Since the dawn of light, man has vainly sought to peer through the mystery that we call death. In vain have we listened for some message from the misty beyond. In vain has man tried to bribe the inexorable Charon to ferry a soul back to this side of the river. Occasions such as this are the outgrowth of that human longing not only for fellowship in life but comfort in death; when we are brought face to face with the grim tyrant that "Rides the pale horse" we grasp for the hand of our friend and colleague. We are all taught that death is nothing more than a rebirth upon some Elysian shore. When we turn with reverent pause and tearful eye on the memories of the past, while we realize that the places that knew our friend and colleague will know him no more, and while those living friendships that cheered and warmed the cockles of our hearts are now but recollections pure and sweet, we also realize "That never morning wears to evening but some hearts do break," for man is born to die.

With sympathy for the friends and relatives of our departed colleague, we turn again to cheering the living, to pointing out for emulation the shining marks whom death has claimed, and to stretching forth the helping hand to aid the struggling friend, hoping ever that our lives may prove a beacon light whose rays falling athwart life's channel may guide the bark of God's children clear and safe of the reefs and shoals of adversity and malice direct into that harbor whose placid waters shall form a haven safe from all hostile winds. And so we resume our everyday tasks, glad in the promise of that eternal springtime when God shall wipe away all tears from our eyes and death shall be no more.

It seemeth such a little way to me
Across to that strange country, the beyond,
And yet not strange for it has grown to be
The home of those of whom I am so fond.
It seems to grow familiar and most clear
As journeying friends bring distant regions near.

So close it lies that when my sight is clear
I think I can almost see the gleaming strand.
I know I feel those who have gone from here
Come close enough sometimes to touch my hand.
I often think but for our veiled eyes
We should find Heaven right round about us lies.

I can not make it seem a day to dread
When from this dear earth I shall journey out,
To that still dearer country of the dead
And meet the friends so long dreamed about.
I love this earth yet shall I love to go
And meet the friends that wait for me, I know.

I never stand before a bier and see
The seal of death set on some well-loved face
But that I think of one more to welcome me
When I shall cross the intervening space,
Between this land and that one over there.

And so for me there is no sting to death,
And so the grave has lost its victory,
It is but crossing, with abated breath
And white set face, a little strip of sea
To meet the loved ones waiting on the shore
More beautiful, more precious than before.

The SPEAKER pro tempore. The gentleman from Ohio [Mr. McSWEENEY] will please take the chair.

Mr. McSWEENEY assumed the chair as Speaker pro tempore.

Mr. COOPER of Ohio. Mr. Speaker, we have met this afternoon to honor and pay tribute to one of our Members who has passed away from the trials and cares of earthly life.

In paying tribute to the life and memory of Congressman STEPHENS, I count it an honor to offer a few words at this time.

It was my good fortune to have had a close personal acquaintance with him during his eight years of service in this House.

He was a man of deep convictions, intensely devoted to his congressional work, and never permitted selfish or political issues to set aside his convictions on important public questions.

I believe it can truthfully be said of him that during his service in Congress he tried at all times to represent the people of his district, State, and Nation regardless of political views or station in life.

One of the pleasant recollections I shall take with me when I retire from Congress will be the great privilege I have had in the personal acquaintance with such men as "BUZZ" STEPHENS.

But there comes a time in all of our lives when we must part with loved ones who have been near and dear to us.

The Divine Maker in His wisdom saw fit to sound taps and call to the colors above this soldier and statesman.

He has passed away from the busy life of turmoil and strife to rest in peace.

No word of mine can bring him back again, nor can I bring much comfort to the sorrowing loved ones left behind, only to say that we do have the promise of Him, the Supreme Ruler of all, that some day we will be united once again with those who were ever near and dear to us in earthly life.

Through the death of our colleague and friend a good and upright man has passed away. Peace be to his soul.

Mr. COOPER of Ohio resumed the chair as Speaker pro tempore.

Mr. MOORE of Ohio. Mr. Speaker, I ask unanimous consent that all Members may have leave to revise and extend their remarks on the life and character of the late Representative A. E. B. STEPHENS.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

ADJOURNMENT

The SPEAKER pro tempore. In accordance with the resolution previously adopted, and as a particular mark of respect to the memory of the deceased, the House stands adjourned until 12 o'clock to-morrow.

Accordingly (at 3 o'clock and 38 minutes p. m.) the House adjourned until to-morrow, Monday, March 12, 1928, at 12 o'clock noon.

SENATE

MONDAY, *March 12, 1928*

(Legislative day of Tuesday, March 6, 1928)

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

The VICE PRESIDENT. The Senate will receive a message from the President of the United States.

PRESIDENTIAL APPROVALS

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

On March 8, 1928:

S. J. Res. 66. Joint resolution authorizing an additional appropriation to be used for the memorial building provided for by a joint resolution entitled "Joint resolution in relation to a monument to commemorate the services and sacrifices of the women of the United States of America, its insular possessions, and the District of Columbia in the World War," approved June 7, 1924.

On March 9, 1928:

S. 1455. An act to grant extensions of time under coal permits;

On March 10, 1928:

S. 771. An act providing for the gift of the United States ship *Dispatch* to the State of Florida;

S. 2483. An act to revive and reenact the act entitled "An act granting the consent of Congress to the State of Illinois and the State of Iowa, or either of them, to construct a bridge across the Mississippi River, connecting the county of Carroll, Ill., and the county of Jackson, Iowa," approved May 26, 1924;

S. 2545. An act to authorize the sale of certain lands near Garden City, Kans.;

S. 2698. An act granting the consent of Congress to the State of Vermont to construct, maintain, and operate a free highway bridge across an arm of Lake Memphremagog at or near Newport, Vt.; and

S. 2801. An act granting the consent of Congress to the New Martinsville & Ohio River Bridge Co. (Inc.), to construct, maintain, and operate a bridge across the Ohio River, at or near New Martinsville, W. Va.

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 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. 10286) making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1929, and for other purposes; that the House

had receded from its disagreement to the amendments of the Senate numbered 25, 26, 42, and 45 to the said bill and concurred therein; and that the House had receded from its disagreement to the amendment of the Senate numbered 39 and agreed to the same with an amendment, in which it requested the concurrence of the Senate.

The message also announced that the House had agreed to the amendments of the Senate to the bill (H. R. 6073) granting a permit to construct a bridge over the Ohio River at Ravenswood, W. Va.

The message further announced that the House had agreed to the amendment of the Senate to each of the following bills:

A bill (H. R. 66) authorizing B. L. Hendrix, G. C. Trammel, and C. S. Miller, their heirs, legal representatives, and assigns, to construct, maintain, and operate a bridge across the Ohio River at or near Mound City, Ill.;

A bill (H. R. 7183) authorizing C. J. Abbott, his heirs, legal representatives, and assigns, to construct, maintain, and operate a bridge across the Ohio River at or near Golconda, Ill.; and

A bill (H. R. 7921) authorizing A. Robbins, of Hickman, Ky., his heirs, legal representatives, and assigns, to construct, maintain, and operate a bridge across the Mississippi River at or near Hickman, Fulton County, Ky.

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	Edwards	La Follette	Shipstead
Barkley	Fess	McKellar	Shortridge
Bayard	Fletcher	McMaster	Simmons
Bingham	Frazier	McNary	Smith
Black	George	Mayfield	Smoot
Blease	Glass	Metcalf	Steiwer
Borah	Gooding	Neely	Stephens
Bratton	Gould	Norbeck	Swanson
Brookhart	Greene	Norris	Thomas
Broussard	Hale	Nye	Tydings
Bruce	Harris	Oddie	Tyson
Capper	Harrison	Overman	Wagner
Caraway	Hawes	Phipps	Walsh, Mass.
Copeland	Hayden	Pittman	Walsh, Mont.
Couzens	Heflin	Ransdell	Warren
Curtis	Howell	Reed, Pa.	Waterman
Cutting	Johnson	Robinson, Ark.	Watson
Deneen	Jones	Sackett	Wheeler
Dill	Kendrick	Schall	Willis
Edge	King	Sheppard	

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

APPROPRIATIONS FOR THE WAR DEPARTMENT

The VICE PRESIDENT laid before the Senate the action of the House of Representatives receding from its disagreement to the amendments of the Senate numbered 25, 26, 42, and 45 to the bill (H. R. 10286) making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1929, and for other purposes, and receding from its disagreement to the amendment of the Senate numbered 39 to the bill, and agreeing to the same with an amendment as follows:

At the end of the matter inserted by said amendment insert the following: "; which funds are in full for the conduct, operation, and maintenance of the national matches and the competitions and Small Arms Firing School held in conjunction therewith, except as may be specifically provided for in other appropriations: *Provided*, That members of authorized civilian teams traveling by train or automobile may be paid travel allowance at the rate of 5 cents per mile, which shall include subsistence while traveling, for the distance by the shortest usually traveled route from the places from which they are authorized to proceed to the national matches and for the return travel thereto: *Provided further*, That the payment of travel pay for the return journey may be made in advance of the actual performance of the return travel."

Mr. REED of Pennsylvania. I move that the Senate agree to the amendment of the House to the amendment of the Senate numbered 39.

The motion was agreed to.

PETITIONS

Mr. FLETCHER. I present two petitions of citizens of the State of Florida and ask that the wording of the petitions be printed in the RECORD without the names, and that they be appropriately referred.

There being no objection, the petitions were referred to committees as indicated below and ordered to be printed in the RECORD without the names attached, as follows:

UNITED STATES ENGINEER OFFICE,
Jacksonville, Fla., February 24, 1928.

Hon. DUNCAN U. FLETCHER,
United States Senate, Washington, D. C.

SIR: We, the undersigned Federal employees at Jacksonville, Fla., respectfully request that you support H. R. 6518, the Welch salary increase bill, and H. R. 492, the Lehlbach bill, a bill to abolish the Personnel Classification Board.

The reason for this request is that the salaries of Federal employees have not kept pace with the increased cost of living, and it is impossible for the average Federal employee to support a family in comfort.

Respectfully,

_____ _____
_____ _____
_____ _____

Referred to the Committee on Civil Service.

TAMPA, FLA.

To the Senate and House of Representatives of the United States:

We believe in immigration restriction as necessary to maintain the unity and safety of our country, and that in order to maintain restriction immigration quotas should be on a fair and impartial basis, discriminating for and against nobody. Accordingly we favor the maintenance of the national-origins system, basing quotas on the entire population—native and foreign born alike—and we strongly oppose quotas based on the number of foreign born in this country at any given time, because that system excludes all native-born Americans in determining the quotas and is so grossly discriminatory that if continued it will throw all immigration restriction into disrepute. We oppose, also, attempts by alien blocs to mangle or repeal the native-origins provision in order to obtain unfair quotas for their native countries.

Respectfully submitted.

_____ _____
_____ _____
_____ _____

Referred to the Committee on Immigration.

Mr. COPELAND presented a resolution of Harold Wilmot Post, No. 137, the American Legion, of Gloversville, N. Y., favoring adoption of the proposed naval building program, which was referred to the Committee on Naval Affairs.

Mr. NEELY presented petitions of sundry citizens of Huntington and Tyler County, in the State of West Virginia, praying for the passage of legislation granting increased pensions to Civil War veterans and their widows, which were referred to the Committee on Pensions.

Mr. BARKLEY presented petitions of sundry citizens of Morganfield, Earlington, and Christian County, Ky., praying for the passage of legislation granting increased pensions to Civil War veterans and their widows, which were referred to the Committee on Pensions.

REPORTS OF COMMITTEES

Mr. NYE, from the Committee on Public Lands and Surveys, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

A bill (H. R. 8311) to provide for the naming of a mountain or peak within the boundaries of the Lassen Volcanic National Park, Calif., in honor of Hon. John E. Raker, deceased (Rept. No. 525); and

A bill (H. R. 9031) to provide further for the disposal of abandoned military reservations in the Territory of Alaska, including Signal Corps stations and rights of way (Rept. No. 526).

Mr. FRAZIER, from the Committee on Indian Affairs, to which was referred the bill (S. 3128) to amend section 3 of the act approved April 12, 1926 (44 Stat. L. 239-240), with reference to suits involving Indian land titles among the Five Civilized Tribes, reported it without amendment and submitted a report (No. 527) thereon.

He also, from the same committee, to which was referred the bill (H. R. 8831) to provide for the collection of fees from royalties on production of minerals from leased Indian lands, reported it with an amendment and submitted a report (No. 528) thereon.

Mr. HOWELL, from the Committee on Claims, to which was referred the bill (H. R. 4203) for the relief of A. S. Guffey, reported it without amendment and submitted a report (No. 529) thereon.

Mr. WATERMAN, from the Committee on Claims, to which were referred the following bills, reported them each with an amendment and submitted reports thereon:

A bill (S. 1428) for the relief of R. Bluestein (Rept. No. 530); and

A bill (S. 1899) for the relief of Clifford D. Ham, collector general of customs, administrator of Corinto Wharf, Republic of Nicaragua (Rept. No. 531).

Mr. WATERMAN also, from the Committee on Claims, to which was referred the bill (S. 2706) for the relief of Arthur C. Lueder, reported it with amendments and submitted a report (No. 532) thereon.

Mr. BLACK, from the Committee on Claims, to which was referred the bill (S. 1368) to extend the benefits of the employees' compensation act of September 7, 1916, to Martha A. Hauch, reported it without amendment and submitted a report (No. 533) thereon.

Mr. STEPHENS, from the Committee on Claims, to which was referred the bill (S. 1500) for the relief of James J. Welsh, Edward C. F. Webb, Francis A. Meyer, Mary S. Bennett, William McMullin, jr., Margaret McMullin, R. B. Carpenter, McCoy Yearsley, Edward Yearsley, George H. Bennett, jr., Stewart L. Beck, William P. McConnell, Elizabeth J. Morrow, William B. Jester, Josephine A. Haggan, James H. S. Gam, Herbert Nicoll, Shallcross Bros., E. C. Buckson, Wilbert Rawley, R. Rickards, jr., Dredging Co., reported it without amendment and submitted a report (No. 534) thereon.

BILLS AND JOINT RESOLUTIONS INTRODUCED

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

By Mr. HALE:

A bill (S. 3599) granting a pension to Julia E. Randall (with accompanying papers); to the Committee on Pensions.

By Mr. WALSH of Massachusetts:

A bill (S. 3600) granting an increase of pension to Mary E. Barnes; to the Committee on Pensions.

By Mr. SACKETT (for Mr. GOFF):

A bill (S. 3601) granting an increase of pension to Hulda V. Anderson (with accompanying papers); to the Committee on Pensions.

By Mr. CARAWAY:

A bill (S. 3602) to quiet title and possession with respect to certain lands in Faulkner County, Ark.; to the Committee on Public Lands and Surveys.

By Mr. McNARY:

A bill (S. 3603) for the relief of Clara Brunelle; to the Committee on Finance.

By Mr. WATSON:

A bill (S. 3604) granting a pension to Hannah A. Polen; and

A bill (S. 3605) granting an increase of pension to Jennie Corbly; to the Committee on Pensions.

By Mr. WATSON (for Mr. ROBINSON of Indiana):

A bill (S. 3606) granting an increase of pension to Eliza Kellams;

A bill (S. 3607) granting an increase of pension to Mary W. McClung; and

A bill (S. 3608) granting an increase of pension to Louisa E. Howard (with accompanying papers); to the Committee on Pensions.

By Mr. THOMAS:

A bill (S. 3609) granting an increase of pension to Charlotte Ingersoll Tucker; to the Committee on Pensions.

By Mr. WHEELER:

A bill (S. 3610) to create a Federal Child Relief Board, and for other purposes; to the Committee on Education and Labor.

By Mr. SHIPSTEAD:

A bill (S. 3611) authorizing the board of county commissioners of Itasca County, Minn., to construct, maintain, and operate a free highway bridge across the Mississippi River at or near the north line of section 35, township 144 north, range 25 west; to the Committee on Commerce.

A bill (S. 3612) granting a pension to Guy H. Noe; to the Committee on Pensions.

By Mr. PHIPPS:

A bill (S. 3613) granting an increase of pension to Lucie Irvin (with accompanying papers); to the Committee on Pensions.

By Mr. SACKETT:

A bill (S. 3614) granting an increase of pension to Elizabeth Hatfield (with accompanying papers); to the Committee on Pensions.

A bill (S. 3615) for the relief of Capt. George R. Armstrong, United States Army, retired (with accompanying papers); to the Committee on Military Affairs.

By Mr. McNARY:

A joint resolution (S. J. Res. 111) authorizing the acceptance of title to certain lands in the counties of Benton and Walla Walla, Wash., adjacent to the Columbia River bird refuge in said State, established in accordance with the authority contained in Executive Order No. 4501, dated August 28, 1926; to the Committee on Agriculture and Forestry.

By Mr. JONES:

A joint resolution (S. J. Res. 112) authorizing the Secretary of War to lend tents and camp equipment for the use of the housing committee for the convention of the American Legion for the Department of Washington, to be held at Centralia, Wash., in the month of August, 1928; to the Committee on Military Affairs.

AMENDMENTS TO FLOOD CONTROL BILL

Mr. RANSDELL submitted amendments intended to be proposed by him to Senate bill 3434, the flood control bill, which were severally ordered to lie on the table and to be printed, and, on request of Mr. RANSDELL, to be printed in the RECORD, as follows:

On page 1, line 4, after the word "valley," insert the following: "including all parts of the main river and its tributaries now under the jurisdiction of the Mississippi River Commission."

On page 2, line 21, after the word "Congress," insert the following: "*Provided further,* That surveys shall be made between Point Breeze, La., and Cape Girardeau, Mo., to ascertain the best method of securing flood relief in addition to levees, and recommendations thereon shall be submitted by the board to Congress before any flood-control works other than levees and revetments are undertaken on that portion of the river: *Provided further,* That all spillways constructed under the provisions of this act shall be regulated and controlled and the lands adjacent to the flood ways shall be as fully protected as those on the main river."

On page 5, line 21, after the word "interests," insert the following: "Just compensation shall be paid by the United States for all property used, taken, damaged, or destroyed, including all property located within the area of the spillways, flood ways, or diversion channels herein provided, and the rights of way thereover, and the flowage rights thereon: *Provided, however,* That this shall not apply to rights of way required to be furnished by the local communities under the provisions of section 3 hereof."

AMENDMENTS TO AGRICULTURAL APPROPRIATION BILL

Mr. FLETCHER submitted amendments intended to be proposed by him to House bill 11577, the Agricultural Department appropriation bill, which were severally referred to the Committee on Appropriations and ordered to be printed, as follows:

On page 27, line 20, strike out "$40,000" and insert in lieu thereof "$50,000";

On page 32, line 3, strike out "$47,780" and insert in lieu thereof "$55,000"; and

On page 46, line 18, strike out "$15,000" and insert in lieu thereof "$30,000."

SOIL SURVEY OF HILLSBOROUGH COUNTY, FLA.

Mr. FLETCHER (for Mr. TRAMMELL) submitted the following resolution (S. Res. 166), which was referred to the Committee on Printing:

Resolved, That there be printed 2,000 copies of the Soil Survey of Hillsborough County, Fla., for the use of the Document Room of the United States Senate, after such revision as may be deemed necessary by the Bureau of Soils of the Department of Agriculture.

CONTRIBUTIONS TO REPUBLICAN CAMPAIGN FUNDS

Mr. ROBINSON of Arkansas. Mr. President, I do not wish to delay the disposition of the pending resolution, but I am prompted by press reports of a letter addressed by the Senator from Idaho [Mr. BORAH] to former Senator Butler, of Massachusetts, present chairman of the Republican National Committee, and the testimony lately presented before the Committee on Public Lands and Surveys of the Senate, to submit some observations respecting the present aspect of the investigation of the leasing of naval oil reserves.

Recent testimony in a branch of the inquiry pertaining to that subject discloses peculiarly disgusting corruption. The Senator from Montana [Mr. WALSH] and his associates long ago revealed the infamous betrayal of their public trust by two former Cabinet members, Secretary Fall and Attorney General Daugherty, and the incompetency and assinine stupidity of former Secretary of the Navy Denby. That committee also disclosed the determination of two prominent captains of American industry, Mr. Blackmer and Mr. O'Neil, of the Midwest Refining Co. and former chairman of the board of the Standard Oil Co. of Indiana, respectively, to expatriate themselves in order to conceal the details of a deal which has many of the aspects of common larceny.

Quite recently a towering figure in American finance and industry, Mr. Stewart, chairman of the board of the Standard Oil Co. of Indiana, by refusing to answer questions propounded by the committee, to which it appears common honesty would have prompted him to respond, defied the authority of the

Senate and challenged the power of the courts of the United States.

Mr. Stewart was unanimously reelected chairman of his board, and some time ago, about the 6th of December, Mr. Sinclair was given a vote of confidence by representatives of the oil industry.

The latest chapter in the story, so humiliating to the country, is that Mr. Sinclair's efforts to corrupt were not confined to Cabinet officers and captains of industry, but extended also to the national political organization of the Republican Party, whose administration first permitted, then apparently aided, and at last concealed infamous plunder of the public and the shameful prostitution of its agents and servants.

Mr. Will H. Hays, chairman of the Republican National Committee in 1920, and in that capacity responsible for a large deficit in the party funds, resulting from an orgy of spending scarcely exampled in the history of partisan politics, received $160,000 as a contribution from Mr. Sinclair. Mr. Hays secretly received $85,000 in Liberty bonds from that chief beneficiary of the fraudulent transactions by which the naval oil reserves were bartered away, and proceeded by methods common to crooks with efforts to exchange the bonds with prominent Republicans for cash.

Such records as were kept warrant the conviction that the whole transaction was corrupt. The testimony of Mr. Hays before the committee in 1924 compels the conclusion that he deliberately concealed the use by him, as political chairman, of the bonds obtained from Mr. Sinclair, and in that sense subjected himself to a possible charge of perjury.

Quite lately, before the committee, when at last the slimy transaction was further in part divulged, Mr. Hays is quoted as saying:

> I did not volunteer about the Government bonds. I was not asked about that.

Every witness when sworn declares that he will "tell the truth, the whole truth, and nothing but the truth." True nobody asked him then direct questions as to whether Liberty bonds were received from Mr. Sinclair in 1924 to help pay the deficit or at other times, but in that year, when testifying, it appears that he was asked whether Mr. Sinclair had contributed more than $75,000 to the Republican committee deficit of 1920, and he answered "no." His testimony now discloses $85,000 in Government bonds, in addition to the $75,000, as a contribution, making a total of $160,000.

The sum of $50,000 in bonds received from Mr. Sinclair was sent by Mr. Hays to Mr. Mellon, who, it appears from his statement, was asked for a contribution. The method pursued by Mr. Hays aroused suspicion on the part of the Secretary of the Treasury. Mr. Mellon stated in his letter to the Senator from Montana [Mr. WALSH]:

> Subsequently Mr. Hays telephoned me one day that he was sending me by special messenger a package containing valuable documents, and that he would see me shortly and would explain the transaction. The package contained, as nearly as I can remember, $50,000 in Liberty bonds.

What was the purpose of thus attempting to dispose of the bonds? They were first-class securities, readily marketable, and could easily have been disposed of for cash on the market. When Mr. Hays called on Mr. Mellon and explained the transaction the latter returned the bonds to Mr. Hays and made a cash contribution of $50,000, the equivalent or nearly that of the value of the bonds.

When before the committee recently the former chairman of the Republican National Committee testified that $60,000 of the bonds were sent to Mr. Upham, $75,000 to Senator DU PONT, and $25,000 to the late John W. Weeks, Secretary of War in President Harding's Cabinet. Why did Mr. Hays then make no mention of having sent bonds to either Mr. Mellon or to Mr. Butler? Who is the "Butler" referred to in the memorandum in the testimony of Mr. Hommel, on which appear the names of Weeks, "Andy," "Butler," and du Pont? When will Mr. Hays divulge the whole story? Will he contradict or corroborate the testimony of Secretary Mellon? How can he restore himself in the public confidence and respect or relieve his party from the odium of having sold itself to the willful despoilers of the Nation?

The letter published in to-day's newspapers addressed by the Senator from Idaho [Mr. BORAH] to former Senator Butler, of Massachusetts, the present chairman of the Republican National Committee, suggesting that the whole transaction was tainted with corruption, and also suggesting that the contribution of Mr. Sinclair be returned to him, if complied with, might be helpful to the party politically, but it could not repair the wrong done to the public in accepting funds from such a source and under such conditions.

It might also be mentioned in this connection that if the organization of the Republican Party is to reform by returning campaign contributions, admittedly corrupt, it may not find itself restricted to restoring to Mr. Sinclair what it took from him as the price of treachery to the Nation; it may have to restore other contributions.

An election carried by such influences may well be expected to reflect such administrative policies as actually prevailed following that election, policies that have been only partially and very reluctantly reformed.

Mr. ROBINSON of Arkansas subsequently said: Mr. President, in connection with the remarks I just made I ask leave to have printed in the RECORD, as a part of my remarks, two newspaper reports, one respecting the letter to which I referred, addressed by the Senator from Idaho [Mr. BORAH] to Chairman Butler, and the other having reference to the letter addressed by Secretary Mellon to the Senator from Montana [Mr. WALSH].

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

[From the Washington Post of Monday, March 12, 1928]

HAYS IS SUMMONED ON SINCLAIR BONDS; BUTLER TO APPEAR—CHAIRMAN WIRES WALSH HE RECEIVED NO OIL CONTRIBUTIONS—MELLON MAY TESTIFY BEFORE COMMITTEE—BORAH WANTS FUNDS RETURNED TO ERASE "HUMILIATING STIGMA" ON PARTY

Leaders in two Republican presidential campaigns will appear to-morrow before the Senate Teapot Dome committee to tell what they know about the disposition of Liberty bonds obtained from Harry F. Sinclair in 1923 for political purposes.

Will H. Hays, Postmaster General in the Harding Cabinet, will be recalled to explain omissions in his previous testimony regarding disposition of the $260,000 in bonds which Sinclair gave him.

William M. Butler, chairman of the Republican National Committee, who directed the Coolidge campaign in 1924, will be asked to repeat under oath a telegram sent last night to Senator WALSH, committee prosecutor, in which he declared he had never received any bonds "or any contributions" from Hays or Sinclair.

MELLON MAY APPEAR

In addition there is a possibility that Secretary Mellon may be called also to give under oath the statement made in his letter to Senator WALSH last night that although Hays had attempted to pass $50,000 of the Sinclair bonds along to him, he (Mellon) had declined to receive them.

While these developments were taking place, Senator BORAH, of Idaho, made public a letter to Chairman Butler, urging him to return all money received by the Republican Party from Sinclair, declaring that as the record now stands "the whole transaction had in view an ulterior and sinister purpose." The Senator said he had received a reply to the letter, which was written on March 5, but that the reply was unsatisfactory. Thereupon, he added, he wrote Butler again, but so far has received no answer.

Efforts of the committee to-morrow will be turned to finding out what became of the $260,000 which Sinclair gave Hays in the form of Liberty bonds of the Continental Trading Co.

One of the points which the committee will seek to clear up is whether Hays ever offered any bonds to Chairman Butler. The chairman in his telegram to Senator WALSH merely stated that he had received none.

RECEIVED NONE, BUTLER WIRES

"I never received any bonds or any contributions from Will H. Hays or Mr. Sinclair," his telegram said, "and I have no records of memorandum under my control relating thereto, or concerning contributions to the Republican National Committee during 1922 and 1923. I have never met Mr. Sinclair and do not know him."

He added that he would appear before the committee to-morrow.

Hays, who has testified that he personally solicited from Sinclair the funds Borah would have the party return, made no reference in his two previous appearances to either Mellon or Butler in connection with the handling of the bonds. The trail to the Treasury was picked up only yesterday from a somewhat mysterious memorandum in the handwriting of a man now dead—John T. Pratt, of New York City—who made heavy contributions to the Republican campaign funds during his lifetime.

FIVE NAMES ON MEMORANDUM

At the bottom of this memorandum which had to do with a Continental Trading Co. bond transaction and a donation to the Republican political chest, appeared the names of Fred W. Upham, Weeks, Andy, Butler, and DU PONT. The "Andy" was taken by the committee to refer to Secretary Mellon, and the record immediately was sent to him. He then wrote to Senator Walsh as to the transaction.

The Senate investigation assumed that the word "Butler" referred to William M. Butler, and a telegram was sent to him asking him to

appear at the hearing to-morrow. There is no evidence that the former Massachusetts Senator did receive any of the Sinclair bonds, but it is now definite that all of the others whose names Pratt wrote on the memorandum did have some knowledge of them.

When he was recalled to the stand 10 days ago, Hays revealed for the first time that besides the $75,000 Liberty bond donations from Sinclair that he testified about in 1924, the lessee of Teapot Dome gave him an additional $185,000 in the shape of a loan to be used in securing any remaining deficit and enabling the national committee to announce when it met in December, 1923, to select the 1924 convention city that the deficit had been taken care of.

HAYS'S STATEMENT TO THE COMMITTEE

In a carefully prepared statement, which he read to the committee, the man who directed the Harding campaign in 1920 said he had sent $60,000 of the bonds to the late Fred W. Upham, then treasurer of the Republican committee; $25,000 to the late John W. Weeks, War Secretary in the Harding Cabinet; and $50,000 to John T. Pratt. He said he returned the remaining $50,000 to Sinclair as it was found they were not needed. The Senate investigators assume this is the $50,000 that Mellon refused to handle after Hays had explained the party financing plan to him.

This division accounted for the whole $185,000, of which $100,000 finally was returned to Sinclair, but not in the form of the same bonds which he delivered to Hays in New York City only a short time after the Continental Trading Co. had wound up its affairs and taken a profit of $3,080,000 in the oil deal with the late A. E. Humphreys, of Denver, and the Sinclair Crude Oil Purchasing Co. and the Prairie Oil & Gas Co.

In its examination Saturday of the records and memoranda taken from the personal files of Pratt, the Senate committee found direct trace of only $25,000 of the Sinclair bonds. These were cashed for Pratt by an agent of Charles Pratt & Co. and the money deposited in a special fund Pratt had set up in the United States Mortgage & Trust Co. and against which a check for $50,000 was drawn in favor of Upham.

HAYS'S ERROR SURMISED

Members of the committee suggested to-day that perhaps Hays was in error in his recollection that he sent $50,000 of the bonds to Pratt; that perhaps only $25,000 of them went to him and the other $25,000 were sent to some one else.

In his letter to Chairman Butler, Senator BORAH said:

"MY DEAR MR. CHAIRMAN: The investigation of the oil scandal has now disclosed beyond peradventure that the Republican Party received large sums of money, or securities, from Mr. Sinclair, which the Republican Party can not in honor or decency keep. As the evidence now stands this money was not given as an ordinary campaign contribution. The whole transaction, even the payment to the representative of the party, had in view an ulterior and sinister purpose.

DEMANDS REPUDIATION BY PARTY

"No political party is responsible as a party for the wrongful transactions of individual members who in secret betray it, but when the transaction becomes known to the party it must necessarily become responsible if it fails to repudiate the transaction and return the fruits thereof.

"I feel that this money should be returned to the source from which it came. We can not in self-respect or in justice to the voters in the party keep it. To do so is to say that political parties are above the law and exempt from the ordinary precepts of morality. I venture the opinion that there are plenty of Republicans who will be glad to contribute from $1 up to any reasonable sum to clear their party of this humiliating stigma, and that all you will have to do is to indicate that course.

"I am perfectly sure your conception of clean politics will view this matter in the light I have suggested.

"Very respectfully,

"WM. E. BORAH."

[From the Washington Post of Sunday, March 11, 1928]

SECRETARY MELLON REFUSED SINCLAIR BONDS FOR $50,000—TREASURY HEAD SAYS HE RETURNED SECURITIES OFFERED BY HAYS—LATER CONTRIBUTED $50,000 TO PARTY—DOME COMMITTEE WIRES BUTLER TO TAKE STAND; FILM CZAR WILL BE RECALLED

Secretary Mellon informed the Senate Teapot Dome committee last night that he received $50,000 of the $260,000 of Liberty bonds which Harry F. Sinclair advanced to cover part of the deficit of the Republican National Committee in 1923; but that he had refused to retain the bonds in exchange for a like contribution.

The Treasury Secretary disclosed that the bonds had been sent to him by Will H. Hays, former chairman of the Republican National Committee, and that when Hays subsequently called upon him to explain the purpose he had declined to keep them as suggested. He added that he had returned the bonds to Hays and shortly thereafter made a contribution in the same amount from his own funds.

$50,000 HIS ONLY GIFT

Mellon wrote that this was the sum that he had intended to give when he was first asked to contribute to the fund being raised to clean up the Republican deficit. He also informed the Senate committee that this was the only contribution he had made to the national campaign fund of 1920, exclusive of $2,000 given during the campaign.

The Secretary's letter, addressed to Senator WALSH of Montana, prosecutor of the Senate inquiry into what became of the Continental Trading Co. Liberty bonds profits from the now celebrated Humphreys oil deal, was written after the Senator had forwarded to him the record of hearings held by the committee earlier in the day in which appeared the name "Andy" along with that of "Weeks," "Butler," and "du Pont."

NAMES ON MEMORANDUM

These names were written on a memorandum of the late John T. Pratt, of New York City, showing that he had handled $25,000 of the Liberty bonds and had sent a check for twice that amount to the late Fred W. Upham, then treasurer of the Republican National Committee.

After the committee adjourned Senator WALSH sent to the Treasury Secretary the exhibits produced before the committee relating to the Pratt transactions and including the memorandum bearing the four names.

"I know nothing whatsoever concerning these transactions," Mellon wrote, "nor do I have any knowledge as to the contributions to the Republican National Committee by Mr. Pratt.

RETURNED BONDS TO HAYS

"I desire to take this occasion, however, to state to you all facts relating to my contributions to the Republican National Committee.

"Some time in 1923 I was asked to contribute to the fund then being raised to clean up the deficit of the Republican National Committee. I said I would help, but no amount was specified. Subsequently Mr. Hays telephoned me one day that he was sending me by messenger a package containing valuable documents and that he would see me shortly and explain what was involved. The package contained, as nearly as I can remember, $50,000 in Liberty bonds.

"There had been no previous understanding of any kind as to sending me bonds, and until I saw Mr. Hays later I had no knowledge as to the purpose in sending them to me. Nor did I have any knowledge as to contributions in the form of bonds.

"When Mr. Hays called shortly thereafter he told me he had received these bonds from Mr. Sinclair and suggested that I hold the bonds and contribute an equal amount to the fund. This I declined to do. Accordingly I at once returned the bonds to Mr. Hays.

MADE $50,000 CONTRIBUTION

"At the same time, or shortly thereafter, I made a contribution of $50,000 of my own funds, which was the amount I had intended to contribute, and which, incidentally, is the only contribution made by me to the national campaign fund of 1920, exclusive of $2,000 contributed during the campaign."

When Hays was recalled before the committee last week he testified that $60,000 of the bonds went to Upham, $75,000 to Senator T. COLEMAN DU PONT, of Delaware, and $25,000 to the late John W. Weeks, War Secretary in the Harding Cabinet, but he made no mention of having sent any to either Mellon or to "Butler."

Members of the committee could only speculate as to the identity of "Butler," mentioned in the Pratt memorandum, but they assumed that the reference was to William M. Butler, chairman of the Republican National Committee.

Hays's testimony last week was that Sinclair gave $75,000 to the Republican Committee outright and advanced another $185,000 in Liberty bonds to secure part of the committee deficit. He said that the $75,000 was sent to DU PONT to retire a note in the Empire Trust Co., of New York City.

Detailing then what became of the $185,000 "advance," Hays said $60,000 went to Upham, $25,000 to Weeks, and $50,000 to Pratt, and that he returned the remaining $50,000 to Sinclair. Presumably this was the $50,000 which he sent to Mellon and which the Treasury Secretary said he returned.

Senator WALSH said that Hays would be recalled to explain his failure to tell the committee that he had sent $50,000 of the bonds to Mellon. The prosecutor also announced that he had sent a telegram to William M. Butler inviting him to appear before the committee at the next meeting next Tuesday.

The names "Andy" and "Butler" in the Pratt note appeared between those of the late John W. Weeks, War Secretary in the Harding Cabinet, and Senator T. COLEMAN DU PONT, of Delaware, both of whom now are known to have handled some of the $260,000 of Continental Trading Co. Liberty bonds which Harry F. Sinclair, lessee of Teapot Dome, turned over to Will H. Hays late in 1923 for use in extinguishing or securing the deficit of the Republican Party organization.

MEMO DEALT WITH BONDS

Pratt himself handled $50,000 of these bonds, according to testimony given recently by Will H. Hays, who busied himself in wiping out the deficit, most of which was contracted while he was chairman of the national committee in the 1920 campaign. The memorandum, which apparently was addressed to Pratt's secretary, dealt with a payment of $50,000 which the New York financier made to the late

Fred W. Upham, of Chicago, treasurer of the Republican committee from 1918 to 1924.

There has been no previous suggestion that either Secretary Mellon or former Senator Butler had anything to do with any of the Continental bonds and committeemen realized that the two names on the Pratt memorandum might refer to entirely different persons. Mellon then was Secretary of the Treasury, but Butler had not then been made chairman of the Republican committee.

$50,000 PAYMENT TRACED

The Pratt memorandum was read into the record after Senator WALSH, of Montana, the prosecutor, had developed from other papers from Pratt's files that the $50,000 payment had been made to Upham out of a special fund the financier had set up in the United States Mortgage & Trust Co., $25,000 of which came from the sale of that amount of bonds identified as having been purchased for the account of the Continental Trading Co. out of that concern's profits in the now celebrated Humphreys oil deal.

V. E. Hommel, cashier of the Charles Pratt & Co., in which John T. Pratt held an interest, was on the stand and he and Senators read the finely written script with the aid of a magnifying glass. He said it apparently was addressed to Pratt's secretary. It was on a very small piece of paper across the top of which was written: "25 1,000 3½ 1st Libs."

PAPER LACKED SIGNATURE

Hommel said this referred to twenty-five $1,000 Liberty bonds.

The memorandum began "N. B.," and said:

"Received this Nov. 27, 1923, and had it cleared through C. P. & Co. (Charles Pratt & Co.). It is not on my books. Money was deposited in United States Mortgage & Trust Co. Check sent 9 a. m. Nov. 29."

There was no signature, but immediately under the memorandum was the name "Fred W. Upham." In the lower right-hand corner appeared these names, written one under the other: "Weeks, Andy, Butler, du Pont."

On the left-hand side of the sheet, one under the other appeared the figures $36.50, $2,500, and $50,000.

Hommel was able to make out all of the names readily except the "Andy." He said that might be "Candy" or it might be "Andy." He could not suggest why the names were on the memorandum.

Edmund De T. Bechtel, counsel for the Pratt estate, after examining the memorandum with the glass, said the word looked like "Andy," but that it might also be "Gandy." The latter is a name appearing in the book "Revelry," which purports to describe the oil scandals and other events of the Harding administration.

Bechtel told the committee that a thorough search of the Pratt files had been made, and that no other papers had been found which might shed light on the meaning of the names on the sheet.

Before taking up the Pratt political financial affairs the committee heard from Irl G. Hipsley, of Chicago, former secretary to Upham, that the one-time treasurer of the Republican committee early in 1924 destroyed all of the records of the committee's financial affairs from the year 1918 through the year 1922, except the card indexes, which, he said, showed the contributions.

SEEKS TO TRACE RECORDS

Hipsley was not certain whether the records for 1923 and early 1924, in which year Upham quit as national treasurer, had been turned over to William V. Hodges, who succeeded Upham, or whether they were destroyed after the Upham estate was settled up in 1926. Hodges has testified that they were not turned over to him.

Incidentally, Hipsley testified that Upham was "riding Will H. Hays pretty hard" in 1922 and 1923 to have him assist in clearing up the party deficit, which was placed at $1,800,000 in 1923.

The committee members went over some additional reports from its field investigators, but Senator NYE said there was nothing of a startling nature in them.

MUSCLE SHOALS

The Senate, as in Committee of the Whole, resumed the consideration of the joint resolution (S. J. Res. 46) providing for the completion of Dam No. 2 and the steam plant at nitrate plant No. 2 in the vicinity of Muscle Shoals for the manufacture and distribution of fertilizer, and for other purposes.

The VICE PRESIDENT. The question is on agreeing to the amendment of the Senator from Alabama [Mr. HEFLIN] to the amendment proposed by the Senator from Mississippi [Mr. HARRISON].

Mr. HARRISON. Mr. President, I desire to modify my amendment in section 3, on page 2, line 14, after the word "needed," by inserting "otherwise for the manufacture of commercial fertilizers and."

Mr. SMOOT. How will the amendment read if it shall be thus modified?

Mr. HARRISON. If modified as I have requested, section 3 then will read:

It is hereby declared to be the policy of the Government and the Secretary of War is authorized to dispose of the current generated at Muscle Shoals for public use equitably among the States within transmission distance, except as provided in section 8 herein, and except so much of such current as may be needed otherwise for the manufacture of commercial fertilizers and to light and operate the locks and canals in and about Dam No. 2 and the Government property at and around Muscle Shoals—

And so forth.

The VICE PRESIDENT. The amendment of the Senator from Mississippi will be modified in accordance with his request.

Mr. HARRISON. Mr. President, the Senator from Alabama [Mr. HEFLIN] has offered an amendment to my amendment which I think will not be necessary in view of the modification I have just suggested to my amendment. For that reason I hope the Senator from Alabama will not press his amendment.

Mr. President, I shall occupy the attention of the Senate for only a few moments. I have but 15 minutes to speak on the amendment, and I wish to confine my remarks to what is proposed by the amendment I have offered to the Norris joint resolution. It has nothing in the world to do with the fertilizer features of the joint resolution. Those are in the latter part of the joint resolution of the Senator from Nebraska. I only seek to amend three sections of the joint resolution, namely, those sections that pertain to the distribution of power.

May I say, Mr. President, that while some might try to create the impression that this is a power proposal, there is nothing of that sort in it. I care not whether or not I may be styled as one of the "power adherents"; I try in the discharge of my duties to look at the facts of the case and not to become an extremist one way or the other in the effort to reach a practical solution of the problem presented.

