) granting immunity to certain witnesses; to the Committee on the Judiciary.

By Mr. VESTAL: A bill (H. R. 17276) to amend sections 1 (e) and 25 (e) of the act entitled "An act to amend and consolidate the acts respecting copyright," approved March 4, 1909; to the Committee on Patents.

By Mr. ZIHLMAN (by request of the Commissioners of the District of Columbia): A bill (H. R. 17277) to provide books and educational supplies free of charge to pupils of the public schools of the District of Columbia; to the Committee on the District of Columbia.

By Mr. FAIRCHILD: Joint resolution (H. J. Res. 366) proposing an amendment to the Constitution of the United States; to the Committee on Election of President, Vice President, and Representatives in Congress.

By Mr. DEMPSEY: Joint resolution (H. J. Res. 367) providing for hearings by a joint committee during the recess on S. 5769 and H. R. 17245; to the Committee on Rules.

By Mr. MENGES: Concurrent resolution (H. Con. Res. 56) for the appointment of a joint committee of the House and the Senate to join and participate in the celebration as representing the Congress of the United States in the observance of the one hundred and fiftieth anniversary of the meeting of the Continental Congress at York, Pa., September 30, 1777, and for other purposes; to the Committee on the Library.

MEMORIALS

Under clause 3 of Rule XXII, memorials were presented and referred as follows:

Memorial of the Legislature of the State of Minnesota, urging the passage of S. 3027 and H. R. 4548, for the relief of disabled emergency officers; to the Committee on World War Veterans' Legislation.

Memorial of the Legislature of the State of Oregon, for further continued development of the nucleus of a naval base already established at Tongue Point near Astoria, and that this development, at least, take form sufficient to accommodate the personnel of the Pacific submarine fleets; to the Committee on Appropriations.

Memorial of the Legislature of the State of Washington, requesting an amendment to the Constitution whereby officers of the Federal Government will take office promptly after election; to the Committee on Election of President, Vice President, and Representatives in Congress.

By Mr. BRIGHAM: Memorial of the Legislature of the State of Vermont, requesting that remedial measures be taken to suppress alien smuggling across the Vermont-Canadian border; to the Committee on Foreign Affairs.

By Mr. GIBSON: Memorial of the Legislature of the State of Vermont, favoring a more adequate immigration border patrol to prevent smuggling of aliens across the Vermont-Canadian border; to the Committee on Foreign Affairs.

By Mr. JOHNSON of Washington: Memorial of the Legislature of the State of Washington, requesting an amendment to the Constitution whereby officers of the Federal Government will take office promptly after election; to the Committee on Election of President, Vice President, and Representatives in Congress.

By Mr. O'CONNELL of New York: Memorial of the Legislature of the State of Oregon, to provide funds needed for a further continued development of the nucleus of a naval base already established at Tongue Point near Astoria; to the Committee on Appropriations.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. BRAND of Ohio: A bill (H. R. 17278) granting an increase of pension to Mary J. Coulson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17279) granting a pension to Lydia A. Chandler; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17280) granting an increase of pension to Edna Olney Chrisman; to the Committee on Invalid Pensions.

By Mr. CARPENTER: A bill (H. R. 17281) for the relief of James M. E. Brown; to the Committee on Claims.

By Mr. COLLIER: A bill (H. R. 17282) to correct the military record of Cromwell L. Barsley; to the Committee on Military Affairs.

By Mr. CORNING: A bill (H. R. 17283) granting an increase of pension to Ellen Van Kleeck; to the Committee on Invalid Pensions.

By Mr. KING: A bill (H. R. 17284) granting a pension to Margaret L. Davis; to the Committee on Invalid Pensions.

Also, a bill (H. R. 17285) granting a pension to J. H. Hunter; to the Committee on Invalid Pensions.

By Mr. McFADDEN: A bill (H. R. 17286) granting an increase of pension to Louise A. Miller; to the Committee on Invalid Pensions.

By Mr. McLEOD: A bill (H. R. 17287) to correct the military record of Michael S. Spillane; to the Committee on Military Affairs.

By Mr. STRONG of Kansas: A bill (H. R. 17288) granting a pension to Siaria N. Allen; to the Committee on Invalid Pensions.

By Mr. WILLIAMS of Illinois: A bill (H. R. 17289) granting an increase of pension to Mamie Hailey; to the Committee on Invalid Pensions.

By Mr. BACON: A bill (H. R. 17290) to control the distribution of military arms; to the Committee on Militarv Affairs.