The power that is sought to be distributed by the Norris joint resolution, as well as by the amendment to that resolution which I have proposed, is the surplus power over that which is necessary to make fertilizer either through the synthetic process or the cyanamide process. So I am dealing here only with surplus power at Muscle Shoals.

The question arises in the consideration of the subject, What is the difference between the Norris proposal and the one I have submitted? The Norris proposal seeks to give to the Secretary of War the authority to lease the surplus power. He can, under its provisions, lease such power to municipalities, States, counties, corporations, partnerships, or individuals. My amendment proposes to authorize the Secretary of War to lease it to municipalities or corporations engaged in public-service activities; that is, to such corporations as come under the regulation of the public-service agencies of the States. It will be noted, therefore, that anyone engaged in any kind of business under the Norris proposal would have an opportunity to contract for or lease from the Secretary of War the power at Muscle Shoals, while under mine only municipalities and those corporations engaged in the distribution of power under the regulations of States would have the right to acquire it. There is the main difference between the Norris proposal and the amendment which I have offered.

He goes further, and he says that in the lease of this surplus power municipalities, counties, and States shall receive a preference. I have eliminated the States and counties, because they use no power to amount to anything. Municipalities do. I see no reason why preference should be given to municipalities in the leasing of this surplus power. In my State—and I take it in Alabama, in Tennessee, and in the other States within transmission distance—for the most part they have already, by a vote of the people, gone out of the business of municipally owned power distribution and have leased their power plants to these power companies. In my State not all, but practically all, have done that.

Mr. JONES. Mr. President, will the Senator permit an interruption?

Mr. HARRISON. Yes.

Mr. JONES. Does the Senator think that under the Norris provision a lease could be made to a lessee that would not be subject to the public service commission?

Mr. HARRISON. There is not any doubt about it; and under mine they are subject to regulation by the regulatory agency.

As I was going to say, two power companies entered my State three years ago. All the municipalities then owned their own plants. Within that three years' time these companies have in most instances acquired control, not because they went in and browbeat the municipalities and knocked them in the head and took the plants away from them, but because the taxpayers in those communities voted to sell the plant. The

companies may have paid more money than they should have in some instances, and doubtlessly they did; but that is the fault of the people who voted the proposition through.

Mr. SIMMONS. Mr. President, may I ask the Senator a question?

Mr. HARRISON. Yes.

Mr. SIMMONS. Have the municipal plants in the Senator's State, as a matter of fact, been leased to some local corporations which have transmission lines extending only a limited distance out from the city and are merely local distributors?

Mr. HARRISON. In my State they have not. The fact is that there are two power companies there. One is the Mississippi Light & Power Co. and the other is the Mississippi Power Co. The Mississippi Power Co. is a subsidiary of the Alabama Power Co. They are connected up with the lines of the Alabama Power Co.

Mr. SIMMONS. They are not merely local distributors?

Mr. HARRISON. Oh, no. They are not local at all. They belong to a comprehensive system.

Mr. SIMMONS. I was apprehensive that they were possibly somewhat like some plants in my own State that either buy the municipally owned plant or buy power from the municipally owned plant and distribute it within a radius of 50 or 60 miles.

Mr. HARRISON. No.

Mr. SIMMONS. They are local distributors; and I was apprehensive that the Senator might have a lot of local distributors of that kind in the region where this great power is located, and that there might be but one real large distributing plant there, namely, the Alabama Power Co., and that the result would be that this power would either have to be leased to local distributors or leased to the Alabama Power Co., one of the two.

Mr. HARRISON. Mr. President, in providing for this lease, if the Secretary of War should desire to do it, either to municipalities or to a public service corporation, I have included this additional paragraph in section 3, which denotes the policy of the Government:

> It is hereby further declared to be the policy of the Government that in case of any such sale or lease to a public-service corporation the amounts paid to the Secretary of War by such corporation shall be considered by the public service agencies of the several States in regulating the rates charged by such corporation to the consumers.

Mr. President, I say frankly that since the Government has gone to this enormous expense of building dams and locks and everything at Muscle Shoals, and creating this power, I see no reason why we should give it all to any particular locality. I would not deprive them of all of it. I would allow them, and my amendment does, to obtain their equitable part of the surplus power that is generated at Muscle Shoals. They can get that. They should get no more. Every other municipality and the people within the transmission distance, 300 miles out from Muscle Shoals, would have an opportunity of obtaining their equitable part of this power. There should be no discrimination between municipalities. All should have the same right to obtain power. Under my amendment they have that right.

The Senator from Alabama the other day talked about this being a fight between the farmers and the power companies. It is not that, Mr. President. I have stood here for eight years fighting to obtain the manufacture of fertilizer at Muscle Shoals first; and, secondly, for the equitable distribution of the surplus power at Muscle Shoals. I still adhere to that theory; but if we are going to distribute the surplus power I think the communities outside of the Muscle Shoals district should have an opportunity of obtaining it, as well as the people at Muscle Shoals.

I have no fault to find with the people of Muscle Shoals. It is natural that they should want all of this power. They are situated close to it. They have made efforts to obtain the power there. They want nitrate plant No. 2 in operation there because it will give employment to the people. I wish it could be operated. I will not say that I wish the times had not progressed to the extent of making it unprofitable to operate it, but I do say that under the synthetic process, as the experts tell us, fertilizers can be made cheaper than they can be made under the cyanamide process. Nitrate plant No. 2 was constructed to meet conditions during the war. At that time they knew nothing about the synthetic process. It was made for the utilization of the cyanamide process; and experts tell us that it is impossible to use it and make cheap fertilizer at this time.

That, however, is a question about which we may differ. I am talking about the disposition of the surplus power at this time. I know that last year the community at Muscle Shoals, where I believe there are 52 houses constructed, came to the Secretary of War with the Governor of the State of Alabama and an influential delegation from that community and, if I am not mistaken, the junior Senator from Alabama [Mr. BLACK] joined them. They appeared and had a long hearing before the Secretary of War on an application to obtain for Muscle Shoals an unlimited amount of power.

In their application they did not say "10,000 horsepower." They did not say "50,000 horsepower." They applied for an unlimited amount of horsepower for the little community of Muscle Shoals. Why did they not bring in Sheffield and Tuscumbia and Florence? It was because some power was being given to those people through power companies; but the little community of Muscle Shoals, where it is said that only 52 houses have been constructed, was the one that made application for this power.

I say, Mr. President, that if there should be a distribution of surplus power it ought to be equitably distributed to all the communities within transmission distance, without discrimination as to rates, without discrimination as to service, and without discrimination as between this municipality or that municipality.

Mr. McKELLAR. Mr. President, I desire to speak to the amendment offered by the Senator from Mississippi [Mr. HARRISON].

This has been a long-drawn-out controversy. I offered the first Muscle Shoals amendment that was ever offered about Muscle Shoals while a Member of the House and a member of the Military Affairs Committee, away back in 1915 or 1916. At that time we got a provision authorizing the expenditure of $20,000,000 for the purpose of beginning the establishment of a plant such as we now have at Muscle Shoals. My original amendment designated the specific place of Muscle Shoals; but, as Senators who were then and now in the Senate will recall, when the bill came over here it was thought best to leave out the place and insert a provision that the President of the United States should select the place. That was put through, and Muscle Shoals was selected by President Wilson.

Mr. President, this dam, the steam plant, the houses, the cyanamide plants, and all other property acquired by the Government at Muscle Shoals cost the Government the enormous sum of $85,000,000. The dam itself and its equipment and the steam plant and its equipment cost $51,000,000.

It will be remembered that when our Republican friends came into power on March 4, 1919, the dam was not then completed, and they refused to appropriate the money to complete it on the ground, as stated by the distinguished senior Senator from Utah [Mr. SMOOT], that the dam would be a liability instead of an asset to the Government.

It will also be remembered that sometime afterwards Henry Ford made his celebrated offer, which galvanized the plant into life again, and our Republican friends then appropriated the necessary money to complete the plant. Mr. Ford's proposal remained unaccepted for some time, and later on he withdrew it. We people down South had large visions of what Mr. Ford would do with the plant if he received it. It was thought by many that he would remove a big plant from Detroit down there. At any rate, we all got under the glamour of the Ford millions, I suppose, and urged the Congress to accept his offer for it. But that is all water passed over the mill, and we need not further consider it.

Since Mr. Ford withdrew his offer there has been a bitter and rather relentless fight going on as to who should get the plant—the associated power companies on one side and the Cyanamid and Carbide companies on the other.

In the Congress there are a great number of Members who desire that the water-power companies should receive this great property at a rental that will probably not pay the cost of maintenance and without any suggestion of reduction of rates to the users of current, honestly believing the Government should not operate the plant for any purpose. If they had gotten their bid through it would have meant that the Government would have turned this great enterprise over to the private companies, with the people getting no benefit out of it. If the people have to pay the same price for their current whether it is generated by steam or by water power, they can not feel much concerned as to who gets Muscle Shoals.

The bid of the Cyanamid Co. is quite as indefinite. If it was accepted, in my judgment there would be no cheaper fertilizers manufactured for the farmers and no reduction of price of current. In other words, were we to accept either the bid of the Cyanamid Co. or of the Associated Power Cos. it would amount to an enormous gift or subsidy by the Government to the lessee.

Mr. President, the original bill contained the following provision. I understand that the amendment was offered by the Senator from South Carolina [Mr. SMITH] in the Senate:

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

Mr. President, I think we ought to follow the agreement that was made at that time with the American people in the act of 1916. I believe that for the last 10 years the plant has been used in a manner that was not authorized by law; but, be that as it may, the three great purposes of this plant were, first, that it should be used at all times by the Government for making nitrates for war purposes whenever they were necessary. In other words, it was argued—and well argued—that we should not have to be dependent upon Chile for the nitrates to make explosives; and a provision of that kind should be in this measure. In the next place, we dedicated that plant to the farmers of the country in order to manufacture cheaper fertilizers, and that should be the next provision in this measure. We should utilize every kilowatt of power, if it is necessary, at that plant to make cheaper fertilizers for the farmers of the country, and I have offered an amendment providing just that.

Mr. President, I am one of those who do not believe that the original joint resolution of the Senator from Nebraska—many of the provisions of which I favor—goes far enough in the manufacture of fertilizers for the farmer. I think we ought to take one step more; and so I have drawn an amendment along that line, which I shall offer at the proper time:

(e) Whenever the Secretary determines that it is commercially feasible to produce any such fertilizer, it shall be produced in the largest quantities practicable, and shall be disposed of at the lowest prices practicable, to meet the agricultural demands therefor, and to effectuate the purposes of this act.

(f) The Secretary is authorized to make alterations, modifications, or improvements in existing plants and facilities, and to construct and operate new plants and facilities, in order to properly effectuate the provisions of this section.

In the joint resolution proposed by the Senator from Nebraska, an experimental fertilizer plant is authorized to be established by the Secretary of Agriculture. As I understand the provision of the bill in this regard, this plant is purely an experimental plant and depends upon the future action of Congress for its scope and activities.

Mr. President, I would much prefer a stronger provision as to fertilizers. I think we could well go much further than does the provision of the joint resolution. I think we should direct the establishment of a plant there to manufacture fertilizers whenever a method is found under which there will be produced cheaper fertilizers.

The addition of these subsections, Mr. President, are to my mind necessary. I think we should use the power developed there to aid agriculture in compliance with the original act and in compliance with the fertilizer situation as we now find it. We all realize that fertilizer is a necessary aid to farming. We must keep our lands in a state of fertility. The present prices of fertilizers are exorbitant. I am inclined to think that the Senator from Nebraska is correct, that we are simply now on the threshold of success in methods of economically taking nitrogen from the air. Therefore in the beginning this plant ought to be experimental. But as soon as the economical processes are ascertained then we should go vigorously to work to help the farmers of the Nation to obtain cheaper fertilizers, and with these amendments added I think the bill will go a great way in that regard, much further than we could go, if we should accept any of the suggestions that have been offered for manufacturing fertilizers in this plant.

My understanding is that the Senator from Nebraska will accept that amendment. With what he already has in the joint resolution, and with that amendment added, in my judgment, there will be established a great fertilizer factory at Muscle Shoals that will do the farmers of this country infinitely more good than if it were turned over to the Cyanamid Co. or any other private company to manufacture fertilizer. In addition I want to suggest to my good friends, the two Senators from Alabama, Mr. HEFLIN and Mr. BLACK, that such a plant will be of far greater value to the towns near Muscle Shoals than if the Cyanamid proposal was adopted.

So, Mr. President, I hope that after providing, first, for the Government needs in time of war and for running the locks in peace time, in the second place we shall use all the power both at the steam plant and at Dam No. 2 that may be necessary for the manufacture of fertilizers, to the end that the farmers of this country shall get cheaper fertilizers.

Originally we dedicated this plant to that purpose away back yonder in 1916. We ought to stand by the agreement we then made with the American people; for I want to say to you as a Member of the House at that time, offering the original amendment, fully cognizant of what was going on, that we never would have gotten that bill through for the organization of this great plant if we had not made that contract with the people of America in the bill. If we had then said that we expected as soon as the plant was completed to turn it over to some private company the bill never would have passed.

So, Mr. President, I want to state again that, in the second place, I am fully and wholeheartedly for a provision for the use of any amount or all of this power for the manufacture of fertilizer.

Mr. TYSON. Mr. President——

The PRESIDING OFFICER (Mr. WILLIS in the chair). Does the Senator from Tennessee yield to his colleague?

Mr. McKELLAR. I will yield in just a moment. The method makes no difference with me. Let these men in the Department of Agriculture experiment, let them adopt what process they like, but manufacture by the best and cheapest method so as to get all the fertilizer necessary for the farmers.

I now yield to my colleague.

Mr. TYSON. I understand that some Senators seem to feel that this plant was not intended to be used in the manufacture of fertilizers but solely for the manufacture of nitrates. In view of the fact that my colleague was present at the time the original act was under consideration and knows about it and helped to pass it, I would like to ask him if his understanding was that the plant was intended to be used not only for the manufacture of nitrates, but that the plan was to go further and manufacture fertilizer as well?

Mr. McKELLAR. The act specifically says so; there can not be any misunderstanding about it. It is in plain language. In the act the word "fertilizer" is used, and, of course, it was constructed for the purpose of manufacturing fertilizer in times of peace. So much for that feature of it.

I now come to the surplus-power provision. Some say that we ought to give this power to some private company. I believe the Cyanamid Co. has a bid here for it, and the water-power companies had a bid here for it. These are all estimable gentlemen; I have no word of criticism of them; they are looking out for their best interests; but I do not think that the Congress of the United States ought to turn this surplus power over to any of these companies unless we can not make it useful to the public generally, and with that statement I am content to let that rest.

What should we do with the surplus power? The Senator from Nebraska has accepted an amendment in substance in line with the amendment I shall now read, which I think fully covers the situation. It is my substitute for section 2 of the bill and reads:

The Secretary of War is hereby authorized and empowered to sell the current generated at said steam plants and said dam to States, counties, or municipalities desiring the same according to the policies hereinafter set forth, and to carry out said authority the Secretary of War is authorized to enter into contracts for such sale for a term not exceeding 25 years from the date of the contract, and until May 1, 1929, such States, counties, or municipalities purchasing said current for distribution to citizens and customers shall have the exclusive right to apply for and receive said current. If no application is made by any county, State, or municipality by May 1, 1929, or if any of said current has not been applied for by States, counties, or municipalities, then, if the Secretary of War is convinced that such States, counties, or municipalities do not desire said current, he is hereby authorized to sell the current generated at said steam plant or said dam, or such thereof as may remain, to corporations, partnerships, or individuals for a period not exceeding 10 years, according to the policy hereinafter set forth, and at all times, subject to the right of the Government, to take over said property in time of war: *Provided*, That between the date of approval of this act and May 1, 1929, the Secretary of War is authorized to sell current by the month to States, counties, or municipalities, corporations, partnerships, and individuals, but with a preference to States, counties, and municipalities.

Mr. President, the people of our locality are paying too great a price for their electric current. It ought to be cheaper. Wherever there is an abundance of water power as there is in this locality, the price of current has been greatly reduced to the consumer. In Canada, where the Government operates the power plants, the maximum cost to the individual consumer is less than 2 cents. In a number of cities in the West where the water power is plentiful the maximum is about 5½ cents. In Tennessee, Alabama, Georgia, North Carolina, and South Carolina the maximum price is 12½ cents. This price is out of all proportion to the cost of the current. I am not an advocate of Government operation of power plants. I would prefer that the Government should not come in competition with private industry, but when private companies fix their prices so that it constitutes such an enormous tax on the people, I think it is the duty of the Government to step in and stop these extortionate prices.

I have said to representatives of the power companies in east Tennessee that I shall not object to their getting sites in

east Tennessee for the construction of their dam, provided, first, that they should agree to construct these plants speedily so as to put the power on the market; second, that they submit to Government control of their stock and bond issues; third, that they agree to build transmission lines to all parts of our State and give Tennessee a preference in the sale of their current; and, fourth, that they make the maximum price of their current not exceeding 5 cents a kilowatt. To my mind these proposals are so reasonable that they ought to commend themselves to any fair-minded company, but the companies have refused to meet these suggestions. This I greatly regret. In the long run, I believe it would be not only immensely beneficial to the consuming public but would cause industries to be built up in our State and redound to the interest of the power companies as well as to the consumers. It is inconceivable, Mr. President, that the power companies can not themselves see that the public will not permit these exorbitant prices to be indefinitely continued. There are 11 great sites on the Tennessee River and its tributaries in my State which would produce an enormous amount of power, and these are the sites which are desired by the power companies; but what good would the development of this water power be to the people if the power companies are allowed to make the unconscionable returns that they are now making on their steam power?

So that I favor giving the States, counties, and municipalities a preference, just as is now provided in the Federal water power act.

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

Mr. McKELLAR. I yield.

Mr. CARAWAY. Has the Senator given any thought to the possibility of States and counties being unable, under their constitutions or forms of government, to purchase this power?

Mr. McKELLAR. Yes. I have found that the State of Tennessee and its counties and municipalities have the power to purchase, or the legislature can authorize them to purchase, and I understand the State of Arkansas, its counties and municipalities, especially the municipalities, have that right. I want to say further to the Senator from Arkansas that, as I understand it, the amendment he has offered with relation to the use of the cyanamide plant at Muscle Shoals will be accepted by the author of the joint resolution.

A number of us from near-by Southern States have been in conference with the Senator from Nebraska [Mr. NORRIS], the author of the pending resolution, and I think we are substantially agreed, so far as we are concerned, about certain provisions of it. The amendments which will be offered by the Senator from Nebraska to his resolution will be substantially agreeable to a number of us on this side.

To restate: First, I think that any contract made in reference to this property should be made with the reservation of the full right of the Government to take over the property in time of war without the payment of any compensation. This was the primary purpose of its building, and in the time of war there should be no handicaps; but the Government ought to take it over without let, hindrance, or compensation and use it for war purposes. Of course, such power as may be needed to operate the dams should be reserved.

Second, I believe that in times of peace such of the power as is necessary should be used for the purpose of securing cheaper fertilizers to the farmers. This was the secondary purpose of its construction. That purpose is wise, as I have heretofore tried to point out, and no disposition of the property should be made that does not fully carry out this purpose. If I believed that the best way to accomplish this purpose was to turn the shoals over to the fertilizer companies, whose every interest is to increase the price of fertilizers rather than to decrease them, I might be in favor of some modified form of Cyanamid bid; but, believing that if we are to get cheaper fertilizer it will only come by experimentation by the Government and as the result of experimentation, I am not in favor of turning it over to others; but, in the interest of the farmers, I believe that such fertilizer plants should be conducted by the Government, whose duty it is to look after the interest of the farmers under this law.

In the third place, Mr. President, I have long believed that the surplus power should be sold by the Government in such a way as to do the greatest good to the greatest number of our citizens. In accordance with the policy laid down in the Federal water power act, I think that the States, counties, and municipalities should be given the preference in any sales of this surplus power. If they do not want to buy cheaper power, if they prefer that the power should be sold to private companies and their citizens required to buy from these private companies, I think we as trustees should give these public bodies the preference; and if the power is not sold to them, then it should be sold to private corporations or individuals or partnerships.

Mr. CARAWAY. Mr. President, I come in conflict with my colleagues here with regret. I have had hopes in the past that we might find a lessee for this plant who would be satisfactory, but that time has passed. The only proposition before the Senate that can succeed, if we want to get rid of this Muscle Shoals proposition, is that embodied in the resolution of the Senator from Nebraska [Mr. NORRIS]. Of course, many of us would like to change it, but we realize that the resolution can not be rewritten here on the floor of the Senate, and we have to follow one theory or the other.

The amendment offered by the Senator from Mississippi [Mr. HARRISON] is really a substitute. It can not fit in and form a part of the Norris resolution. It is an independent measure, giving to the Secretary of War the power to lease this property, without any restrictions upon him as to what he shall receive for it or what uses shall be made of it by the lessee. It is the broadest measure that has ever been offered in the Senate for the disposal of Muscle Shoals to anybody who could convince the Secretary of War that he was a desirable contractor.

I myself have no patience with the charge that somebody is trying to favor a power trust or a fertilizer trust. Such a charge as to any Senator, of course, is not true. I would not for a minute indulge in such an intimation as to the Senator from Mississippi. The desire of all of us is to dispose of Muscle Shoals in the best way possible. But I feel certain that there can be no disposition of that plant along the lines suggested by the Senator from Mississippi.

In the eight years that have elapsed since this matter first came before the Senate no one has come forward with an offer which was satisfactory to the Senate. The amendment of the Senator from Mississippi is a proposition to give to the Secretary of War the power to do, without any restrictions, whatever he may see fit to do with Muscle Shoals. I do not believe the Senate is willing to intrust the Secretary of War with such large power.

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

Mr. CARAWAY. I yield.

Mr. HARRISON. I know the Senator wants to be absolutely fair. Sections 2, 3, and 4 as I propose to amend them are not greatly different from the same sections in the Norris resolution. The Senator from Nebraska also seeks to give the Secretary of War authority.

Mr. CARAWAY. Yes; but he undertakes to couple with that a statement of the uses that should be made of the proceeds from the sale of the power.

Mr. HARRISON. My amendment would not disturb that at all.

Mr. CARAWAY. I think, under the amendment offered by the Senator from Mississippi, section 2, if the Secretary of War should see fit, he could make an absolute disposition of the plant to anybody, at any price at which he saw fit to lease it, and it would be absolutely gone.

Mr. HARRISON. We will have the power, and the Senator from Nebraska offers to lease it for 10 years also.

Mr. CARAWAY. I think, if the Senator will pardon me, there is a very radical difference between the two.

Going beyond that, however, the Senator from Nebraska has agreed to accept an amendment sponsored by me, which I believe has met with the approval of quite a number who agree with our theory, that would dedicate a part of this power to the use of plant No. 2 for the making of fertilizer to be disposed of to the farmers at absolute cost. So that if the Norris resolution, with the amendment suggested, which he says he is willing to accept, shall become the law, immediately then the pledge we have made to the American people since the war, that we were going to dedicate plant No. 2 to the manufacture of fertilizer, will go into effect. If the amendment of the Senator from Mississippi should prevail, that, of course, would not happen.

As I see the Senator's amendment—and I am not criticizing the Senator for his position, because it is practically the one he has been maintaining all the time—he would put this plant into private control under a lease that would give to the lessee absolute control of it.

I do not agree that merely writing into the resolution a provision that the distribution of power shall be subject to the regulatory bodies of the various States, would confer any additional power upon those bodies. In other words, Congress can not say to the regulatory body of Alabama, Mississippi, Tennessee, or Arkansas, "You shall do certain things," because they are not official bodies of the Federal Government, and are not subject to control by the Federal Government. If, under the Norris resolution, the power shall be leased, it will go into the States, and it will be subject to the control of the regulatory body of

each State, if it has one, whenever there is an effort to distribute the power among the users of power in the State. But the mere fact that we shall say that any official body shall do a certain thing would not make it do it. That provision would not add anything to it, nor would the leaving of it out detract anything from the measure.

I hope the amendment of the Senator from Mississippi, which is a complete and entire act in itself, will not prevail, because if it should prevail, there would be no use calling it an amendment; it should be called an act to empower the Secretary of War to dispose of Muscle Shoals. I take it he will do that if he can find somebody to whom he can sell it satisfactorily. If not, under the amendment offered by the Senator from Mississippi, he would be authorized to sell at the switchboard the entire power. It would in effect say, "Let plant No. 2 stand idle, let our friends, the people, go unrelieved, but sell the entire power to anybody who wants to buy, and no fertilizer be made."

Mr. GEORGE. Mr. President, during the first few months of my service the Senate had under consideration the Underwood Muscle Shoals bill. I offered an amendment to that bill, which was finally adopted. This amendment provided that all the power not used for manufacturing fertilizer should be distributed equitably within economic transmission distances of the Muscle Shoals plant. The Underwood bill provided for the manufacture of fertilizer; first, by a private lessee, if one could be found; second, by the Government, if a private lessee could not be found; the surplus power to be distributed as provided in the amendment offered by me in either event. In this form the bill passed the Senate. In conference, the purpose of the amendment was destroyed and the private lessee, in my judgment, was subsidized by the value of the surplus power, less the low price offered to the Government. I voted against the conference report or bill and for the bill then proposed by the Senator from Nebraska [Mr. NORRIS].

At a later date in the Senate, the Senator from Alabama [Mr. HEFLIN] urged a resolution providing for the appointment of a committee to receive bids for Muscle Shoals, the bidders to agree to manufacture fertilizer in amounts not less, and upon terms not higher than the original Ford offer. I again proposed my amendment. Other Senators offered similar amendments; and the debate followed upon the amendment of the Senator from Arkansas [Mr. CARAWAY]. Upon its adoption, the resolution was passed. The Cyanamid bid was submitted, I believe, to the committee named under the resolution, and is now before the Senate. This bid, if accepted, would subsidize the lessee, the private company, with surplus power which it might localize at Muscle Shoals and use it for any purpose. I do not favor the acceptance of that bid, and hence am opposed to the Willis bill.

The resolution now offered by the Senator from Nebraska [Mr. NORRIS], as he is willing to perfect it, carries out the purpose of the original act. Muscle Shoals power plant is to be retained by the Government and operated by the Government for the purpose of making munitions in time of war, and the chief element in commercial fertilizer for the use of the farmers in peace times. Also, since there may be and will be a surplus of power over and beyond the power required for fertilizers, the surplus is to be sold by the Government directly to cities, towns, villages, counties, and States. If these do not wish the power, or if any power remains after such lessees within transmission distance of Muscle Shoals have been supplied, individuals and corporations may take it. The distribution is to be equitable within transmission distance, so that one State may not absorb all the power to be distributed. The rates are, of course, to be uniform and nondiscriminatory between all users under the Norris resolution as now perfected. I shall support the resolution.

I oppose Government ownership and operation of business properly classed as private business. I regard the generation and distribution of electric power and the making of fertilizer and fertilizer materials as private business. Muscle Shoals is an exceptional instance. The Government acquired and improved this property at public expense for a necessary purpose of Government—the common defense of the country in war. The Government should own the power plant and property at Muscle Shoals. It should operate it. We should not allow it to pass into private hands to swell private profits. At this time there are two imperative reasons, especially, why the Government should retain not merely ownership, but complete possession and control of this property.

First: American agriculture is in the last ditch, and has been for several years. Commercial fertilizers, when artificial fertilizers are required, constitute a land tax equal practically to the fair rental value of the land itself.

Whether the fertilizer manufacturers are exacting unreasonable prices for their products; whether they are making enormous profits, as charged in some quarters, the fact remains that the cost of fertilizer is a heavy and continuing charge upon all farmers, whether landowners or tenants. No private company has offered to, or will, in fact, reduce materially the cost of fertilizers to the farmer. All have proposed to make and sell fertilizers at cost plus 8 per cent profit, but all have had an eye single to the great profits on the use or sale of electric power over and beyond the amount necessary for manufacturing fertilizer. The present bidder can afford to take a loss on all the fertilizers it proposes and binds itself to make if it is allowed to recoup that loss out of the profits derived from other uses of the power at low cost.

Whether Senator NORRIS is correct in his conclusions, actual operation by the Government will demonstrate; and if we can make fertilizer at a cost below present and general prices, the Norris resolution will give to the farmer more fertilizer than the cyanamide bill—far more. Our promise to use Muscle Shoals for the benefit of the farmer should be made good.

Second: There will be some power to distribute over and beyond necessary requirements for fertilizers. It has been charged both in this body and in the press that a great Power Trust exists in the United States; that it is exacting unreasonable prices for electric energy and is selling its securities based upon nothing more substantial than water in its properties, and that the States have failed and are powerless to control the abuses to which the people are subjected. Whether these charges are true; whether there are good power companies and offending companies, the fact remains that the rates are relatively high in many sections of the country, and that electric energy or power is now a necessity in the life of the people.

If we hold Muscle Shoals and generate and distribute power from that plant, we will provide the yardstick by which the States and the people can measure the rates paid to private companies. My position is that the Federal Government should not encroach further upon the power of the States; that we should not further centralize power in Washington, but with our own property, developed at the expense of all the people of the country, we should be able to make it impossible for private companies to overcharge the people. I do not believe that the private companies, whether power companies or fertilizer companies, will be unjustly deprived of fair returns on their actual investments, because the Government will certainly find it necessary to charge for its products a fair and reasonable price, based on cost, and the Congress will not adopt a policy deliberately destructive of private property and legitimate investment.

Federal regulation within constitutional limits can not give to the farmers and to the users of electric power the protection which we may guarantee to them through the just use by the Government of its property at Muscle Shoals.

I favor the Norris resolution not because it will provide less fertilizers to the farmers but because it will give to the farmers more fertilizers, if possible, at a lower cost than any bill yet offered; not because it will work injury to the producers of electric power who have made the major contribution to our progress, especially in the Southeast, but because it will place the people who must use power upon equal footing with these great organizations.

Mr. SMITH. Mr. President, in a speech last week I outlined my idea of this legislation and what is needed to effectuate the purpose of the original national defense act. I now wish to call the attention of the Senate to the fact that just before the introduction by me of my amendment to the national defense act I had occasion to go down to the Ordnance Department to make inquiry as to whether there was a sufficient supply of nitrogen on hand to justify them in parting with some of it for the use of agriculture. The price had risen to something like $100 a ton for 18 per cent nitrogen in the form of nitrate of soda imported from Chile. I found that we were solely dependent, to all intents and purposes, upon the Chilean nitrate beds for the defense of the country. The basis of all explosives is nitrogen. It is the element that is essential in all explosives. I found that our Government had less than a two-weeks' supply of that necessary ingredient for ordinary practice purposes. It subsequently developed that they had to enter into a cooperative buying movement with the Allies in order to get a sufficient amount of that very necessary ingredient to prosecute the war.

I think I am well within the facts when I state that had Germany, or any of those allied with her, succeeded in blocking the importation of nitrates from Chile we would have been estopped effectually from any participation whatever in the war. For that reason, and for the other reason which involves its necessity for agriculture, I took the opportunity to say about it that our country should, as far as possible, avail itself of

the new discovery of a process by which this very necessary ingredient might be taken from the air. It so happens that the very basis of the explosive upon which we are dependent for the defense of our country is the basis of all fertilizers by which we feed the country.

Mr. HARRIS. Mr. President——

The PRESIDING OFFICER (Mr. McNARY in the chair). Does the Senator from South Carolina yield to the Senator from Georgia?

Mr. SMITH. I yield.

Mr. HARRIS. The Senator will no doubt recall that as soon as we declared war on Germany, Germany threatened Chile and told her not to let us have any further nitrates.

Mr. SMITH. Yes; that is true. Our national defense is, of course, a matter of the first consideration. It so happens as an historical fact that Germany, being cut off from her importations of Chilean nitrate, had to depend upon the genius and inventive power of her people to supply herself with this ingredient and did perfect a process by which she could meet the necessities for a continued war.

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

Mr. SMITH. Certainly.

Mr. SIMMONS. Is it not a fact that Germany, before she entered into the war, had completed that process and was able when the war started to manufacture nitrogen from the atmosphere sufficient for her military purposes, and that, therefore, when she went into the war she relied probably as much upon her ability to cut off the supply of her adversaries from Chile, while she could supply herself by this process of extracting nitrogen from the air, as she did upon her superior military preparation?

Mr. SMITH. Yes. It is well to state that she had a process by which she might meet expensively her needs for nitrate, but during the war and subsequent to the war she has refined the process until she has startled the world with her showing of the small use of power necessary to produce a unit of nitrogen.

But the basic fact remains that until we have established in this country a sufficient process, the capacity of which is sufficient to supply us at all times, and particularly in time of war, we are still dependent upon a foreign country for our national defense. Therefore I do not think any Senator should be willing to vote to turn over to a private corporation the power to determine whether or not our country shall be adequately provided with this essential ingredient in case war should occur.

We ought to see to it that the dedication of this plant in the original act shall be religiously observed in both the elements of national defense and the element in aid of agriculture. The question of whether or not it shall go to a power company or whether we shall lease it to a private corporation is tantamount to saying that we propose to turn over to private individuals the preparation of those elements essential to our defense. We had as well turn over to private individuals the drilling of an army and the equipping of a navy as to do that, because the drilling of the Army and the equipping of the Navy comes to naught if we have not the wherewithal to make them effectual in time of war. Underlying the building of the Navy, underlying the drilling of the Army are the ingredients to make the Army and the Navy effective. I claim that this one ingredient is the basis upon which rests the superstructure of all defense proceedings. We should not jeopardize it by leasing it and turning it over to private individuals.

Now, coming down to the specific subject which is before us at this time, as to what measure we should pass, I desire to say that the joint resolution of the Senator from Nebraska [Mr. NORRIS] meets with my approval, because there is incorporated in it a provision that the power developed at Muscle Shoals shall be used to the fullest extent to produce and distribute fertilizer or fertilizer ingredients. I hope that every Senator on this floor who wants to aid agriculture in its most vital need will support and vote for the passage of that joint resolution. The production of power is purely incidental. If those in charge at Muscle Shoals shall do their duty there will not be left sufficient power to distribute for power purposes for anybody to quarrel over. The fact of the business is, in view of the rapid development of power projects throughout the whole country, that Muscle Shoals could be left idle without any appreciable effect upon the supply, price, or distribution of power, but it can not be left idle without detriment to agriculture. If the Government shall see to it that the processes of production, the amount of production, and the price of fertilizer shall be determined, together with provision being made for the vital necessity of having ready at all times a plant that will furnish sufficient nitrogen for the defense of the country, we might forget the power and leave it out.

I have deplored the fact that the great power companies seem to ignore the current needs of agriculture, and also seem to ignore the defenseless and helpless condition of this country, if it shall not provide itself with an adequate supply of the very basis of explosives. In the mad scramble of the exploiters of hydroelectric power we have forgotten that; we have allowed the issue to become clouded, and have devoted ourselves here for years to the determination of whether or not this power company or that power company should have control of this plant, and should incidentally experiment to determine as to whether or not they could manufacture explosives to defend the country or could help those who feed the country. We should have addressed ourselves to a determination of this problem along the lines to which it was dedicated—to the defense of the country and the upbuilding of agriculture. We have not done so; we have not properly discussed it. I do not know whether that has been because a majority of Senators have not directly felt the almost intolerable burden which is placed upon agriculture in the major section of the whole Atlantic seaboard because of the exactions of the fertilizer producers of this country. I have no quarrel with them; I have not investigated them; but I do know, as the Senator from Georgia [Mr. GEORGE] has stated, that the cost of the fertilizer which is necessary for each acre exceeds the rental of farm property and destroys the profit of the South Atlantic farmer.

For that reason I hope that every friend of agriculture will see to it that the joint resolution introduced by the Senator from Nebraska shall now be passed in its amended form. Let us remember that the element of power is purely incidental and should never have been discussed on this floor in connection with Muscle Shoals unless it had been demonstrated that nitrogen could not be produced for the benefit of agriculture or that it could not be produced for the defense of our country. We should not turn this plant over to an industry that is already established and requires no experiment, namely, the industry engaged in the production and distribution of power. Nobody has got to experiment with that; it is standardized; it has reached the point where it is one of the going concerns of the country. The production of nitrogen, however, in a form available for agriculture, is not standardized; the production of nitrogen in a form available for the making of explosives has not been standardized; and yet we have devoted years and years here to the discussion of whether the power at Muscle Shoals shall be turned over to a private corporation as a power project or whether the Government shall distribute power, and have lost sight of the main object of the introduction and prosecution of this entire piece of legislation. I, therefore, hail with delight the fact that the prospects are that at this session we shall at last make a beginning to bring about the necessary protection of the country and shall at the same time aid agriculture.

Mr. BROOKHART. Mr. President, I shall not enter upon a discussion of the amendment of the Senator from Mississippi [Mr. HARRISON]. I am opposed to that amendment and believe that the preference to municipalities in so far as it relates to the distribution of power should be maintained. I wish briefly to discuss some of the methods of opposition to the pending joint resolution.

I think Woodrow Wilson's idea that this great project should be dedicated to the purposes of national defense in time of war and to agriculture in time of peace deserves the approval of every thinking American. I believe it is one of the great pioneering ideas that emanated largely from the brain of Woodrow Wilson; but in the Senate of the United States the man who has made the fight to give that idea form and expression and practical application in the law is the Senator from Nebraska [Mr. NORRIS].

When I first came to the Senate I watched him in his persistent struggle for this idea of Government development and operation in the interest of all the people. It seemed to me at that time that there was little hope that he ever could succeed. I watched him proceed against all sorts of odds; I saw the distinguished leader on the other side of the Chamber voicing the views of the administration in an attempt to turn this great Government development and natural resource into the hands of private capital and private monopoly. It seemed that all the forces of the country were united to bring about that result, and yet they did not succeed. Through session after session that fight has proceeded, led at all times persistently by the Senator from Nebraska, who has never varied and never wavered from his point of view, that this great natural resource belonged to the people of the United States and that it must be administered for the purpose for which it was originally dedicated by the people. We are now at the threshold of victory, I think, and, in my opinion, there has been no greater fight and no greater victory in the history of the United States Senate if the result for which the Senator from Nebraska has contended shall be accomplished.

In my judgment, the turn of progressive principles is upon the proposition of whether or not we shall trust and believe in our Government to do for its people the things it owes to them. I think the glory of the flag itself rests upon that belief and that confidence in the Government of the United States. I am not one of those who are willing to criticize the Government for inefficiency in economic matters. Where it has an economic duty to perform, I stand ready to make it efficient and to make it benefit in the highest degree the people under its flag.

As against this idea, and perhaps at the bottom of the charge of alleged governmental inefficiency, is the opposition of private business, organized for profit, organized all the time to defeat every governmental movement in the interest of the common people of the United States. That organization has been active in this fight at this time. I have here one of the documents against this proposition put out in my own State, and I presume similar documents have been put forth in other States. This document purports to show a list of some 27 public-utility companies which have been bought in my State by the Power Trust, and then it proceeds to recite a detail of the reduced rates to the people of the State as the result of turning these plants over to private enterprise. Of course, the acquiring of these plants meant a centralization of control; it meant economies, and it naturally meant a reduction of rates; but if the government of the State and the municipalities in cooperation had organized to do the same thing, the reduction might have been much greater than that shown in the document issued against this proposition by the public utility companies.

I, therefore, asked Mr. Judson King to make a comparison of the rates and charges of these private companies in Iowa, operating in the particular towns referred to in my State, with the rates and charges of the publicly owned company in Ontario, Canada. I will read one of those comparisons as affecting Farmington, Iowa, a town with which I am perfectly familiar, and Markham, Ontario.

Farmington, Iowa, has 1,086 population, while Markham, Ontario, has 941 population. For 10 kilowatt-hours at Farmington, Iowa, the rate of the private company is $1.40—the figures in this table are given in dollars and cents and as it is easy to compare the difference in cost of the services—while at Markham, Ontario, it is $1.

For 15 kilowatt-hours the price is $2.10 at Farmington, Iowa, and $1 at Markham, Ontario.

For 20 kilowatt-hours per month the price at Farmington, Iowa, is $2.80, and $1.20 at Markham, Ontario.

For 30 kilowatt-hours the price is $4.05 at Farmington, Iowa, and $1.65 at Markham, Ontario.

For 40 kilowatt-hours per month the price is $5.15 at Farmington, Iowa, and $2.10 at Markham, Ontario.

For 50 kilowatt-hours per month the price is $6.25 at Farmington, Iowa, and $2.41 at Markham, Ontario.

For 75 kilowatt-hours per month the price is $8.50 at Farmington, Iowa, and $2.86 at Markham, Ontario.

I therefore want to call the attention of my friends at Farmington, Iowa, to the fact that they have made a great mistake in turning over their public plant to private enterprise, instead of joining in cooperation with the other cities of the State, or instead of asking the State, as the Province of Ontario has done, to provide this central organization.

I ask unanimous consent to insert in the RECORD a table of all of these 27 cities in Iowa.

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

The table is as follows:

MORE INFORMATION ABOUT THOSE REDUCED RATES

Cost of service in 27 Iowa towns that have sold their municipal plants to an American private superpower system, and cost of service in 27 comparable towns that are served by the public Ontario hydrosuperpower system

[With an estimated increase of 30 per cent on the Ontario bills for 75 kilowatt-hours to cover: 10 per cent for taxes, 10 per cent for profit, 10 per cent for propaganda, election expenses, and other incidentals]

Towns	Population	Kilowatt-hours used per month							Extra 30 per cent
		10	15	20	30	40	50	75	
Arion, Iowa	242	$1.40	$2.10	$2.80	$4.90	$5.45	$6.75	$10.00	------
Dublin, Ontario	218	1.50	1.50	1.50	1.92	2.46	2.64	3.09	$4.01
Bayard, Iowa	727	1.50	2.25	3.00	4.20	5.40	6.45	8.70	------
Baden, Ontario	710	.75	.75	.84	1.11	1.38	1.65	2.05	2.66
Buffalo Center, Iowa	894	1.50	2.15	2.80	4.10	5.40	6.70	8.70	------
Dutton, Ontario	870	.75	.75	.75	.97	1.20	1.42	1.82	2.37
Castana, Iowa	389	1.40	2.10	2.80	4.15	5.45	6.75	10.00	------
Springfield, Ontario	420	1.00	1.00	1.20	1.65	2.10	2.41	2.86	3.72
Charter Oak, Iowa	750	1.40	2.10	2.80	4.15	5.45	6.75	10.00	------
Belle River, Ontario	580	1.00	1.00	1.20	1.65	2.10	2.41	2.86	3.72
Correctionville, Iowa	1,016	1.30	1.95	2.60	3.70	4.80	5.70	7.95	------

Cost of service in 27 Iowa towns that have sold their municipal plants to an American private superpower system, and cost of service in 27 comparable towns that are served by the public Ontario hydrosuperpower system—Continued

Towns	Population	Kilowatt-hours used per month							Extra 30 per cent
		10	15	20	30	40	50	75	
Port Stanley, Ontario	797	$0.75	$0.75	$0.75	$0.84	$1.11	$1.38	$2.05	$2.66
Deloit, Iowa	260	1.40	2.10	2.80	4.15	5.45	6.75	10.00	------
Wardsville, Ontario	212	1.50	1.50	1.50	1.92	2.46	2.64	3.09	4.01
Eddysville, Iowa	961	1.20	1.80	2.40	3.60	4.80	6.00	8.50	------
Ailsa Craig, Ontario	535	.75	.75	1.02	1.38	1.74	2.10	2.55	3.32
Farmington, Iowa	1,086	1.40	2.10	2.80	4.05	5.15	6.25	8.50	------
Markham, Ontario	941	1.00	1.00	1.20	1.65	2.10	2.41	2.86	3.72
Fenton, Iowa	391	1.50	2.25	3.00	4.50	5.70	6.90	9.45	------
Agincourt, Ontario	350	1.00	1.00	1.20	1.65	2.10	2.41	2.86	3.72
Kent, Iowa	183	1.20	1.80	2.40	3.60	4.80	6.00	8.50	------
Wyoming, Ontario	452	1.00	1.00	1.20	1.65	2.10	2.41	2.86	3.72
Keosauqua, Iowa	951	1.40	2.10	2.80	4.05	5.15	6.25	8.50	------
Ayr, Ontario	796	1.00	1.00	1.00	1.00	1.20	1.42	1.82	2.37
Lineville, Iowa	707	1.20	1.80	2.40	3.60	4.80	6.00	9.00	------
Lucan, Ontario	614	1.00	1.00	1.00	1.24	1.56	1.87	2.35	3.05
Lone Rock, Iowa	193	1.50	2.25	3.00	4.50	5.70	6.90	9.45	------
Granton, Ontario	300	1.00	1.00	1.00	1.11	1.38	1.65	2.05	2.66
McCausland, Iowa	110	1.50	2.25	3.00	4.50	6.00	7.50	11.25	------
St. Clair Beach, Ontario	82	1.50	1.50	1.50	1.65	2.10	2.41	2.86	3.72
Marble Rock, Iowa	483	1.33	2.00	2.66	3.85	5.03	5.99	8.08	------
Highgate, Ontario	403	1.00	1.00	1.00	1.38	1.74	2.10	2.55	3.32
Moorhead, Iowa	381	1.40	2.10	2.80	4.15	5.45	6.75	10.00	------
Oil Springs, Ontario	499	1.00	1.00	1.00	1.38	1.74	2.10	2.55	3.32
Moville, Iowa	878	1.30	1.95	2.60	3.70	4.80	5.70	7.95	------
Thamesville, Ontario	807	.75	.75	.84	1.11	1.38	1.65	2.05	2.66
Pierson, Iowa	554	1.50	2.25	3.00	4.25	5.50	6.60	9.35	------
Embro, Ontario	463	1.50	1.50	1.50	1.50	1.92	2.32	2.77	3.60
Rodney, Iowa	176	1.50	2.10	2.80	4.15	5.45	6.75	10.00	------
Delaware, Ontario	350	1.24	1.24	1.24	1.65	2.10	2.41	2.86	3.72
Scarville, Iowa	140	1.40	2.10	2.80	4.20	5.60	6.90	10.15	------
Campbsville, Ontario	200	2.00	2.00	2.00	2.46	2.64	2.82	3.27	4.25
Schaller, Iowa	731	1.26	1.89	2.52	3.69	4.86	5.85	8.33	------
Bothwell, Ontario	630	.75	.75	.75	1.11	1.38	1.65	2.05	3.26
Schleswig, Iowa	655	1.40	2.10	2.80	4.13	5.38	6.63	9.75	------
Alminston, Ontario	635	1.50	1.50	1.50	1.92	2.46	2.64	3.09	4.01
Stacyville, Iowa	513	1.33	2.00	2.66	3.85	5.04	5.99	8.08	------
Merlin, Ontario	500	1.00	1.00	1.20	1.65	2.10	2.41	2.86	3.72
Swea City, Iowa	691	1.50	2.15	2.80	4.10	5.40	6.70	8.70	------
Lynden, Ontario	622	1.24	1.24	1.24	1.24	1.38	1.65	2.05	2.66
Ute, Iowa	580	1.40	2.10	2.80	4.13	5.38	6.63	9.75	------
Rockwood, Ontario	520	1.00	1.00	1.00	1.00	1.20	1.42	1.82	2.37
Wiota, Iowa	199	1.40	2.10	2.70	3.90	5.10	6.00	8.25	------
Queenston, Ontario	200	1.24	1.24	1.24	1.24	1.38	1.65	2.05	2.66

Mr. BROOKHART. Much discussion has been had upon the processes of making fertilizer in these plants at Muscle Shoals. I shall not enter into a discussion of that phase of the problem. However, I desire to offer for the RECORD some editorials from the farm papers of the United States. The farm papers seem now to be well informed as to these differences in processes, and they seem to be supporting in a large measure the Norris joint resolution. The papers which I shall offer have a combined circulation of 4,963,931 farmers, which means a majority, perhaps, of the farmers of the United States. There would, of course, be some duplication in that total number.

These editorials consist of an editorial from the Progressive Farmer; an article by Wheeler McMillen from Farm and Fireside; an editorial from Farm Life, Spencer, Ind.; an editorial from the Farm Journal; an editorial from Hoard's Dairyman; a second editorial from Farm Life; an editorial from the Progressive Farmer; a second editorial from the Progressive Farmer; an editorial from The Farmer, of St. Paul, Minn.; a second article by Wheeler McMillen; an article by Dr. Gus W. Dyer in the Southern Agriculturist; and a second article from Doctor Dyer.

The PRESIDING OFFICER. Without objection, the articles will be inserted in the RECORD.

The matter referred to is as follows:

[From the Progressive Farmer, published at Raleigh, N. C., circulation 475,488]

NEW PROCESSES INSURE CHEAPER NITROGEN

Recent discussions in the United States Senate and elsewhere regarding Muscle Shoals and the new discoveries for nitrofixation have an interest for every farmer who spends a dollar for fertilizer.

As the Progressive Farmer has previously indicated, these discoveries not only affect the proper disposition of Muscle Shoals but will have a marked effect on the way southern farmers fertilize their crops in future years.

Heretofore our ready-mixed fertilizers have contained two to four times as much phosphoric acid as nitrogen, and equally as much potash as nitrogen, 8–2–2, 10–3–3, and 12–4–4 having been standard formulas. From this commonly accepted ratio of plant foods one would naturally suppose that phosphoric acid is the most important plant food of the three, and that potash is equally as essential to increased crop yields as nitrogen. That is not true. Nitrogen is our most important plant food because it is the plant food that in most cases gives the greatest in-

crease in yield. The ordinary ready-mixed fertilizer, therefore, has not had its plant foods balanced or proportioned in such a way as to give maximum results.

The overemphasis on superphosphate (acid phosphate) has been rather natural under the circumstances. First, the fertilizer manufacturer really produces only one of the materials that goes into his mixed goods. That is phosphoric acid, which is in the form of superphosphate. The nitrogen and potash he must obtain elsewhere. Potash comes from Germany and France. Nitrogen we get in the form of nitrate of soda from Chile, or sulphate of ammonia from the coke ovens of this country, or as tankage and other by-products of packing houses. Having to purchase their nitrogen and potash, American fertilizer manufacturers naturally went rather light on these materials and used large quantities of their own homemade phosphoric acid. It is only human that they were inclined to do this.

But there is another reason why the ordinary mixed fertilizer contains too much phosphoric acid and not enough nitrogen for best yields. Nitrogen is the most expensive plant food. It costs three to four times as much per pound as either phosphoric acid or potash. When a fertilizer mixture contains the nitrogen that it should carry for best results, the cost per ton or per sack is considerably more than in the case of mixtures low in nitrogen. Since many of our farmers used to buy fertilizer by the sack instead of by analysis, the mixture that sold best was the one that cost least per sack. Of course, in recent years farmers have tended to buy higher grade fertilizers, but even these high-grade mixtures usually have an improper balance as regards the three plant foods. In spite of the fact that nitrogen has been as expensive as it has been in the past, we could have obtained better returns per dollar spent on fertilizers if we had used considerably more nitrogen and less phosphoric acid.

But all the foregoing discussion leads up to the change that is taking place in the nitrogen situation. Every indication points to cheaper nitrogen and this means that more nitrogen will be used in our fertilizer mixtures from now on. When considerably more nitrogen is used crop yields will show a marked increase and cost of production will be reduced.

A brief review of the whole situation would bring out these facts. For years most of our commercial nitrogen came to us from Chile, some 4,500 miles away, as nitrate of soda. It cost considerable money to dig the caliche, as the raw nitrate material is called, out of the ground, refine it, pay the Chilean Government a heavy export tax, and then transport the refined product, nitrate of soda, to America. By the time the nitrate of soda reached us it was a rather expensive product, and the nitrogen it contained cost so much that farmers would not use enough of it to get the best yields. Later on sulphate of ammonia, another nitrogen fertilizer, was obtained as a by-product of coke ovens, but without materially lowering nitrogen costs.

In more recent years, however, commercial nitrogen has been obtained from still another source. We have known for years that the air is full of nitrogen. The problem has been how to fix it (or catch and hold it) so that it might be used as a fertilizer. We have known that the legumes gather this air nitrogen, but they put it in the soil right where they grow. It can not be used to feed other crops on other fields. Hence it has been up to man to find a way to take nitrogen from the air and so combine it with other elements as to put it in sacks as commercial fertilizer. Having known for the last 150 years that a bolt of lightning changes air nitrogen into a form that permits it to be used by plants, after it is brought to the earth in rain or snow, scientists conceived the idea of applying electricity to the air to produce ammonia. This ammonia which contains the nitrogen obtained from the air is then combined with other materials in order that its nitrogen may be sacked up and used as a fertilizer.

The first successful effort to work out this process was made at Niagara Falls. However, it was soon found that this method of fixing air nitrogen requires such a tremendous amount of electrical power that only those countries with large supplies of cheap power could afford to use the process. Hence, Norway has been the only country that has ever made a commercial success of the process.

Later on, in 1906 to be exact, the cyanamide process, another method of fixing air nitrogen, was worked out, and by 1918 there were 36 cyanamide plants in the world.

On top of these developments, each of which marked a forward step in the use of air nitrogen for fertilizer, there came still another one. Two Germans—Fritz Haber and Carl Bosch—found a still better method of fixing air nitrogen. By this Haber process the amount of power required is so low that cheap power is not vital to its success. In fact, Germany has been using coal as the source of power. Just how this is done is of no great interest to our readers, but the important point is that this method is four times as cheap as the arc process, which is used in Norway, and considerably cheaper than the cyanamide process, which is a method of fixation used by the larger of the two plants at Muscle Shoals.

Germany, using the Haber process, has largely taken the lead in air-nitrogen fixation. She is not only making all the nitrogen needed at home but is now selling it in the markets of the world in competition with nitrate of soda and by-product sulphate of ammonia. She is making a mixed fertilizer containing air nitrogen especially for sale in the United States, and it is reported that she plans to establish nitrogen-fixation plants in this country.

The United States, which five years ago had no plants for the fixation of air nitrogen, now has seven plants, with a combined capacity of 80 tons a day. In time the air nitrogen from these plants will find its way into the fertilizer market, and the competition for the farmer's trade in nitrogen will become even more keen.

This trend toward the greater use of air nitrogen has not gone unnoticed by the producers of Chilean nitrate of soda. They are improving their methods and plan to sell cheaper in order that they may meet the competition of air-nitrogen producers. Caliche, the Chilean raw material, is now being mined with machinery instead of by hand, and other processes have been developed by which lower-grade caliche may be made use of.

Furthermore, each producer now sells independently instead of through one central sales agency. The Chilean Government is being pressed to lower its export tax of $12 a ton. By these means nitrate producers hope to meet all other competitors.

For statesmen the point of importance in all this is that farmers can now get nitrogen cheaper from other sources than from a cyanamide plant at Muscle Shoals; hence, Muscle Shoals has again become a power rather than a fertilizer-making center. For farmers the point of importance is that these new developments mean cheaper nitrogen, and cheaper nitrogen will mean crop yields at lower cost per unit. To the South, which uses more fertilizer than all the rest of America put together, and to all our host of fertilizer users, this situation is especially encouraging.

[From the Farm and Fireside for July, 1927]

WHY NITRATES ARE GOING TO BE CHEAPER

By Wheeler McMillen

(The prices of nitrogen, phosphorus, potash—three plant-food necessities farmers have to buy when soils grow feeble—are of vital concern. Read this account of tremendous changes taking place in the nitrogen situation.)

You may as well be prepared to witness within the next few years, whether you now use commercial fertilizers on your land or not, certain developments that are likely to affect your yields and costs to a degree now little dreamed of.

The binder in replacing the cradle, and all the mechanical improvements of the last 75 years, perhaps have been of no greater importance than what is ahead of us now in fertilizers. Fertilizers are going to be cheaper and better.

Nitrogen is the element that will cut our costs and increase our yields. Events are happening nowadays with regard to nitrogen that literally are changing the currents of world history.

A silly fight has been waged for years in Congress over Muscle Shoals, in which farm organizations have taken part, in the belief that Muscle Shoals is important as a source of nitrogen for fertilizer. While this wordy battle has been going on, Muscle Shoals has passed absolutely out of date as regards fertilizer production. Practically it was out of date before the fight began.

A new German process for fixation of nitrogen from the air is responsible.

The three most important plant constituents which crops remove from the soil are nitrogen, phosphorus, and potash. Of these, crops take out more nitrogen than phosphorus or potash. Nitrogen is much the most expensive to replace. Farmers put in long days of hard work hauling manure, and a long year in their rotation growing clover, in order to put nitrogen back into the soil.

Commercially, nitrogen in the past has been too expensive for farmers to buy in sufficient quantities except for a few highly specialized crops. More soils are short of nitrogen than of the other elements. This deficiency is a principal cause of our low-average crop yields in this country.

The air is full of nitrogen, but most plants can not feed on nitrogen from the air. It must be in the soil. In the air above a single section of land, one square mile, are 20,000,000 tons of nitrogen. And there are 200,000,000 square miles of the earth's surface.

Yet with millions of tons of nitrogen right on top of your farm, until very recently if you wanted some for your crops you had to send a ship 4,400 miles to Chile to get it. Down there, far below the Equator, is the world's only great natural deposit of nitrogen. Having a monopoly, Chile has furnished 40 per cent of her government revenues by a tax on the export of nitrates.

Clover and other legumes, as every farmer knows, take some nitrogen out of the air and leave it in the ground.

Scientists have also known for 150 years of another way by which a little nitrogen gets into the soil from the air. They knew that a bolt of lightning "fixes" (that is, converts into a chemical compound) some atmospheric nitrogen which rain and snow later carry into the soil. So they reasoned that perhaps they could apply electricity to air and keep the process under such control that the nitrogen could be captured and put in sacks.

Two American chemists in 1901 devised the first plant in the world for this purpose at Niagara Falls, where electric power was abundant.

The first commercial success, however, was achieved two years later in Norway where power was even cheaper. That plant is still running, passing air through an electric furnace and finally fixing the nitrogen. But this method, known as the "arc" process, takes such an enormous amount of power—67,000 kilowatt-hours for every ton of nitrogen—that it has not been very practicable outside of Norway.

By 1906 another process, the cyanamide, developed in Germany and Italy, went into commercial operation with an output gradually increasing year by year. By 1918 there were 36 of these plants in the world, most of them in Europe, the biggest of all being at Muscle Shoals, although it was never operated except for a short test run. Nitrogen is an absolute necessity in making explosives, so during the war great expansion in the production of nitrogen compounds took place in many countries.

While these things were going on two Germans, Fritz Haber and Carl Bosch, found a method that did not require electric power. While numerous variations have been put into use, essentially the process consists of extracting hydrogen from steam by the chemical action of glowing coke and passing a mixture of this and nitrogen of the air under a pressure twenty times as great as that of the ordinary steam boiler at a temperature of dull-red heat over certain solid substances which cause the hydrogen and nitrogen to combine, forming ammonia.

The important fact is that this method is four times as cheap as the original arc process and so much cheaper than the cyanamide process that many great foreign companies are transforming their old factories to adopt this new Haber-Bosch process, also known as the direct synthetic-ammonia process.

This discovery is the event that I asserted was literally changing the currents of world history. What to you as an American farmer is of greater importance is that it foreshadows a time, not so far ahead, perhaps, when you can buy nitrogen for your soil so cheap that you can afford to use what you need and can grow high yields on fewer acres at better profits.

The world nor American farmers are now solely dependent upon Chile for nitrogen. In fact, so cheaply can it be produced by the new process that 200 tons were exported a few months ago from Germany to Bolivia, the next-door neighbor of Chile!

Germany is manufacturing at the rate of 600,000 tons of nitrogen per year. In this country we have used in a year only 240,000 tons. German farmers are adopting the new forms of cheap nitrate fertilizers so rapidly that in that country it is predicted no food will have to be imported at all within a very few years.

Three circumstances may be pointed out here, each of direct concern to American farmers:

1. Germany has nitrogen to sell in the United States and is selling some here in spite of tariff barriers. Last year around 30,000 tons came to us from Germany and some thousands of tons from other countries. Of course, not all of this is for fertilizer. Also it is known that Germany is making investigations looking to the erection of nitrogen manufactories in the United States to use her new processes. As conditions permit, we may find ourselves buying increasing quantities from Germany.

2. Producers of Chilean nitrates, alarmed some years ago by the threats of synthetic nitrogen, set about to improve their own methods. One of the principal companies operating in Chile now announces the entire substitution of machine methods for handwork in collecting the caliche, the raw material; and announces that they have found out how to turn 90 per cent of the caliche into merchantable nitrates instead of only 65 per cent as formerly.

These improvements make available the lower grades of raw material, which before could not be used. This may increase by as much as 75 per cent the nitrate resources of Chile. These new processes will be for the use of all the Chilean producers. Renewed pressure is being exerted to get the Chilean Government to lower the export duty.

Anyway, there is to be real competition between Chilean and artificial nitrogen, competition that promises to lower prices materially. Moreover, the Chileans have abandoned their former combined sales agency and each producer is now selling independently.

3. Of most importance, American capital is erecting plants in the United States to manufacture nitrogen from the air by methods of French origin very similar to the new German process. One such plant, already making about 25 tons a day, is under a program of expansion that contemplates eventual production of 300 tons a day, nearly twice the capacity of Muscle Shoals. This is the Lazote (Inc.) plant at Bell, W. Va., near Charleston. Lazote (Inc.) is a subsidiary of the du Pont powder interests. Its first job will be to supply nitrogen for explosives, but agricultural nitrogen is foreshadowed. Another company has announced plans for a large plant at Hopewell, Va.

After the war the Government established the fixed nitrogen research laboratory, now in the Department of Agriculture. The task of this laboratory is to conduct research looking to building up the nitrogen industry in America. Extraordinarily valuable work is being done by the scientists there.

Thus far we have discussed the essential developments in the nitrogen situation itself. Putting the nitrogen into fertilizer and the fertilizer into your fields is yet another story.

When you buy a 100-pound sack of, say, 4–8–4 fertilizer you are buying 16 pounds of actual plant food—nitrogen, phosphorus, and potash—and 84 pounds of carrier. The extra 84 pounds may have some value to you as lime but not enough to pay freight on. In a sense they are the container, like the sack, for your 16 pounds of real plant food. You could not have the fertilizer elements shipped to you without the container, nor could you distribute it on your field. But you have to pay freight on that 84 pounds of container and lift it around.

The freight and handling costs on our ordinary fertilizers are over a fourth of the total costs of the fertilizer.

These new developments with nitrogen promise that we may have eventually much more highly concentrated fertilizers. I have seen, for instance, one of the new German fertilizers, urea, which is 46 per cent nitrogen.

Another new complete German fertilizer, its formula 16–32–16, carriers 64 per cent of plant food. We shall have fertilizers in which the chemists have made one fertilizing element act as the carrier for another. All of which goes to point to the coming time when a farmer will not have to pay freight on and wrestle with 84 pounds of little value to get 16 pounds of plant food. It may be that highly concentrated fertilizer materials will be shipped over the long freight hauls to your local mixing plant, cooperative perhaps, where they will be conditioned enough to apply evenly and work properly. The savings in freight and handling charges may be as important as—or more so—the reductions in nitrogen prices.

One point was stressed repeatedly by every authority with whom I have discussed this situation—that the rapidity with which the new nitrogen industry in the United States develops from now on will depend to no small extent upon farmers themselves. Farmers will soon have to accustom themselves to using more concentrated fertilizers and to prepare themselves to adopt the more exact methods required for the higher types.

[From the Farm Life, Spencer, Ind., December, 1927, circulation 1,111,368]

TIME TO SETTLE IT

Congress will be struggling with Muscle Shoals again, and it is high time to settle the matter. Probably the power of this big plant will be sold to the power companies. It was originally built for a nitrate plant, but chemistry has shown a better way to get fertilizer. Nitrogen is now obtained synthetically from coal at only a fraction of the cost of water power, and Muscle Shoals seems to be a back number, so far as the farmer is concerned. But the revenue derived from selling Muscle Shoals power might and should be used for the benefit of agriculture, in the development of an American nitrate industry, so that the farmer could have cheaper fertilizer and the Government an abundant supply of explosives in case of emergency. Thus the vast sum spent at Muscle Shoals will not be altogether wasted nor diverted from its original purpose.

[From the Farm Journal, Philadelphia, Pa., May, 1927, circulation 1,354,803]

WHY MUSCLE SHOALS NO LONGER MATTERS

The Farm Journal long ago lost interest in Muscle Shoals as a producer of cheap nitrogen plant food, commonly known as fertilizer.

Those of our folks who are also "constant readers" know why we came to this conclusion. Newer readers, however, may not be so informed, and may be interested in our reasons.

They are as follows:

Nitrogen "fertilizer" does not, at present commercial prices, return its cost when used with proper quantities of phosphorus and potash in standard rotations, including clover.

The delivered cost of nitrogen would have to be lowered to something like 5 or 6 cents to make it profitable for the average farmer to use.

Muscle Shoals is not well adapted to the production of cheap nitrogen from the air.

The popular idea that fixation of air nitrogen is somehow tied up with cheap water power is 10 years out of date.

Cheap air nitrogen by the most modern processes now depends on a cheap supply of hydrogen gas rather than cheap power. There are many manufacturing sites more suitable for the purpose than Muscle Shoals.

The above list of facts does not, by any means, tell the whole story. But it is enough to indicate why the Farm Journal does not now regard the disposition of the Muscle Shoals plant as a matter of importance to agriculture.

[From Hoard's Dairyman, Fort Atkinson, Wis., February 10, 1928, circulation 127,324]

FERTILIZER AT MUSCLE SHOALS

The question as to what should be done with the power of Muscle Shoals has been widely discussed for several years. Certain farm leaders have advocated that the Government take this power and manufacture fertilizer for the farmers. Others have urged the Government to sell this power to some corporation that would make fertilizers.

The problem of what disposition to make of the power of Muscle Shoals has been discussed at many conferences and there was a wide difference of opinion. It would seem now that the problem has solved itself so far as the production of nitrogen fertilizer is concerned. In the last few years a new process for producing synthetic nitrogen has been perfected, and cheap power is a minor factor in its cost. Secretary Jardine, after having a thorough investigation made, reports:

"In fixing nitrogen from the atmosphere the art has rapidly changed from the original arc process, where cheap electric power was a dominint factor, to the later synthetic ammonia process requiring only one-sixteenth of the power of the former, and where coal and economic position are of much more importance than electric power by itself. We are convinced that there are cheaper methods of manufacturing fertilizer than under the set-up at Muscle Shoals. A sound solution of Muscle Shoals would be to dispose of this power to the best advantage and utilize the income in the broad solution of fertilizer problems."

We wonder if in the face of these facts some of our farm organizations will continue to urge Congress to enact a law that will permit the Government or private corporations to manufacture nitrate fertilizers. It occurs to us that if we are to solve our agricultural problems or, for that matter, deal intelligently with any of our national questions, we must first have accurate information, but this fundamental requisite for dealing intelligently with problems does not seem to enter the minds of some people.

[From Farm Life, Spencer, Ind., February, 1928, circulation 1,111,368]

MUSCLE SHOALS

An Alabama friend takes exception to our December editorial on Muscle Shoals. We said that this huge plant is a back number as far as fertilizer is concerned. We added that the best course would be to sell the power and use the income to develop a cheap supply of fertilizer. Our Alabama friend fears that we have been ensnared by "propaganda put out by the Power Trust." He wants "a fine article on Muscle Shoals" in our next issue, and says that the influence of Farm Life is too great to be used in misleading farmers. We are sorry that we can not gratify the writer of this friendly letter. We would be misleading our readers if we published what he asks. Apparently he favors the plan indorsed by certain farm leaders of turning Muscle Shoals over to a private concern, which, these leaders say, would make cheap nitrogen there for farmers. However fine that sounds, it's an empty hope.

A POWER PLANT

The nitrate plants at Muscle Shoals were built to use the cyanamide method, and newer ways are much cheaper. They make the cyanamide method just about obsolete. Secretary of Agriculture Jardine says so, along with many others who should know. In fact, much the same thing was testified before Congress at the time of the Ford offer by the same farm leadership that now argues we will get cheaper fertilizer by turning Muscle Shoals over to a private concern. Certainly progress in lowering nitrogen-making costs has not gone backward since then. All the facts point to Muscle Shoals as a power plant and not an economical fertilizer factory. Let's not be fooled and maybe wake up to find that we have parted with the huge power there for a promise of fertilizer that can not be made good. The job for Congress is to dispose of Muscle Shoals so that its power resources will bring the largest value to the American people.

[From the Progressive Farmer, February 11, 1928]

WHAT SHALL WE DO WITH MUSCLE SHOALS?

Again this year, as for years past, one of the most frequently debated topics is, "What should be done with Muscle Shoals?" The American Farm Bureau is still favoring the bid of a certain company which proposes to use part of the power to manufacture nitrogen by the process regarded as best established when the Muscle Shoals plant was built.

A few years ago this would undoubtedly have been the right thing to do. Now, however, authorities assure us that far better and less expensive methods of nitrogen making have been established. The American Farm Bureau seems to have taken a position on the basis of out-of-date processes and information. Now its officials and members, through a mistaken sense of loyalty, seem to be sticking to this old position rather than advance with advancing information. And other important developments may be just around the corner.

All in all, there seems only one fair and sensible thing to do with Muscle Shoals. This birthright of the American people should not be sold for a mess of pottage. Congress should not turn it loose in a fit of impatience and desperation. Rather Congress should recognize that this whole problem both of nitrogen making and power development may be still in a formative stage. Certainly throughout an experimental period, if not permanently, the Government should itself operate Muscle Shoals, ascertain just what is the wisest use of this gift from the Almighty, and accept bids from private interests (if at all) only after the best engineering skill at our command works out a proper policy of utilization.

[From the Progressive Farmer, January 21, 1928]

MUSCLE SHOALS ONCE AGAIN

The question of what to do with Muscle Shoals will again come before Congress during its present session. Congress has been talking about Muscle Shoals for years; it remains to be seen whether it will do anything about the matter. After all these years of discussion, barren as far as action is concerned, it seems clear to the Progressive Farmer that Muscle Shoals as a fertilizer proposition is no longer of vital importance to the farmer. The idea in developing Muscle Shoals as a fertilizer project was to cheapen the cost of nitrogen to the farmer. No matter what disposition Congress makes of Muscle Shoals, much cheaper nitrogen for the farmer seems just around the corner. Since new discoveries in the manufacture of air nitrogen make it certain that nitrogen is to be much cheaper in the near future, regardless of what is done at Muscle Shoals, it would be an economic crime for the Federal Government to hand over the tremendously valuable power rights at Muscle Shoals in return for the manufacture of a limited amount of cheap fertilizer.

Every bid that has ever been made for the properties at Muscle Shoals has been predicated on the desire to monopolize the huge amount of power developed there. One can very well afford to make a limited amount of fertilizer in the now out-of-date Muscle Shoals plant, and even sell it below the cost of production, if he is given permission to use the remainder of the power, which is the greater part of it, as he sees fit. This is just what every bidder for the properties has had in mind.

The Federal Government should hold on to Muscle Shoals, developing its power possibilities to the utmost and regulating the use to which the power is put. In other words, the Government should see that the power at Muscle Shoals is put to the most economical use and made to serve the best interests of the people as a whole. If a fertilizer concern wishes to use some of this power for the manufacture of fertilizer, let it purchase the power from the Federal Government at a reasonable price. But perish the thought of turning Muscle Shoals, lock, stock, and barrel, over to some one concern to use to its own selfish advantage merely in return for a promise of cheap fertilizer. Why sell a birthright for a mess of pottage?

[From the Farmer, St. Paul, December 31, 1927, circulation 153,733]

MUSCLE SHOALS AGAIN

The disposition of the Muscle Shoals power project, developed by the United States during the recent war and now standing idle, is again occupying the attention of Congress. The Madden bill, which proposes the leasing of this power to private interests for the manufacture of fertilizer nitrogen, to be sold at cost to farmers, has been indorsed by the American Farm Bureau Federation. The Muscle Shoals project is a plum that has been sought by power interests for a number of years. Henry Ford at one time made an offer for its lease. To date Congress has not been able to agree on the acceptance of any one of the proposals offered.

There has been considerable discussion in the press of late to the effect that farmers and farm organizations are being imposed upon by the power companies who seek Muscle Shoals, not for the manufacture of fertilizer but purely from the standpoint of monopolizing this source of cheap power. These critics say that the old methods of extracting nitrogen from the air by the use of huge power such as is available at Muscle Shoals are now obsolete, newer and cheaper methods having been recently developed. These same critics go on to state that the power interests of the United States are quietly but surely gathering into one huge monopoly all of the sources of electric power. They point out that a decade or a quarter century hence the people of the United States will wake up to find themselves in the grip of a huge Power Trust more powerful than any organization of business interests ever perfected in this country. Muscle Shoals is merely one of the pawns in the game. Warnings of this sort are at least worth considering.

Regarding Muscle Shoals as a source of cheap fertilizers, we are interested in a recent statement from Secretary Jardine, of the Department of Agriculture, which reads as follows:

"In fixing nitrogen from the atmosphere the art has rapidly changed from the original arc process, where cheap electric power was a dominating factor, to the later synthetic ammonia process requiring only one-sixteenth of the power of the former, and where coal and economic position are of much more importance than electric power by itself.

"The much-discussed Muscle Shoals project of the United States Government, based on electric power, could furnish but one-fifth of the nitrogen used in commercial fertilizers in the United States and eight-tenths of 1 per cent of the nitrogen used by our farmers.

"Research and development have vastly altered the situation, and it has been difficult for the public to recognize the changed conditions. We are convinced that there are cheaper methods of manufacturing fertilizer than under the set-up at Muscle Shoals. A sound solution of Muscle Shoals would be to dispose of the power to the best advantage and utilize the income in the broad solution of the fertilizer problems."

With this statement coming from a reliable source, and considering also the numerous warnings about the plans of the power companies, it would be well for farmers to consider the Muscle Shoals argument in its true light.

[From the Farm and Fireside, Springfield, Ohio, December, 1927, circulation 1,237,197]

THE MUSCLE SHOALS HUMBUG—IT'S TIME FOR FARMERS TO STOP THE USE OF THEIR NAME TO PULL CHESTNUTS OUT OF THE FIRE

By Wheeler McMillen

Nitrates for fertilizers can not be made profitably at Muscle Shoals. This fact has long been known to the nitrate experts of the country, whose findings have been freely published.

Yet session after session Washington lobbies have been urging farmers to write their Congressmen and pass resolutions in behalf of this or that Muscle Shoals offer "to make cheap fertilizer." In plain words, the influence of farmers has been used as a cat's-paw in efforts to pull the meaty power chestnut out of the Muscle Shoals fire.

Behind all this is a story of shrewdness and stupidity, of blindness and deception, of "fooling the farmer" that is painful to tell. Farmers are hard to fool when they have the facts, but they have not had the facts about Muscle Shoals. Their hopes have been falsely raised, their influence has been misused, and their confidence abused.

Of the many offers made to Congress for Muscle Shoals, all agreeing to manufacture nitrates for fertilizer, we do not believe that any has been made because the interests concerned desired to manufacture fertilizer. It would appear that the offers have been for the purpose of getting control of the water power, which is valuable.

The Wilson Dam and the nitrate plants at Muscle Shoals were erected to meet the great war-time need for nitrates in explosives. The Nation could not afford to depend upon imported nitrates in time of war. At the time no process for fixation of atmospheric nitrogen was fully developed in America except the cyanamide process, which requires plentiful and cheap electric power. So the properties were erected to manufacture nitrates for explosives in war time and for fertilizers in peace time.

After the war America learned details of how Germany had supplied herself with nitrates. She did it with the newer synthetic ammonia process, requiring little power but much coal. Before the war Germany had to import 125,000 tons a year. Now, beyond her own increased uses, she makes 150,000 tons to export. This process, described in Farm and Fireside for July, 1927, is much cheaper than the cyanamide process.

Within a shorter period than has already elapsed since the Muscle Shoals controversy started the United States may not only have nitrates sufficient for all our home uses, but also nitrates to export. Down at Hopewell, Va., an enormous plant is already in process of construction, and all the contracts for its completion are let, where nitrates for fertilizers will be made by the synthetic process. Read carefully the following authorized statement issued by the owners of the new plant:

"Allied Chemical & Dye Corporation for the past five years has had in operation a laboratory plant, involving an investment of approximately $4,500,000, devoted to the manufacture and intensive study of fixation-nitrogen products.

"This work to date justifies the initiation of new installation, of large capacity, with a view to producing from raw materials available in the United States fixation-nitrogen products in quantities sufficiently large to enable the United States eventually to be independent of importation of these products as units of fertilizers, as well as making the United States independent of importation during periods of war.

"The economics as to location and technical process at Muscle Shoals not proving of interest, the company has acquired a large acreage, accessible to both rail and deep-water carriers, at Hopewell, Va., for the location of the first installation."

This concern has spent four and a half million dollars to study and perfect for use here the synthetic process. Now it is spending several times that number of millions in preparing for production on so large a scale that it will be able to supply the entire needs of this country and have a surplus to export.

Note the last paragraph. "The economics, as to location and technical process, at Muscle Shoals not proving of interest," the statement reads.

In plain words, after a thorough study of the Muscle Shoals proposition, one of America's biggest corporations not only found no possibility of making fertilizer economically at Muscle Shoals but is so thoroughly convinced that no one else can make nitrates there economically that it is going ahead with a multimillion-dollar plant. No such investment would be risked if there was any likelihood that fertilizers made at Muscle Shoals ever could undersell their Hopewell products.

In the face of this development, in the face of the insistence of almost every air-nitrate expert in the country, including the fixed-nitrogen research laboratory of the Government, that nitrate fertilizers can not be made cheaply at Muscle Shoals, and despite the fact that cyanamide plants abroad are being converted into synthetic-ammonia plants, certain farm organization representatives have continued to tell farmers that Muscle Shoals will yield them cheap fertilizers.

These men first were for Government operation of Muscle Shoals. Then they fought for the Ford offer and at that time introduced testimony before Congress that the cyanamide process was obsolete. After Ford blandly withdrew his offer without explanation these men and their organization indorsed the offer of a cyanamide company. This offer the organization's Washington representatives now vigorously support.

The competition of cheaper method has made Muscle Shoals a myth and a will-o'-the-wisp so far as cheap fertilizers are concerned. Cheaper nitrates are coming to the American farmer by way of competition between German importations, Chilean importations, and domestic manufactures by the synthetic ammonia, coal-using process. Cheap coal, not cheap electric power, is now the important factor.

No company can make nitrates in the obsolete Muscle Shoals plant and compete in price. Various of the offers either depend upon the likelihood that no court would compel the continuance of fertilizer manufacture at a loss, upon technical loopholes, upon charging the necessary loss upon a minimum amount of fertilizer as part of their rental for the valuable power, or upon making a minimum amount in some other way, since fertilizer is a condition for getting the power.

The fertilizer tail to the Muscle Shoals power kite has been a convenient line and bait with which to kid the farmers. Every interest that has set its covetous eyes upon that great and useful power has seen the possibility of using the farmers to help influence Congress in its behalf. Only Congress has power to determine what shall be done with Muscle Shoals, so the question is unavoidably political and farmers are a large body of people with political influence and votes.

There is not space here to make an analysis of the various bids submitted for Muscle Shoals and such a discussion would be beside the point anyway. The point is that everyone who thoroughly understands the Muscle Shoals situation is fully aware that it is a power proposition, for the use of which the Government should make the wisest possible arrangement for the public interest. Whatever the final settlement of the matter, the interests of the Government and the public should be properly conserved. The farmers' only concern in the problem is their concern as citizens to that end.

"The truth about Muscle Shoals" was told by L. E. Call in the October, 1924, Farm and Fireside, where he said that the cost of producing nitrogen at Muscle Shoals would be prohibitive.

The political influence of farmers should not be prostituted to subserving the efforts of any interest coveting the possession of a national natural resource. Particularly shameful is the utilization of that influence before Congress without an adequate understanding by farmers of the facts concerning the proposals in behalf of which their good name is used. And still more pernicious is the deception of farmers by creating amongst them a false hope.

[From the Southern Agriculturist, March 1, 1928, Nashville, Tenn., circulation over 500,000]

MUSCLE SHOALS AND FERTILIZER—FLOOD CONTROL

By Dr. Gus W. Dyer

MUSCLE SHOALS AND FERTILIZER

Muscle Shoals was developed by the Government primarily to supply nitrates for war purposes. At this time large electric power was the one essential condition in producing nitrogen, and the Government wanted nitrogen. A secondary consideration was to dedicate this plant to the cause of agriculture after the war and use it in the interest of cheaper and better fertilizer. Since the use of large electric power was the only effective method known at that time for producing nitrogen, of course, they expected that this plant would continue to produce nitrogen after war as it did during the war. But in peace time the nitrogen would go into fertilizer rather than in explosives.

But in the meantime the Germans discovered a new process for producing nitrogen. This is known as the synthetic ammonia process. By the synthetic process nitrogen is produced by coal instead of by electric power. By this process nitrogen may be produced wherever coal may be had, whereas abundance of cheap electric power is the one essential of the old method. The cost of manufacturing nitrogen is substantially less by the synthetic process, it is claimed, and in addition to this factories may be located nearer the farmer, since coal is the only essential condition, and thereby a great saving in freight charges is effected.

The synthetic process was used successfully by the Germans during the war, and it has become so extensive in that country since the war that the Germans are not only supplying their own demands for cheap

nitrogen but are shipping considerable quantities to this country and are selling nitrogen to us at a profit, notwithstanding the high tariff rates against nitrates.

But the Germans have no monopoly on this new method. It is not secret. It may be used by anybody.

In plain language, we have discovered a cheaper and better way to produce nitrogen since the Muscle Shoals power was developed, and the result is that Muscle Shoals as a fertilizer producer is out of date.

One proof of this is the fact that no responsible corporation seeking control of Muscle Shoals will agree to use the process to produce fertilizer. They don't want it for this purpose. About all any of them promise is to produce fertilizer if they find it profitable. This is all Henry Ford would promise. The Federal Government is the only business organization in this country that is stupid enough to ignore economic facts and economic laws and fight a losing battle in the field of industry. The Federal Government can do this because it can pay the losses out of the taxes of the people, and it has unlimited power to collect the taxes needed for the purpose.

Another proof is the fact that the farseeing and capable du Ponts have built a synthetic ammonia plant at the mouth of a coal mine in West Virginia; and at Hopewell, Va., the Allied Chemical Corporation is now erecting the first unit of an enormous nitrate plant in which the synthetic (coal) process will be used for producing nitrate. It is estimated that this first unit will cost $35,000,000, and the company has bought land for five additional units. The annual output of this plant is estimated to be 200,000 tons of nitrogen. Muscle Shoals can produce only 40,000 tons annually.

FUGITIVES FROM INFORMATION

In view of the fact that a cheaper and better process for producing nitrogen has been discovered than the process used at Muscle Shoals, it is rather strange that certain leaders in the farm movement are still storming for the operation of Muscle Shoals to produce cheap fertilizer. It is characteristic of the theorist and the ignorant and the demagogue to ignore economic facts and laws, but this is never done by capable business men. Some agitators, in the words of the late Senator Carmack, seem to be "fugitives from information" with reference to Muscle Shoals and cheap fertilizer. It is hardly necessary for some of them to run from that against which they are immune.

Cheap fertilizer can not be gained by driving a hard bargain with somebody. Neither can it be obtained legitimately by act of Congress. The price of fertilizer, like the price of everything else in the competitive field, is fixed by natural laws, and it is stupid to ignore this fact. The theorist or the man grossly ignorant of business is the only man who thinks that the Government may produce fertilizer at a price cheaper than the competitive price.