PETITIONS, ETC.

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

7175. By Mr. ADKINS: Petition of citizens of Stewardson, Ill., urging that immediate steps be taken to bring to a vote the Civil War pension bill now pending in Congress; to the Committee on Invalid Pensions.

7176. By Mr. ARNOLD: Petition from citizens of Marion County, Ill., urging favorable consideration of the Civil War pension bill; to the Committee on Invalid Pensions.

7177. Also, petition from citizens of Bridgeport, Ill., indorsing pension legislation in behalf of Civil War veterans and widows of veterans; to the Committee on Invalid Pensions.

7178. Also, petition of citizens of Bridgeport, Ill., urging the enactment of the Civil War pension bill; to the Committee on Invalid Pensions.

7179. By Mr. BACHMANN: Petition of Kamawha Camp, No. 2, United Spanish War Veterans, of Charleston, W. Va., in general assembly on February 1, 1927, indorsed Senate bill 5363, and urge the speedy passage of same; to the Committee on Pensions.

7180. By Mr. BARBOUR: Senate joint resolution, California Legislature, indorsing House bill 14696, amending an act to provide for classification of civilian positions, etc.; to the Committee on the Civil Service.

7181. Also, senate joint resolution, California Legislature, indorsing House bill 359, amending classification act of 1923; to the Committee on the Civil Service.

7182. Also, senate joint resolution, California Legislature, indorsing House bill 4866, amending act for retirement of civil-service employees; to the Committee on the Civil Service.

7183. Also, petition of citizens of Shafter, Calif., protesting against all Sunday observance bills affecting the District of Columbia; to the Committee on the District of Columbia.

7184. Also, senate joint resolution, California Legislature, indorsing House bill 8821, affecting California Indians; to the Committee on Indian Affairs.

7185. Also, senate joint resolution, California Legislature, indorsing Robinson bill for elimination of Pullman surcharge; to the Committee on Interstate Commerce.

7186. By Mr. BOWLES: Petition of residents of Springfield, Mass., urging immediate action on proposed legislation to increase the pensions of Civil War soldiers and widows of soldiers; to the Committee on Invalid Pensions.

7187. By Mr. BROWNE: Petition of citizens of Arpin, Wood County, Wis., urging the immediate passage of the Civil War pension bill; to the Committee on Invalid Pensions.

7188. Also, petition of inmates of the hospital at Wisconsin Veterans' Home, Waupaca County, Wis., urging the immediate passage of the Civil War pension bill; to the Committee on Invalid Pensions.

7189. Also, petition of citizens of Colby, Marathon County, Wis., urging the immediate passage of the Civil War pension bill; to the Committee on Invalid Pensions.

7190. By Mr. BRUMM: Petition of citizens of Pottsville, Pa., urging immediate action on the pending bill to provide an increase of pension for Civil War veterans and widows of veterans; to the Committee on Invalid Pensions.

7191. By Mr. BYRNS: Petition of citizens of Montgomery County, Tenn., for the increase of pensions to the widows of the veterans of the Civil War; to the Committee on Invalid Pensions.

7192. By Mr. CHAPMAN: Petition of W. B. Wood, L. A. Massie, William Stamper, R. C. Suter, and numerous other citizens of Gratz, Owen County, Ky., urging Congress to take immediate steps to bring to a vote pending Civil War pension measures that relief may be had for needy and suffering veterans and widows of veterans of the Civil War; to the Committee on Invalid Pensions.

7193. By Mr. DICKINSON of Missouri: Petition by 32 voters of the sixth Missouri congressional district, urging the passage of House bill 10311, known as the Lankford Sunday rest bill; to the Committee on the District of Columbia.

7194. Also, petition by 36 voters of Collins, Mo., urging the immediate passage of a Civil War pension bill to increase the pensions of Civil War veterans and widows of veterans; to the Committee on Invalid Pensions.

7195. By Mr. DRANE: Petition signed by Catherine Lanphere, of Tampa, Fla., urging the passage of pension legislation for the relief of veterans of the Civil War and widows of veterans at the present session of Congress; to the Committee on Invalid Pensions.

7196. Also, petition signed by Mr. W. D. Allen and others, of Sarasota County, Fla., urging the passage of pension legislation for the relief of veterans of the Civil War and widows of veterans at the present session of Congress; to the Committee on Invalid Pensions.

7197. Also, petition signed by Mr. W. J. Carter, of Tampa, Fla., and others, urging the passage of pension legislation for the relief of veterans of the Civil War and widows of veterans at the present session of Congress; to the Committee on Invalid Pensions.

7198. By Mr. EATON: Petition of the American Legion, Department of New Jersey, urging immediate and favorable action by the House on House bill 4548; to the Committee on World War Veterans' Legislation.

7199. By Mr. ENGLEBRIGHT: Petition of Mrs. Eleanor N. Drew, of North San Juan, Calif., and various other citizens, favoring the enactment of legislation providing for the increase of pension of widows of Civil War veterans; to the Committee on Invalid Pensions.

7200. Also, petition of Mrs. J. S. Lattimore, Redding, Calif., and various other citizens of that locality, protesting against compulsory Sunday closing in the District of Columbia; to the Committee on the District of Columbia.

7201. By Mr. ROY G. FITZGERALD: Petition of 62 voters of West Carrollton, Ohio, praying for the passage of a bill to increase the pensions of Civil War veterans and widows of veterans; to the Committee on Invalid Pensions.

7202. By Mr. FUNK: Petition of citizens of Pontiac and Dwight, Ill., favoring the passage of further legislation providing increases for veterans of the Civil War and widows of veterans; to the Committee on Invalid Pensions.

7203. Also, petition of citizens of Lincoln, Ill., favoring the passage of further legislation providing increases for veterans of the Civil War and widows of veterans; to the Committee on Invalid Pensions.

7204. By Mr. GALLIVAN: Petition of Boston Society of Landscape Architects, Boston, Mass., urging early and favorable consideration of House bill 3890, relating to the choice of Mount Hamilton as the site for a national arboretum; to the Committee on Agriculture.

7205. By Mr. GARBER: Petition urging enactment of legislation for relief of Civil War veterans and widows of veterans by the citizens of Woodward, Okla.; to the Committee on Invalid Pensions.

7206. Also, petition urging enactment of legislation for relief of Civil War veterans and widows of veterans by the citizens of Douglas, Okla.; to the Committee on Invalid Pensions.

7207. By Mr. GOODWIN: Petition signed by Frank S. Gadbois and 67 other citizens of the tenth congressional district, Hennepin County, Minn., urging the immediate passage of legislation according relief to the needy and suffering veterans and widows of veterans of the Civil War; to the Committee on Invalid Pensions.

7208. Also, petition signed by J. M. Boyle and 104 other citizens of Pine City, Pine County, Minn., urging the immediate

passage of legislation according relief to the needy and suffering veterans and widows of veterans of the Civil War; to the Committee on Invalid Pensions.

7209. Also, petition signed by Atwood Welker and 115 other citizens of the tenth congressional district, Delano, Wright County, Minn., urging the immediate passage of legislation according relief to the needy and suffering veterans and widows of veterans of the Civil War; to the Committee on Invalid Pensions.

7210. Also, petition signed by Mr. C. S. Strout and 21 other citizens of the tenth congressional district, Monticello, Wright County, Minn., urging the immediate passage of legislation according relief to the needy and suffering veterans and widows of veterans of the Civil War; to the Committee on Invalid Pensions.

7211. Also, petition signed by Mr. and Mrs. Francis G. Hildahl and 11 other citizens of the tenth congressional district, Minneapolis, Hennepin County, Minn., urging the immediate passage of legislation according relief to the needy and suffering veterans and widows of veterans of the Civil War; to the Committee on Invalid Pensions.

7212. By Mr. HERSEY: Petition of C. E. Chase and 27 other residents of Exeter, Me., urging passage of Civil War bill to aid the soldiers and their dependents; to the Committee on Invalid Pensions.

7213. By Mr. HICKEY: Petition of Mrs. Eleanor M. Mossey and other citizens of South Bend, Ind., urging the passage of a bill increasing the pensions of Civil War veterans and widows of veterans; to the Committee on Invalid Pensions.

7214. By Mr. HOCH: Petition of 93 citizens of Burlington, Kans., urging passage of bill increasing pensions of Civil War veterans and veterans' widows; to the Committee on Invalid Pensions.

7215. Also, petition of 125 citizens of Osage City, Kans., urging passage of bill to increase pensions of Civil War veterans and veterans' widows; to the Committee on Invalid Pensions.

7216. By Mr. JOHNSON of South Dakota: Petition of the American Legion, Department of South Dakota, recommending the passage of disabled emergency officers' legislation; to the Committee on World War Veterans' Legislation.