The price of nitrogen is going to be determined by competition between the different nitrate plants in this country, which must also compete with German and Chilian imports. There is no legitimate way to produce nitrate at Muscle Shoals cheaper than the price fixed by these natural laws, and every intelligent business man knows this.

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RESEARCH AND CHEAP FERTILIZER

The original purpose of the Government with reference to the use of Muscle Shoals for producing cheaper fertilizer should be carried out. Under present conditions this can not be done successfully by operating the plant for the production of nitrogen. The operation of another nitrate plant at Muscle Shoals, either by Government or by a private corporation, can not, it is believed, in any legitimate way reduce the price of nitrogen.

The opportunity for cheaper nitrogen—cheaper fertilizer—is not in some particular location, not in the nature of a contract made with somebody, not in any particular kind of operation of the plant, but in the field of research and experiment. Corporations realize this, and they spend enormous sums of money for research and experiment. The Government may make a big contribution to the cause of cheaper nitrogen by supplementing the work of the corporation in the field. Work of this kind is unmistakably within the proper scope of governmental activities, and is that which gives the greatest promise of substantial results in reducing the price of fertilizer to the farmer.

Muscle Shoals should be disposed of at the earliest date possible, and every dollar of rental or profit from the plant should be dedicated to the work of research and experiment in the field indicated.

CONGRESS AND BIG BUSINESS

Congress has had Muscle Shoals on its hands for 10 years, and through the whole period it has been laboring hard to dispose of it. But notwithstanding the fact that the people have been anxious from the beginning to have some disposition made of this great asset, and notwithstanding the fact that a number of responsible corporations have been anxious to pay huge sums to the Government for the use of this plant, Congress as yet has not been able to find any way to let it go, although Congressmen are anxious to dispose of it. Now they are considering extending the "disposing period" 10 years longer, perhaps in the hope that in the meantime some constituency will forget itself and send a business man to Congress who can tell them how to turn loose.

FLOOD CONTROL

The administration plan for flood control is that the States touching the area affected pay 20 per cent of the cost of construction, estimated to be $296,000,000, and in addition to this pay the whole cost of rights of way.

The States affected should at once accept the administration plan of prorating costs. But the settlement, in all fairness, must look back as well as forward.

It is conceded by all that the problem of flood control is the problem of the Federal Government. Hence the responsibility for flood control is on the shoulders of the Federal Government. If this is true to-day, it was true generations ago. If the Federal Government had done its duty in the past, the people in the flooded area would have been saved from the suffering and loss that have overwhelmed them from time to time, and there would be no flood problem to-day.

In struggling to carry a burden that belonged to the Federal Government all these years, haven't these people paid their share? In working out an equitable distribution of costs these people should be given credit for the millions they have spent in trying to carry the burden that was not theirs, but the burden that belonged to the Federal Government. Thus they should be given credit for the loss in property and human life and human suffering, a loss that can hardly be estimated; a loss incurred by them, due to the failure of the Federal Government to do its duty. In this distribution of cost the Federal Government should give recognition to the fact that the people in the flooded area were charged up with a considerable portion of the $200,000,000 lost by the Federal Government in the last few years in the shipping industry trying to help somebody somewhere on land or sea. Just who it was, if anybody, that received aid as a result of this $200,000,000 loss is not very clear. Thus the Government should give consideration to the fact that these people have been taxed with a large part of the billion dollars, perhaps, the Federal Government has scattered throughout the Philippine Islands without fear of punishment or hope of reward. It is the misfortune of the people along the Mississippi that they can not qualify as Filipinos.

It is little short of gross presumption that the Federal Government, after sleeping on its job all these years, should begin its activity by trying to place an unwarranted and unbearable burden on the people who at great cost to themselves have been carrying the Government's burden while the Government was asleep. Are these people to be penalized for the vicarious sacrifices they have made?

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[From the Southern Agriculturist, Nashville, Tenn., March 15, 1928, circulation over 500,000]

THE INTERSTATE COMMERCE COMMISSION DISCRIMINATES AGAINST THE SOUTH

By Dr. Gus W. Dyer

FARMERS ARE INTERESTED IN COAL PRICES

Farmers are big consumers of coal. Whatever affects the price of coal affects the farmer. Freight rates and passenger rates are largely determined by the price of coal, since coal is a large part of the cost of transportation. Coal is a big factor in the cost of farm machinery, wire fencing, building material, automobiles, trucks, etc.

In the competition between the coal mines of Pennsylvania-Ohio and the southern coal mines for the supply of lake cargo coal in recent years the southern mines have won the larger part of the business. The loss of business to the Pennsylvania-Ohio mines has moved the Interstate Commerce Commission to reduce the railroad rates on coal from their mines to lake ports to the point of giving these mines a differential advantage over their southern competitors. To meet this handicap the southern railroads hauling coal from southern mines reduced their rates 20 cents per ton on coal hauled to lake ports. The Interstate Commerce Commission has refused to allow the southern roads to make this reduction. The plain purpose of the Interstate Commerce Commission in these rulings is to so regulate the production of coal through the manipulation of railroad rates that business may be turned from southern coal mines to Pennsylvania-Ohio mines. It is estimated by the Wall Street Journal that the amount of business thus turned to these mines from the southern mines will amount to from $50,000,000 to $60,000,000 annually.

The Interstate Commerce Commission is not here criticized for exercising its power in fixing railroad rates. The charge against the commission is that in fixing these rates on coal it did not determine the rates on the legitimate basis of rate fixing, but that its fixed purpose was to bestow a special privilege on one group of producers over their competitors, in order that they might take a large amount of business away from those competitors, who had won this business in an open market under conditions of free competition.

The position here taken is that any such exercise of Government as this is not only unwarranted, but is antagonistic to our whole theory of the functions of Government.

THE PURPOSE OF GOVERNMENTAL REGULATION OF BUSINESS

The purpose of legitimate regulation is not to give any sort of special protection to any particular individual or group of workers, to any industry or section, but to guarantee freedom of contract between all groups that have business relations with each other, and prohibit any individual or group from obstructing the legitimate freedom of any other individual or group. To carry regulation to the point of giving any sort of special protection to one competing group against another is not only un-American, but is antagonistic to the fundamental theory of Americanism. To give such protection is to repudiate the American theory and philosophy of freedom. It is not the prerogative of public officials in charge of the regulating machinery of Government ever to consider the consequences of freedom on those to whom it is guaranteed any more than it is the prerogative of a judge in a court of justice to consider the consequences of justice. The freedom of all affected is the goal toward which all regulating machinery must point. This is the very essence of our philosophy. To doubt it, and seek to modify it, is to deny the faith on which our institutions are founded.

Since the commission now interprets its power to regulate railroad rates to extend to the regulation of the industries, as coal mines, that furnish the tonnage for transportation, there is hardly any limit to the autocratic power of this political group over industry.

Is it possible that the American people are willing to confer on a subordinate branch of the Federal Government the power of life and death over American industries, the power to drive consumers from the markets of their choice, and compel them to buy in other markets against their interests, the power to turn business through a manipulation of railroad rates, from one community to another, from one group of competitors to another?

In one ruling of this agent of the new American autocracy, the Wall Street Journal estimates that from $50,000,000 to $60,000,000 annually will be turned away from the producers who gained this business in open competition through superior efficiency over the less efficient producers who lost this business because they could not give the service to the consumers that their competitors were able to give. The cost of taking this business from the more efficient and giving it to the less efficient will be assessed on the consumers. It is difficult to estimate the loss to those industries in the South whose owners built up this business under a hallucination that they had a constitutional right to sell their coal, under conditions of freedom, on any market under the American flag.

ELECTRIC POWER AND THE FARM

A few years ago the only significance electricity had for the farmer was that it made it incumbent on him, as he saw it, to make large investments in lightning rods to protect his family and his stock against its deadly attacks. Electricity is now going to the country in a new rôle, not as a destructive enemy but as a constructive servant. It goes into the country not to lay additional burdens on the farmer, but to take the heaviest burdens from the farmer's shoulders and carry light and music and joy and life to the farmer's family.

In the first place, it is the electric current, the electric power from the big power dams, that is playing a big part in decentralizing industry and sending the factory back to the country. It is this that solves the power problem and the light problem for practically every small town and village, and opens the way for industrial development. It is no longer necessary for factory owners to give the coal problem serious consideration in the location of their plants. Electric power may go anywhere and everywhere at a small cost of transportation.

The electric current from the power dams is revolutionizing living conditions in the country home. It is solving many problems that seemed to be impossible of solution a few years ago. There is hardly a single convenience or luxury in the city home to-day that may not be had in the country home at a moderate cost. The country home, in addition to electric lights, may have hot and cold water through the house automatically supplied from the well by the electric current. The washing, ironing, churning, milking, and even cooking may be carried on by electricity, and Frigidaire brings luxuries that ice could not supply.

As we develop the unlimited water power of this country and convert it into electricity, and perfect electrical appliances, the cost of electricity doubtless will be so reduced that all these conveniences will be in the easy reach of the average family.

We are rapidly approaching the day when the country home will have all of the essential conveniences of the city, together with many other things essential to a real home that the city can never give. The development of electricity enables country people to hold on to all that made the country home great in the past, and at the same time enjoy all that modern civilization has contributed to this fundamental institution of Christian civilization.

The family in the country home on a good road, supplied with telephone and radio, may enjoy all the privileges of seclusion—and these are valuable privileges—and at the same time be in close touch with the outside world. The family may enjoy all the advantages of isolation without being isolated.

The paramount interest of the farmer in Muscle Shoals, and the rapid development of electric power everywhere is, or should be, not in some fancied connection between electric power and cheap fertilizer, but in the fact that electric power is the big factor in bringing industries nearer his home and hence giving him a local market for his products, and in addition, will supply his home with those conveniences and luxuries that formerly have been possible only to those who live in town.

THE GREAT SIN OF CONGRESS

The great sin of Congress is not wrong action but inaction. The chief trouble is not that it does the wrong thing but that it won't do anything. When confronted with big problems Congressmen prefer to do nothing rather than do something that might be unpopular. They demonstrate the essential weakness of any delegated group to assume that responsibility that is essential to the solution of big problems. They don't know how to let go!

Congress should launch the movement for the protection of American agriculture, and should do it at once. Further delay is hazardous. To prostitute this problem to the service of a political expediency is to become a traitor to American civilization. It is better to act and fail in a case like this than not to act. It may be necessary to suffer several failures before final success is achieved, and it is important to get these out of the way as quickly as possible.

At the present rate of political inefficiency it will take so long to dispose of Muscle Shoals that when the day finally comes the South may find it profitable to advertise it to the tourists of the world as a rival of Niagara Falls, as one of nature's greatest mysteries.

Mr. MAYFIELD. Mr. President, the Consolidated Southwestern Rate cases, Nos. 13800, 13535, and 14880 were submitted to the Interstate Commerce Commission on June 19, 1925. A decision in these cases was rendered by the commission on April 5, 1927. It required nearly two years for the commission to render a decision in these cases. The order that the commission issued under the decision in these cases included certain reductions in rates on vegetables which were to have gone into effect on December 5, 1927. About eight months after the decision in these cases was rendered the effective date of the tariffs was postponed by the commission until January 3, 1928. A further extension to April 3, 1928, was granted, and I understand that still another extension has been granted, and the reduced rates on vegetables moving from the Rio Grande Valley in Texas will not go into effect until May 16. The vegetable crop of the Rio Grande Valley is now moving, and our truck farmers are still required to pay freight rates which the Interstate Commerce Commission said nearly a year ago were excessive and ought to be reduced.

As part of my remarks on this matter, Mr. President, I ask unanimous consent to have printed in the RECORD a letter I received from the R. V. Dublin Co., shippers of produce and vegetables, Jacksonville and Laredo, Tex.

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

The matter referred to is as follows:

THE R. V. DUBLIN CO.,
Jacksonville and Laredo, Tex., February 26, 1928.

Senator EARLE B. MAYFIELD,
Washington, D. C.

DEAR SENATOR MAYFIELD: The structure of railroad rates in the Southwest is all but criminal. The Interstate Commerce Commission is bound to have known this for years, and we can not understand why the shippers and the public in the Southwest are denied relief. It appears that the railroad companies have the upper hand and are able to influence the Interstate Commerce Commission and thereby maintain a power over the commission that enables them to keep the country choked down and driven almost to a point of desperation. Agricultural producers in the Southwest are on a ragged edge and are practically bankrupt, for no other reason than that they are robbed of at least two-thirds of the value of their vegetables and perishable products in the way of freight rates.

Permit me to give you some light on this subject:

Southwest Texas is now moving a big vegetable crop; cabbage are bringing our truck farmers from six to eight dollars per ton, while the average freight on this cabbage to all consuming markets is $35 per ton. Our truck growers are receiving 25 cents per bushel for beets and carrots, while the average freight rates to all consuming markets is 90 cents to $1.10 per bushel basket. Our growers are receiving 40 to 45 cents per bushel basket for spinach, while the average freight rate on this spinach to all consuming markets is 40 cents per bushel basket.

Southwest Texas will ship approximately 20,000 cars of perishable vegetables this season. The average freight per car will run not less than $400 in round figures. The railroads will reap a revenue of $8,000,000 and maybe up to $9,000,000 or $10,000,000, whereas the growers of these products will, on a fair estimate of market values, receive around two and one-half to three millions of dollars.

Sometimes I think the Interstate Commerce Commission is misled in the testimony given by the carriers on handling of perishable products. The carriers claim that an extreme hazard attends the transportation of perishable vegetables and that claims are quite numerous. I know this is incorrect when volume is taken into consideration. The transportation of perishable freight has become sound and so efficient that claims are a negligible percentage as compared to the high-class rates in effect. I know this by years of shipping experience. My firm moves on an average of 1,500 to 2,000 cars of perishable vegetables each year, and I assure you that we have not filed and collected claims to the amount of one-half of 1 per cent of the base rates in any season. The carrying stability of these products along present methods are so sound and efficient that we do not have occasion to file but very few claims. Now, my contention is that the class rate should be materially lowered on our line of commodities, because the carrying method of these products has been so perfected and so sound as to carry the very least degree of hazard.

May I ask, why has the Interstate Commerce Commission been so generously extending the time of the effective date of the reduced rates in the Southwestern Consolidated cases? The commission has postponed the effective date of these reduced rates two or three times.

First, From December to February; then again to April 3, and now until May 16. In this respect it would appear that the railroad companies have figured out just exactly enough time to cateh the entire southwestern Texas move before rate reductions are finally granted. To my mind it is the most pitiful slap and the rankest form of ignoring the public's dire need of relief that has ever come under my observation. It is possibly ignorance on the part of the Interstate Commerce Commission, as I can not believe that such an unreasonable burden would be willfully put on the agricultural producers of this important and vast industry when they are struggling for existence—then to think to that production from mother earth is the first and basic foundation on which all peoples depend.

I am wondering if it is not possible that we may yet get quick relief and move the remainder of the southwestern important vegetable crops which feed a very large portion of the United States. If we are refused quick relief, then will the commission in the end, when the rates finally go into effect, grant a reparation order that we may be refunded that part of the unreasonable rate that has been demanded and collected by the railroad companies?

In all of my statements and views, as outlined in this letter, I would not have you believe that I am a pessimistic squealer, because such is not the case. I tell you, personally, that I have a good business and may be quite comfortable in a financial and material way; but when I look out upon the most of our agricultural producers and see them in their dire need of relief, that their long hours of labor might bring to them at least a moderate compensation, it makes my heart ache. The great body of interstate commerce commissioners are perfectly ignorant of the drudgery and dire circumstances of our great masses of agricultural producers who are standing, helpless, at the hands of the greatest Government in the world, and I am wondering if you and I, and our great body of Government officials, who are clothed with power and authority, will stand by and see a continuation of these conditions?

The railroads are the big octopus in the picture. Will we permit agriculture to be carried to its death?

Very truly yours,

THE R. V. DUBLIN CO.,
By R. V. DUBLIN.

Mr. SHEPPARD. Mr. President, in connection with the subject of fertilizer I feel sure that the Senate will be interested in a statement of the progress which is being made by the Government in its efforts to discover potash deposits in the United States.

Geologists advise us that every indication points to the existence of large potash deposits in southwestern United States.

The presence of potash in Texas was first intimated in 1912, when Dr. J. A. Udden, of the Texas Bureau of Economic Geology and Technology, found 5.4 per cent of potassium, calculated as chloride, in brine samples taken at a depth of about 2,200 feet in a boring by the S. M. Swenson estate at Spur, in Dickens County, Tex. Endeavoring to verify this discovery, Doctor Udden tested many samples from different depths in this well. While most of these showed no potash, traces of potash were found in two samples taken at depths of somewhat more than 2,000 feet. However, no potash-bearing mineral could be located in these two samples. Later Doctor Udden ascertained that deep borings had been made near Amarillo, Tex., in which much salt had been encountered. He visited the locality of these borings, searched the dumps, and found small particles of reddish salts yielding on analysis 6.14 to 9.23 per cent of potash calculated as potassium oxide (K_2O). Again he was unable to identify any potash-bearing salt, but he reached the conclusion that potash-laden minerals were associated with the heavy Permian salt beds of west Texas, and he so announced in publications of the Texas bureau already mentioned. These discoveries by Doctor Udden confirmed not only his own assumptions, but those of many other geologists who had studied the Texas Permian region.

Next came a test boring by the United States Geological Survey at Cliffside, near Amarillo, Tex., followed through succeeding years by cooperative action between the Texas bureau and the United States Geological Survey in following up wildcat oil drilling and in securing and testing samples. In February, 1921, D. D. Christner, joint representative of the bureau and the survey, found a potash mineral in the Bryant oil well in Midland County, Tex. This mineral was analyzed by the survey and was found to be polyhalite, a potash mineral such as exists among the potash minerals of the great German-French field. This was the first discovery in the United States of a mineral of this kind, one of a class technically known as the Strassfurt potash-bearing minerals. Then ensued other discoveries of polyhalite in widely distributed wells principally south of the Panhandle region. Late in 1921 the Texas bureau, according to my information, was compelled to drop exploration through lack of funds. The United States Geological Survey kept up the work. Oil was found in Reagan County, Tex., and this led to a rapid increase of wells drilled for oil in the probable potash territory and the discovery of further indications of potash. It is interesting to note that discoveries to date indicate the existence in west Texas and in New Mexico of a potash-producing area about 300 miles long, 150 miles wide, containing about 45,000 square miles. This area promises to be the only serious rival on the earth of the vast German-French potash development. Polyhalite has been found in no less than 70 oil wells throughout 18 counties in the Texas portion of this area and in 6 oil wells in 3 counties in New Mexico. Sylvite, another European potash mineral, has been located in a salt dome in Matagorda County, Tex., but the depth at which it was found, 4,800 feet, is too great, I am advised, for commercial purposes. Perhaps it may yet be found there at depths commercially practicable.

While we are familiar with the probable limits of the potash-bearing area, we do not yet have definite knowledge as to how many potash beds there are or how thick, rich, and extensive the individuals beds are. Most of the wells have indicated the existence of more than one bed and some have yielded potash-bearing material resembling substantially the lower grades of imported potash salts and the bulk of the potash salts of the mines of the German-French area, which are the largest in the world and which produce by far the larger part of the world's present supply. In fact, this German-French area may be said to have a virtual monopoly of the potash supply of the globe.

Drillings in Upton County, Tex., have disclosed an upward arching of salt beds within about 500 feet of the surface, with potash-bearing beds not far below these, the most accessible yet found. Accordingly the Geological Survey has selected two sites in the southwestern part of Upton County for further exploration and study at this time. The deeper structures are also to be studied and explored, as it is probable that they contain some of the richer beds, but this will be done later.

In addition to the methods of exploration already described, a form of drilling known as core drilling must be used in order to determine whether potash exists on a practical commercial basis. The core drill shows the number, thickness, and character of specific potash beds at any location and also makes available samples of such character as to make possible chemical and mineralogical studies bearing on methods of concentration and recovery. Core drillings properly distributed will make it possible to define minable areas and to estimate volumes of available tonnage with a fair degree of exactness.

The fundamental importance of potash to American agriculture, industry, and life is so well known as to require no discussion here. Above all, it is an essential element in plant food and is absolutely necessary to the sustenance of human as well as animal life. For several years I urged Congress to enact a bill I had introduced for a more intensive study of the situation, including the drilling of wells for potash. I wanted an expenditure of $500,000 a year for five years. On June 25, 1926, Congress finally passed my bill in modified form, allowing $100,000 a year for five years.

Amendments were made in the course of passage which were found to be unworkable in practice, amendments relating to conditions on which the Government was to conduct the work in cooperation with local interests. This made it necessary to confine the Government's efforts during the first year to the Federal public lands in New Mexico, where promising results have followed.

Mr. President, within the last two weeks the United States Geological Survey has made the announcement that the thickest bodies of potash salts yet revealed by Government tests

have been found in the third Government well drilled in Eddy County, N. Mex. The survey has recently completed analyses of samples selected from the core of this well which show that within 1,500 feet of the surface nine beds or groups of beds of possible commercial interest were encountered. One of these, at a depth of about 1,466 feet, is 8 feet 10 inches thick and contains 11.08 per cent of potash in the sample received. Other noteworthy beds range in thickness down to 2 feet 3 inches and in potash content from 8.50 to 13.68 per cent in the samples as received.

I am pleased to state that the act has since been amended so that the work may proceed in Texas, where there is no Federal public domain, independently or in cooperation with local interests there or in any other State. Under the act the United States Geological Survey of the Department of the Interior and the Bureau of Mines of the Department of Commerce have charge for the Government of potash exploration. The survey finds the best locations and drilling operations are managed by the Bureau of Mines. Be it remembered that the studies in connection with oil wells both in New Mexico and Texas continues without abatement.

Many factors enter into the question of a potash industry for the United States. It must be shown by core drilling or actual mining operations that a large tonnage of potash-bearing minerals is present at one or more localities and that it can be mined and concentrated at reasonable cost. Marketing conditions must next be considered and freight rates studied.

One might well indulge the hope that capital might be amassed on such a scale as to set up immediately in the United States an organization which could compete in all markets with the German-French combine. Immediate development of this nature can not be definitely relied upon, however, in connection with the potash industry, and we must look rather for modest beginnings and a gradual but certain growth.

The most significant initial effect of the disclosure of large volumes of potash in the Southwest will be the prevention of extortionate rises in the prices of foreign potash. Efficient, dominant, imperialistic as the foreign potash power may be, it will refrain from raising prices sufficiently high to tempt capital into the immediate development of potash in the United States, and our farmers will profit from the start, and, in fact, are already so profiting. The entire amount to be expended by the Federal Government in the five-year program could easily be equaled in one year by a moderate increase in the price of potash from overseas. It is the most effective insurance we may for the present possess against aggression and extortion by a foreign combination.

Mr. President, the probability that we are on the eve of the discovery of a tremendous home supply of potash is an additional argument for a course which will lead us to retain a great development like that at Muscle Shoals for further fertilizer experimentation under the control of the Government.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

Ashurst	Edge	McKellar	Shipstead
Barkley	Fess	McMaster	Simmons
Bayard	Fletcher	McNary	Smith
Bingham	Frazier	Mayfield	Smoot
Black	George	Metcalf	Steck
Blease	Glass	Neely	Steiwer
Borah	Gooding	Norbeck	Stephens
Bratton	Greene	Norris	Swanson
Brookhart	Hale	Nye	Thomas
Broussard	Harris	Oddie	Tydings
Bruce	Harrison	Overman	Tyson
Capper	Hawes	Phipps	Wagner
Caraway	Hayden	Pittman	Walsh, Mass.
Copeland	Heflin	Ransdell	Walsh, Mont.
Couzens	Howell	Reed, Pa.	Warren
Curtis	Johnson	Robinson, Ark.	Waterman
Cutting	Jones	Sackett	Watson
Deneen	Kendrick	Schall	Wheeler
Dill	La Follette	Sheppard	Willis

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

Mr. BLACK. Mr. President, I ask unanimous consent to insert in the RECORD a letter received by me from Mr. W. F. McFarland concerning certain figures with reference to Muscle Shoals and its value and the value of the power when translated into fertilizer.

The PRESIDING OFFICER. Is there objection?

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

WASHINGTON, D. C., *March 12, 1928.*

Senator HUGO L. BLACK,

332 Senate Office Building, Washington, D. C.

DEAR SENATOR: According to United States Commerce Department Reports, page 114, volume 2, No. 4, dated January 23, 1928, the power requirement for manufacturing 2,000 pounds of fixed nitrogen by the process for which the Muscle Shoals plant No. 2 was built is 9,090 kilowatt-hours. (Explanation: 9,090 kilowatt-hours divided by 8,760 hours in year equals 1.03 kilowatt-years.)

Let us use this amount of power in making the comparison between the benefits to be derived from distributing Muscle Shoals power at the lowest domestic rate quoted by Senator NORRIS—1.63 cents per kilowatt-hour—and the benefits to be derived from using the power for manufacturing nitrogen for fertilizers.

For comparison with the rate of $0.0163 we use a bill of recent date for 551 kilowatt-hours consumed by a citizen of Florence, Ala., near Muscle Shoals, which figured out shows that a rate of $0.0286 per kilowatt-hour was charged. This current was supplied by a large public utility serving that city.

For example, we figure the 9,090 kilowatt-hours required to manufacture a ton of nitrogen at $0.0286 per kilowatt-hour amounts to $259.97. The same amount of power figured at $0.0163 amounts to $148.16, which shows a saving to the consumer of electricity of $111.81.

This represents the saving that would, without doubt, result every time domestic consumers used 9,090 kilowatt-hours of electricity, if Senator NORRIS'S measure, providing for Government distribution of power at Muscle Shoals is adopted.

Please bear in mind that in making this comparison, a rate based on the purchase of a small amount of electricity is compared with the purchase of a large amount of nitrogen. Also that the delivered price of both commodities at Muscle Shoals is used.

Let us now see what amount the farmers would save every time they bought 2,000 pounds of nitrogen, which Doctor Cottrell testified in the hearing before the House Military Affairs Committee, March 9, 1928, could be manufactured and sold at Muscle Shoals for 0.06 cent per pound.

Farmers at Muscle Shoals are now paying $64 per ton, or 20.6 cents per pound, of pure nitrogen for Chile nitrate, containing 310 pounds of pure nitrogen.

Two thousand pounds of nitrogen at 20.6 cents per pound amounts to $412. The same amount of nitrogen at 6 cents per pound amounts to $120, which shows a saving to the farmer of $292, or $180.19 more than is saved the electric consumer on this amount of power.

Should amount of power be sold to the consumers at 2 mills per kilowatt-hour, it would cost the consumer only $18.18, a saving of $241.79. But that saving is $50.21 less than the farmer would save on his nitrogen.

Should the electricity be delivered to the consumer without cost, the saving to the farmer would still be $32.03 more than the saving to the consumer of electricity.

Saving in freight is another most important item. When the phosphoric acid plant is installed the maximum capacity of plant No. 2 will be 382,000 tons of fertilizer material containing 233,000 tons of plant food in the form of ammonia and phosphoric acid. The proportion would be 50,000 tons ammonia and 183,000 tons phosphoric acid, which plant foods would be combined to make 382,000 tons of amo phos.

This concentrated fertilizer would contain four times as much plant food as the commercial fertilizer now in use. Therefore, for the purpose of ascertaining the saving in freight, the 382,000 tons of concentrated fertilizer must be multiplied by four. Figured on the basis of an average freight rate charge, of $3.50 per ton, there would be a saving in freight of $4,011,000. This saving alone is in excess of what the 167,000 horsepower now available at Dam No. 2, and the steam plant could be sold for at the switchboard.

(Expanation: One hundred and sixty-seven thousand horsepower equals 125,250 kilowatts.)

Yours very truly,

W. F. MCFARLAND.

Mr. BLACK. Mr. President, I desire to take just a very few minutes on the pending amendment, to explain one or two suggestions which have been made.

In the first place, I wish to say that I am thoroughly in sympathy with the diagnosis given by the Senator from Georgia [Mr. GEORGE] of the situation, but I do not agree, I regret very much to say, that the amendment offered by the Senator from Arkansas [Mr. CARAWAY] will bring about the results which the Senator from Georgia has pictured. As a matter of fact, it is my judgment, after careful study of this amendment and the original resolution offered by the Senator from Nebraska [Mr. NORRIS], that it would not result in giving any fertilizer to the farmer.

I make this statement because the Senator from Nebraska [Mr. NORRIS] stated on this floor several days ago that the manufacture of fertilizer would be under the supervision of Doctor Cottrell. Doctor Cottrell testified before the Committee on Military Affairs of the House last week that he could not, with the appropriation which is suggested in this measure, manufacture fertilizer. That is exactly what Doctor Cottrell testified and I have his testimony here before me. Therefore to state that merely by putting in the joint resolution a provi-

sion that the Secretary of Agriculture shall do something which he himself testifies he can not do is nothing more than a mere vain and empty gesture. It is all right to draw nice pictures about the farmer getting fertilizer from the proposition as it is now suggested; but, as a matter of fact, the man upon whom the duty would be placed by the joint resolution has already stated absolutely and definitely and positively that he can not do it. That is his evidence before the Committee on Military Affairs of the House, from page 26, of which I now read:

The CHAIRMAN. Is it feasible for the plant to be operated without additional expenditures by the Government?

Doctor COTTRELL. No. I think it would take an expenditure by the Government to get that going and in operation by any plan, more certainly than has been proposed yet.

It is absolutely humanly impossible to go down there and operate that plant on an appropriation of $2,000,000, as has been suggested by the Senator from Georgia.

Again, the amendment of the Senator from Arkansas [Mr. CARAWAY] provides that if the Secretary of Agriculture determines that it is commercially possible to produce fertilizer he shall do so. The right-hand man of the Secretary of Agriculture, about whom the Senator from Nebraska [Mr. NORRIS] has been commenting, testified before the Military Affairs Committee of the House on last Friday that it is not commercially feasible to manufacture fertilizer; so we would put up to a man, who has already decided that it can not be done, an instruction to manufacture fertilizer when he determines that it is commercially feasible.

I agree with what the Senator from Georgia [Mr. GEORGE] and the Senator from South Carolina [Mr. SMITH] said about the necessity for manufacturing fertilizer, but under the amendment suggested by the Senator from Arkansas [Mr. CARAWAY] it can not possibly be done. Mr. Cottrell himself made two statements. First he said that he can not do it with the appropriation provided, and, secondly, he said that which I have just read to the Senate. In other words, he said it is not commercially feasible and can not be done.

Under the amendment submitted by the Senator from Arkansas, if the Secretary of Agriculture determines it is commercially feasible to produce fertilizer by the cyanamide process, then the plant shall be used for the production of fertilizer; but Doctor Cottrell testified last Friday that it is absolutely impossible to do it. So we would be saying to the man who has said that it can not be done, "If you can do it, will you do it?"

I agree thoroughly with the statement which was attributed to the Senator from Nebraska [Mr. NORRIS] last Friday in an interview purporting to have been given by him to a newspaper reporter, that the Caraway amendment still means nothing but an experiment.

I stated in the beginning of the discussion that so far as power is concerned, if we may be given fertilizer there will be no quarrel as to the surplus power, not because I think it is right or legally defensible to attempt to legislate, by mandate, prosperity from one section of the country to another section of the country. I have heard a good many times here in the last few weeks statements about equalizing prosperity, and yet one of the principles of men concerned in commerce and trade is that any section is entitled to that natural advantage which God gave it when He made this great country of ours. But under this proposition it is proposed that Congress, taking the power which flows through the State of Alabama shall say, "We will legislate that this power must be equitably distributed between the various States. We will give you (Alabama) no taxes, we will give you no supervision, we will give you nothing." Even though the Supreme Court of the United States has expressly held that the flow of a stream and the bed of a stream belong to the State and do not belong to the Federal Government, this body proposes by legislative enactment to say to the State, "The Government is bigger than you and more powerful. Your voice is weak. We will take this asset which was given to your citizens who went there to get the advantage of it, and we will by legislative mandate distribute it into other States and thus equalize the prosperity which ought to go to the people in your locality and the people who live next to the banks of that stream."

We have heard a great deal about flood control. We have heard the argument made that the Government ought to pay every cent that it takes to protect the Mississippi Valley from the overflow of the Mississippi River and to protect the adjacent lands from floods in the future. I agree that that is correct, but I make this statement: If Mississippi or Arkansas or Missouri has any right to come into the State of Alabama and say, with reference to our power which has been rolling on there for centuries, that she demands that the prosperity which comes from that power shall be distributed equitably to Mississippi and Arkansas and Missouri, then I say it is wrong and unjust to tell the Government of the United States it must pay every dime of improvements on the great Mississippi. So far as I am concerned, I believe that very thing should be done. Do not misunderstand me. But suppose it raises the price of lands bordering on the Mississippi River or in the Mississippi Valley, then we ought to have a legislative decree that the increased profits which comes from the raising of the price of those lands by flood control shall be equitably distributed among all the other States. We ought to go a step further in the amendment and provide as follows: Some States are not within transmission distance. Why not divide the profits that come from the proposition among the other States not within transmission distance? They say their money helps to pay the taxes.

The basic proposition is that since the days of the early settlement of this country, when a man went to the banks of a running stream and established a little mill run by water power that power was his. He could not be disturbed by judicial or legislative decree to extend that power over certain territory where commerce did not naturally carry it. The waters of the Tennessee at Muscle Shoals is a part of the interior of the State of Alabama, as the waters of any stream which flows through any of the Western States is a part of one of those States. When an attempt is made to take the power which flows through any stream, when the Government never has had any right to manufacture power, a right which is subservient to the State under the Supreme Court opinion, and say, "We will distribute it to the various States by legislative mandate," we are doing exactly what the Senator from Mississippi [Mr. HARRISON] said he did not believe in. We are invading the rights of the State and making of it a conquered province, the like of which has not been seen since the days of slavery in the provinces that were under the subjection of the Roman yoke.

What is the State? Has it no right at all? It can not get any taxes under this plan. Somebody has to pay the taxes. Where should the taxes come from? If they do not come from industry, where will they come from? They will have to come from the poor, hard-working, overburdened farmer. Yet we are told that any person or corporation or government that is big enough may come into the State of Alabama and put its hands on that which is justly ours and take from us the right to collect taxes and rob the State of Alabama of the last right which has been left it under the rapidly disappearing rights of the sovereign States of America.

That is the issue which has to be met in this Nation. It is not peculiar to Alabama, but it refers to other States, and when it is met we will have to take into consideration the fact that the Supreme Court of the United States has repeatedly held that the flow of that stream and the bed of it belong to the State. If it is proposed to add an amendment like that which is here proposed, it is the duty of the Congress to enact a law at once which will provide that every power site which is developed in the Nation shall have attached to its enabling act a rider to the effect that the power must be equitably distributed among the States as far as it can be transmitted.

How much will you give the State? Will you give it power according to its population? Will you give it power according to the division of its population, white and colored? Will you give power according to its wealth? Will you give power according to its lack of potential water powers? Will you give power according to its property? Will you give power according to the number of farms in the State? Who is going to decide what is an equitable distribution of that which God Himself gave Alabama and placed within her boundaries before she became a State in this Nation? Alabama did not surrender that power to the Federal Government. She has never surrendered it. The Federal Government may be big enough and strong enough to take it, but it will get it because of its power and not because of any right which has been declared by statute or otherwise.

Let me make it clear that I am not complaining that the Federal Government does not have the right to make that river subject to navigation. That is all right. But when it goes beyond the principle of control of navigation it goes too far. The decisions of the Supreme Court of the United States, which, thank God, has not yet been divided by any partisanship question, where an attempt has been made to take away from a State that which rightly belongs to it, have decreed that the stream which flows through Alabama or Nebraska or Nevada or any other State belongs to that State. Therefore I have no apology to make for coming here to the Secretary of War and asking that the town of Muscle Shoals be given a part of that power.

I claim that the people who settled there by the banks of the Tennessee long before there was any agitation in this body for

an equitable distribution of that power have the right to demand that which nature has given them and which rightly belongs to them. We might as well go down into the State of Georgia and demand that the fruit trees and the peaches be equitably distributed between the States because, forsooth, of the fact that the Government experts have helped to grow the fruit. We might as well go down into Mississippi and declare that the balmy breezes which blow over the Gulf shall be equitably distributed among the various States. We might as well go over to Alabama and say that the rain which blesses that State, coming from heaven, does not come from Alabama alone.

Perhaps those clouds have been wafted through the sky, and maybe that water has been soaked up from the ocean or from streams far removed and which flow through another State, and therefore the rain that falls and produces the crops belongs to other States and does not belong to Alabama or Arizona or Nevada or Mississippi; and therefore we should say that we will distribute those crops equitably between the States.

It might also well be said that we will condemn equalization of prosperity when judicially determined by the Interstate Commerce Commission, but that the next day we will calmly and nonchalantly hold an inquest over the assets of Alabama, and one of us will say, "We want this," and another one will say, "We want that"; and another one will say, "No; Memphis should not have more of Alabama's power than Atlanta, and you must see to it that the people of Atlanta have their full share." Somebody else would say still another thing. But the fact remains that that part of the Tennessee which flows through the State of Alabama is dedicated to Alabama. Under the decision of the Supreme Court of the United States, in the case of the Colorado River, it was held that the water which flows through a State belongs to the State. But here we will adopt a new principle, reverse the decrees of God Almighty, and we will hold that the divine edict is no longer of any value or any worth. We will revise it so as to provide that if Georgia grows more peaches than Alabama because of having better soil, Georgia must divide with Alabama. If Alabama has coal mines which were put there a long time ago, we will judicially declare that that coal must be distributed equitably over the 48 States of the Union.

My friends, when that occurs and the States cease to have the last little vestige of right to control that which is theirs, let us do away with separate stars in our flag; let us not have any of them separately; but let us run them all into one great star that shall glow like a big, glittering, electric light bubbling forth, illuminating all the other stars. There will be no need for any separate stars. They mean nothing. The separate States mean nothing. If we want to interfere with their rights, we will do it. That is the proposition we have before us.

The PRESIDING OFFICER. The Senator's time on the amendment has expired.

Mr. BLACK. Very well; I desire to speak just a moment or two on the joint resolution itself.

The PRESIDING OFFICER. The Senator may proceed.

Mr. BLACK. I have made this statement for the following reasons: If Congress will dedicate that plant to fertilizer purposes, as we believe it should be, there will be no quarrel as far as we are concerned as to the distribution of the surplus power, even though we believe it is wrong, unconstitutional, illegal, and destructive of such sovereignty of the people to have our assets distributed among the various States. We will not quarrel with you about that, however. But so long as it seems to be only a question of having some big superpower company to distribute power, either by Government operation or otherwise, if we are going to make this a power proposition, then we ask first that Alabama's rights shall be respected, because if they are not respected here I have the utmost confidence and faith in that supreme tribunal which is established for the purpose of recognizing the rights even of the humblest individual, and that somewhere, somehow, some time that provision or that sentiment which seeks to take from one State that which is its own because there is power to do it will be stricken down and Alabama will have her sovereign rights recognized, unless sovereignty has faded into insignificance and has sunk down so lowly that no longer does a State have the right to raise its head and stand erect in the sisterhood of States and say: "I am a sovereign State in a group of sovereign States in the United States of America."

Mr. HEFLIN. Mr. President, I want to suggest to my colleague that, under the rule, having started on his other 15 minutes, he has 13 minutes left, and he had better use the remainder of his time or he will lose it.

Mr. HARRISON. Mr. President, as I understand, a Senator may use his 15 minutes at any time, may he not?

The PRESIDING OFFICER. No. The Chair understands the Senator may speak once on the bill and once on an amendment; so that if the junior Senator from Alabama should speak two minutes on the bill and then yield the floor he would exhaust his time on the bill. The question is on the amendment proposed by the Senator from Alabama [Mr. HEFLIN] to the amendment of the Senator from Mississippi [Mr. HARRISON].

Mr. HARRISON. On that I ask for the yeas and nays.

Mr. BLEASE. Mr. President, I have endeavored to listen attentively to the argument on this question, because I have been hearing of Muscle Shoals for a great many years. I have reached the conclusion that others are just about in the same fix that I am; that is, that they do not know anything about this proposition. It is a mere matter of experiment, it is a guess, it is the toss up of a coin as to whether or not it will be a success. I am fully convinced that this talk about the farmer getting cheaper fertilizer or being aided by the proposed utilization of Muscle Shoals is just about like all the other propositions that have been offered to the farmer, by which he has been made to pay the bill for the prosperity of other people. I do not believe from what I have heard and listened to here, and what I have heard elsewhere, that the experiment of turning this property over to the Government is going to be of one cent's value to the farmers of this Nation.

I do not care to make a speech on the subject, but I simply wish to state my position. I believe in the doctrine of State rights; I am in full accord with what the junior Senator from Alabama [Mr. BLACK] has said; and I propose to vote that Alabama shall retain that which is hers, although I may be the only Senator who casts such a vote.

However, I should like to ask, in my time, that the clerk read an article on farming. If the Senate shall ever be able to aid in promoting the principles of agriculture which the boy referred to in the article applied, this country will be in a much better condition.

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

The Chief Clerk read as follows:

[From the News and Courier, Saturday Morning, March 10, 1928]

SAME ACRE YORK CORN PATCH MAKES MORE THAN HUNDRED BUSHELS FOR THREE SEASONS—THRICE WYLY CAMPBELL, 16-YEAR-OLD CLUB BOY OF SOUTH CAROLINA, WINS STATE 4-H CHAMPIONSHIP—BANNER YIELD COMES IN 1927 WITH 133.3-BUSHEL PRODUCTION

ROCK HILL, March 9 (Special).—York County has a new Jerry Moore in the person of Wyly Campbell, 16 years old, who has for three consecutive years won the State championship in the 4-H Boys' Corn Club in South Carolina, and who has demonstrated that where proper methods are applied, York County and South Carolina can compete with any section in the production of corn.

Wyly, who is the son of J. M. Campbell, substantial farmer and business man of Tirzah, has not won the championship for three years by default. There has been plenty of good, stout competition, and Wyly has had to be on his toes, as it were, to come under the wire a winner three times. He has had to work hard and to use sound methods. He feels, however, that he has been well rewarded.

According to L. W. Johnson, county agent, Wyly has for three consecutive years produced over 100 bushels of corn an acre on the same piece of land. In 1925 his production was 129¾ bushels on an acre; in 1926, a very dry year, he produced 105½ bushels an acre, and in 1927, a season of ample rainfall, he produced 133.3 bushels on 1 acre.

"The soil on which these remarkable yields have been made," said Mr. Johnson, "is a strip of clay loam bottom land with good under drainage. Wyly has grown a crop of vetch each year and in the spring the vetch has been thoroughly cut with disk and tractor and turned under to supply humus and nitrogen. The secret of Wyly's success has been cover crops, good preparation, intelligent fertilization and cultivation, and good seed and side dressing with quick-acting nitrogen. In 1927 Wyly planted Goodman's prolific seed from seed carefully selected from the field the previous year. The method used in making these very large yields of corn has not been expensive and has been absolutely in line with those farm practices which all recognize as sound and practical, but for some reason too few farmers have actually followed.

"In 1927 Wyly planted his corn in 3½-foot rows. The fertilizer used before planting was 200 pounds acid phosphate, 100 pounds cotton-seed meal, 100 pounds Kanit, and 200 pounds 9–3–3. When the corn was about six weeks old it was given a side dressing of 200 pounds nitrate of soda an acre, and about a week later was given a second side dressing of 200 pounds of nitrate of soda an acre. The seasons were favorable throughout the growing period and the yield was 133.3 bushels of corn an acre at a cost of 23 cents a bushel.

"Wyly gave his corn frequent and shallow cultivations to keep down the weeds and grass. These consistent high yields of over a hundred

bushels of corn an acre for three successive years on the same plat of land show the possibility of corn production in South Carolina, where the land is filled with humus and well supplied with nitrogen."

Wyly, who is very modest with his success, won gold medals in 1925 and 1926, and in 1927 was given a trip to Florida and Cuba by the Chilean nitrate and soda educational bureau. This trip he made in February in company with other crop champions of the South.

Mr. HEFLIN. Mr. President, I ask that the clerk may read in my time the amendment which I have offered to the amendment proposed by the Senator from Mississippi [Mr. HARRISON].

The PRESIDING OFFICER. The clerk will read.

The CHIEF CLERK. In the amendment of the Senator from Mississippi [Mr. HARRISON], on page 3, after line 5, it is proposed to insert the following new section:

SEC. —. All contracts for lease of the Muscle Shoals power properties or for the sale of the power therefrom shall provide that whenever, upon recommendation of the president of the American Farm Bureau Federation, the national master of the National Grange, and the president of the Farmers Educational and Cooperative Union, the President of the United States shall decide that the Muscle Shoals power is needed for the manufacture of commercial fertilizers, either through the use of nitrate plant No. 2 or otherwise, said power shall be subject to recall for the manufacture of such fertilizers, and any such contract for lease or sale executed by the Secretary of War shall be subject to cancellation by the President when in his judgment the needs of agriculture shall require it.

Mr. HEFLIN. Mr. President, the first vote will come upon my amendment to the amendment which has been offered by the Senator from Mississippi [Mr. HARRISON]. I invite the attention of the Senator from Mississippi to the position that he took regarding the Ford bid. I hold in my hand the minority report upon that measure, which was signed by the late Senator Ladd, the Senator from South Carolina [Mr. SMITH], Senator HARRISON, Senator CARAWAY, and myself. We used the following language in regard to the regulatory power that should be exercised at Muscle Shoals in connection with the manufacture of fertilizer:

He—

Referring to Mr. Ford—

agrees to a policy of regulation by the consumer through a board of nine voting members, seven to be selected from the three leading national farm organizations—

And so forth.

I have drawn my amendment to the amendment in keeping with the provision which the Senator from Mississippi, myself, and others favored at that time. It selects three members from the chief farm organizations of the country, which I think is fair and proper.

Mr. President, the amendment which I have proposed to the amendment offered by the Senator from Mississippi will test the sentiment of the Senate as to whether or not fertilizer shall be made at Muscle Shoals. If we put it in the power of the proposed board, which shall be appointed, as I suggest, by the President, to say that power at Muscle Shoals shall be used for the purpose of making fertilizer, then we know that fertilizer will be made there. If we confer upon the board the right to say that power shall cease to be used for other purposes in order to make fertilizer in keeping with the promise made the farmer, fertilizer is sure to be made at Muscle Shoals.

I wish to invite the attention of Senators to the fact that the joint resolution of the Senator from Nebraska provides that the money obtained by the sale of power shall go to the upkeep of the property, and for depreciation, and for the construction of transmission lines. All those things will have to be done out of the proceeds derived from the sale of power before fertilizer for the farmer is ever considered at all. If after the construction of transmission lines, which must be paid for by the sale of power and which will cost between seventy-five million and one hundred and fifty million dollars, there shall be any money left, then in that far-off day Senators will pause and consider, incidentally, the fertilizer needs of the farmer.

The amendment proposed by my good friend, the able Senator from Mississippi, deals with power. It provides for the equitable distribution of power. The Senator goes a long way in his amendment to interfere with the rights and the interests of the people of Alabama, and particularly at Muscle Shoals. His amendment provides that, after the power necessary to run the plant and to light up the premises about the plant shall have been utilized, there shall be an equitable distribution of the surplus power in the States roundabout.

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

The PRESIDING OFFICER. Does the Senator from Alabama yield to the Senator from Mississippi?

Mr. HEFLIN. I have only 15 minutes.

Mr. HARRISON. I am sure the Senator wishes to be fair.

Mr. HEFLIN. Yes.

Mr. HARRISON. But the Senator is not fair when he restricts my amendment as he has stated. The amendment provides that only the surplus power shall be distributed after the requirements of section 8 shall have been taken care of, including nitrate plant No. 1, and the amendment has been modified by inserting the words "or otherwise necessary for the manufacture of commercial fertilizers."

Mr. HEFLIN. The amendment of the Senator denies the people of Florence, the people of Sheffield, the people of Tuscumbia, and the people living on both sides of the river the right to buy power at that plant. Under his amendment no citizen of my State may obtain power at that plant, which is located in Alabama, until Mississippi shall have had a share, as well as Georgia and Tennessee. There is no provision in his amendment to allow an industry of any kind to be run in Sheffield or the other cities named; under his amendment it could not be done.

Mr. HARRISON. Mr. President——

The PRESIDING OFFICER. Does the Senator from Alabama yield further to the Senator from Mississippi?

Mr. HEFLIN. I can not yield to the Senator for a speech, because my time is limited.

Mr. HARRISON. Alabama, of course, would get her equitable share of it.

Mr. HEFLIN. "Get our equitable share of it!" That is a most remarkable and ridiculous position to take. The people living in the community, many of whom were born there, citizens of a sovereign State, the great State of Alabama, who are using Muscle Shoals power now, under the amendment of the Senator from Mississippi would have it taken away from them in order to give a slice of it to Mississippi, to Georgia, and to Tennessee. It would be an amazing and a ridiculous position for this great law-making body to take. The idea of straying off upon such an unheard-of, unfair, and unsound proposition! "Equitable distribution!" Why, according to their definition of that term, as my colleague [Mr. BLACK] has so ably said, you ought to distribute the rainfall equitably. Where the rainfall is heavy in one section and light in another, tax the people to transfer it to the other section in order that there may be an "equitable distribution."

Mr. HARRISON. Mr. President, does not the Senator know that he and his former colleague, Senator Underwood, voted for that when the Underwood bill was up for consideration?

Mr. HEFLIN. No, sir.

Mr. HARRISON. Well, they did.

Mr. HEFLIN. No; I did not vote for any such proposition. I never would have taken the power away from the locality where it was needed. We wanted a fair distribution of surplus power and after we get the power needed to make fertilizer and after the people in the community are served, if there should be some power left, of course, I should want anybody who wanted it to have it rather than to have it remain idle. But the Senator is denying the people of my State in that locality the right to have power to run an industry of any kind, a cotton factory, or to use in their homes, and that is like denying them air to breathe, water to drink, and food to eat. It is a most amazing proposition!

If the Senator from Mississippi wants fertilizer, if he has not permitted the idea of dividing up power in order to get some of it from Muscle Shoals in Mississippi to become paramount with him and to dominate him rather than the interest of the farmer, I want him to accept my amendment, so that we will make it certain that fertilizer will be made for our farmers at Muscle Shoals. There is no doubt about this amendment making it certain. If you put the heads of the three great farm organizations of this Nation in position to demand and direct that power at Muscle Shoals shall be used to make fertilizer, the farmer's interests will be taken care of; but when you vote that down, you say by your votes that you are not going to make a fertilizer proposition out of it primarily, but that you are going to make a power proposition out of it primarily; and you say more, that if there is any power left finally, you will let the farmer have a little of it for fertilizer experiment stations.

Senators, let us not try to deceive ourselves, and the farmer is not going to be deceived. He and his friends can come to the CONGRESSIONAL RECORD and find out what has transpired here to-day.

You provide in the Norris resolution to sell power for 10 years, and without this amendment you can not withdraw it

and use it to make fertilizer, and you postpone doing anything for the farmer for 10 long years and make no provision to use power to make fertilizer there. We have already had him waiting 8 years, and now, under this resolution, you are going to defer action for 10 years more; and listen: In that time every transmission line necessary to consume all that power will have been constructed, and fertilizer at Muscle Shoals will be out of the question. We all know that. When you talk about making fertilizer they will say, "Why, you have no power. This power is being used for other purposes. Mississippi is getting some of it; Georgia is getting some of it; Tennessee is getting some of it. There is no power left to make fertilizer for the farmer." All of these States can get all the power they want from other power plants in Alabama and from Tennessee and Georgia.

Mr. President, unless my amendment is adopted, and unless the attitude of some of these Senators is changed, we might as well designate this performance at this session of Congress as the blow that killed all hope of making fertilizer for the farmer at Muscle Shoals. It is disposing of him ultimately. The only chance in the Nation that he has to have cheap fertilizer made is at Muscle Shoals. I see friends around me from the Southern States going off and holding conferences around here, parceling out among themselves this power at Muscle Shoals for power purposes and not thinking of fertilizer for the farmer at all. I am pained to see that.

I am reminded of the little boy whose mother had died. His father had married again and had three or four children by his second wife. This little fellow had to do all the chores about the house, and had a pretty hard time. He missed his dear mother and tender love and care. His father went to town and bought shoes for all the children. He brought back to the children by the second wife nice soft little shoes, with pretty strings for the little girls and brass-toed boots with red tops for the other little boys; and to the boy by the first wife, the older boy, he brought a very rough pair of brogan shoes. The boy sat over in the corner, put them on, and the tears ran down his face as he looked at the other children with fine, comfortable shoes on their feet. His father said to him when he got his shoes on, "Do they hurt you, son? I see you are crying." The boy said, pointing to his little, sad heart, "They don't hurt my feet; they hurt me in here."

It hurts me in here to see the farmers of the Southland, already pillaged and plundered to the point where they are selling cotton under the cost of production, to be treated as they are about to be treated here to-day. The Fertilizer Trust has recently raised the price of fertilizer $5 a ton. Here is an opportunity to deliver the farmers from the Fertilizer Trust and deliver them by keeping our promise to them. Congress is obligated to do that; and here you are, some of you, holding conferences for the purpose of arranging for the distribution of power at Muscle Shoals, and you are about to leave the farmer out entirely. You are seeking to put through this body a power resolution pure and simple. The record must show the truth, and the farmers will know the truth when they read the record of what is taking place here to-day.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Alabama [Mr. HEFLIN] to the amendment of the Senator from Mississippi [Mr. HARRISON].

Mr. HEFLIN. I ask for the yeas and nays.

Mr. HARRISON. Mr. President, does the vote come first on the amendment of the Senator from Alabama?

The PRESIDING OFFICER. The Chair understands that that is an amendment to the amendment of the Senator from Mississippi, and therefore the vote comes first on it.

Mr. HARRISON. I am permitted to talk on that amendment, then.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. HARRISON. I shall not occupy the floor more than about a minute.

The PRESIDING OFFICER. The clerk advises the Chair that the Senator from Mississippi has already spoken once on the amendment.

Mr. HEFLIN. I ask for the yeas and nays.

Mr. BARKLEY. May we have the amendment stated?

The PRESIDING OFFICER. The yeas and nays are called for.

The yeas and nays were ordered.

Mr. SMITH. Mr. President, before the vote is taken I ask that we may have stated the amendment offered by the Senator from Mississippi, and the amendment to that amendment.

The PRESIDING OFFICER. The clerk will state the amendment of the Senator from Mississippi and then the amendment to that amendment of the Senator from Alabama.

The CHIEF CLERK. The modified amendment of the Senator from Mississippi reads as follows:

SEC. 2. In order to secure equitable distribution of Muscle Shoals power, according to the policies herein set forth, the Secretary of War is hereby empowered and authorized to lease the said power plants or to sell at the switchboard the current generated at said steam plant and said dam to municipalities and corporations authorized by law to distribute and sell electric current for general public use under public regulations; and to carry out said authority the Secretary of War is authorized to enter into contracts for such lease or sale for a term not exceeding 15 years from the 1st day of January, 1929: *Provided*, That no municipality shall receive a greater amount of power than upon the principle of equitable distribution that it is entitled to receive.

SEC. 3. It is hereby declared to be the policy of the Government and the Secretary of War is authorized to dispose of the current generated at Muscle Shoals for public use equitably among the States within transmission distance, except as provided in section 8 herein, and except so much of such current as may be needed otherwise for the manufacture of commercial fertilizers and to light and operate the locks and canals in and about Dam No. 2 and the Government property at and around Muscle Shoals, subject to regulation provided by the laws of said States and without unfair discrimination between municipalities or as to rates or service between users of such current.

It is hereby further declared to be the policy of the Government that in case of any such sale or lease to a public-service corporation the amounts paid to the Secretary of War by such corporation shall be considered by the public-service agencies of the several States in regulating the rates charged by such corporation to the consumers.

SEC. 4. In order to place the Secretary of War upon a fair basis for making such contracts and for receiving bids for the sale of such current, if in his opinion it is necessary therefor, he is hereby expressly authorized, either from appropriations made by Congress or from funds secured from the sale of such current, to construct, lease, or authorize the construction of transmission lines for the sale of current within transmission distance in any direction from said Dam No. 2 and said steam plant.

The Senator from Alabama proposes to amend the amendment by adding as a new section, after line 9, on page 3, the following:

SEC. —. All contracts for lease of the Muscle Shoals power properties or for the sale of the power therefrom shall provide that whenever, upon recommendation of the president of the American Farm Bureau Federation, the national master of the National Grange, and the president of the Farmers Educational and Cooperative Union, the President of the United States shall decide that the Muscle Shoals power is needed for the manufacture of commercial fertilizers, either through the use of nitrate plant No. 2 or otherwise, said power shall be subject to recall for the manufacture of such fertilizers, and any such contract for lease or sale executed by the Secretary of War shall be subject to cancellation by the President when in his judgment the needs of agriculture shall require it.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Alabama [Mr. HEFLIN] to the amendment of the Senator from Mississippi [Mr. HARRISON] as modified. On that amendment the yeas and nays have been ordered. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. FESS (when his name was called). I am paired with the senior Senator from Michigan [Mr. FERRIS], who is absent. Not knowing how he would vote on this question, I withhold my vote.

Mr. FLETCHER (when his name was called). I have a general pair with the junior Senator from Delaware [Mr. DU PONT]. I understand the Senator from Delaware would vote as I shall vote on this question if he were present, and I therefore feel at liberty to vote. I vote "yea."

Mr. GLASS (when his name was called). I have a general pair with the senior Senator from Connecticut [Mr. MCLEAN], who is unavoidably absent. Not knowing how he would vote if he were present, I withhold my vote.

Mr. TYSON (when his name was called). I have a pair with the junior Senator from West Virginia [Mr. GOFF]. Not knowing how he would vote on this question, I withhold my vote.

The roll call was concluded.

Mr. LA FOLLETTE. I desire to announce that my colleague the junior Senator from Wisconsin [Mr. BLAINE] is paired with the junior Senator from Utah [Mr. KING]. If my colleague were present he would vote "nay" on this amendment to the amendment.

Mr. BRATTON. I have a pair with the junior Senator from Indiana [Mr. ROBINSON]. I have been advised that if the Senator from Indiana were present he would vote as I intend to vote. I therefore am at liberty to vote, and I vote "nay."

Mr. BROUSSARD. I have a pair with the senior Senator from New Hampshire [Mr. MOSES]. Not knowing how he would vote on the amendment to the amendment, I withhold my vote.

The result was announced—yeas 11, nays 58, as follows:

YEAS—11

Barkley	Fletcher	Kendrick	Sheppard
Black	Harris	Mayfield	Thomas
Blease	Heflin	Neely	

NAYS—58

Ashurst	Edge	Metcalf	Steck
Bayard	Frazier	Norbeck	Steiwer
Bingham	George	Norris	Stephens
Borah	Gooding	Oddie	Swanson
Bratton	Greene	Overman	Tydings
Brookhart	Hale	Phipps	Wagner
Bruce	Harrison	Ransdell	Walsh, Mass.
Capper	Hayden	Reed, Pa.	Walsh, Mont.
Caraway	Howell	Robinson, Ark.	Warren
Copeland	Johnson	Sackett	Waterman
Couzens	Jones	Schall	Watson
Curtis	La Follette	Shipstead	Wheeler
Cutting	McKellar	Simmons	Willis
Deneen	McMaster	Smith	
Dill	McNary	Smoot	

NOT VOTING—25

Blaine	Gerry	King	Robinson, Ind.
Broussard	Gillett	McLean	Shortridge
Dale	Glass	Moses	Trammell
du Pont	Goff	Nye	Tyson
Edwards	Gould	Pine	
Ferris	Hawes	Pittman	
Fess	Keyes	Reed, Mo.	

So Mr. HEFLIN's amendment to the amendment was rejected.

The VICE PRESIDENT. The question recurs on the amendment of the Senator from Mississippi [Mr. HARRISON], as modified.

Mr. HEFLIN. Mr. President, I discussed my amendment to the amendment offered by the Senator from Mississippi. Would I have the right now to discuss his amendment, under the unanimous-consent agreement?

The VICE PRESIDENT. The Senator would have 15 minutes.

Mr. HEFLIN. Mr. President, I am utterly astounded at the result of the vote that has just been taken. I can see in the result of this vote the death-knell of the interest of the farmer, so far as fertilizer is concerned. The farmer's interest has been lost in the shuffle here. The power idea prevails.

I had hoped that amongst all the power projects of the United States, with millions and millions of developed and undeveloped horsepower, this project at Muscle Shoals, with 80,000 horsepower at the dam and about 80,000 at plant No. 2, would be devoted to the interests of the farming population of America. Especially did I hope to see that done when the original Muscle Shoals law set out specifically that the power to be developed there should be used for the purpose of making nitrates for the Government in the time of war and fertilizer for the farmer in time of peace.

We promised the farmers that we would do that. Those of us who supported the Ford bid committed ourselves to that proposition and we tried to keep faith with the farmer. Later on, when I have more time, I am going to put our report in the RECORD, showing what we promised to do, in order that the farmers of the South, North, East, and West may know just who forgot them on this occasion, and just who remembered them when they had the opportunity to serve them. Senators, I can not refrain giving expression to the conviction that the farmer will be betrayed if this measure passes.

The Senate has had notice that it is a power proposition, pure and simple. Under the resolution of the Senator from Nebraska transmission lines for the distribution of power, not fertilizer, are to be constructed in every direction where power can be transmitted, and those transmission lines are to be paid for out of the sale of the power. Do Senators believe that there will be any money left to make fertilizer for the farmer? It will cost $12,000 a mile to construct those transmission lines. It is variously estimated that they will cost from $75,000,000 to $150,000,000. Where does the farmer come in? What provision is made for the protection of his interests?

Does anybody presume upon the ignorance of the farmer, and think that he will not be able to know the truth? Do those who favor this measure think they can deceive him by telling him they provide for the making of any appreciable amount of fertilizer in this Norris resolution? They are providing for experiment stations, but we already have them. We have passed that point in connection with Muscle Shoals. We have nitrate plant No. 2 already. We have exhibited in this Chamber nitrates made there. That plant's capacity is 40,000 tons of fixed nitrogen a year. The farmer who reads this RECORD will know that. It is not necessary that experiments should be made in regard to that. Instead of providing in this resolution and in the amendments for the making of fertilizer, provision is made for the distribution of power. The distribution of power is the controlling force with the supporters of this resolution. They have forgotten the cotton farmer and the grain farmer and their fertilizer needs.

Oh, Mr. President, I note with sadness and disappointment this division and disagreement in the ranks of the farmers' friends on this side. When the Ford bid was before us we stood shoulder to shoulder and side by side fighting for the adoption of that bid. What happened? Mr. Ford became disgusted on account of just such tactics on the part of others that we see here to-day on our side among Southern Senators. He got tired of waiting, and finally became so disgusted that he withdrew his bid and retired from the scene, and now the same sort of tactics are being carried on again, on this side as well as among some on the other side, in an attempt to fool the farmer, and at the same time turn it over to the power companies. There is just enough mention of fertilizer in the resolution to make it possible to attempt to deceive him, although there is no provision in it for making fertilizer.

I repeat, the farm organizations of the country are against the Norris resolution—they know what they want. I hold in my hand a telegram like scores that have come to me and others here. This is from Anniston, Ala. Last week I read one from Selma, down in south Alabama; this one is from the northern part of the State. It reads:

ANNISTON, ALA., *February 27, 1928.*

Hon. J. THOMAS HEFLIN,
United States Senate:

Norris Government operation proposal for Muscle Shoals promises no fertilizer for Alabama farmers. We urge you fight for Cyanamid offer as contained in the Willis-Madden bill.

CALHOUN COUNTY FARM BUREAU.

The Willis-Madden bill has in it a provision for the making of fertilizer for the farmer. That is the primary consideration in it, and in this resolution power is the primary consideration. There is no provision for the production of fertilizer in this Norris resolution, except incidentally, on a small scale, at some little experiment station.

Senators, it hurts me and makes me sad at heart to see this procedure followed when I know that it is the last hope the farmer has for the manufacture of cheap fertilizer as against the robber prices of the Fertilizer Trust. Mr. President, I want to believe that the Fertilizer Trust's influence is not felt here. I do not want to believe that the Power Trust influence is making its power felt here to-day. I do not know. I do not want to impute any improper motives to anybody, but I know that the farmer's fertilizer has been forgotten and that the farmer himself has been struck down and he is now being carried to the operating table, where he will be duly chloroformed before a major operation is performed on him by the power company's surgeons. I do not expect him to survive the operation. Let the responsibility rest with those who have brought this awful thing about.

Mr. TYSON. Mr. President, I offer an amendment to the amendment, which I send to the desk.

The VICE PRESIDENT. The clerk will read.

The CHIEF CLERK. On page 1, line 5, after the word "board," insert the words "so as to secure a reasonable return to the United States"; on page 2, line 17, strike out the word "said" and insert the word "the"; on page 3, at the end of line 9, insert:

If any question shall arise as to what is equitable distribution of power, either under a lease or by Government operation of the said power plants, the decision of the Secretary of War, if called on to make a decision by any party at interest, shall be final.

Mr. HARRISON. Mr. President, may I say to the Senator that I have no objection to any of his suggestions?

Mr. TYSON. I understood the Senator would accept the amendments.

The VICE PRESIDENT. The amendment will be modified to that effect.

Mr. BLACK. Mr. President, I desire to amend by moving to strike from the amendment of the Senator from Mississippi the last section that the Senator from Mississippi has agreed to accept. I want to strike out that part which leaves it to the Secretary of War to act as the final arbiter in parceling out the assets of the State of Alabama.

Mr. HARRISON. The amendments have not been adopted. I said I have no objection to them. They have to be voted on, I presume. The Senator can speak in opposition to them.

The VICE PRESIDENT. Under the statement of the Senator from Mississippi the Chair understood the amendments submitted by the Senator from Tennessee were accepted by him, and his amendment is modified to that extent.

Mr. BLACK. Mr. President, I would like to suggest merely this: Of course I feel sure that my motion will be very promptly

voted down, but I desire to call attention to the fact that some day, somewhere, some other State is coming up against the same proposition. It is a question of taking the assets of Alabama and dividing them equally between the States. I do not see how any Senator can stand here now or hereafter and ask the United States Government to contribute 100 per cent for the flooded districts of Mississippi, Louisiana, Missouri, and other States, and at the same time stand here and vote to take away from Alabama its natural assets. Senators tell me that they have a right to ask the Government pay 100 per cent of the costs of flood control which gives the farmers in their State a benefit of such Government work, and that these same States may come in later and demand a division of the power produced in Alabama, plucking off power here and there, and leaving it to the Secretary of War to determine how much of the assets of Alabama shall go to each separate State.

That is exactly what we are asked to vote on now. If Senators believe in the equalization of prosperity, if they believe in taking a part of the Muscle Shoals power given to Alabama by nature and give it to Mississippi, if they believe a wonderful agricultural State should be made great industrially by a transfer of power to such State, if they believe in taking from Alabama that which is its own, when the time comes for the application of the principle to their State I hope they will stick to it. Then, after we do that, let us enact the same kind of law with reference to the Pennsylvania, Kentucky, or West Virginia coal mines. Let us provide that all the coal that is mined in Kentucky, Pennsylvania, and West Virginia has to be equally distributed between the States, whether the regular channels of commerce provide for it or not.

Let us then reverse the laws of commerce and trade. Let us do away with commerce and with the principles which have governed in the sale of commodities, and let us tell Maryland, which boasts of a great harbor, "You have no right to the peculiar benefits of that harbor. You must divide them up among the people of the Nation." Let us say, "Divide up your produce out in Nebraska with the people of Alabama. We demand that the people of Oregon divide with us their lumber and divide it in equal amounts between the States." If this proposition is maintained, as I suppose it will be, Senators are merely voting to equalize prosperity between States differently endowed by nature by reversing the laws of commerce and trade.

Mr. HARRISON. Mr. President, the Senator's argument is that if we adopt the amendment, we should say that the profits from the coal sold from the coal fields of Pennsylvania should go to the people of the United States. His other illustration had to do with peaches that are grown over in Georgia, and that they shall be distributed among all the people of the whole United States. Here is a project at Muscle Shoals that was developed at the expense of the Federal Government. It is so different from coal and peaches. A navigable stream was taken and, through the expenditure by the Federal Government of $52,000,000 of the taxpayers' money, this dam was constructed. It was done at the expense of the Federal Government. The State of Alabama was glad, and welcomed the undertaking. The illustration which the Senator gives is not analogous at all.

I submit that the surplus power over the amount that is required for the manufacture of fertilizer should be equitably distributed. That is all my amendment proposes. It does not affect the fertilizer features of the Norris resolution in the slightest. Indeed, the amendment which we have just disposed of, and with which action of the Senate the distinguished Senator from Alabama [Mr. HEFLIN] has found fault, was not necessary, and that was the reason why the Senate did not adopt it. In the amendment which is now pending I have provided that all the power that is necessary to be used at nitrate plant No. 1 shall be excepted, and all that which is used to operate the locks and furnish the lighting of Government property shall be excepted. Indeed, I went further, at the suggestion of the Senator from Alabama, and said that all over the power otherwise needed in the manufacture of commercial fertilizer shall be excepted. In other words, only the power above that which is required for the manufacture of fertilizer is included in the amendment, which provides for the equitable distribution of it.

Mr. HEFLIN. Mr. President, may I ask the Senator a question?

Mr. HARRISON. I yield.

Mr. HEFLIN. Where is there going to be any other power after the power is used for other purposes?

Mr. HARRISON. If they were to make 40,000 tons of fixed nitrogen at Muscle Shoals, I do not believe there would be any surplus power. But if we build Dam No. 3, which I hope some day will be built; if we build Cove Creek Dam, which I hope in time will be built, there will be upward of over 500,000 primary horsepower, plenty to be equitably distributed.

Mr. HEFLIN. Would the Senator favor using all the power to make the fertilizer that the farmers require?

Mr. HARRISON. I would not favor the use of 500,000 primary horsepower.

Mr. HEFLIN. I am talking about what they have now, 160,000 horsepower.

Mr. HARRISON. Of course I would favor it. I voted for it time after time when it came up in connection with the Ford bid and in connection with the Underwood bill. The Senator, in the consideration of those propositions, stood with those of us who now stand for the equitable distribution of power, and voted for such an amendment.

Mr. HEFLIN. No; I voted for the manufacture of fertilizer.

Mr. HARRISON. The Senator voted for the amendment of the Senator from Georgia [Mr. GEORGE] and for the amendment of the Senator from Arkansas [Mr. CARAWAY], both of which provided for the distribution of surplus power.

Mr. HEFLIN. I have never voted to divide what was left with anybody else at all.

Mr. HARRISON. That is all I am trying to do.

Mr. HEFLIN. The Senator is asking for the division of power the first thing, and no manufacture of fertilizer is contemplated in the amendment.

Mr. HARRISON. The Senator is very much mistaken. I expressly exclude all power that is used for the manufacture of commercial fertilizer.

Mr. HEFLIN. But the Senator is not directing that it be used to make fertilizer.

Mr. HARRISON. That is covered by the resolution of the Senator from Nebraska. I am not affecting those provisions at all yet. When we get through with the pending amendment, we will take up the fertilizer features of the joint resolution itself.

Mr. HEFLIN. There is nothing in the joint resolution that forbids them to make fertilizer.

Mr. HARRISON. We will reach that when the pending amendment is disposed of.

Mr. TYSON. Mr. President, I want to say that in offering my amendment my only idea was to try to make it impossible to have a squabble about what was equitable distribution. I do not undertake or desire to take anything from Alabama that Alabama does not own or have. Somebody ought to be able to say what is equitable distribution. The Secretary of War is the one charged with making the lease, and my idea was that we should leave it to him to determine what is equitable distribution. Otherwise we might not have anybody to determine what was equitable distribution. That is the only idea I had about it. If there is any idea that there is going to be any injustice to Alabama, I have no desire to press that part of the amendment. I simply wanted to relieve the situation.

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

Mr. TYSON. In just a moment. It merely provides that there shall be some means of determining what is equitable distribution. That is the first proposition in the amendment, and it was my idea to clear up the matter so that it would be known that the Secretary of War should have the right to determine what is equitable distribution. I now yield to the Senator from Alabama.

Mr. BLACK. I would like to ask the Senator if he would be willing to have an amendment added to the next legislative enactment here by which power is authorized to be generated in Tennessee which shall provide that the power must be equitably divided between the various States?

Mr. TYSON. I do not think that is a question necessary to be answered here, because the Muscle Shoals Dam is a property which belongs to the Government of the United States; otherwise we would not be undertaking to dispose of it.

Mr. BLACK. Does the Senator believe that because it belongs to the Government of the United States, as he contends, the Government has any right to go there and take it for power purposes to the exclusion of the State of Alabama?

Mr. TYSON. That will have to be decided later. If the State of Alabama owns the power and Muscle Shoals Dam, the law will give it to her. I am not willing to say it belongs to her, because I do not know. We are assuming that it belongs to the United States Government, and that the Congress has the right to dispose of it.

Mr. BLACK. Then I understand the Senator favors the provision about the equitable distribution of power for all power that is generated at Muscle Shoals.

Mr. TYSON. To the extent that it is not to be used for fertilizer purposes.

Mr. BLACK. And he opposes building Cove Creek Dam by the Government for the use of power in Alabama?

Mr. TYSON. I have not opposed the building of Cove Creek Dam by the Government. I have opposed the delay of the Government in either building it or permitting somebody else to do something about it.

Mr. HEFLIN. Mr. President, I wish the Senator would withdraw his amendment to the amendment of the Senator from Mississippi.

Mr. TYSON. I am perfectly willing to withdraw it if there is any particular objection to it. My only idea was to clarify the situation and I do not see why it is not a good thing.

The VICE PRESIDENT. Does the Senator from Tennessee desire to withdraw his amendment?

Mr. TYSON. No.

The VICE PRESIDENT. The question is on the amendment of the Senator from Alabama [Mr. BLACK] to strike out the provision of the Senator from Tennessee modifying the amendment of the Senator from Mississippi.

The amendment to the amendment was agreed to.

Mr. NORRIS. Mr. President, I assume we are about to vote on the Harrison amendment?

The VICE PRESIDENT. The question is on agreeing to the Harrison amendment as modified.

Mr. NORRIS. Before we do that I want to take a few moments to explain what, in my judgment, would be the result. I, of course, concede, to begin with, that the Senator from Mississippi is moved by the very best motives in offering the amendment, but regardless of that it is my judgment that if the amendment is agreed to it will result in the power companies getting all the surplus power at Muscle Shoals. The joint resolution pending, which the committee has reported, provides for giving preference to municipalities, counties, and so forth. The amendment of the Senator from Mississippi takes away that privilege.

The joint resolution further provides that the Secretary of War shall have authority to lease the entire works to anybody. Let us see what would happen if he undertook to lease the property. There might be something different happen, but in all probability, as I see the situation, there is only one bidder that could lease the power and that is the Alabama Power Co., or some of its associated corporations. The Senator's amendment provides that the Secretary of War can make that kind of a lease. It takes away from the people who are going to use this power as consumers, in my opinion, every possibility of a reduction in rate. They are getting that power now through the Alabama Power Co. and I understand that not in a single instance anywhere within transmission distance of Muscle Shoals has the Alabama Power Co. given a penny of benefit to the consumer because of the cheap electricity that it gets at Muscle Shoals.

If a lease were made, and the Alabama Power Co. or one of its associated companies should get it, what reason have we to expect there would be a reduction of rates, although the Senator's amendment, it is true, provides if a transmission company such as the Alabama Power Co. should obtain the lease, and then distribute the power, that the proper authorities of the State in which it was distributed would have a right to take into consideration the price which the Alabama Power Co. paid in regulating rates for electricity in that State.

I have read within the last two or three days—I think some Senator put it into the RECORD—an official opinion of the commission, I do not know its legal name, in Alabama, that has authority over all the electric-light rates in a case where an attempt was made by a consumer to get a reduction of rates, because it was alleged that the Alabama Power Co. was getting its power or a large portion of it so cheap from Muscle Shoals, but the commission dismissed the application entirely and said it could not take that into consideration.

In my opinion, there will be no reduction of electric-light rates anywhere if this amendment shall be agreed to. No municipality, no organization of any kind under the laws that may hereafter be enacted by any of the States in the vicinity of Muscle Shoals will be able to get a penny's reduction on a single kilowatt. I have on my desk an amendment which after consultation with a number of Senators, I am going to offer to the original joint resolution, providing that farm organizations instituted for the purpose of distributing electricity among farmers and not for profit, as well as municipalities, shall have the right to get electricity from Muscle Shoals. The amendment will also provide—which I think is already practically in the original joint resolution—if municipalities do not take all of the power and some of it is left and distributed through corporations, who resell it to consumers, that they shall not charge the ultimate consumer a price that will be in excess of what the Federal Power Commission shall say is a fair and reasonable price. I do not know any other way to insure to the consumer a fair price, unless municipalities, farm organizations, and other associations which may be formed under the statutes of the different States, shall organize for the purpose of distributing current and not for the purpose of selling it for profit. I know of no other way to give to the consumer the benefit.

Therefore, Mr. President, it seems to me that if the amendment offered by the Senator from Mississippi [Mr. HARRISON] shall be agreed to, the effect of the joint resolution, so far as concerns power that shall go to the people, is killed and that all possibility of people getting any benefit from it is dead.

Mr. HEFLIN. Mr. President, will the Senator from Nebraska let me ask him a question?

Mr. NORRIS. I yield.

Mr. HEFLIN. The Senator from Nebraska suggests giving the Federal Power Commission the right to regulate in the State the rates for power sold at Muscle Shoals. Does the Senator think the Federal Government has that authority, and the State has declared that it has the power to regulate all current sold in the State?

Mr. NORRIS. No; I do not claim that, but the Federal Government, having the electricity, can say to anybody who is going to resell it, "We will not sell it to you unless you will agree to give the consumer a benefit that shall be determined by the Federal Power Commission." There is not any question about that. It will sell it subject to the regulation by the State commission; I admit that.

Mr. HEFLIN. Mr. President——

Mr. NORRIS. But the Government can say, for instance, to the Alabama Power Co., "If you buy this power and sell it to the people of Birmingham, Ala., you shall not charge the consumer in Birmingham a price above a certain amount that the Federal Power Commission shall fix as reasonable." If they do not agree to that, the Government will not sell them the power.

Mr. HEFLIN. Would there not, then, be a conflict between the Federal power and the State power?

Mr. NORRIS. No; I do not think there would be any conflict unless the State power should insist that the Alabama Power Co. should charge more than a just and reasonable rate as fixed by the Federal Power Commission.

Mr. HEFLIN. If the State commission were to do that, then the people would have their remedy in putting in another commission to represent them.

Mr. NORRIS. They might. I should think they would. I should be glad if they would.

Mr. HEFLIN. My position is that if the Federal Government goes in there to dispose of the power in any way it will have engaged in commerce, and the minute it attempts to dispose of power or has anything to do with it, it comes under the jurisdiction of the State. So there is a conflict between State and Federal power under the Senator's joint resolution.

Mr. NORRIS. I do not think there is any conflict; but that question does not arise on the Harrison amendment; that will come when I offer the amendment to which I have referred, which I shall offer at the suggestion and request of a number of Senators who think that the rights of the people are not sufficiently safeguarded.

Mr. MAYFIELD. Mr. President, does the proposed amendment of the Senator from Nebraska use the words "just and reasonable rates"?

Mr. NORRIS. Yes; I think so.

Mr. MAYFIELD. The Constitution would allow the company such rates regardless of any statute.

Mr. NORRIS. Yes. The vote that is to be taken now is on the Harrison amendment. I have mentioned this as showing that we are going to have an opportunity to vote on an amendment which, I think, will give to the consumer a fair and just rate after the production of fertilizer shall have been taken care of. I am ready to vote, so far as I am concerned.

Mr. HARRISON. I ask for the yeas and nays.

The yeas and nays were ordered, and the Chief Clerk proceeded to call the roll.

Mr. LA FOLLETTE (when Mr. BLAINE'S name was called). Making the same announcement concerning my colleague and his pair as on the last roll call, I desire to state that if he were present he would vote "nay" on this amendment.

Mr. BROUSSARD (when his name was called). I have a pair with the senior Senator from New Hampshire [Mr. MOSES]. I understand that if present he would vote on this amendment as I intend to vote. Therefore I am at liberty to vote, and vote "yea."

Mr. FESS (when his name was called). I am paired with the Senator from Michigan [Mr. FERRIS]. I understand that if he were present he would vote "nay." I transfer my pair to the senior Senator from Massachusetts [Mr. GILLETT] and vote "yea."

Mr. FLETCHER. Making the same announcement as to my pair as before, I vote "yea."

While I am on my feet I desire to say with reference to my colleague [Mr. TRAMMELL] that he is unavoidably absent. I will let this announcement stand for the day.

Mr. GLASS (when his name was called). I have a pair with the senior Senator from Connecticut [Mr. MCLEAN]. I am informed that if he were present he would vote "yea." If I were permitted to vote, I should vote "nay."

Mr. KING (when his name was called). I have a general pair with the junior Senator from Wisconsin [Mr. BLAINE]. I transfer my pair with him to the junior Senator from Florida [Mr. TRAMMELL], and vote "yea."

Mr. MCMASTER (when his name was called). I have a pair with the senior Senator from Missouri [Mr. REED]. I am informed that if he were present on this question he would vote "yea." If I were permitted to vote, I should vote "nay."

Mr. TYSON (when his name was called). I have a general pair with the junior Senator from West Virginia [Mr. GOFF]. Not knowing how he would vote on this question, I withhold my vote. If at liberty to vote, I should vote "yea."

The roll call was concluded.

Mr. BRATTON. I have a general pair with the junior Senator from Indiana [Mr. ROBINSON]. In his absence I withhold my vote. If at liberty to vote, I should vote "nay" on this question.

Mr. OVERMAN (after having voted in the negative). I inquire whether the senior Senator from Wyoming [Mr. WARREN] has voted?

The VICE PRESIDENT. That Senator has not voted.

Mr. OVERMAN. I have a general pair with the senior Senator from Wyoming. As he has not voted, I withdraw my vote.

The result was announced—yeas 25, nays 45, as follows:

YEAS—25

Bayard	Edwards	King	Swanson
Bingham	Fess	Metcalf	Tydings
Blease	Fletcher	Ransdell	Watson
Broussard	Greene	Reed, Pa.	Willis
Curtis	Hale	Sackett	
Deneen	Harrison	Smoot	
Edge	Hawes	Stephens	

NAYS—45

Ashurst	Frazier	McNary	Smith
Barkley	George	Mayfield	Steck
Black	Gooding	Neely	Steiwer
Borah	Harris	Norbeck	Thomas
Brookhart	Hayden	Norris	Wagner
Bruce	Heflin	Nye	Walsh, Mass.
Capper	Howell	Oddie	Walsh, Mont.
Caraway	Johnson	Phipps	Waterman
Copeland	Jones	Schall	Wheeler
Couzens	Kendrick	Sheppard	
Cutting	La Follette	Shipstead	
Dill	McKellar	Simmons	

NOT VOTING—24

Blaine	Gillett	McMaster	Robinson, Ark.
Bratton	Glass	Moses	Robinson, Ind.
Dale	Goff	Overman	Shortridge
du Pont	Gould	Pine	Trammell
Ferris	Keyes	Pittman	Tyson
Gerry	McLean	Reed, Mo.	Warren

So Mr. HARRISON'S amendment as modified was rejected.

The VICE PRESIDENT. The joint resolution is before the Senate as in Committee of the Whole and open to amendment.