7217. By Mr. JOHNSON of Texas: Resolution of American Legion, adopted at their State convention held at Department of Texas, Amarillo, Tex., indorsing the Tyson-Fitzgerald bill (S. 3027 and H. R. 4548); to the Committee on World War Veterans' Legislation.

7218. Also, petition of Messrs. E. E. Nettles, Hal C. Johnson, and R. H. Daniel, of Navarro County, Tex., favoring House bill 16294, extending free-delivery system of Post Office Department; to the Committee on the Post Office and Post Roads.

7219. By Mr. JOHNSON of Washington: Petition of citizens of the State of Washington in behalf of increased pensions for veterans of the Civil War and widows of veterans; to the Committee on Invalid Pensions.

7220. By Mr. KEARNS: Petition of citizens of Hillsboro, Ohio, requesting passage of Civil War pension bill carrying rates proposed by the National Tribune; to the Committee on Invalid Pensions.

7221. Also, petition of citizens of Greenfield, Ohio, urging passage of Civil War pension bill carrying rates proposed by the National Tribune; to the Committee on Invalid Pensions.

7222. By Mr. KIEFNER: Petition from citizens of De Soto, Mo., urging Congress to pass legislation for the relief of needy and suffering Civil War veterans and widows of veterans; also, petition by citizens of Coldwater, Mo., urging the passage of legislation by Congress for the relief of needy and suffering Civil War veterans and widows of veterans; to the Committee on Invalid Pensions.

7223. By Mr. KING: Petition signed by Mrs. W. B. Dennis and 135 other citizens of Kewanee, Ill., urging that immediate steps be taken to bring to a vote a Civil War pension bill granting relief to veterans and widows of veterans; to the Committee on Invalid Pensions.

7224. Also, petition signed by Mrs. Elizabeth E. Lake and 124 other citizens of Kewanee, Ray, and Rushville, Ill., urging the immediate passage of legislation according relief to the needy and suffering veterans and widows of veterans of the Civil War; to the Committee on Invalid Pensions.

7225. By Mr. LEA of California: Petition of 95 residents of Marin County, Calif., favoring passage of Civil War pension legislation; to the Committee on Invalid Pensions.

7226. By Mr. LOZIER: Petition of numerous citizens of Miami Station, Mo., urging the enactment of certain pension legislation for veterans of the Civil War and their dependents; to the Committee on Invalid Pensions.

7227. By Mr. McDUFFIE: Petition of 10 citizens of Prichard, Ala., favoring increase of pension to Civil War soldiers and widows of soldiers; to the Committee on Invalid Pensions.

7228. By Mr. McFADDEN: Petitions of residents of Noxen, Wyoming County, and Towanda, Bradford County, Pa., to bring to a vote a Civil War pension bill carrying the rates proposed by the National Tribune; to the Committee on Invalid Pensions.

7229. By Mr McLAUGHLIN of Michigan: Petition of Mrs. Mattie A. Linn and 115 residents of Muskegon, Mich., for legislation in behalf of Civil War veterans and widows of veterans; to the Committee on Invalid Pensions.

7230. By Mr. McSWEENEY: Petition of the citizens of Uhrichsville and Dennison, Ohio, the twin cities, asking for immediate consideration of bill for the further relief of Civil War veterans and widows of veterans; to the Committee on Invalid Pensions.

7231. By Mr. MAGRADY: Petition signed by numerous citizens of Sunbury, Northumberland County, Pa., urging passage of Civil War pension bill for relief of Civil War veterans and widows of veterans; to the Committee on Invalid Pensions.

7232. By Mr. MANLOVE: Petition of Lorenda Vice, Mandy Harnor, Jim Divine, and 12 other residents of McDonald County, Mo., urging legislation for the relief of veterans and widows of veterans of the Civil War; to the Committee on Invalid Pensions.

7233. Also, petition of Perry K. Hurlbut, S. D. Parker, jr., Bert W. Blizzard, and 60 other residents of Jasper County, Mo., urging the passage of legislation to bring relief to veterans and widows of veterans of the Civil War; to the Committee on Invalid Pensions.

7234. By Mr. MILLIGAN: Petition signed by citizens of Mercer County, Mo., urging early consideration of the Civil War pension bill; to the Committee on Invalid Pensions.

7235: Also, petition signed by citizens of Ray County, Mo., urging early consideration of the Civil War pension bill; to the Committee on Invalid Pensions.