Mr. CARAWAY. Mr. President, I offer an amendment, which I ask to have stated; and I call the attention of the Senator from Nebraska [Mr. NORRIS] to it.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. On page 5, after line 10, it is proposed to insert the following:

SEC. 9. (a) The Secretary of Agriculture is authorized and directed to utilize nitrate plant No. 2 for experiments in the production of fertilizers by the use of the cyanamide process to determine whether it is or is not commercially feasible to produce fertilizers by such process. If the Secretary of Agriculture determines that it is commercially feasible to produce fertilizers by the cyanamide process, then such plant shall be used for the production of fertilizers by such process in the largest quantities practicable, and the fertilizers so produced shall be disposed of at the lowest prices practicable to meet the agricultural demands therefor and effectuate the purposes of this resolution. In the utilization of nitrate plant No. 2 the Secretary of Agriculture shall avail himself of power in the same manner as provided in section 8.

And, following that, to change the section numbers.

Mr. NORRIS. Mr. President, as far as I am able to do so, I accept that amendment.

Mr. HEFLIN. Mr. President, I just want to call attention to the fact that while this amendment of the able Senator from Arkansas [Mr. CARAWAY] is an improvement over section 8 of the Norris joint resolution, it is not what we want and what we are entitled to have in the way of fertilizer at the hands of the Senate. If we are going to pass this measure with section 8 in it—and that is the only section that has any reference, of consequence, to fertilizer—we ought to acknowledge frankly that we are not providing for the making of fertilizer. Permitting the Secretary of Agriculture to decide whether or not he wants to make it there is not worth five cents to the farmer. We ought to direct that fertilizer be made there, and we ought to put it in the law, whatever the bill or resolution, that when they fail to make fertilizer they forfeit their lease on Muscle Shoals.

Senators, we all know, and the country knows, that unless we put in such a provision we are not in earnest about making fertilizer for the farmer at Muscle Shoals.

Let us not deceive ourselves, and let us not try to deceive the farmer. The Senator's amendment will improve this measure in some particulars. I have been told by men who know something about the business that it will cost over $100,000,000 to construct transmission lines out from Muscle Shoals. You are going to make the Government pay for that, and you can not make fertilizer until after that is done; and after you do that you will not have a dollar left or any power left to make fertilizer at Muscle Shoals.

Mr. BRUCE. Mr. President, I should like to ask the Senator from Arkansas whether I am correct in inferring that his amendment contemplates the production of fertilizers by the Government itself. Is that so?

Mr. CARAWAY. Mr. President, if I may answer the Senator's question in a little detail, the amendment provides that they shall at once commence the use of plant No. 2 for the production of fertilizer. If it develops that it can be made by the cyanamide process, then the plant will be dedicated to that purpose as long as the Government shall have charge of Muscle Shoals. That is the purpose of the amendment.

Mr. BRUCE. Is not the cyanamide process a patented process?

Mr. CARAWAY. We have the use of the patent for it.

Mr. BRUCE. The Government has?

Mr. CARAWAY. Yes.

Mr. BRUCE. I was not aware of that.

Mr. TYSON. Mr. President, will the Senator yield? Do I understand that the Government has the right to use that process?

Mr. CARAWAY. That is my understanding.

Mr. TYSON. In making fertilizer? I understood that that was only for the manufacture of explosives.

Mr. CARAWAY. The same process by which nitrates are extracted from the air to make explosives is used to extract them from the air to make fertilizer, or any other use you want to make of the material.

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

Mr. CARAWAY. I have not the floor. The Senator from Maryland has the floor.

Mr. SACKETT. Will the Senator from Maryland yield to me a moment?

Mr. BRUCE. I will yield the floor entirely in a moment. The Cyanamid Co., which primarily owns the cyanamide process, is a Canadian company, is it not?

Mr. CARAWAY. I do not know, Mr. President.

Mr. BRUCE. I understand that it was incorporated in Canada.

Mr. HEFLIN. Mr. President, it is an American company, officered by American citizens, and owned by American citizens.

Mr. BRUCE. I am not asking by whom it is officered or by whom it is owned. I am asking by what sovereignty it was created.

Mr. CARAWAY. I have not that information.

Mr. HEFLIN. It was organized in Canada, as I understand. They tried to set up business in Alabama on the Coosa River, and the President vetoed a bill that we passed through Congress allowing them to construct a dam there. Then they went over into Canada; but they are American owned and officered.

Mr. BRUCE. The company was created in Canada? That is the corporate situs?

Mr. SHEPPARD. Mr. President, I understand that the company was chartered by the State of Maine.

Mr. BRUCE. That is contrary to the statement made here lately that it was a Canadian company.

Mr. HEFLIN. Yes; I misunderstood the Senator. What I meant to say was that they went to Canada to do business. I think they were chartered under the laws of the State of Maine.

Mr. BRUCE. Is the Senator from Texas certain that this is a Maine corporation?

Mr. SHEPPARD. I feel certain of it. It is my distinct recollection that it was chartered by the State of Maine or some other American State.

Mr. BRUCE. I ask that because of course if the corporate situs of the corporation is Canada, all franchise taxes resulting from its operations would flow into the treasury of Canada, and so would other taxes, perhaps, and not into the Treasury of the United States. It does seem that in consideration of the fact that Canada is so jealous of American competition that she is unwilling for any power to be transmitted from Canada across the boundary line between that country and the United States, we ought to be a little slow about according any special privileges of any kind to Canada in connection with Muscle Shoals or anything else.

Mr. HEFLIN. Mr. President, I should like to say to the Senator that Mr. Bell, the president of the company, lives in New York; and if they get Muscle Shoals they will send their agents down there, and it will be operated as an American proposition purely.

Mr. FLETCHER. May I interrupt the Senator to say that the Air Nitrates Corporation is organized and exists under the laws of the State of New York. The American Cyanamid Co. is a corporation organized and existing under the laws of the State of Maine.

Mr. BRUCE. I am much obliged to the Senator.

Mr. SHEPPARD. So I stated.

Mr. SACKETT. Mr. President, I should like to ask the Senator from Arkansas a question for the information of the Senate. If this amendment is adopted, what amount of money would it be necessary for the Secretary to expend to put that plant in shape to carry out this amendment?

Mr. CARAWAY. Of course, an appropriation will have to be made to do that. I do not know what it will cost.

Mr. SACKETT. Does the Senator think it would be less than $10,000,000?

Mr. CARAWAY. I have not any information. I do not care to guess at it. I do not know.

Mr. SACKETT. It seems to me we ought to know something about the cost of an amendment we are putting on a measure of this character.

Mr. CARAWAY. The Senator was very eager to lease the plant to some people when we were fixing to expend, according to their estimate, $76,000,000, and according to the best estimates of other people about $300,000,000. He was not at all concerned about that; and that was all to be turned over to a private individual.

Mr. SACKETT. Nevertheless, this is a different proposition.

Mr. CARAWAY. Oh, I know it is. This is a place where the farmer is actually going to have done for him what we said we would do when we built that plant. We said we would dedicate it to the manufacture of high explosives in time of war and of fertilizers in time of peace. I know, and the Senator from Kentucky knows, that if there had been any doubt in the mind of Congress, when the act originally authorizing the construction of the Wilson Dam was passed, that that program would be carried out, there would have been no Wilson Dam.

Mr. SACKETT. That is very true; but times have changed since then.

Mr. CARAWAY. And if my friend from Alabama, who was so concerned about having Alabama's rights invaded, had read the discussion when the bill was up he would have found out that the people who were most interested in having the Government make that expenditure were the people from Alabama.

I want to say to the Senator from Kentucky that I have never been enamored of Government ownership and control of private business. My whole record will bear me out in that statement. I have been just as anxious to have something done with Muscle Shoals along that line as any man in the country. If it had not been for certain people whose motives I do not impugn, but whose judgment I seriously question, we could have leased it to Henry Ford, and we would have been the only people except Henry Ford who ever got more than 100 per cent on an investment with which Henry Ford had anything to do. It was a good proposition, but there were not enough votes to put it through. Other propositions came before the Senate, and they failed. Here is a proposition finally to have something done with Muscle Shoals that will keep faith with the people. Why should we not do it?

All of us know that nothing else is going through the Senate. You are either for this proposition or you are for keeping Muscle Shoals for another Senate debate in the next Congress. It is costing us lots of money. The plant is going to ruin. The faith of the people is being shaken in the promises the Government made that they were to experiment in giving the farmers cheaper fertilizer. Now, let us keep faith with them.

The amended joint resolution that I have offered simply dedicates plant No. 2 to that purpose. If it proves to be unprofitable—if it proves, as some people have asserted, that the cyanamide process is a failure—we will know it, and then it will be useless to talk further about leasing this plant to the Cyanamid Co. of America or to any other people using that process. If, however, it is successful, then we are going to put it to work to do the very thing for which it was constructed.

Mr. SWANSON. Mr. President, if the Senator will permit me, I understand that all that can be done under this proposition is to provide an organization. We can not appropriate money here.

Mr. CARAWAY. Of course not.

Mr. SWANSON. This is an authorization under which, afterwards, estimates can be made by which the purposes indicated in the joint resolution can be accomplished.

Mr. CARAWAY. Let me say that it is by all means the cheapest thing that has been offered to the Congress. The proposition the Senator from Kentucky stands for, according to its supporters' own statements, would cost us $76,000,000.

Mr. SACKETT. What proposition?

Mr. CARAWAY. That is, the Willis-Madden bill.

Mr. SACKETT. I do not stand for that in any particular. I am opposed to it, and so stated.

Mr. CARAWAY. Then I beg the Senator's pardon. I was entirely misinformed. I noticed the Senator voting with those who stood for that process, and I thought he was going along with them.

Mr. SACKETT. No.

Mr. SWANSON. As I understand, the adoption of the amendment of the Senator from Arkansas is about the only way we can provide at this session of Congress for the manufacture of fertilizer.

Mr. CARAWAY. Absolutely.

Mr. SWANSON. This authorization will be given, then the Appropriations Committee will make the appropriations to make it effective. They are bound to do that, under the rules of the Senate.

Mr. SACKETT. I spoke because the Senator's amendment sounds like a simple amendment. As a matter of fact, this is a cyanamide plant, and to bring it into fertilizer production would require the spending of a very large amount of money in order to finish the process. There has been a good deal of testimony here to the effect that that is not the coming process for the making of this product, and it does seem rather a strange thing, under a simple amendment of this kind, to commit the Government to that large expenditure on something that has not been proved to be the proper process.

Mr. CARAWAY. How much does the Senator think it would take?

Mr. SACKETT. I should think it would take $10,000,000 for the additional plant facilities that are going to be necessary to make it possible to run this plant in quantity.

Mr. CARAWAY. Under every proposition made it is expected that plant No. 2 will be put in a stand-by condition. It is an absolutely useless thing as it stands there with $70,000,000 or $80,000,000 invested in it. We have to do this very thing, whether this amendment shall prevail or not, or we will have to abandon the plant.

Mr. TYSON. Mr. President, I would like to ask the Senator a question. I believe the Senator will find that the Cyanamid Co. owns the patents under the cyanamide process, and we will have to buy them before any production of fertilizer can be had.

Mr. CARAWAY. I do not think so.

Mr. TYSON. As I understand it, it will cost $1,200,000, to operate that plant at full capacity, for royalties alone, and I think that is a very important thing for us to know before we vote on the amendment.

Mr. CARAWAY. What does the Senator want to do with plant No. 2?

Mr. TYSON. I have an amendment here with relation to that.

Mr. CARAWAY. Will not the Senator just tell me what he wants us to do with plant No. 2?

Mr. TYSON. When the Secretary of Agriculture has determined the very best process that is to be had for the manufacture of fertilizer, I want him then to have the right and power and authority to lease out plant No. 2 at the very best price he can get, provided he can get a satisfactory bid.

Mr. CARAWAY. What does the Senator want the Secretary to do anything for? If he is going to lease it, he can lease it to the Cyanamid Co. now. They do not want to use it for the manufacture of fertilizer.

Mr. TYSON. I have no desire to have any particular process adopted. I think the Secretary of Agriculture ought to have the opportunity to say what is the best process. If it is the cyanamide process, then we will have the cyanamide process. If it is the synthetic process, we will have that. As it is, we shall have nothing under this amendment, as I see it.

Mr. CARAWAY. Either the Senator from Tennessee has not read the amendment or the Senator from Kentucky has not read it, because the Senator from Kentucky says we shall have to make a very large expenditure in order to run the plant, but the Senator from Tennessee says we are not going to do anything with it.

Mr. TYSON. The Senator from Illinois can correct me if I am wrong, but as I understand it, the estimate made last year by the committee that brought in the bid for the Associated Powers was that it would cost $18,000,000 to put nitrate plant No. 2 in condition to make 40,000 tons of nitrate.

Mr. CARAWAY. And the Senator voted for that resolution.

Mr. TYSON. I did not vote at all for the resolution.

Mr. CARAWAY. Was not the Senator for the proposition of the Senator from Illinois?

Mr. TYSON. I do not think the matter ever came up for a vote.

Mr. CARAWAY. Oh, yes; it came up.

Mr. TYSON. I know I did not vote for it.

Mr. CARAWAY. I can not help that. What does the Senator want to do with nitrate plant No. 2?

Mr. TYSON. I will read the Senator my amendment. That is the only way to show the Senator exactly what I do want to accomplish.

Mr. CARAWAY. Would the Senator put it in operating condition or not?

Mr. TYSON. Put nitrate plant No. 2 in operating condition?

Mr. CARAWAY. Yes.

Mr. TYSON. I would put it in operating condition if the Secretary of Agriculture had had time to determine that it was the best process to be used in the manufacture of fertilizer.

Mr. CARAWAY. That is the only way you can determine it.

Mr. FLETCHER. Mr. President, may I interrupt the Senator to make this inquiry? Suppose the Secretary of Agriculture has in mind that the Government should not go into the manufacture of fertilizer, that the Government should stay out of business of this kind, and he has already concluded, in his own mind, that this is not commercially feasible and that he does not want the Government to go into that business; all he has to do is to report.

Mr. CARAWAY. All he has to do is to try, and then we are entitled to a report of the full facts of his experiments.

Mr. TYSON. Mr. President, my proposition is to add something to the Norris resolution. The Norris resolution is all right with regard to fertilizer as far as it goes. My proposition is that after he has experimented and determined what is the best process, thereupon he shall proceed to lease nitrate plant No. 2, which shall be turned over to him, and if he can get a satisfactory bidder for the manufacture of fertilizer at nitrate plant No. 2, in quantity, then that the plant shall be leased to that bidder; but he has to be guaranteed that the lessee will produce 5,000 tons of nitrates the first year and 5,000 additional each year thereafter until he has 40,000 tons of nitrate produced, and it shall be used in the manufacture of fertilizer for the farmers. He is compelled to do that if it is leased at all under the terms of my amendment. In the event that he can not lease the plant, and he finds a good method by which fertilizer can be produced cheaply at Muscle Shoals, so that it can be sold in competition with the commercial fertilizers, then, if he can not lease it he is to operate the plant, and he is to produce these amounts I have specified in my amendment—that is, 5,000 tons of nitrates the first year and 5,000 tons each year thereafter—until he produces 40,000 tons, and he must use it in the manufacture of fertilizer for the farmers and its distribution.

My amendment provides that he is definitely compelled to produce the nitrates if it is possible to produce them, by the very best method he can find, and it seems to me that that is the sensible way to handle this proposition.

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

Mr. TYSON. I yield.

Mr. BRUCE. For what period of time would the Senator provide that the Secretary should lease the plant?

Mr. TYSON. He is to lease the plant for not less than 25 years.

Mr. BRUCE. What provisions would the Senator make for rentals?

Mr. TYSON. He would lease the plant for the production of fertilizer as cheaply as possible for the farmer. In view of the fact that nitrate plant No. 2 is now standing idle, I provide that the lessee may have nitrate plant No. 2 turned over to him free of rental, with the provision that he is to keep the plant in order, and to pay such amounts as are necessary to keep it up, to pay the expenses of upkeep, both under the lease and also in the operation by the Secretary of Agriculture.

Mr. BRUCE. I suppose the Senator realizes that no private lessee could be induced to take over this property if the Government itself could not run it except at a loss.

Mr. TYSON. Not necessarily. I doubt very seriously if anyone will undertake to lease Muscle Shoals and produce nitrates in quantity until it has been demonstrated there that they can be produced in quantity, and at such a price that a private lessee would be willing to undertake the manufacture of fertilizer. I admit that I doubt seriously if any lessee can be had, but I think we ought to see if we can not get a lessee. My idea is to have an alternative proposition; if we can not get a lessee who can do this better than the Government, then let the Government do it. If we can not get a lessee, the Government must do it.

I provide in my amendment that whenever we can not sell the product of this plant at a reasonable profit, then it need not be made. If you can not make it at a reasonable cost, there is no point in making any fertilizer at Muscle Shoals or anywhere else, because no business man is going to stay in business unless he makes money. The point I am making is that the Secretary ought to have an opportunity to lease it if he can lease it to a satisfactory lessee, and failing that, then the Government has to make the effort to see if the product can be produced there at such a cost that it can be sold to the farmer at a price less than that at which he is now paying private concerns.

I think that is the idea of Muscle Shoals, that is the idea of the original law, and we will be keeping faith with the farmers if we carry out the provisions of that law and undertake to make fertilizers; and if we do not do so, we will not have carried out the plan and will not have kept faith with the farmers.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Arkansas [Mr. CARAWAY] to the joint resolution.

Mr. KING obtained the floor.

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

Mr. KING. I yield.

Mr. HARRISON. I want to offer a substitute and have it printed, unless we reach a vote on the joint resolution this afternoon. It will follow the resolving clause. I will say to the Senator from Utah that this is the only measure which has passed the Senate heretofore, and it is about the only measure perhaps that we can get together on.

Mr. KING. Mr. President, Senators give evidence of their readiness to vote upon the amendment offered by the Senator from Arkansas [Mr. CARAWAY], and I shall not long defer action thereon. The Muscle Shoals problem reminds one of the story of the man who had hold of the bear and wanted help that he might let go of the same. For years we have heard discussion concerning Muscle Shoals, and numerous measures have been offered dealing with the subject. If action was taken by the Senate, the other branch of Congress did not take final action, and so the years have gone by without disposition being made of the project and with the Government being required annually to pay large sums for the upkeep of the same. I have not had the advantage enjoyed by those Senators who have been and are members of the Committee on Agriculture and Forestry.

Before that committee for many years scientists and experts and business men by the score have appeared and expressed their views upon the various phases of the Muscle Shoals problem. Representatives of agriculture have spoken and pressed their views and persons who were interested in power development have suggested measures for the utilization of the power which might be developed at Muscle Shoals and at various points upon the Tennessee River. The views expressed have been conflicting, and it has been difficult to properly appraise the testimony offered and to reach a conclusion as to the wisest course to pursue. Several years ago Mr. Henry Ford was willing to lease the interests of the Government and to produce fertilizer in large quantities to be used by the farmers of our country. There were many who believed his proposition to be sound and fair and for the best interests of the Government as well as agriculturists; but Congress declined to take favorable action upon his proposition, and the years have gone by, and investigations have followed investigations, and hearings have been piled upon hearings, until the country has grown tired and nauseated with the whole matter. It seems to me that the Congress has not acted with that wisdom and promptitude which the situation demanded. The Government has investments aggregating, as I recall, more than a hundred million dollars, and the project, if completed, will require many millions more.

Perhaps the Government was justified in launching the project for war purposes. The lack of nitrogen for munitions during

the war lead to the adoption of a plan to build one or more dams at Muscle Shoals and to construct two plants for the purpose of manufacturing nitrates. One plant, known as No. 1, was to produce nitrogen by the synthetic process, taking it, as Senators know, from the air. Plant No. 2 was to produce cyanamide, the basis of which is nitrogen, likewise obtained from the air.

The original bill initiating the project provided for the manufacture of nitrogen for munitions purposes. That was the primary purpose of the huge expenditures made by Congress. A secondary purpose—and it was expressed in the bill—was to produce in peace times fertilizer for the farmers of the United States. The project was not a power project. It was not designed to produce hydroelectric energy to be furnished power companies or private individuals. I repeat, it was the intention and the promise that Muscle Shoals should be devoted to the production of nitrogen for war purposes, and when not needed by the Government for the production of nitrates, to be used in the manufacture of fertilizer. In my opinion the resolution before us nullifies the expressed will of Congress and ignores the law which inaugurated the Muscle Shoals project.

I feel there is an obligation resting upon Congress to see that Muscle Shoals is devoted to the purpose expressed in the original act. It seems to me that we would be guilty of Punic faith if a different policy were now adopted. Propositions have been made from time to time seeking to carry out the original plan. Some of these propositions call for the leasing to persons or corporations the dams and plants constructed by the Government. As I have understood these various propositions, they call for the manufacture of nitrogen and nitrogen compounds to be used to enrich the soil and benefit agriculture. With the rejection of such propositions, Congress is now confronted with the necessity of taking some definite action to finally dispose of this vexatious and irritating question. The Senator from Nebraska [Mr. NORRIS] with zeal and sincerity insists that we shall dedicate the Government's interest in Muscle Shoals to the production of electric power. His position is, as I understand it, that it is not practicable or feasible to manufacture fertilizer at Muscle Shoals either by the Government or by private enterprise.

I have been unable to follow the arguments of those who have insisted that Muscle Shoals is not adapted to the production of nitrogen either by the synthetic or the cyanamide processes. It is true the plant, which cost approximately $14,000,000 and was designed and used by the Government to produce nitrogen by the synthetic process, was a failure. I submit, however, that the failure of the Government does not furnish even prima facie evidence that private enterprise would have met the same fate. The cyanamide plant has not even been completed, and no tests have been made which warrant the claim that cyanamide can not be produced cheaply and commercially at plant No. 2. Muscle Shoals was selected as a suitable place to erect plants for nitrogen fixation because it was believed that the Tennessee River at Muscle Shoals and above would furnish reasonably cheap power.

Dams were not erected for the production of power for heating and lighting and to sell in contiguous districts. Cheap power was needed to produce nitrogen and not to sell. Power was to be developed and made available for use in nitrogen plants erected by the Government. Now it is proposed to not produce explosives or nitrogen or fertilizer, but that the Government shall engage in the production, sale, and distribution of electric energy to the residents who live near Muscle Shoals. The farmers are to be forgotten. The promises that fertilizers would be produced are to be ignored.

Mr. President, while I am opposed to the Government entering the field of socialism and engaging in enterprises which individuals should develop, I feel that there is a duty resting upon Congress to carry out the purpose expressed in the act providing for the Muscle Shoals project. I do not advocate the Government abandoning Muscle Shoals and the large investments which it has made, even though it might be advantageous from a financial standpoint for that course to be pursued. Entertaining that view, I believe that Congress should enact legislation which will provide for the leasing of Muscle Shoals with its plants and power, the lessees to supply nitrogen to the Government for munition purposes or to turn the project over to the Government when it requires the use of the same to meet governmental needs; the lessee also to engage in the production of fertilizer, a certain amount being produced annually, in order that the farmers of our country may have the benefit that will arise from an increased domestic production of nitrates and other products important in agriculture. If the Government can not lease the project, if private enterprise will not utilize it in the manufacture of fertilizer, then, as a last resort, I will support a plan calling for governmental operation for the production of fertilizer. If we are confronted with only two propositions, one to have the Government go into the power business or engage in the production of fertilizer, I shall support the latter because of the promises made to the farmers and the obligation imposed by the act inaugurating the Muscle Shoals plan.

As I have said upon a number of occasions, governmental activities in matters which belong to individual effort and are within the domain of private enterprise and endeavor, are obnoxious to me. But a situation may arise compelling the adoption of a policy to be followed by the Government which does not meet my approval and which even may be regarded as antagonistic to the spirit and form of our Government. The United States as a Nation was formed, not as a business enterprise, or as a socialistic or communistic experiment. The powers conferred upon it by the Constitution are limited and they relate to governmental and national questions.

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

Mr. KING. Certainly.

Mr. BRUCE. May I call the attention of the Senator to the fact that the substitute just offered by the Senator from Mississippi covers his point?

Mr. KING. I voted for that substitute.

Mr. BRUCE. But I did not know the Senator knew it had been introduced.

Mr. KING. I voted for the amendment offered by the Senator from Mississippi, not because I believed it met the situation, but because I believed that by its adoption it might be possible to carry out the spirit of the act providing for the Muscle Shoals project and ultimately enable the farmers to obtain nitrogen products.

Mr. President, much as I dislike the creation of commissions and executive agencies, I believe that the situation before us calls for the adoption of a different plan from either now before us. I believe that it would be wise to authorize and direct the President to appoint a commission of experts, business and scientific men, to formulate a plan for the development of Muscle Shoals and the production of nitrogen, either by the cyanamide or some other process, feasible and practicable; the plan should provide for leasing the plants owned by the Government and the power sites and the power rights of the Government in the Tennessee River, under proper terms which will protect the Government and prevent monopoly in the manufacture and sale of nitrogen and its various fertilizer forms. If this commission fails to obtain a suitable lease for the production of nitrates for the farmers and for the Government's use, and it is impossible to have private capital undertake the development and use of Muscle Shoals for the purposes just stated, then, opposed as I am to the Government entering into the domain of private business, I would support a proposition providing the necessary appropriations for the development of Muscle Shoals by the Government, such development to include the manufacture of fertilizers for the agriculturists of the United States.

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

Mr. KING. I yield.

Mr. McKELLAR. I will call the Senator's attention to the law as it is right now, not that the President has the right to lease, but he has the right to operate that plant right now for fertilizer purposes for the benefit of the farmers of the United States, but he is not doing it.

Mr. KING. I repeat I am opposed to the Government engaging in the production of power or the manufacture of fertilizer, but I conceive that a situation may arise justifying a departure from this policy. But the situation must be extreme and, indeed, critical, that would justify the Federal Government engaging in activities which all concede belong to individuals. I am unwilling that the Government shall abandon Muscle Shoals, but I insist that it shall lease the same under reasonable and proper terms. With cheap power which can be produced at Muscle Shoals where an abundance of phosphate is available, with cheap coal and coke, it is certain private enterprise can manufacture fertilizers for the farmers cheaper than perhaps any other place in the United States. So, Mr. President, let us direct the President, through a commission, to work out a proper plan, one which will protect the Government as well as the farmer and which will secure a suitable lessee who will undertake the production of nitrates and various forms of fertilizers to meet, in part, at least, the needs of the agriculturists of our country.

Mr. FESS. Will the Senator yield?

Mr. KING. Yes.

Mr. FESS. I think the Senator has stated my position on the question.

Mr. KING. I am gratified to know that I am not alone in the views expressed.

Mr. FESS. Now a question. There is no doubt in the mind of the Senator that it is possible to produce fertilizer under private enterprise.

Mr. KING. No. In my opinion it can be produced at Muscle Shoals and produced at a profit. By the cyanamide and the synthetic processes nitrogen is obtained from the atmosphere in German plants, and the American Cyanamid Co. is manufacturing thousands of tons of cyanamide which is being used in the United States. I should add that it is also shipping to foreign countries a large amount of fertilizer, the nitrogen of which is obtained from the atmosphere through the cyanamide process.

Mr. FESS. Then the only point of division is whether we will choose Government operation rather than private operation?

Mr. KING. That is my view. By that I mean private capital has produced and will produce all forms of fertilizer needed by the farmer. Private capital has given to the United States inventions and all forms and varieties of products essential to the happiness and welfare of the people. Nitrogen is in the air, and chemists, both in other countries and in the United States, have reached out and taken nitrogen from the atmosphere and compounded it with other substances, thus forming products required by the farmers for the enrichment of their lands. Of course, there may be some difficulty in finding individuals who will enter into contractual relations with the Government for the manufacture of nitrates at Muscle Shoals. But I see no reason why leases may not be entered into between the Government and corporations and individuals which will be mutually advantageous and of great advantage to agriculture. So I believe that the controversy is largely whether we choose Government operation or private operation.

Mr. FESS. That is the basis which makes it impossible for me to vote for the joint resolution as it is now before us.

Mr. KING. I shall willingly vote for a proposition to lease Muscle Shoals for the purpose for which it was designed, but if the Government can not lease it, then I shall, though reluctantly, support a sound and rational plan which will call for the governmental operation of Muscle Shoals for the production of nitrates.

Mr. SWANSON. Mr. President, I am earnestly in favor of the amendment offered by the Senator from Arkansas [Mr. CARAWAY]. It seems to me it is a very wise, just, and sensible amendment. In the first place, we have had debate for days and days and for years and years as to whether we could make fertilizer or not. The amendment submitted by the Senator from Arkansas would settle that question. Anything that can finally settle satisfactorily such a long debate in the Senate is certainly a wise provision. The proposed amendment directs the Secretary of War to make this test and this experimentation, and if it is successful, then he is directed to proceed to sell the fertilizer at cost to the farmer. It does seem to me we ought to ascertain whether it is wise and what is best and whether it is valuable before we dispose of the property. If we find we can operate it at a profit and reasonably, then is the time to make the lease and ascertain what we will lease it for or whether we will operate it ourselves or not.

This would not mean perpetual Government operation. The amendment submitted by the Senator from Arkansas simply authorizes, being an expression of the will of Congress, that plant No. 2 shall be utilized to see whether we can get cheap fertilizer for the farmers or not. We have had debates here of interminable length as to whether it can be done or not. I do not know whether it can be done. Sometimes I have heard a Senator state that it can and then another one say that it can not be done. I have a different opinion almost every time I listen to the debates. The amendment of the Senator from Arkansas, it seems to me, would settle the question once and for all.

When the question comes up and the authorization is made, it is in order for the Senate, whether the Bureau of the Budget certifies it or not, to offer an amendment to any appropriation bill and appropriate the money that we think is wise and necessary to accomplish this purpose. An amendment to appropriate $5,000,000 or $10,000,000 or $20,000,000 would not be in order unless the authorization were first made. If we make the authorization now, then at any time during the session it would be in order for any Senator to offer an amendment to an appropriation bill to provide the money which is necessary to make the authorization effective.

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

Mr. SWANSON. I yield.

Mr. EDGE. Is it necessary, in order to accomplish that purpose, also to include the words "direct the Secretary"?

Mr. SWANSON. I think so. Otherwise we might never get the experiment made. We might have to debate the question 20 years longer. I want the word "direct" in there. I am in favor of directing the Secretary to do it. The time has passed when the Senate can not appoint agents to do what it thinks is wise and for the good of the country. Congress has that authority.

Mr. EDGE. If the Senator will yield further, I ask the question simply from a realization of the fact that I am utterly unable to decide whether it is practicable or not. I assume the Secretary of Agriculture, before spending $8,000,000 or $10,000,000, would know whether it is practicable.

Mr. SWANSON. He is directed to conduct the experiment. I am not willing to say merely that he is authorized to do it. It might never be done. I want the word "direct" in there, and I will not vote to eliminate that word. I have heard the question debated now for four or five years, and heretofore I have reached no conclusion. The time has come for Congress to decide something about the matter.

Mr. BRUCE. Mr. President——

Mr. SWANSON. I will yield to the Senator in just a moment. I am in favor of directing the Secretary of Agriculture to make the experiment. It will then be up to Congress to determine the proper amount of money to be appropriated to conduct the experiment. Under the rules of the Senate, when an authorization has been made by Congress, an amendment providing for an appropriation is not subject to a point of order because the Budget has not certified it. An amendment can then be offered to the deficiency bill for the appropriation. It would seem to me that it is time for the Senate and the House to determine that we shall utilize this plant for the manufacture of fertilizer, if that is what we want, irrespective of what any department might desire or wish.

I yield now to the Senator from Maryland.

Mr. BRUCE. I simply want to ask the Senator from Virginia whether he is aware of the fact that the Senator from Mississippi [Mr. HARRISON] has just offered a substitute for the pending joint resolution which covers the same ground as did the Underwood bill?

Mr. SWANSON. I voted against the Underwood bill. I shall vote against the proposed substitute. I am not in favor of leasing the property until I know its value, until I know what we can accomplish with it. I am not willing to sell this valuable property until experiments shall have been made with it and we know whether we are getting its worth or not. The amendment of the Senator from Arkansas does not determine that we shall have perpetual Government ownership or operation. But the Government is entitled to know the value of its property before it leases or disposes of it, and his amendment would accomplish that purpose. It first makes it absolutely compulsory to ascertain whether fertilizer can be made or not, and then it will be in order for the Senate and House to determine that question.

Mr. BRUCE. But it does not make provision for the leasing under any condition, I understand.

Mr. SWANSON. Why does the Senator want to lease property before he knows how valuable it is? Why sell a thing when we do not know what its worth is? Is not the Government entitled to the same protection that a private individual would have in connection with his private property?

Mr. BRUCE. I think perhaps it is an assumption on the part of the Senator from Virginia in saying that we do not know.

Mr. SWANSON. The Senator might know, but I do not know.

Mr. BRUCE. No, I do not know.

Mr. SWANSON. I am not willing to vote to lease or sell this property until I am satisfied the Government is getting full value for it. The Government was compelled to go in there during the war. When the Government makes an investment of the people's money and puts their money into an enterprise, and the time comes to dispose of it in some way, it is as much entitled to protection in the matter of value as any private individual. I am not satisfied to lease the property to any individual and I am not satisfied to dispose of it in any way until I have ascertained its value. I want the experiment made. If the experiment is made and plant No. 2 proves profitable and it is proven that we can make fertilizer and proven that it can be successfully and cheaply done for the farmer, then I am ready to determine the question whether the Government shall attempt to make fertilizer or whether we shall dispose of the plant in some way.

Mr. President, I shall vote for the amendment of the Senator from Arkansas.

Mr. BRUCE. Mr. President, the difference between the Senator from Virginia and me reminds me of the story that

was told in the Continental Congress, when John Dickinson, who was balking at the idea of independence, said that the only word he did not like in a certain resolution that was pending——

The VICE PRESIDENT. The Chair regrets to say that the time of the Senator from Maryland is exhausted under the unanimous-consent agreement.

Mr. BRUCE. Mr. President, have I spoken 15 minutes?

The VICE PRESIDENT. The Chair is informed that the Senator has spoken once.

Mr. BRUCE. My time passed so delightfully and was so brief that I did not realize that it had expired.

Mr. SHEPPARD. A parliamentary inquiry, Mr. President.

The VICE PRESIDENT. The Senator will state it.

Mr. SHEPPARD. Has not the Senator from Nebraska accepted the amendment?

The VICE PRESIDENT. The Senator from Nebraska can not accept the amendment, since it is an amendment to the joint resolution and not to his own amendment. The question is on the amendment of the Senator from Arkansas [Mr. CARAWAY] to the joint resolution.

Mr. SMITH. Mr. President, I should like to ask the Senator from Nebraska a question for information. If the pending amendment shall be adopted, would it not be necessary then to have a further amendment in reference to the following provision:

> The Secretary of Agriculture shall locate one fertilizer plant in the vicinity of Muscle Shoals, Ala., and there shall be turned over to him nitrate plant No. 1, together with the steam plant connected therewith, and such other buildings—

I take it that if the Caraway amendment shall be adopted it will not be desired by such wording to foreclose the Government from making experiments either at the place named or elsewhere where the synthetic process or any other process that might promise better results than the one that would be authorized under the Caraway amendment might be utilized. I am merely calling the Senator's attention to that, because if the Caraway amendment shall be adopted and we pledge ourselves to run the cyanamide plant and plant No. 2, it might be taken to preclude experimentation there and developing another process.

Mr. NORRIS. What is the question which the Senator from South Carolina desires to ask?

Mr. SMITH. I wish to know if a further amendment would not be necessary; and I desire to call the Senator's attention to the matter, so that he might prepare an amendment to meet such a possible emergency.

Mr. NORRIS. As I look at it, no such amendment would be required. All this proposes is to direct the Secretary of War to perform an experiment that he would have a right to perform, in my judgment, even if the amendment were not offered and agreed to; but it directs him to do it. Since we own nitrate plant No. 2, since there seems to be a dispute as to what may be accomplished, although in my mind I have not any doubt, and many Senators who have talked it over with me have said that they thought there was an honest difference of view, and they wanted to require that the experiment be performed, I consented, so far as I could do so.

Mr. McKELLAR. Mr. President, may I call the attention of the Senator from South Carolina [Mr. SMITH] to the fact that the Senator from Nebraska [Mr. NORRIS] agreed to accept an amendment in lieu of section 8, and that amendment—I will show it to the Senator—obviates the difficulty that he suggests?

Mr. NORRIS. If there is any difficulty——

Mr. McKELLAR. It can be straightened out.

Mr. NORRIS. Of course, I want to straighten it out. I will say to the Senator from South Carolina that I do not think there should be any doubt about it, but if anybody has any doubt about it, it is desirable to make it perfectly plain so that there can not be any such doubt. I do not want the adoption of this amendment, of course, to interfere with any other experiment that the Secretary of War may wish to carry on under the joint resolution. There will be an amendment which I expect to offer, if this amendment shall be agreed to, and that is to change the authorization to an appropriation.

Mr. SMITH. Mr. President, I shall look over the language, and if it seems to me that it is necessary that it shall be amended I shall offer an amendment, because the wording of section 8, unless it shall be supplemented, would seem to restrict the operation to one plant at Muscle Shoals and will make it impossible to have another.

Mr. BRUCE. Mr. President, is the pending amendment open to amendment?

The VICE PRESIDENT. It is.

Mr. BRUCE. Then, I move that the words "authorized and," in lines 1 and 2, in section 9, of the Caraway amendment, be stricken out. I believe I now have the right to speak for 15 minutes on my amendment, have I not?

The VICE PRESIDENT. The Senator from Maryland is correct.

Mr. BRUCE. I wish to say merely a few words with reference to the amendment of the Senator from Arkansas, for it seems to me that it is really the crux of the whole controversy; it certainly is so far as the differences between the Senator from Virginia [Mr. SWANSON] and me are concerned. The Senator from Virginia has stated that the one thing he does not like about this joint resolution is the word "lease," and when I was interrupted I was proceeding to tell a little story about the Continental Congress. It is hardly necessary to say it is somewhat stale, as it originated that far back, but it has not been regarded by historians as being such a bad story.

A controversy was going on in the Continental Congress as to whether they should or should not strike out from a resolution the word "Congress." John Dickinson was a little more timid than his associates, and he said with regard to the resolution that was pending before the Congress, "There is only one word in the resolution I do not like and that is the word 'Congress.'" Then Benjamin Harrison, of Virginia, one of the predecessors in public service of the Senator from Virginia, said: "Mr. Speaker, there is only one word in the resolution that I like and that is the word 'Congress.'" Harrison was, of course, a very ardent and advanced advocate of colonial independence.

I am almost tempted to say that the one word that I like in any of the pending amendments or in the original joint resolution itself is the word "lease." My opinion is that the suggestion of Government operation has been the evil genius of Muscle Shoals from the very beginning down to this minute. But for the effort, persistent and unceasing, to fasten the theory of Government operation upon the measures which have been before Congress dealing with Muscle Shoals, the problems involved in it would, in my humble judgment, long ago have been settled. As I have already declared, the idea of Government operation has been the Old Man of the Sea which has fatally loaded down every attempt to arrive at some intelligent conclusion with regard to Muscle Shoals which has been made during the time that I have been a Member of this body.

It would be trite for me to speak at any length about the shortcomings of Government operation. If there is anything that ever has been fully demonstrated, in my opinion, it is the superiority of individual initiative, individual enterprise, and individual energy over the torpid, inefficient, wasteful results of Government operaton. What should be done in this case, in my humble judgment, is not to contemplate the idea of Government operation at all except as a dernier resort, a thing to be availed of only after all other expedients shall have failed.

In the city of Baltimore when, because of the expanding growth of the commerce of its port, we established a great system of docks and piers for commercial purposes, we leased them out to private steamship companies of one description or another, reserving rentals, and subjecting the lessees to every condition, restriction, limitation, and burden that the public welfare suggested as proper under the circumstances. The result has been that the steamship companies have found in those docks and piers a superb instrumentality for the promotion of their business; the city has received large rentals, and everybody has reason to congratulate himself or itself upon the wise policy that the city of Baltimore has pursued with reference to those docks and piers.

I forget the exact duration of those leases, but they are, we will say, for 40 or 50 years, though it may be that their duration is somewhat longer than the time that is usually fixed in Baltimore for grants of franchises in public property in the city of Baltimore.

Why can we not follow some such plan in dealing with the Muscle Shoals situation? Let the Secretary of War invite bids, setting forth in proper specifications, of course, the conditions, restrictions, obligations, and stipulations of one sort and another under which the successful bidder or bidders would hold the property. Let the Secretary of War reserve proper rentals.

That is what was contemplated by the Underwood bill, a measure which has actually received the approval of the Senate, if I am not mistaken, by a vote, as some one said a few moments ago—how accurately I can not declare—of 2 to 1. That sagacious bill was worthy in every respect of the upright, honorable, able, and statesmanlike Senator who sponsored it, the then Senator from Alabama, Mr. Underwood. It seems to me to fit in every respect the exigencies of this case. As I

recall, it provided first of all for bids for leasing to private parties for the production of fertilizer, and, only in the event of leasing turning out to be impracticable for Government operation for the production of fertilizer.

An amendment to the pending bill patterned on the Underwood bill has just been offered by the Senator from Mississippi [Mr. HARRISON]. It will soon receive the consideration of this body. In the meantime I trust that the Senate will give its disapproval to the amendment offered by the Senator from Arkansas [Mr. CARAWAY], because that only partially covers the situation with which we are dealing. The Harrison amendment modeled on the Underwood bill covers the entire situation.

So far as I am concerned, the Senator from Arkansas is perfectly right in saying that the Senate is split up into two classes with reference to the pending resolution—those who favor Government operation, either exclusively or alternatively, and those who are opposed to Government operation in any form. I at least am opposed to Government operation of Muscle Shoals at any time and under any conditions except, as I have said, as a dernier resort.

I had expected to say what I have said when the pending resolution, as amended, finally came up for consideration, because I expect to vote against the resolution, but in the meantime it seems to me that it was in harmony with the general views that I entertain in regard to this measure that I should resist at the very outset, so far as I am able to do so, the adoption by the Senate of the amendment offered by the Senator from Arkansas.

Mr. LA FOLLETTE. Mr. President, a parliamentary inquiry. Has the Senator from Maryland withdrawn his amendment?