7236. Also, petition signed by citizens of Mercer County, Mo., urging that consideration be given the Civil War pension bill; to the Committee on Invalid Pensions.

7237. By Mrs. NORTON: Resolution adopted by the New Jersey American Legion at its 1926 department convention held at Belmar, N. J., September 9–11, 1926, indorsing the disabled emergency Army officers' proposed legislation; to the Committee on World War Veterans' Legislation.

7238. By Mr. O'CONNELL of New York: Petition of the William F. Scannell Chapter, No. 6, Liberty, N. Y., favoring the passage of the House bill 17157, known as general hospital bill; to the Committee on World War Veterans' Legislation.

7239. By Mr. PATTERSON: Memorial of American Legion, Department of New Jersey, at its 1926 department convention, September 9 to 11, 1926, indorsing the disabled emergency Army officers' proposed legislation; to the Committee on World War Veterans' Legislation.

7240. Also, petition of residents of Camden County, N. J., indorsing passage of bill to increase pensions of Civil War veterans and the widows of Civil War veterans; to the Committee on Invalid Pensions.

7241. By Mr. ROMJUE: Petition of sundry citizens from the State of Missouri, opposing the passage of House bill 10311, the Sunday observance bill; to the Committee on the District of Columbia.

7242. By Mr. SHALLENBERGER: Petition of citizens of the fifth congressional district of Nebraska, for Civil War pension legislation; to the Committee on Invalid Pensions.

7243. Also, petition against compulsory Sunday observance; to the Committee on the District of Columbia.

7244. By Mr. SINNOTT: Petition of citizens of Umatilla County, Oreg., protesting against House bill 10311 or any other bill to enforce the observance of the Sabbath; to the Committee on the District of Columbia.

7245. By Mr. SWEET: Petition, signed by 1,293 members of Sons of Union Veterans of the Civil War, of New York State, urging the passage of the Elliott pension bill; to the Committee on Invalid Pensions.

7246. By Mr. SWING: Petition of certain residents of Orange, Calif., protesting against the passage by Congress of any legislation making compulsory the observance of Sunday; to the Committee on the District of Columbia.

7247. By Mr. TEMPLE: Evidence in support of House bill 17178, granting a pension to Josephine Christopher; to the Committee on Invalid Pensions.

7248. By Mr. TINCHER: Petition of sundry residents of Pratt, Kans., urging the passage of a Civil War pension bill

for the relief of needy Civil War veterans and the widows of veterans; to the Committee on Invalid Pensions.

7249. By Mr. UPDIKE: Petition of Lewis E. Frazeur, Edd McGovern, W. L. Bedford, Bert Buchanan, and Grant Moore, all residents of Marion County, Ind., who hereby favor legislation to increase the pensions of Civil War veterans and widows of veterans; to the Committee on Invalid Pensions.

7250. By Mr. VESTAL: Petition of Mrs. John Wilhelm et al., of Adams County, Ind., relative to the passage of general pension legislation; to the Committee on Invalid Pensions.

7251. Also, petition of William Ratcliff et al., of Madison County, Ind., urging enactment of pension legislation; to the Committee on Invalid Pensions.

7252. By Mr. WASON: Petition of Mary E. Law and three other citizens of Penacook, N. H., urging early and favorable action on the Civil War pension bill at this session of Congress; to the Committee on Invalid Pensions.

7253. Also, petition of Raymond J. Carr and 26 other residents of Lancaster, N. H., urging that immediate steps be taken to bring to a vote a Civil War pension bill in order that relief may be accorded to needy and suffering veterans and widows of veterans; to the Committee on Invalid Pensions.

7254. Also, petition of W. H. Little and 16 other residents of Warren, N. H., urging early and favorable action on the Civil War pension bill at this session of Congress; to the Committee on Invalid Pensions.

7255. By Mr. WATSON: Petition from members of Local Union No. 225, United Garment Workers of America, Pottstown, Pa., favoring House bill 8653; to the Committee on Labor.

7256. Also, petitions from residents of Bucks and Montgomery Counties, Pa., urging the passage of legislation increasing the pensions of Civil War veterans and widows of veterans; to the Committee on Invalid Pensions.

7257. By Mr. WOOD: Petition signed by residents of Hammond, Ind., asking that the Civil War pension bill become a law at this session of Congress; to the Committee on Invalid Pensions.