Mr. BRUCE. Mr. President, I do not see that the withdrawal of the amendment will accomplish anything, for the simple reason that it seems to me that when the Secretary of Agriculture is "directed," it is perfectly immaterial to add the redundant word "authorized." It makes no difference whether he is "authorized" or not, if he is "directed"; but, now that I have accomplished my purpose of securing 15 minutes for the discussion of the amendment of the Senator from Arkansas, if the Senator from Wisconsin would like me to withdraw my amendment, I will withdraw it, if there is any point involved in doing so.

The VICE PRESIDENT. Without objection, the amendment to the amendment will be considered withdrawn. The question is on the amendment of the Senator from Arkansas [Mr. CARAWAY].

The amendment was agreed to.

Mr. BLACK. Mr. President, I send to the desk an amendment, which I ask to have stated.

The VICE PRESIDENT. The amendment will be stated.

The CHIEF CLERK. On page 2 of the original resolution, at the end of line 5, after the word "installation" and before the period, it is proposed to insert a colon and the following:

And provided further, That the steam power plant at nitrate plant No. 2 shall not be sold to the Alabama Power Co. or to any other power company or group of power companies.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Alabama.

Mr. HARRISON. Mr. President, may I ask the Senator a question about his amendment? As I understand, there is nothing in the provisions of the Norris joint resolution that proposes to sell anything except current. It does not propose either to lease or to sell any plant. Is not that true?

Mr. NORRIS. I did not hear the Senator's question. My attention was diverted for the moment.

Mr. HARRISON. As I understood the reading of this amendment, it is an inhibition against the sale of steam power plant No. 2 at Muscle Shoals to the Alabama Power Co. or anyone else.

Mr. BLACK. That is correct.

Mr. HARRISON. There is nothing in this joint resolution that proposes to sell that plant?

Mr. NORRIS. No; not that I know of.

Mr. HARRISON. Then it seems to me that the proposition has no force here. They have no authority to sell it. Consequently, why put an amendment in here saying that it can not be sold?

Mr. BLACK. Mr. President, that amendment is offered—I have another amendment in connection with it—because in the testimony of Doctor Cottrell before the Military Affairs Committee of the House of Representatives last week, which I have on my desk, with reference to the Morin bill, he stated in effect that under that bill, in his judgment, the Secretary of War would have the right to sell or to dispose of or to lease the nitrate plant, or, as I understood, the steam plant at that place. He stated that under the Morin bill he had this authority, and that, as he understood, under the Norris joint resolution—Doctor Cottrell referred to this joint resolution—the same privilege would be given, except that under the Norris joint resolution the Government had the right to sell the power.

I have another amendment, which I shall offer immediately after this one, with reference to maintaining nitrate plant No. 2. I think both of these amendments are necessary and essential, in view of the fact that the representative of the Secretary of Agriculture, to whom the Senators who now favor this proposition are going to turn over this proposition if they can, has stated that it is a failure. He stated before the Military Affairs committee this week that he could not operate it. He stated that he did not want to operate it. He stated that he could not operate it in competition with private business, and stated that if he did it would not reduce the price of fertilizer. He also stated that as he understood the joint resolution it was simply letting Congress wash its hands of the whole transaction. Therefore I offer this amendment with reference to the steam plant, so that there is no possibility that it will be sold.

Mr. SACKETT. Mr. President, may we have the amendment stated again? We could not catch it.

The VICE PRESIDENT. The Secretary will restate the amendment.

The amendment was restated.

Mr. NORRIS. Mr. President, I myself do not understand the object of the Senator from Alabama in offering this amendment. Nobody proposes to sell steam power plant No. 2. Certainly it never has been suggested by me that such a sale take place.

Mr. McKELLAR. And it could not be done unless there was a specific law for the purpose.

Mr. NORRIS. Of course it could not. There is nothing in the joint resolution that provides for it. It seems to me the only thing that is accomplished by offering an amendment like this is to be able to say, if we should vote it down, "When the Senate had a chance to vote not to sell this power they voted to sell it." If we are going to go up against a proposition of that kind, it might be best to adopt the amendment. Certainly nobody has authority to sell it now unless we give them affirmative authority to do it; and because some other bill pending in the House or before some other committee gives authority to sell this power plant, that is no reason why this joint resolution does it.

I should be glad to have some Senator point out what provision of this joint resolution gives any authority, directly or indirectly, in any way, for anybody to sell any of this property down there. Certainly I have no such intention; the committee has had no such intention; and, as far as I know, it has never occurred before to anyone that anybody was trying in this legislation to dispose of the property down there.

Mr. SACKETT. It is not provided for in any amendment that has been filed with the committee.

Mr. NORRIS. None that I have seen. I know of nothing of the kind.

Mr. BLACK. Mr. President, if the Senator will yield to me, I will read to the Senator just where I got the information. This is from Doctor Cottrell's evidence:

It might be entirely possible that either the Cyanamid Co. or the Carbide Co., or any of these other bidders who have been in here before the committee trying to lease both water power and plants for partial use in nitrates and partial use in other industries, might come in and very frankly lease parts of those plants for some of the things they have had in mind either as nitrate properties or, more probably they would say, better, for the use of entirely other industries.

Then, going ahead:

Mr. WURZBACH. It really amounts to a determination on the part of Congress to wash its hands of the entire responsibility?

Doctor COTTRELL. Yes.

Mr. WURZBACH. And to say, "Now, Mr. Secretary of War, you handle this thing and dispose of it, and dispose of nitrate plant No. 2 and all of their property"?

Doctor COTTRELL. Yes, sir. That is exactly, as I understand it, the purport of the bill.

Mr. WURZBACH. And really the part that the Agricultural Department is to play in the game might very easily be compared to that of the tail of the dog; it is only a very small part of the whole problem?

Doctor COTTRELL. Yes; so far as the handing of the equipment goes; that is, of the physical assets, the physical properties themselves.

Going on, he says:

Outside of that small feature, that the Agricultural Department is required to handle this experimentation, the rest of it is practically the Norris plan?

Doctor COTTRELL. I think the main difference is that the Norris bill provides specifically for Government operation of the power facilities by the Government itself. That is probably the largest difference.

The gentleman to whom this will be assigned states that it is his understanding that they can dispose practically of the whole thing. I do not want anything indefinite about it.

Mr. NORRIS. I get nothing of that kind from the testimony the Senator has read. There is not even any intimation, as I understand that language, that such would be the case. Point out the language in this joint resolution that gives anybody any authority to sell that property down there. Let us have it.

So far as I am concerned, of course, I have no objection to the amendment. The only thing about it is that we are asked to do something that it seems to me is foolish. I do not think the Senator ought to take up the time of the Senate in trying to get on the joint resolution this kind of an amendment. Nobody here wants to sell that property. Nothing in the joint resolution provides for its sale. No one has thought of such a thing; and affirmative legislation on the part of Congress is necessary before anybody can sell it. We might just as well put in here a proviso reading:

Provided, That the Secretary of Agriculture shall have no authority to sell the Capitol of the United States.

Mr. SACKETT. Or, if you are going to be consistent, if we put in this amendment, ought we not to put in a provision that he shall not sell the dam itself?

Mr. CARAWAY. Or move the river.

Mr. NORRIS. I hope the Senator from Alabama will not insist on his amendment.

Mr. HEFLIN. Mr. President, if the Senator from Nebraska will permit me, I think Doctor Howe testified before our committee that he thought plant No. 2 ought to be sold.

Mr. McKELLAR. Suppose he did. That does not give the power to sell it. Nothing but an act of Congress can give anybody the right to sell it, and no such act of Congress is proposed.

Mr. NORRIS. Doctor Howe, before our committee, did not claim that this joint resolution gave the Secretary of Agriculture or the Secretary of War the right to sell that power plant.

Mr. HEFLIN. That may be part of the program. We do not know.

Mr. NORRIS. Suppose we say they shall not do it and they go on and do it. If they can do it with this in the law, they can do it without it.

The PRESIDING OFFICER (Mr. EDGE in the chair). The question is on the amendment of the Senator from Alabama.

The amendment was rejected.

Mr. BLACK. Mr. President, I offer the further amendment which I send to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. At the same place, on page 2, line 5, after the word "installation" and before the period, it is proposed to insert a colon and the following:

And provided further, That in order to safeguard the national defense and assure a domestic production of nitrogen for fertilizers nitrate plant No. 2 and none of its fixed or movable equipment shall be sold without the consent of Congress; and further, the Secretary of War is hereby authorized and directed to maintain nitrate plant No. 2 and all of its equipment in a condition ready for prompt operation.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Alabama.

The amendment was rejected.

Mr. McKELLAR. Mr. President, I offer an amendment as a substitute for section 8, which I understand the Senator from Nebraska is willing to accept, and I ask that it be voted on at this time.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 4, it is proposed to strike out section 8 as printed in the original joint resolution and to insert the following:

The Secretary of Agriculture in carrying out the purposes of this act shall locate a fertilizer plant in the vicinity of Muscle Shoals, in Alabama, and there shall be turned over to him the nitrate plant, together with the steam plant connected therewith and such other buildings, houses, and shops there located as shall be necessary for the Secretary and his employees in the construction and maintenance and operation of such plants; and when such fertilizer plant is thus located and established in the vicinity of Muscle Shoals all the power necessary for the requirements of said plant shall be supplied from said steam plant located at nitrate plant No. 2 or from Dam No. 2.

Mr. NORRIS. Mr. President, let me call the Senator's attention to a correction which it is necessary to make. The Senator's amendment, as the clerk read it, turns over to the Secretary of Agriculture the power plant at nitrate plant No. 2. That would be in direct conflict with other purposes of the joint resolution; and, besides, the Secretary of Agriculture does not want to operate the power plant at nitrate plant No. 2. That is the big steam plant.

Mr. McKELLAR. No, Mr. President; the Senator does not get the amendment exactly. There is simply turned over to him "all the power necessary for the requirements of said plant."

Mr. NORRIS. Let us hear that again. I will ask the Senator to commence at the beginning.

Mr. McKELLAR (reading):

The Secretary of Agriculture, in carrying out the purposes of this act, shall locate a fertilizer plant in the vicinity of Muscle Shoals, in Alabama, and there shall be turned over to him the nitrate plant, together with the steam plant connected therewith and such other buildings—

Mr. NORRIS. The Senator would turn over to the Secretary of Agriculture not only the nitrate plant but both of the steam plants. The Senator does not want to do that. The Senator would turn them both over by this amendment. The Senator means the steam plant at nitrate plant No. 1. That is the one the joint resolution would turn over.

Mr. McKELLAR. The steam plant at nitrate plant No. 1?

Mr. NORRIS. Yes.

Mr. McKELLAR. Let me correct this.

Mr. NORRIS. With that correction, I have no objection to the amendment.

Mr. McKELLAR. "At nitrate plant No. 1."

Mr. NORRIS. "And the steam plant connected with nitrate plant No. 1."

Mr. McKELLAR. Yes.

Mr. NORRIS. That is all the steam that is turned over to the Secretary of Agriculture.

Mr. McKELLAR. That is true.

Mr. NORRIS. Very well. Let me say to the Senator, and to the Senate, that with the understanding to which I have called attention there is, in my judgment, no difference in legal effect between the amendment suggested by the Senator and that which is already in the resolution, with the exception that it turns over both nitrate plants, which is not specifically done in the resolution. That is done by another amendment to the resolution, however, known as the Caraway amendment. I am inclined to think that some of the language which is used, perhaps, expresses the idea better than it is expressed in the resolution, and as far as the effect is concerned, with the exception of what I have suggested, in my judgment it does not change it at all.

Mr. McKELLAR. Perhaps the Senator is right.

Mr. NORRIS. Therefore I have no objection to the adoption of the amendment.

Mr. McKELLAR. May I explain to other Senators that all this means is that the power at the steam plant and the power at the dam, if it is necessary for the purpose of manufacturing fertilizer, may all be used. That is all there is in it.

Mr. NORRIS. There was a difference of opinion as to whether that was in the resolution. I think it is already in, but of course that is what I want to do.

Mr. McKELLAR. Then the Senator has no objection?

Mr. SIMMONS. Mr. President——

Mr. McKELLAR. I yield.

Mr. SIMMONS. It includes plants No. 1 and No. 2?

Mr. McKELLAR. Yes.

Mr. SIMMONS. And the power produced by the present dam?

Mr. McKELLAR. Yes. I want to say to the Senator from North Carolina that it is the substitute which he and the Senator from Georgia went over a little while ago.

Mr. SIMMONS. I discussed it with the Senator some little while ago, and I am very insistent upon having it go into the joint resolution.

Mr. McKELLAR. The Senator from Nebraska has agreed to accept it, and I hope it may be adopted.

Mr. NORRIS. Let me ask the Senator another question. I think there is no doubt with regard to the latter part of the amendment, which provides that all the power which is necessary shall be supplied to the Secretary of Agriculture, but will not the Senator read the latter part of it again?

Mr. McKELLAR. It reads:

All the power necessary for the requirements of the said plant shall be supplied from said steam plant and from the dam.

Mr. NORRIS. That makes it clear.

Mr. HARRISON. Let the proposed amendment be read, so that we may understand what we are voting on.

The PRESIDING OFFICER. The Secretary will state the amendment.

The CHIEF CLERK. Add a new section, as follows:

SEC. 8. The Secretary of Agriculture in carrying out the purposes of this act shall locate a fertilizer plant in the vicinity of Muscle Shoals in Alabama, and there shall be turned over to him the nitrate plant together with the steam plant at nitrate plant No. 1 connected therewith and such other buildings, houses, and shops there located as shall be necessary for the Secretary and his employees in the construction and maintenance and operation of such plants; and, when such fertilizer plant is thus located and established in the vicinity of Muscle Shoals, all the power necessary for the requirements of said plant shall be supplied from said steam plant located at nitrate plant No. 2, or from Dam No. 2.

Mr. KING. Mr. President, may I inquire of the proponent of this amendment whether he interprets it as meaning that, in addition to the plants 1 and 2, which now exist, the Secretary of Agriculture shall construct another plant? As I heard the language, it means that the Secretary of Agriculture shall establish another plant.

Mr. McKELLAR. Not by this amendment. I will say to the Senator that all this amendment does is to turn over, if necessary, all the power generated from the steam plant and in Dam No. 2, in order to carry on the fertilizer enterprise at Muscle Shoals.

Mr. SIMMONS. Mr. President, I want to ask another question, and I ask it because I have been necessarily absent from the Chamber for an hour or so. Is there still in the joint resolution ample appropriation to enable the Secretary effectually to carry out the purposes of Congress with reference to making fertilizer?

Mr. McKELLAR. It has not been offered yet, but the Senator from Nebraska, I understand, has agreed to offer an amendment appropriating $10,000,000 for that purpose.

Mr. KING. Mr. President, I hope the Senator from Tennessee is correct in the answer which he submitted to the interrogatory propounded a moment ago, but I invite his attention to this language:

The Secretary of Agriculture, in carrying out the purposes of this act, shall locate a fertilizer plant in the vicinity of Muscle Shoals, in Alabama.

That would presuppose that there were no plants now in existence at Muscle Shoals, or that, if there were, one of them would have to be removed and established at some other place, or that a new one would have to be erected. It seems to assume that a new plant will have to be erected. It does not say that one of the plants now in existence shall be employed at the place mentioned in the Senator's amendment, but that a fertilizer plant shall be located at such place.

If the Senator means that one of the plants now in existence measures up to those requirements and that "a plant" as used in this amendment means one of the plants now in existence, then the suggestion which I have made is without merit. But it seems to me that the amendment should be clarified, because the impression certainly will be made upon the minds of others, as it has been made upon mine, that another plant will have to be erected. As I understand the Senator, his intention is not to provide for the building of another plant, but to use one of the plants now in existence for the purpose of manufacturing fertilizer.

Mr. SIMMONS. Mr. President, my conception of the matter is that nitrate plant No. 2 will be used for making nitrogen, but it is also provided in the joint resolution that the Secretary of Agriculture shall provide for making mixed fertilizer, and it will require probably additional buildings for that purpose.

Mr. KING. Will the Senator yield?

Mr. SIMMONS. In just one moment. I had understood that it would be an easy matter to convert one of the buildings now existing down there into a plant for the purpose of mixing fertilizer, and that the two plants, taken together, would be sufficient, one for the purpose of making nitrogen and the other for the purpose of mixing fertilizer—that is, nitrogen with potash and acid phosphate.

Mr. KING. If it is understood that another plant is to be erected, then, of course, this amendment is quite proper. If it is understood that one of the two plants now in existence is to meet the requirements of the amendment offered by the Senator, then I submit the language should be clarified.

Mr. NORRIS. May I interrupt the Senator?

Mr. KING. Certainly.

Mr. NORRIS. The Senator will notice that in a prior section of the joint resolution it is provided that the Secretary of Agriculture shall have authority to locate a fertilizer plant anywhere in the United States. He is not confined to Muscle Shoals. Then this section takes up Muscle Shoals and says that he shall locate one of those plants at Muscle Shoals.

Mr. KING. If the Senator will permit me, I, of course, can see that the proposed amendment is quite appropriate if it is intended to do what the Senator from Nebraska states, namely, that we have two plants, No. 1 and No. 2, the first of which has been a failure, we having spent thirteen or fourteen million dollars upon it; then we have plant No. 2, upon which we have spent fifty or sixty million dollars; but, as I understand now, we are to construct another plant, and if it is the understanding that this amendment anticipates the construction of a third plant, then the language will accomplish that result, and my query would be inappropriate.

Mr. NORRIS. There is no doubt as to what they expect to do. Take nitrate plant No. 1, which is the one that was built and has been a failure. There is a fine building there. It has a steam plant connected with it that was as modern as any at the time of its construction, capable of producing 6,000 horsepower, enough to run a very large experimental plant, and quite a manufacturing plant. Besides that, there are offices, buildings, and houses down there. In the joint resolution we specifically turn over nitrate plant No. 1 to the Secretary, because we thought it would be the largest experimentation that could possibly be made, that ever has been made, in regard to fertilizer, turning over to him that particular thing by name, and giving him also the steam power, which is independent of everything else connected with it. Then, on the theory that he might want to use more power, if he went on extensively in the experimentation, particularly now, since by the McKellar amendment he can operate plant No. 2, we provide that all the other power that may be necessary in carrying on any of this work down there shall be supplied to him. So I think, if we want to do it, the language is well adapted to carry out that idea.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Tennessee [Mr. McKELLAR], as modified.

The amendment as modified was agreed to.

Mr. NORRIS. Mr. President, I want to offer one or two amendments which I think will clarify the joint resolution and which, in my judgment, will not change the effect of it in any way.

First, I want to say that there seems to be a difference in the prints. I notice that the pages given from the desk do not correspond with those in the print I have before me. I was wondering whether there are two separate prints.

The PRESIDING OFFICER. The Chair will inform the Senator that the clerks at the desk are using the joint resolution as reported on February 3.

Mr. NORRIS. I want to offer an amendment on page 4, according to the print I have, which should come in after line 5, at the end of what is now section 6. I want to add two other paragraphs, which I send to the clerk's desk and ask to have read.

The PRESIDING OFFICER. The clerk will read.

The CHIEF CLERK. In the print as reported on the legislative day of February 1, the calendar day of February 3, 1928, on page 4, after line 13, the Senator from Nebraska offers an amendment.

Mr. NORRIS. At the end of section 6.

The CHIEF CLERK. To insert a new subdivision, as follows:

(e) Whenever the Secretary determines that it is commercially feasible to produce any such fertilizer, it shall be produced in the largest quantities practicable, and shall be disposed of at the lowest prices practicable, to meet the agricultural demands therefor, and to effectuate the purposes of this act.

Also the following:

(f) The Secretary is authorized to make alterations, modifications, or improvements in existing plants and facilities and to construct and operate new plants and facilities in order to effectuate properly the provisions of this section.

Mr. NORRIS. In my judgment the amendment does not enlarge the power any, but it is more specific and many Senators wanted to have some statement of the kind in the joint resolution.

Mr. McKELLAR. That was another one of the provisions which was submitted to the Senator from Nebraska by a number of Senators on this side of the Chamber. The Senator from Nebraska has very graciously agreed to accept the two provisions contained in the amendment.

Mr. SMITH. Mr. President, I want to state with reference to the first provision which was read that I think it is very important, after the experimentation has gone on and it is proven to be feasible, that then it shall be run during such time

as the plant may be operated, to the largest amount practicable, and sold at the lowest price possible.

Mr. McKELLAR. It makes a nitrate or fertilizer plant out of it.

Mr. NORRIS. It carries out the main idea, I think, contained in the amendment suggested by the Senator from South Carolina.

Mr. SIMMONS. It means in effect that if the Secretary finds it is feasible, he shall use all the power necessary to produce fertilizer; provided that there is a demand for that amount of fertilizer. It means that, does it not?

Mr. NORRIS. I did not catch all that the Senator said, because of the confusion in the Chamber. However, the amendments mean that in his experimentation if he finds it feasible to make fertilizer by any process that he adopts, he shall make it on the largest possible scale and sell it at the lowest possible price. In other words, it carries it out on as large a scale as the plant, whatever it may be that he is using or that he builds afterwards, will permit.

Mr. SIMMONS. It is intended, therefore, as a specific dedication of the plant primarily to the production of fertilizer; provided it can be made economically and there is a demand for it.

Mr. NORRIS. I would not say that under the provisions of the measure the Secretary of Agriculture, for instance, would be justified in constructing a plant after he had experimented and found, let us say, some modification of the synthetic process to get nitrogen from the atmosphere. I would not say that he would be justified in building a plant that would produce a hundred thousand tons a year of nitrates for the purpose of going into the fertilizer business.

Mr. SIMMONS. No; I did not mean that.

Mr. NORRIS. The Senator, I think, does not mean that.

Mr. SIMMONS. No; I did not mean that.

Mr. NORRIS. Nor do I mean it.

Mr. SIMMONS. I mean to the extent of the demand.

Mr. NORRIS. There will be demand, in my judgment, for more fertilizer than can possibly be produced here. The idea is to manufacture it on as large a scale as possible with the machinery there that he devises and puts in.

Mr. SIMMONS. I anticipate that when the Secretary finds that this product can be made economically and enters upon its manufacture, private capital will also enter upon it.

Mr. NORRIS. That is just what we want. That is what we are trying to get.

Mr. SIMMONS. I want to have the Secretary empowered to make enough fertilizer to supply such demands as private capital does not provide for.

Mr. McKELLAR. That is the purpose of the amendment, and I hope it will be adopted.

Mr. KING. Does the Senator want to press a vote on the amendments to-night?

Mr. NORRIS. I would like to have the amendments agreed to to-night. Then I desire to offer another amendment, and then I shall ask that the Senate take a recess until to-morrow and have that amendment pending.

Mr. KING. If I should desire to-morrow to offer an amendment to the amendment now pending, will the Senator have any objection to my asking that the question be reopened?

Mr. NORRIS. Not at all. I shall not resort to any technicality of any kind.

Mr. SACKETT. Does the Senator expect to increase the amount of the appropriation?

Mr. NORRIS. Yes.

The PRESIDING OFFICER. The question is on the amendment offered by the Senator from Nebraska [Mr. NORRIS].

The amendment was agreed to.

Mr. SMITH. Mr. President, may I ask the Senator if he will not have all the amendments to which we have agreed printed in some form?

Mr. NORRIS. I have no objection to that.

I offer another amendment, which I ask may be stated. I shall not ask that action be had on it to-night. I understand the Senator from Kansas [Mr. CURTIS] desires to have an executive session, but I would like to offer this amendment and have it pending. Part of it has not yet been printed, and that is the reason why I offer it now, so that it may be printed and Senators may be advised of it.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 3, at the end of section 4, insert the following proviso:

Provided, That if any State, county, municipality, or other public or cooperative organization of citizens or farmers not organized or doing business for profit, but for the purpose of supplying electricity to its own citizens or members, or any two or more of such municipalities or organizations, shall construct or agree to construct a transmission line to Muscle Shoals, the Secretary of War is hereby authorized and directed to contract with such State, county, municipality, or other organization, or two or more of them, for the sale of electricity for a term not exceeding 15 years, and in any such case, the Secretary of War shall give to such State, county, municipality, or other organization, ample time to fully comply with any local law now in existence or hereafter enacted, providing for the necessary legal authority for such State, county, municipality, or other organization to contract with the Secretary of War for such electricity: *And provided further*, That any surplus power not so sold as above provided to States, counties, municipalities, or other said organizations, before the Secretary of War shall sell the same to any person or corporation engaged in the distribution and resale of electricity for profit, he shall require said person or corporation to agree that any resale of such electric power by said person or corporation shall be sold to the ultimate consumer of such electric power at a price that shall not exceed an amount fixed as reasonable, just, and fair by the Federal Power Commission; and in case of any such sale, if an amount is charged the ultimate consumer which is in excess of the price so deemed to be just, reasonable, and fair by the Federal Power Commission, the contract for such sale between the Secretary of War and such distributor of electricity shall be declared null and void and the same shall be canceled by the Secretary of War.

Mr. NORRIS. I take it for granted that the amendment will be printed in the usual form and placed on Senators' desks, and it will be pending when the Senate meets to-morrow.

The PRESIDING OFFICER. The Senator is correct.

Mr. NORRIS. I ask unanimous consent that we may have a reprint of Senate Joint Resolution 46 showing the amendments which have thus far been agreed to.

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

Mr. HARRISON. Mr. President, I desire to offer a substitute for the pending joint resolution. I shall not ask that it be read now, because I do not want to take up the time of the Senate. It provides for the striking out of everything after the resolving clause and the insertion of new matter.

I will say for the information of the Senate that the only measure upon which the Senate has ever been able to agree touching Muscle Shoals was the so-called Underwood fertilizer bill, proposing first to lease Muscle Shoals for 50 years under certain conditions, that fertilizer must be made in quantities of 40,000 tons of fixed nitrogen annually, and the surplus power distributed, and that in the event we could not get a lease then that the Government should conduct the enterprise. Because the Senate has gotten together on that proposition and because it is not made up of a whole lot of disjointed views, I think perhaps the Senate may consider it favorably again. I offer it as a substitute.

The PRESIDING OFFICER. The proposed substitute will be printed and lie on the table.

Mr. HEFLIN. Is the Senator from Mississippi offering the so-called Underwood bill as it was agreed on in conference?

Mr. HARRISON. No; as it passed the Senate.

Mr. HEFLIN. And not as it was agreed on in conference?

Mr. HARRISON. No; as it passed the Senate; because that was the judgment of the Senate.

"THE MELLON EXPOSÉ"

Mr. LA FOLLETTE. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial from the Baltimore Sun of this morning entitled "The Mellon Exposé."

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

The editorial is as follows:

THE MELLON EXPOSÉ

Mr. Mellon's story is that late in the fall of 1923 Will Hays sent him a package of $50,000 of Liberty bonds, which were part of the money obtained by Hays from Harry Sinclair; that later Hays called on him and proposed that he, Mellon, keep the bonds and contribute a like amount to the Republican National Committee's deficit; that this proposal to hide part of Sinclair's contribution was rejected; and that he then gave $50,000 to the committee out of his own funds.

The story may be true. Not only would Mr. Mellon have been morally cheap to have participated in the trick, but a man of his almost incalculable wealth would have been financially cheap to have dodged putting up himself the contribution that was to stand in his name. But, in these days when nothing surprises one, it is to be noted that other very prominent and very rich men were not above using Sinclair's money in making contributions to the Republican committee. It also is a somewhat singular coincidence that Mr. Mellon contributed to the committee a sum exactly equal to the amount of Sinclair bonds sent him by Hays. For the late John T. Pratt showed that a very prominent and very rich man could take Sinclair's bonds to offset his own contribution and then send back the bonds when the Walsh investigation began to be dangerous.

But let Mr. Mellon's story be taken at face value. There remain certain circumstances that deserve the attention of the citizens of this country. When Will Hays went to Mellon with Sinclair's bonds and with the proposal that this member of the Cabinet join in hiding the use of Sinclair's money to liquidate the national committee's deficit—when that occurred the Teapot Dome question had been before the public more than 18 months. It was in April, 1922, that Secretary Fall secretly turned over the great oil reserve to Sinclair. It was apparently in November, 1923, that Hays approached Mellon. Between those dates, the Fall-Sinclair transaction had been challenged in the Senate and an investigating committee had been named. Senator WALSH was laboriously seeking the truth when Hays went to Mellon with Sinclair's bonds.

It may reasonably be asked why, when Washington was agog with rumors of stupendous robbery of the Government in the secret Falls-Sinclair transaction, the Secretary of the Treasury did not regard the appearance of Sinclair's bonds for use in liquidating the Republican deficit and Hays's furtive handling of the bonds as a circumstance so suspicious as to deserve investigation and communication to Senator WALSH? Was Mellon, next to the ranking member of the Cabinet, indifferent to colossal jobbery at the expense of the Government? Was Mellon, with a half-century of business experience behind him, innocent of the slightest understanding of the significance of Hays's appearance with a great block of Sinclair's bonds and of Hays's desire for secrecy in the use of these bonds? Where were Mellon's sense of duty and his common sense when Hays approached him?

These questions become more pertinent and insistent as succeeding events are reviewed. In January, 1924, about two months after Hays approached Mellon, the Walsh committee was told by Edward L. Doheny, to whom Fall had turned over the other great oil reserve, Elk Hills, that he had sent Fall $100,000 in a little black satchel. From that moment the last lingering doubt of colossal jobbery at the expense of the Government was gone. In a little while the Walsh committee was on the track of Sinclair's cash payments. But Sinclair resisted examination and defied the Senate's committee, and revelation of the whole *truth of* Sinclair's corruption was thwarted. Yet during all the time that Senator WALSH pried and prodded for items of information the Secretary of the Treasury sat silent in his office, although he knew that Hays had obtained a great sum of money from Sinclair and was using it secretly.

Worse, the Secretary of the Treasury sat silent in his office when Hays early in 1924 went on the stand—before the committee of the United States Senate that was investigating a then plain case of graft on unprecedented scale—and swore that $75,000 was all the money that Sinclair ever had given him. Still worse, the Secretary of the Treasury sat silent in his office when four years later Hays went before the Walsh committee and, even while admitting that he had deceived the committee in his previous testimony, proceeded to tell a tale about the disposition of the $260,000 he had got from Sinclair, which no intelligent man could believe. One of the most suspicious features of Hays's latter testimony was the blank as to his use of a certain $50,000 of the Sinclair bonds. He told of bonds going to Upham, to Weeks, to Pratt, but not one word of his negotiations with Mellon for use of the remaining $50,000. And Mellon did not remind him.

At no stage of the fight that was started in the spring of 1922 to ascertain the truth of Fall's disposition of the Nation's oil reserves, to uncover and to punish the plunderers of public property, and to recover the property—at no stage did the Secretary of the Treasury lift a finger or utter a syllable to aid, although for four years he had knowledge of Hays's possession of Sinclair's bonds and of Hays's secrecy in using them. Not until a chance memorandum turned up in the papers of the dead man, Pratt, did this high officer of the Government contribute to the Walsh investigating committee the information in his possession. And so we repeat, the circumstances surrounding this matter deserve the attention of citizens of this country, even though they take at face value the present Mellon story.

But, after all, the panorama that is revealed by the Mellon story does not end to-day with Mellon. Able as he has been in the administration of the Treasury, one is not greatly to be surprised by his silence while protectors of public morality and public property sought vainly during many months for precisely such information as was in his possession. Mellon had been steeped in the politics of Pittsburgh and of Pennsylvania for decades before he appeared in Washington. No one had ever heard of him as an enlightened patriot. And it was he who less than two years ago explained that he saw no difference between his contributions to the Pepper slush fund and contributions to a church. But there have been and are now other men in the administration at Washington who are supposed to have advanced conceptions of public morality. And what have they done throughout this six-year struggle to remedy gigantic corruption?

What has Calvin Coolidge done? What has Charles E. Hughes done? What has Herbert Hoover done? Mr. Coolidge became President in August, 1923, about three months before Hays approached Mellon with Sinclair's bonds. The effort to liquidate the Republican deficit largely with Sinclair's bonds was, in fact, an effort to clear the decks for Mr. Coolidge's own candidacy. Mr. Hughes was Secretary of State in the Harding and Coolidge Cabinets until March, 1925. Mr. Hoover has been Secretary of Commerce since March 4, 1921. Government property worth untold millions grabbed, a Cabinet officer bribed, the manager of the party machine soliciting a fortune from one of the corruptionists after the corruption, the same manager darting around furtively to deliver Sinclair's bonds to party leaders, including two Cabinet members, Mellon and Weeks, the same party manager deceiving a Senate committee, party records destroyed—and what have the people of this country heard from Mr. Coolidge, or Mr. Hughes, or Mr. Hoover?

The people have heard no word of character from these men. If protection of public property and public morality had depended upon them and others of like standing, in the administration and in Congress, Fall would still be an honored leader of their party, Daugherty would still be of equal rank, Sinclair and Doheny would still have swag equal to the riches of the east, and Hays and the whole crew of go-betweens and tricksters would be respectable public figures. Did Mr. Coolidge, Mr. Hughes, Mr. Hoover, and others of their position know nothing? Did they really know nothing when WALSH, with every resource of the party in power cast against him, could sense the truth and gradually reveal it? Did they really know nothing when two members of the Cabinet, Mellon and Weeks, had held Sinclair bonds in their possession?

If Coolidge and Hughes and Hoover knew nothing, it was because they chose to know nothing. If Mr. Coolidge and his two pure advisers, Mr. Hughes and Mr. Hoover, did not know in 1924 that Harry Sinclair, whom the administration should have been pursuing with every agency at its disposal, was in fact paying bills of the Republican Party to aid Mr. Coolidge's election, it was because they did not move a muscle to ascertain facts that were under their very noses. And when the final record comes to be made on Mr. Coolidge, Mr. Hughes, and Mr. Hoover, that damned spot will not out.

FORECLOSURES BY FEDERAL LAND BANKS

Mr. BLEASE. Mr. President, I ask unanimous consent to have printed in the RECORD a pamphlet published by Xeno W. Putnam, of Harmonsburg, Pa., bearing upon the methods of certain officials of the Federal land bank and Federal intermediate banks in handling foreclosures of loans made by farmers.

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

CONFISCATORY FORECLOSURES—SHALL A GREAT BANKING SYSTEM BE SACRIFICED AT THE ALTAR OF NEFARIOUS EXTORTION?

JUST PLAIN FACTS

No need to comment on the cold facts Mr. Putnam advances to support his contention that extortionate attorney fees are being charged in many communities in foreclosing Federal farm-loan mortgages, thus defeating every fundamental principle of this legislation. Book and page are given that any interested parties may investigate for themselves.

And this is not the gossip of any bloodthirsty farm-mortgage banker, as many suppose when anyone has the temerity to criticize this system. Mr. Putnam was founder and prime mover in the activities of the Crawford County (Pa.) National Farm Loan Association, of the Federal farm-loan system, and is now engaged in the high purpose of an endeavor to save the system from extortionate practices, which, if not soon terminated, will defeat its objects entirely.

The article presents no unique news to those in official position to correct the errors. They have met Mr. Putnam's demands with evasive answers, or not at all. Anyone, anywhere, who has like facts to present, should forward same to Mr. Putnam, that he may pass them to proper authorities. Members of Congress are on the trail.

Of all the disturbing bombs that the Federal farm loan act exploded, none overturned more tinware than paragraph 3, section 31. This section supplies the enforcing fuzes of the whole act. Various "thou shalt nots" grace other parts of it; but this section contains every penalty for the punishment of criminal offenders.

Every paragraph and every penalty applies to the entire act, and all of the contained processes incident to the business of lending money; there is not a word of restriction. The forgery committed in the making of a loan or when finally paying it off would be punished alike. If a farm-loan official should elope with funds belonging to the system, he and his bond would be held equally accountable whether those funds had been on their way from a bank or to a borrower for the closing of a loan or from the borrower back to the bank after foreclosure. Paragraph 3 of the act would indicate a perfectly straight line between its forgery brother on the one hand and its embezzling kinsman on the other. This third paragraph is the only one in which we are now interested. It reads in part:

"Other than the usual salary or director's fee paid to any officer, director, or employee of a national farm-loan association, a Federal land bank, and other than a reasonable fee paid by such association or bank to any officer, director, attorney, or employee for services rendered, no officer, director, attorney, or employee of an association or bank shall be a beneficiary of or receive, directly or indirectly, any fee, commission, gift, or other consideration for or in connection with any transaction or business of such association or bank. Any person violating any pro-

vision of this paragraph shall be punished by a fine of not exceeding $5,000 or by imprisonment not exceeding one year, or both."

As if to checkmate any connivance between land banks and employees, section 14, paragraph 5, further provides that:

"No Federal land bank shall have power to demand or receive, under any form or pretense, any commission or charge not specifically authorized in this act."

Under "fees" in an exhaustive index for a special issue of the farm loan act (S. Doc. 500; H. Doc. 1314, 64th Cong.) we find that the only charges savoring of commissions which the act permits land banks to assess are authorized in section 13, paragraph 9, as follows:

"Every land bank shall have power to charge applicants for loans and borrowers, under rules and regulations promulgated by the Federal Farm Loan Board, reasonable fees, not exceeding the actual cost of appraisal and determination of title. Legal fees and recording charges imposed by law in the State where the land to be mortgaged is located may also be included in the preliminary costs of negotiating mortgage loans."

These provisions, unlike those occurring in our subject section, are limited strictly to actual cost and are further restricted to but one phase of the money-lending business—the making of loans. Not in any sense can we apply them to all "transactions and business" of an association or bank. Nor is any further charge authorized in the act for the land banks, "under any form or pretense." The local associations have recently been taken care of by an amendment (66th Cong.) to paragraph 3, section 11. They are now given power to—

"Fix reasonable initial charges to be made against applicants for loans and to borrowers in order to meet the necessary expenses of the association: *Provided*, That such charges shall not exceed amounts to be fixed by the Farm Loan Board and shall in no case exceed 1 per cent of the amount of the loan applied for."

On this amendment the board has ruled (Circular No. 11):

"The charges to be permitted to be collected by an association from applicants and borrowers are as follows:

"First. The fee exacted at the time the application is made. This fee should be sufficient to cover all expenses, including the service of the loan committee up to the time that the application is sent to the bank.

"Second. The fee collected when the loan is finally closed. This should be withheld by the association when the remittance for the proceeds of the loan is received or should be deducted by the bank for the benefit and in behalf of the association.

"* * * The above relates only to charges made by an association and has no connection with or relation to the charges which may be made by the bank for appraisal and legal determination of title."

Again we find these permitted charges specifically restricted to the business of making loans and not extended to include "any transactions or business of such association." So much for the "charges authorized by this act."

Four specially sore thumbs trouble the third paragraph; of these, the second and third are much the worst:

First. Every one rendering service to a bank or association is entitled to a reasonable fee or salary from the treasury of the unit employing him. To this there are no exceptions.

Second. No one, so employed, may under any circumstances accept pay from another source. The personal service fee is taboo. To this there are no exceptions.

Third. The restrictions apply to every employee, whether officer, director, or attorney. Again no exceptions are made.

Fourth. They apply to "all transactions or business of such association or bank" operating under this act, no matter whether those transactions are actually performed under Federal laws or State laws. The operator is still an employee. Every business likely or liable to occur as a product of the business of loaning money is included. The act lists no exceptions.

The treasury of a responsible chartered institution, placed between each borrower and every individual in the farm-loan system, should protect him from bonuses, commissions, and all forms of masked usury during his entire connection with the "transactions or business" of either association or bank. The protection as intended is as complete as law and language can make it. "These provisions of the law," declared the Farm Loan Board back in 1918 (Borrowers' Bulletin August-September) "are inserted for the purpose of preventing private profits, commissions, fees, and extortion. They are proper provisions, and for the benefit of the borrower and the system, they should be carefully observed."

Are they being observed? Let us consider the foreclosure-provision clause in the farm-loan mortgage forms being used in all or a part of four land-bank districts. First, the Pennsylvania form is the typical clause used in the whole second (Baltimore) Federal land-bank district.

"But if any of the payments in the above-described note * * * be not paid when due * * * it shall be lawful for said bank to sue out forthwith a writ or writs of scire facias * * * and proceed thereon to judgment and execution for the recovery of said principal sum and interest due thereon, and the cost and expenses of such proceedings, together with an attorney's fee of $25, and a commission of 5 per cent on said principal sum, which said sum and commission shall be due and payable immediately upon the institution of said proceedings."

The provision is identical in Virginia, West Vrginia, and Delaware; Maryland differs only in reckoning the commission upon the proceeds of the sale instead of the mortgage debt. The foreclosure clause for South Carolina and Georgia in the third (Columbia) Federal land-bank district reads:

"In case the said debt or any part thereof is established by or in action for foreclosure of this mortgage the Federal Land Bank of Columbia, in addition to the said debt, or as much thereof as shall be unpaid, may also recover of the parties of the first part * * * a reasonable sum for the attorney of the Federal Land Bank of Columbia for professional services rendered in said action, not to exceed 10 per cent of the amount then unpaid."

In Florida, General Counsel Welch advises me, the same provision is used, although the land-bank form for Florida examined reads "a reasonable fee." In North Carolina the courts have ruled this charge usurious and refuse to allow it.

I quote from a letter which I have on file, received from Attorney R. H. Welch, general counsel for the Federal Land Bank of Columbia, S. C., who writes as follows:

"You will note that in all of the States (in third district) except North Carolina an attorney's fee, not to exceed 10 per cent, is provided for. In North Carolina such a provision has been held usurious. For your further information, I attach copy of our booklet on foreclosures and also our foreclosure statement, which is forwarded to attorneys, on which the necessary data is given for the preparation of the complaint, bill, or petition."

Must the courts of any State protect her people from extortionate practices in the great farm-loan system, conceived and organized for the relief of our usury-ridden farmers? Sometimes there are ways to evade State court decrees also. In their "Rules and regulations governing foreclosures" the Columbia Land Bank suggests that the North Carolina "attorney's fee be taken care of by naming as the commissioner to sell the property some one, such as a member of the firm, whose sale commissions will go to the attorney."