7258. By Mr. WURZBACH: Petition of Roxie Searcy, A. D. Peters, and other citizens of San Antonio, Tex., requesting the passage of bills favoring increased pensions for Civil War veterans and widows of veterans; to the Committee on Invalid Pensions.

SENATE

TUESDAY, *February 22, 1927*

The Senate met at 11 o'clock a. m.

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

Our gracious heavenly Father, Thou hast been very loving and tender in Thy relations with Thy people. Thou hast ministered to them in days of weakness and of anxiety and when great crises confronted them.

We bless Thee for the history of our Nation, and we thank Thee for him who has been so honored through the years, loved for his integrity and devotion to truth and duty. We do ask our Father that this day may have for us singular associations of increased confidence in Thee and in the work before us.

Hear us, we beseech Thee. Give to our Nation and all who have to do with its government the light of Thy presence and the wisdom which only comes from Thee. Hear us and be constantly our guide. We ask in His name whose name is above every name, Christ our Lord. Amen.

The Chief Clerk proceeded to read the Journal of the proceedings of the legislative day of Thursday, February 17, 1927, when, on request of Mr. CURTIS and by unanimous consent, the further reading was dispensed with and the Journal was approved.

ROLL CALL

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

Mr. McMASTER. I wish to announce the necessary absence of the senior Senator from South Dakota [Mr. NORBECK] on account of injuries received in an automobile accident.

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

Pursuant to the order of January 24, 1901, the Senator from Georgia [Mr. GEORGE], designated by the Chair, will read Washington's Farewell Address.

READING OF WASHINGTON'S FAREWELL ADDRESS

Mr. GEORGE read the address, as follows:

To the people of the United States:

Friends and fellow citizens, the period for a new election of a citizen to administer the Executive Government of the United States being not far distant, and the time actually arrived when your thoughts must be employed in designating the person who is to be clothed with that important trust, it appears to me proper, especially as it may conduce to a more distinct expression of the public voice, that I should now apprise you of the resolution I have formed, to decline being considered among the number of those, out of whom a choice is to be made.

I beg you, at the same time, to do me the justice to be assured, that this resolution has not been taken, without a strict regard to all the considerations appertaining to the relation which binds a dutiful citizen to his country; and that, in withdrawing the tender of service which silence in my situation might imply, I am influenced by no diminution of zeal for your future interest; no deficiency of grateful respect for your past kindness; but am supported by a full conviction that the step is compatible with both.

The acceptance of, and continuance hitherto in the office to which your suffrages have twice called me, have been a uniform sacrifice of inclination to the opinion of duty, and to a deference for what appeared to be your desire. I constantly hoped that it would have been much earlier in my power, consistently with motives which I was not at liberty to disregard, to return to that retirement from which I had been reluctantly drawn. The strength of my inclination to do this, previous to the last election, had even led to the preparation of an address to declare it to you; but mature reflection on the then perplexed and critical posture of our affairs with foreign nations, and the unanimous advice of persons entitled to my confidence, impelled me to abandon the idea.

I rejoice that the state of your concerns external as well as internal, no longer renders the pursuit of inclination incompatible with the sentiment of duty or propriety; and am persuaded, whatever partiality may be retained for my services, that in the present circumstances of our country, you will not disapprove my determination to retire.

The impressions with which I first undertook the arduous trust were explained on the proper occasion. In the discharge of this trust, I will only say that I have, with good intentions, contributed toward the organization and administration of the Government, the best exertions of which a very fallible judgment was capable. Not unconscious in the outset of the inferiority of my qualifications, experiences, in my own eyes, perhaps still more in the eyes of others, has strengthened the motives to diffidence of myself; and, every day, the increasing weight of years admonishes me more and more, that the shade of retirement is as necessary to me as it will be welcome. Satisfied that if any circumstances have given peculiar value to my services they were temporary, I have the consolation to believe that, while choice and prudence invite me to quit the political scene, patriotism does not forbid it.

In looking forward to the moment which is to terminate the career of my political life, my feelings do not permit me to suspend the deep acknowledgment of that debt of gratitude which I owe to my beloved country, for the many honors it has conferred upon me; still more for the steadfast confidence with which it has supported me; and for the opportunities I have thence enjoyed of manifesting my inviolable attachment, by services faithful and persevering, though in usefulness unequal to my zeal. If benefits have resulted to our country from these services, let it always be remembered to your praise, and as an instructive example in our annals, that under circumstances in which the passions, agitated in every direction, were liable to mislead amidst appearances sometimes dubious, vicissitudes