The New Orleans Federal Land Bank (fifth district) provides a foreclosure commission for Louisiana only. Here is the clause:

"It is also agreed that in case the mortgagee herein * * * sees fit to foreclose this mortgage in a court having jurisdiction thereof, then mortgagor will pay 10 per cent attorney's fees therefor."

A reasonable attorney's fee is stipulated for Alabama of the same district. In Mississippi is used a deed of trust which provides for "a reasonable trustee's fee together with the attorney's fee prescribed in said note, and if there be none prescribed, then a reasonable attorney's fee." An excerpt from the deed of trust used by the Houston (tenth district) bank for its single "Lone Star" portégé reads:

"The trustee making sale * * * shall pay the reasonable expenses of executing this trust, including a commission of 5 per cent to the trustee."

Who will collect these commissions? Surely not the land banks that are forbidden by Federal law under heavy penalties to "charge or receive any fee commission bonus or gift under any form or pretense." Not the attorney or employee of any land bank or association while engaged in "any transaction or business of such association or bank;" each faces the same penalty. Perhaps a search of a few court records in actual land-bank foreclosures might be enlightening. Names of defendants are omitted but place, date book, and page are included for ready reference.

[Exec. Doc. No. 43, p. 439]

PROTHONOTARY'S OFFICE,
Meadville, Crawford County, Pa.

(Judgment 223. November Term, 1922. Leland J. Culbertson, attorney)

February, 1923

Debt	$2,847.00
Attorney	4.50
Prothon	.85
Sheriff	72.90
Satisfaction	.20

Sold February 12, 1923, to Leland J. Culbertson, $1,000.

Disbursement of money by (sheriff) Cutshall

Culbertson, attorney	$680.14
Culbertson, attorney	134.50
County commissioners, 1922, taxes	109.91
Prothonotary	2.55
Sheriff	72.90
Total	1,000.00

* * * * * * *

FEBRUARY 27, 1923.

Received $680 on bid from Sheriff H. B. Cutshall and $134.50 costs and commission and direct sheriff to return writ.

(Signed) LELAND J. CULBERTSON.

Note that Mr. Culbertson not only receipts for $134 "costs and commission" but assumes responsibility as plaintiff's attorney by ordering return of writ.

Mr. Culbertson is not only title attorney for the Federal Land Bank of Baltimore but likewise secretary-treasurer of the Crawford County National Farm Loan Association, which is a part of the same bank. Thus under two distinct offices he is subject to the Federal farm loan act.

In the Meadville (Pa.) Tribune-Republican for Wednesday, February 7, 1923, page 9, this same property was listed in the official advertisement of sheriff's sales (see parcel No. 9), is described as—

"Seized and taken in execution as the property of ——— at the suit of the Federal Land Bank of Baltimore, Md., and to be sold on Fi. Fa. No. 53. February term, 1923.

"H. B. CUTSHALL, *Sheriff*.

"LELAND J. CULBERTSON, *Attorney*."

In the Meadville Evening Republican for Monday, February 12, 1923, in the court news of the day we find—

"At 11 o'clock Sheriff H. B. Cutshall conducted a sale of properties as part of quarter sessions week. * * * Following are the properties: * * * No. 9, land in Beaver Township, seized as property of * * * at suit of the Federal Land Bank of Baltimore. Sold to L. J. Culbertson, Esq., for $1,000."

Copy of sheriff's return in above case:

"To the honorable, the judge of the court of common pleas of Crawford County, Pa., I, H. B. Cutshall, sheriff of said county, do hereby certify and return that by virtue of the writ hereto attached, after giving due and legal notice by advertising the real estate described in the levy attached thereto, by advertisement in two newspapers printed in said county of Crawford, and by hand bills posted upon the premises and in the most public places, according to law, I did expose the said property to sale, at the courthouse, in the city of Meadville, by public vendue or outcry, on Monday, the 12th day of February, 1923, at 11 o'clock a. m., which time and place I sold the same to Leland J. Culbertson for the sum of $1,000, that being the *highest* and best sum bidden for the same, and the said Leland J. Culbertson being the highest and best bidder. Of these moneys I have made the following disposition.

Real estate sold for		$1,000.00
Paid Leland J. Culbertson, attorney, on bid	$680.14	
Paid Leland J. Culbertson, attorney, commission and docket fee	134.50	
Paid county commissioners, 1922 taxes	109.91	
Paid Professor Greeley	2.55	
Paid Sheriff Cutshall	72.90	
		1,000.00

So answers,

H. B. CUTSHALL, *Sheriff*.

Just one more page from the same docket, and enough of this sort of evidence will be before you, though plenty more of it can be produced.

Copy from docket No. 43, page 260

Prothonotary's office, Meadville Courthouse, Crawford County, Pa.
February term, 1922. Writ issued January, 1922

Debt	$2,306.35
Register	.50
Snodgrass	9.60
Attorney	5.25
Prothonotary	4.65
Satisfaction	.20

March 7, 1922, writ returned. Property sold to Leland J. Culbertson, $1,700. Distribution of money:

County commissioners, taxes	$74.53
Snodgrass	9.60
Cutshall	60.42
Prothonotary	5.60
Recorder	.50
Culbertson, attorney's commission	101.12
Culbertson, on debt	1,448.23

RETURN INDORSEMENT

MARCH 7, 1922.

Received of Sheriff Cutshall, $1,448.23, to apply on debt and interest, and also $101.12, attorney's commission and attorney's fees, and I hereby direct the sheriff to return this writ.

LELAND J. CULBERTSON, *Attorney*.

MARCH 7, 1922.

Writ returned order of plaintiff's attorney.

H. B. CUTSHALL.

Can we longer doubt that an employee of a Federal land bank, acting as plaintiff's attorney (in behalf of same bank) in a suit that was unquestionably a part of the "transactions or business" of the Federal Land Bank of Baltimore, did out of the proceeds from a borrower's property and not from the land-bank treasury, collect or accept and receipt for an attorney's commission of about $130 on February 27, 1923; or that on March 7, 1922, said attorney did, while engaged in similar "transactions or business" and in the employ of said land bank, receive and receipt for an attorney's commission of $100 from another source than the treasury of the bank employing him? Such instances are not uncommon.

Under date of June 11, 1923, Col. Robert Catlett, general counsel for the Baltimore bank, writes:

"The commission has always been given to the attorney to whom the collection was given, or by whom foreclosure proceedings have been instituted."

The excerpt from the Columbia bank foreclosure clause already given states very plainly that the commission provided for is for "the attorney of the Federal Land Bank of Columbia for professional services rendered in such action."

The unintentional humor in the Columbia Land Bank's interpretation as to what is reasonable, entitles it to a place here. On page 3 of their foreclosure rules they state:

"Should the land bring enough at the sale to pay the indebtedness to the bank, with the accrued interest thereon, together with all cost, the bank has no objection to such fee being collected as may be allowed in the judgment."

This, we have already seen by the mortgage, may be as much as 10 per cent, but the bank plays safe. In sending out its petition in foreclosure an amount is named in case the bank has to bid in the property, which the attorney is obliged to regard reasonable if he takes the case. The ruling reads:

"Should the bank find it necessary, in order to protect its interests, to purchase the mortgaged land at the sale, then in that event it feels that the fee which will always be fixed when forwarding the papers for foreclosure is reasonable and proper compensation for it to pay to the attorney."

It all depends, then, upon whose ox is being gored!

Are foreclosures, when necessary, such a part of the "transactions or business of an association or bank" as would put the bank or association under the regulations of the farm loan act? In other words, are the banks administratively responsible to their bondholders for the security behind them? That is the sum and substance of the controversy, and no holder of farm-loan bonds would be satisfied with any but one answer.

Although the 12 banks guarantee their bonds, neither one nor all of them would in themselves be accepted as adequate security for a single bond issue. The real sanctity of the investment is in the pooled mortgages back of them, indorsed, as each must be, by the associations of farmers owning the lands mortgaged. But mortgage security must always include some tangible guarantee of collection when due or defaulted. This the land banks recognize as a part of their possible work when they insert foreclosure provisions into their mortgage contracts. Under State laws these individual mortgages must be recorded and foreclosed—nobody ever disputed that—but there must be some central force in control, under the Federal farm loan act itself, in order to keep faith with the investors in land-bank securities.

The absurdity of any loaning proposition that did not include within itself the machinery for taking care of its loans—the more difficult ones that have to be foreclosed, above all others—requires neither proof nor refutation. The land bank that refuses or neglects to take care of its mortgages, to look after difficult collections, to make its necessary foreclosures has not only repudiated its obligations to its bondholders but has violated the Federal farm loan act.

The associations, too, as the indorsers of these mortgages, recognize their collection through any necessary method as a part of their transactions or business. In their charter, issued by the Farm Loan Board, they are authorized and empowered to not only indorse mortgages of their members for the making of loans, but to "do all things implied or incidental thereto." All of the land banks have their foreclosure rules (one bank at least, Columbia, has a very complete schedule of them printed in a 12-page bound pamphlet) and make the associations party to their suits.

Since foreclosure is without any question, one of the covenants of the mortgage under which the agent or attorney is operating at the time of foreclosure, the covenant of business of foreclosure is specifically stated in the act itself a part of land-bank transactions or business and therefore one of the operations directly under the terms and conditions stipulated in section 31. This subsection of the act, if it had no other support whatever, refutes directly and conclusively the contention of Colonel Catlett and others. In so many words, the act states that the covenant of foreclosure is a part of land-bank transactions for the performance of which said bank has the right to supply a foreclosure attorney.

What subterfuge is left, then, in defense of this commission taking? Upon what line of fact or of argument do the offenders attempt to stand? Herbert Quick, former member of the Farm Loan Board, launches this plank to the rescue:

"Where the law of the State permits it the mortgagor may legally contract to pay a percentage of his loan as an attorney's fee in case of foreclosure. Legally, under such a contract the attorney is acting for the mortgagor and is paid out of the property dealt with."

This is exactly the form of contract which the Farm Loan Board in July 1919 ruled that the mortgagor might not make! In a letter of instructions to all secretary-treasurers, after quoting most of our subject paragraph, including the penalties for violation, the board said:

"One of the examiners of the Federal farm-loan system recently sent in a printed form of agreement between borrower and the secretary-treasurer of a national farm-loan association under which the borrower agreed to pay the secretary-treasurer a small percentage of his loan every year. This remuneration to the secretary-treasurer was perhaps no greater than he ought to receive. The farmer made his arrangement in good faith and the secretary-treasurer did the same, but the contract was itself illegal.

"It is proper for a national farm-loan association to make any reasonable assessments upon its members * * * but such assessments must be made by proper action of the board of directors and all funds derived therefrom must go into the association treasury. * * * In other words the association must control the assessment and the disbursement, and no secretary-treasurer has any right to receive any pay for his services from any individual borrower. * * * Be sure that all funds go into the treasury of the association and are properly disbursed and accounted for. This is important."

In States permitting usurious contracts farm-loan officials might under it compel borrowers to become party to almost any unfair contract by writing it into the mortgage and telling him to sign or stay out. If forbidden sharp practices could be thus legalized in the shadow of the farm loan act, the whole system might speedily be turned into a den of usurious inequity.

One other communication of importance in defense of these foreclosure commissions I have been able to obtain during two years of rather active correspondence and study of the subject. This, from Col. Robert Catlett, attorney for the Baltimore bank:

"The form of mortgage used by this bank was approved by the Federal Farm Loan Board in the beginning of its operations.

"In many of the States deeds of trust are in general use as security for loans, and I think, without exception, such deeds provide for a commission to the trustee, usually 5 per cent, in case of forecolsure. The provision in the mortgage follows this usage, and I see no distinction between the two forms of security, either in principle or legality.

"Section 14. We have never put the construction on the fifth subsection of the farm loan act or on the third paragraph of section 31 that you do; in fact, we have thought that these provisions apply only to charges, etc., in connection with the making of loans and have no bearing whatever on charges for foreclosure.

"I can refer you to no precedent, as the right of the bank to make this provision in its mortgages has never been questioned or disputed either by the borrowers or by the courts in all of the States of this district in quite a number of foreclosure suits this bank has been forced to bring.

"In the face of all this I recognize your right to raise the question, and I feel that your contention deserves consideration, and this I have tried to give in all frankness. My opinion is very decided that the provisions in the mortgages used in this district providing for commission or compensation for attorney fees in cases of foreclosure and forcible collections of what is due the bank are strictly within the provisions of the farm loan act, doing violence to none of them, and legally enforcible in all of the States composing this land-bank district."

Nor does it appear that Mr. Catlett himself regards this opinion as conclusive. He states explicitly in his letter that he "can refer to no precedents." He offers no other authority whatsoever than his own unsupported opinion and he brings very little argument to its aid. True, he cites the custom in deeds of trust, but is mistaken in his belief that this is a universal custom, both of the deeds of trust used, respectively, in Tennessee and Mississippi being exceptions to his rule.

As to the contention that the right to this commission has never been disputed by a foreclosed borrower or by any court in the second district, it is to be remembered that very few borrowers, when affected by this provision, through foreclosure, are in a position to dispute any contract; nor are they, as a rule, familiar with the law. They accept it "as it is written in the bond" by a presumably responsible institution.

Neither are the courts, unless special complaint is made, likely to go very deeply into the subject in States where contracts of this sort have become an accepted part of almost every mortgage. Jurists are very likely to forget the fact that the farm loan act was intended to overturn certain old loaning customs rather than to perpetuate them.

Outside of sentiment, what does this foreclosure commission clause mean, anyway, to the system or to the general public? It means a good many needlessly ruined homes. The uniform mortgage drafting committee spoke only half of the truth when they stated that:

"Since the property is usually bid in by the mortgagee for the amount of the mortgage, subject to the right of redemption, it is of no advantage to offer a commission as an inducement to secure the best possible price."

The amount of this extra commission sometimes means to the man foreclosed upon the difference between pauperism and a fresh start in life; to his community it may mean the difference between a poor but independent self-respecting citizen and a hopeless, broken man on the town. If the sale does not cover the debt (and the risk of this is always greatest among the weaker mortgagors), the other members of the association may be called upon to make up the loss. In this way any borrower living in any one of nine States in four land-bank districts may be called to pay troublesome assessments to a foreclosing attorney who is not satisfied with a reasonable fee from the bank.

It means, too, gradually weakening the farm-loan system; a crumbling of its bulwarks; that one more inside agency is busily at work destroying the whole structure in the interest of men who have many of them hated it from the beginning and have never had a dollar of their own money invested in it.

No legitimate enterprise or system can continue to prosper upon the failure of its members, and one of the most dangerous lessons it is possible to teach a promiscuous group of people is that law may be evaded or that it does not mean anything.

EXECUTIVE SESSION

Mr. CURTIS. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to, and the Senate proceeded to the consideration of executive business. After 10 minutes spent in executive session the doors were reopened.

RECESS

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

The motion was agreed to; and the Senate (at 5 o'clock and 20 minutes p. m.) took a recess until to-morrow, Tuesday, March 13, 1928, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate March 12 (legislative day of March 6), 1928

AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY

Alexander P. Moore, of Pennsylvania, to be ambassador extraordinary and plenipotentiary of the United States of America to Peru.

PROMOTIONS IN THE NAVY

Commander Harry E. Shoemaker to be a captain in the Navy from the 15th day of February, 1928.

Lieut. Commander Charles H. Maddox to be a commander in the Navy from the 2d day of October, 1927.

Lieut. Adolph P. Schneider to be a lieutenant commander in the Navy from the 2d day of September, 1927.

Lieut. Lester J. Hudson to be a lieutenant commander in the Navy from the 14th day of November, 1927.

Lieut. (Junior Grade) David E. Carlson to be a lieutenant in the Navy from the 3d day of June, 1927.

The following-named ensigns to be lieutenants (junior grade) in the Navy from the 5th day of June, 1927:

Edward W. Young.	Arthur A. Griese.
Neville L. McDowell.	Stone E. Bush.

Asst. Surg. Robert E. Baker to be a passed assistant surgeon in the Navy, with the rank of lieutenant, from the 1st day of July, 1927.

Asst. Dental Surg. Hugh E. Mauldin to be a passed assistant dental surgeon in the Navy, with rank of lieutenant, from the 2d day of June, 1927.

Machinist Murphy Lott to be a chief machinist in the Navy, to rank with but after ensign, from the 12th day of October, 1927.

Pay Clerk Oscar H. Weyel to be a chief pay clerk in the Navy, to rank with but after ensign, from the 5th day of February, 1927.

The following-named pay clerks to be chief pay clerks in the Navy, to rank with but after ensign, from the 3d day of December, 1927:

Fred Traxler.	William J. Vay.
Paul C. Davis.	Henry H. Hoefs.
Albert J. Burtnett.	Otto D. Bierling.
Fred W. Stilwell.	Henry A. Oswald.
Dee A. Barnett.	Clarence B. Selden.
Roy H. Thompson.	George L. Von Mohnlein.
Hans C. A. Andersen.	John W. Hall.
Albert J. Kirsch.	Glenn P. Hardy.
Ray M. Williams.	John H. O'Neill.
Noel O. Bickham.	

POSTMASTERS

ALABAMA

Willer B. Goodman to be postmaster at New Brockton, Ala., in place of L. C. Law, resigned.

ARIZONA

Clarence J. Wilson to be postmaster at Casa Grande, Ariz., in place of C. J. Wilson. Incumbent's commission expires March 14, 1928.

CALIFORNIA

William M. Laidlaw to be postmaster at Crockett, Calif., in place of Gertrude Brandon, deceased.

Ross C. Odell to be postmaster at Tulare, Calif., in place of W. D. Cartmill. Incumbent's commission expired August 30, 1926.

COLORADO

Roy McWilliams to be postmaster at Ault, Colo., in place of Roy McWilliams. Incumbent's commission expires March 13, 1928.

CONNECTICUT

Herbert E. Erwin to be postmaster at New Britain, Conn., in place of H. E. Erwin. Incumbent's commission expires March 12, 1928.

DELAWARE

James M. Montgomery to be postmaster at Edge Moor, Del., in place of J. M. Montgomery. Incumbent's commission expired March 7, 1928.

ILLINOIS

Arthur F. Sturgis to be postmaster at Middletown, Ill., in place of A. F. Sturgis. Incumbent's commission expires March 12, 1928.

Edward F. Tedens to be postmaster at Lemont, Ill., in place of E. F. Tedens. Incumbent's commission expires March 12, 1928.

Robert N. Bragg to be postmaster at Brimfield, Ill., in place of R. N. Bragg. Incumbent's commission expires March 12, 1928.

Rose S. Beard to be postmaster at Arenzville, Ill., in place of R. S. Beard. Incumbent's commission expires March 12, 1928.

INDIANA

John T. Stevenson to be postmaster at Kirklin, Ind., in place of J. T. Stevenson. Incumbent's commission expires March 12, 1928.

William G. McNeelan to be postmaster at Holton, Ind., in place of W. G. McNeelan. Incumbent's commission expires March 12, 1928.

Foster V. Annis to be postmaster at Bremen, Ind., in place of W. H. Berkheiser. Incumbent's commission expired January 3, 1928.

IOWA

Kenneth E. Lewis to be postmaster at Williamsburg, Iowa, in place of G. H. Leasure, deceased.

Edward E. Simpson to be postmaster at Nashua, Iowa, in place of E. E. Simpson. Incumbent's commission expired December 19, 1927.

KANSAS

James B. Pratt to be postmaster at Syracuse, Kans., in place of J. B. Pratt. Incumbent's commission expires March 13, 1928.

KENTUCKY

Fannie R. Williams to be postmaster at Pikeville, Ky., in place of Carl Young. Incumbent's commission expired January 17, 1928.

William C. Huddleston to be postmaster at Butler, Ky., in place of W. C. Huddleston. Incumbent's commission expires March 13, 1928.

LOUISIANA

Lillian D. Gayle to be postmaster at Independence, La., in place of L. D. Gayle. Incumbent's commission expired December 4, 1926.

Lavinia A. Parr to be postmaster at Baldwin, La., in place of L. A. Parr. Incumbent's commission expired February 15, 1928.

MAINE

Harry J. White to be postmaster at Jonesport, Me., in place of H. J. White. Incumbent's commission expires March 12, 1928.

MARYLAND

John W. Brittingham to be postmaster at Pittsville, Md., in place of J. W. Brittingham. Incumbent's commission expires March 14, 1928.

Harry A. Carroll to be postmaster at Havre de Grace, Md., in place of H. A. Carroll. Incumbent's commission expires March 12, 1928.

MASSACHUSETTS

Raymond H. Gould to be postmaster at Millers Falls, Mass., in place of R. H. Gould. Incumbent's commission expires March 12, 1928.

MICHIGAN

Arthur R. Gerow to be postmaster at Cheboygan, Mich., in place of A. R. Gerow. Incumbent's commission expires March 12, 1928.

MINNESOTA

Clara M. Hjertos to be postmaster at Middle River, Minn., in place of C. M. Hjertos. Incumbent's commission expires March 13, 1928.

Gay C. Huntley to be postmaster at Hill City, Minn., in place of G. C. Huntley. Incumbent's commission expires March 12, 1928.

MISSOURI

John S. McCrory to be postmaster at Linn Creek, Mo., in place of J. S. McCrory. Incumbent's commission expires March 14, 1928.

Walter L. Hert to be postmaster at California, Mo., in place of W. L. Hert. Incumbent's commission expires March 14, 1928.

Lawrence J. Caster to be postmaster at Blythedale, Mo., in place of L. J. Caster. Incumbent's commission expires March 14, 1928.

NEBRASKA

Charles W. Fritts to be postmaster at Crawford, Nebr., in place of C. W. Fritts. Incumbent's commission expires March 13, 1928.

NEW JERSEY

Byron M. Prugh to be postmaster at Westfield, N. J., in place of B. M. Prugh. Incumbent's commission expires March 12, 1928.

Laura B. Van Slyke to be postmaster at Avenel, N. J., in place of L. B. Van Slyke. Incumbent's commission expired January 31, 1928.

NEW YORK

Sidney S. Benham to be postmaster at Millbrook, N. Y., in place of F. W. Hallock, resigned.

Carl Gardner to be postmaster at Groveland, N. Y., in place of L. B. Gilbert, resigned.

Peter R. Carmichael to be postmaster at Caledonia, N. Y., in place of D. A. Scott, deceased.

Clayton J. Bannister to be postmaster at Westfield, N. Y., in place of C. J. Bannister. Incumbent's commission expires March 12, 1928.

Harry C. Holcomb to be postmaster at Portville, N. Y., in place of H. C. Holcomb. Incumbent's commission expires March 12, 1928.

NORTH CAROLINA

McForrest Cheek to be postmaster at Franklinville, N. C. Office became presidential July 1, 1927.

Jesse W. Wood to be postmaster at Littleton, N. C., in place of J. W. Wood. Incumbent's commission expires March 13, 1928.

OHIO

William E. Whitcomb to be postmaster at Perrysville, Ohio, in place of W. E. Whitcomb. Incumbent's commission expired December 19, 1927.

Charles H. Morrison to be postmaster at Hebron, Ohio, in place of C. H. Morrison. Incumbent's commission expires March 13, 1928.

Frank A. Brown to be postmaster at Batavia, Ohio, in place of F. A. Brown. Incumbent's commission expires March 12, 1928.

OKLAHOMA

Thomas H. Gillentine to be postmaster at Hollis, Okla., in place of J. W. White, resigned.

Bernice Pitman to be postmaster at Waukomis, Okla., in place of Bernice Pitman. Incumbent's commission expires March 12, 1928.

Margaret E. Williamson to be postmaster at Wanette, Okla., in place of M. E. Williamson. Incumbent's commission expires March 14, 1928.

William H. Jones to be postmaster at Kiefer, Okla., in place of W. H. Jones. Incumbent's commission expired January 14, 1928.

Ira A. Sessions to be postmaster at Grandfield, Okla., in place of I. A. Sessions. Incumbent's commission expired January 14, 1928.

PENNSYLVANIA

William Tyndall to be postmaster at Mount Joy, Pa., in place of J. W. Eshleman, deceased.

Marion C. Hemmig to be postmaster at Elverson, Pa., in place of M. C. Hemmig. Incumbent's commission expires March 14, 1928.

Ida E. Megargel to be postmaster at Canadensis, Pa., in place of I. E. Megargel. Incumbent's commission expires March 12, 1928.

TENNESSEE

Joe N. Wood to be postmaster at Ridgely, Tenn., in place of J. N. Wood. Incumbent's commission expired February 1, 1928.

Christine M. Meister to be postmaster at Loretto, Tenn., in place of C. M. Meister. Incumbent's commission expires March 13, 1928.

VERMONT

Robert A. Slater to be postmaster at South Royalton, Vt., in place of R. A. Slater. Incumbent's commission expires March 12, 1928.

Sanford A. Daniels to be postmaster at Brattleboro, Vt., in place of S. A. Daniels. Incumbent's commission expires March 12, 1928.

WASHINGTON

Mabel G. Lamm to be postmaster at Burlington, Wash., in place of M. G. Lamm. Incumbent's commission expires March 14, 1928.

WEST VIRGINIA

Edwin B. Hutchinson to be postmaster at Monaville, W. Va., in place of John Lindley, resigned.

WYOMING

John A. Stafford to be postmaster at Rock Springs, Wyo., in place of J. A. Stafford. Incumbent's commission expired December 19, 1927.

CONFIRMATIONS

Executive nominations confirmed by the Senate March 12 (legislative day of March 6), 1928

COMMISSIONER OF IMMIGRATION

William M. Tuttle to be commissioner of immigration at the port of New Orleans, La.

COLLECTORS OF CUSTOMS

John C. Tulloch to be collector of customs, district No. 7, Ogdensburg, N. Y.

Russell H. Dunn to be collector of customs, district No. 21, Port Arthur, Tex.

PUBLIC HEALTH SERVICE

Leslie L. Lumsden to be senior surgeon.

Gregory J. Van Beeck to be passed assistant surgeon.

Franklin J. Halpin to be passed assistant surgeon.

JUDGE OF COURT OF CLAIMS

William Raymond Green to be judge of the Court of Claims of the United States.

POSTMASTERS

IDAHO

Arthur B. Bean, Pocatello.

MARYLAND

Thomas G. Pearce, Glenarm.

PENNSYLVANIA

John H. Eckert, Gettysburg.
Isaac A. Mattis, Millersburg.
George J. Miller, Pittston.
Nathaniel Shaplin, Windgap.

SOUTH CAROLINA

Washington M. Ritter, Cope.
John A. Chase, Florence.
H. Elizabeth Tolbert, Greenwood.
Malcolm J. Stanley, Hampton.
John C. Graham, McColl.
Patrick E. Scott, Newberry.
Neely J. Smith, Ridgville.
Bennie B. Broadway, Summerton.

WASHINGTON

Francis H. Lester, Tieton.

HOUSE OF REPRESENTATIVES

MONDAY, *March 12, 1928*

The House met at 12 o'clock noon and was called to order by the Speaker.

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

Lord, Thou hast been our dwelling place in all generations. Before the mountains were brought forth, or ever Thou hast formed the earth and the world, even from everlasting to everlasting Thou art God. Listen more to our unuttered longings, which can not be expressed, than to our words. Forgive the poverty, the littleness, and the unwisdom of our lives. Make us strong, courageous, and willing to bear the truth. We acknowledge our dependence; spare us from the delusion of endeavoring to hide ourselves from Thee. In loving remembrance regard our Speaker, the Members, the officers, the pages, and the employees of the House. Bless us all with the mercy of grateful hearts. Amen.

The Journal of the proceedings of Saturday, March 10, and Sunday, March 11, 1928, was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Craven, its principal clerk, announced that the Senate had agreed to the amendment of the House of Representatives to the amendment of the Senate No. 39 to the bill (H. R. 10286) entitled "An act making appropriations for the military and nonmilitary activities of the War Department for the fiscal year ending June 30, 1929, and for other purposes."

NATIONAL ORIGINS

Mr. DOUGLASS of Massachusetts. Mr. Speaker, I ask unanimous consent to address the House for one minute.

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

There was no objection.

Mr. DOUGLASS of Massachusetts. Mr. Speaker and Members of the House, recently President Coolidge, at the request of the Senate, submitted to that body the figures that will be proclaimed as the immigration quotas, to become operative 90 days after April 1, unless we promptly take action, as originally suggested by me in a bill introduced on May 7, 1926, and reintroduced on the first day of this session, repealing the so-called national-origins method of establishing quotas, as provided by section 11 of the immigration act of 1924.

A year ago a postponement of the operation of national-origins based quotas was affected, with the understanding that the interdepartmental committee, delegated by Congress to ascertain the quotas, would continue its exhaustive search and efforts to arrive at something like accurate, rational origin figures on which might be based the quotas.

The interdepartmental committee, consisting of the Secretary of State, the Secretary of Commerce, and the Secretary of Labor, appointed as its representatives to do this exacting work a committee of statistical and census experts. These latter, however, discovering that the job was impossible of performance by scientific procedure, since the necessary facts, census figures, and historical data are not available, instead of revamping their previously obtained figures after some sort of certain or fact-finding compilations that might justify their altering of the previously ridiculously inaccurate computations took it upon themselves to act in total disregard and flagrant violation of subdivision C of section 11 of the immigration act of 1924, by acting, by their own admissions, arbitrarily, in reducing and increasing certain of the quotas that will be made law shortly unless we act.

Imagine arbitrary guesswork being substituted for the clearly defined method that the act provided should be employed to establish these vitally important quota figures.

The previous quota figures were the result of at least some pretense of making an investigation of facts and census tables. True these were open to grave doubt as to their accuracy and worth because of the necessary uncertainty caused by the lack of anything like complete data on the subject of our population growth, but while the more intense proponents of the retention of national origins might have been justified in some degree in urging their adoption, it can not be rationally reasoned that the latest concoction of figures should be proclaimed as the quotas for the various foreign countries for the year commencing July 1, 1928.

In fairness to the gentlemen who had the task of revising the national origins figures as announced a year ago I will say that they were attempting to rectify the more ridiculous results

of the original computations, and at the same time meet some of the criticism that has resulted with the announcement of the quotas based on national origins.

It is apparent that the arbitrary action of the expert committee who reduced and raised certain of the quotas was calculated as a sort of "concession" to those countries which are most drastically discriminated against in favor of Great Britain and Ulster Ireland, since the latter's quota was reduced slightly while that of the Irish Free State and Scandinavian countries were given minor increases.

This "concession" does not in the least eliminate the fundamental objections to the obnoxious national-origins feature of the immigration act, which is based on pure guesswork but which by "strange" coincidence tremendously increases British immigration at the expense of all other foreign countries.

On every side opposition and agitation are manifest on the proposal to supplant the present reliable and workable method of establishing immigration quotas with the guesswork or national-origins plan.

We have it from the genial Commissioner General of Immigration, Hon. Harry E. Hull, in his latest annual report, as well as in those ever since the iniquitous national-origins scheme was attempted to be foisted upon us, that national origins as a method of fixing our immigration totals is intolerable, unworkable, and uncertain and should not be permitted to be made operative. Mr. Hull, in his reports, says:

> Subdivisions (b), (c), (d), and (e) of section 11 of the immigration act of 1924, under which the allotments will be determined according to national origins rather than by country of birth, should be rescinded. The advantages of the present method for administrative purposes are its simplicity and certainty and the further fact that it is well established by practice for more than five years, the allotments under the previous quota law having been thus ascertained.

Moreover, the Immigration Committee of the House just a year ago, after very considerable deliberation on the subject, reported out a bill to repeal the national-origins clause. The language of the committee indicated in no uncertain terms its opposition to the plan. Part of the report follows:

> That too much uncertainty exists as to the requirement of the law that "the President shall issue a proclamation on or before April 1, 1927," when read in conjunction with further provisions of the law. That the uncertainty will continue from year to year.
>
> That it seems far better to have immigration quotas for the purposes of restriction fixed in such a manner as to be easily explained and easily understood by all.
>
> The committee is of the opinion that the United States, having started on a policy of numerical restriction, the principle of which is well understood, that little will be gained by changing the method.

When Mr. Coolidge at the request of the Senate the other day submitted the latest array of proposed quota figures he plainly inferred his unwillingness to lend any sympathy to the whole mess by refraining from any comment on the report of the representatives of the three members of his Cabinet who prepared the compilation and sent it to the White House.

Gentlemen, many of the most rabid immigration restrictionists are frank to admit the ridiculousness of attempting to trace national origins and base quotas on them. All but those who seek nothing but the advantage Great Britain will enjoy in the matter of immigration by the putting into effect the national-origins method are now ready to repeal the racial-origins clause in our immigration act and to toss it into the scrap heap, where it belongs, it having been conclusively found to be nothing more than the irrelevent and mischievous scheme of the Anglomaniacs to exclude practically all but English immigrants from our shores, and thus guarantee a perpetuation of British influence, customs, and propaganda in this country.

If the national-origins clause of the immigration act of 1924 survives the present session of Congress, it will not be with the consent of those of us who are anxious to prevent the precipitation of sharp division between different elements in our population by "picking" or, rather, discriminating in the selection of our immigrants, so that eventually we once again will be but a colony of England's.

I am far from being for free and unlimited immigration at this time. I believe in sharp limitation as to the total number of eligibles in a given year, but the limitation to be so accomplished should serve the best practical results for the country as a whole.

Our immigration policy in at least one respect in addition to that under discussion is sorely in need of liberalizing to the extent that our immigration laws will not be violative of the fundamental laws of nature by preventing members of families to be reunited here in this country. Liberalizing our immigration laws so as to make their application humane is our duty.

True Americans value highly the Irish, Swedish, German, Jewish, Italian, and Norwegian element that is woven extensively into the fabric of our citizenship, along with other nationals of Europe, and are not unappreciative of the part these elements have played in the building of our Nation.

Immigration should be limited, but the limitation should be rationally accomplished if we are to serve best the economic, social, and political welfare of the country.

I warn my friends in this body that there has grown up throughout the length and breadth of these United States a tremendous agitation against this conspiracy to discriminate against certain of our foreign-born peoples in favor of Great Britain by the cunning of employing national origins as a method of fixing our immigration quotas. The citizens of this country who trace their ancestry to these countries that would be locked out in favor of Great Britain are going to display their resentment in such striking manner and numbers at the polls this fall that some of us will not be back here in the next Congress to assist President Al Smith restore this country to the plain people and to a state of law, order, and prosperity that will benefit the plain, every-day working man and woman unless we get busy and repeal the obnoxious, un-American national-origins clause.

EXPORTATION OF ARMS

The SPEAKER. Under the order of the House the gentleman from New York [Mr. FISH] is recognized for 10 minutes.

Mr. FISH. Mr. Speaker and gentlemen of the House, I want to make a brief statement to go into the RECORD and attempt to answer some of the letters and propaganda that the Members of the House have been receiving in the last few days in opposition to House Joint Resolution 183, introduced by the gentleman from Ohio [Mr. BURTON], which was reported unanimously by the Committee on Foreign Affairs.

Unfortunately the legislative representative of the American Legion here in Washington and some other members of the Legion, without consulting with the members of the Committee on Foreign Affairs of the House of Representatives who happen to be legionnaires, without asking their views as to that particular joint resolution, have issued signed statements and written letters to Members of Congress denouncing it and seeking to prevent its adoption.

It so happens that this resolution (H. J. Res. 183), which prohibits the exportation of private arms and munitions to belligerent nations except with the consent of the Congress, was considered most carefully and in detail by the Committee on Foreign Affairs, and we had more meetings on this particular resolution than on any other that has recently come before our committee. It so happens also that there are three members of the American Legion who are members of this committee, all of whom voted for the resolution, and not one of these members was consulted or asked into conference to express their views as to this legislation.

Mr. MORTON D. HULL. By any member of the Legion?

Mr. FISH. By any member of the Legion who issued the particular letters that the Members of Congress have been receiving during the last few days.

I want to make it very plain in the first instance that House Joint Resolution 183 was reported by the unanimous vote of the committee.

Mr. BLANTON. Mr. Speaker, will the gentleman yield?

Mr. FISH. Yes.

Mr. BLANTON. Your committee has 21 members, has it not?

Mr. FISH. Our committee is composed of 21 members, and the meetings were very well attended throughout; and as I said, there were more meetings on this legislation than were held in connection with any other resolution or bill that has come before the committee in a number of years.

Mr. BLANTON. Then with three members of the American Legion on the committee, and it being a unanimous report from 21 Congressmen, it was not a pacifist measure?

Mr. FISH. By no means. I want at this time merely to make a statement of facts and put into the RECORD just what H. J. Res. 183 seeks to do. We are asking the Congress to adopt a declaration of policy that the United States is opposed to the shipment of private arms or munitions to belligerent nations with which we are at peace except by the consent of the Congress.

I do not know of anything that is more likely to bring the United States into a foreign war than by permitting arms and munitions of all kinds to be exported to belligerent nations. As a matter of fact, the only nations that can receive munitions and arms from the United States in time of war are the

nations that control the sea. The smaller nations which do not have large navies are not likely to receive any munitions from this country, and therefore in the case of future wars, if we continue to export arms and become the slaughterhouse of the world, we will be exporting arms solely to the large nations which control the sea.

We are continually proclaiming our love of peace but, except for empty words and gestures, our constructive efforts are not impressive. We are in this resolution serving notice to the world that we propose to starve war and not babies. It is now 10 years since the armistice, and yet the United States has contributed except for the limitation of naval armament agreement of 1922 almost nothing at all.

We of the committee were unanimous in our belief that nothing could show our good will to more advantage and our desire for peace than if this resolution were adopted, declaring that we will in the future decline, except with the consent of Congress, to furnish munitions and arms for sake of profit to destroy human lives in countries with which we are at peace. We members of the Committee on Foreign Affairs of the House of Representatives hope that the Members of the House will not be led astray by any false propaganda to the effect that this is a pacifist measure. It is simply in line with American thought. Our people have higher ideals and are not in sympathy with making America the symbol of munitions and war. Any Congressman will find, when he goes home to his district and explains the purpose of this resolution to his people, that 90 per cent of them will be in favor of prohibiting the exportation of arms and munitions of war to these nations with which we are at peace. Our people will know which side to take between a step in the direction of peace and helping to make the world a shambles. The resolution specifically enumerates the different kind of arms, ammunition, and implements of war and does not include such commodities as foodstuffs, cotton, copper, oil, and so forth.

Mr. BLANTON. Will the gentleman yield?

Mr. FISH. Yes.

Mr. BLANTON. One great trouble is that our distinguished floor leader comes from a State the principal business of which is the manufacturing of arms to sell, and they insist on selling them to foreign countries.

Mr. FISH. I do not yield for any further debate on that question. I think the gentleman from Connecticut will vote according to his conscience on any question that comes before the House. [Applause.]

Mr. SPEAKS. Will the gentleman yield in order to have the RECORD straight?

Mr. FISH. Yes.

Mr. SPEAKS. Do the names attached to the letters referred to by the gentleman from New York constitute the national defense committee of the American Legion?

Mr. FISH. Yes; but the legislative committee of the Legion has not met on this question, nor has the committee on foreign affairs and world peace of the Legion, of which I happen to be a member, considered it. A small group, said to be the committee on national defense of the Legion and composed of one major general, two brigadier generals, a colonel, and a few others, have signed and sent letters to the Members of the House opposing this step forward for international peace and amity. But we members on the Committee on Foreign Affairs of the House of Representatives who are legionnaires decline to accept any such attitude as reflecting the views of the rank and file of the American Legion, as we believe that the Legion means what it says in its preamble when it states that its object is:

> To make right the matter of might and promote peace and good will in the world.

[Applause.]

Mr. COLE of Iowa. Will the gentleman yield?

Mr. FISH. I yield.

Mr. COLE of Iowa. Is it not true that the men who oppose this resolution are really distrusting Congress, because all we do is to leave it up to the action of Congress; and if Congress sees fit to permit the exportation of these arms to either one of the nations at war, that action can be taken? That is true, is it not?

Mr. FISH. I am afraid that these gentlemen who have signed these letters and sent them to the Members of Congress have not given careful consideration to the legislation. They do not realize that the Committee on Foreign Affairs has gone into this question in detail and that the proposed declaration of policy had the unanimous support of the committee, and, further, that even if this Resolution 183 is adopted, the Congress is empowered to permit the exportation of private arms and munitions at their own discretion by a majority vote. Therefore, as a legionnaire and as a Member of Congress, I want to say in defense of the Committee on Foreign Affairs that no legislation from that committee in the last seven years, since I have been a member of the committee, has been reported to the House with more consideration, and I hope the House itself will back up the unanimous report of the committee and in the meanwhile will study the legislation and agree with the committee that it is a step in the direction of peace and friendly relations with the world. [Applause.]

Mr. DOUGLAS of Arizona. Will the gentleman yield?

Mr. FISH. Yes.

Mr. DOUGLAS of Arizona. Did the committee obtain a report from the State Department?

Mr. FISH. The committee asked for no reports from the State Department because the Committee on Foreign Affairs feels that is a legislative matter for the Congress of the United States to determine, and they felt they were primarily competent to deal with it. [Applause.]

Mr. DOUGLAS of Arizona. Will the gentleman yield for another question?

Mr. FISH. I yield.

Mr. DOUGLAS of Arizona. Did the committee request a report from the War Department as to how the resolution might affect the policy of national defense?

Mr. FISH. No; it certainly did not ask for any report from the War Department, because the gentleman knows himself what kind of reports to expect from the War Department. [Applause.]

The SPEAKER. The time of the gentleman from New York has expired.

Mr. FISH. Mr. Speaker, I would like two additional minutes.

Mr. ANDREW. Mr. Speaker, I ask unanimous consent to address the House for five minutes.

The SPEAKER. The gentleman from Massachusetts asks unanimous consent to address the House for five minutes. Is there objection?

Mr. COLE of Iowa. Mr. Speaker, I ask unanimous consent that the gentleman from New York may have two additional minutes.

Mr. WHITE of Maine. Mr. Speaker, if there are to be any more of these requests, I shall have to object.

Mr. ANDREW. Mr. Speaker, did I not have the floor?

The SPEAKER. The gentleman asked for more time but the Chair did not hear him.

Mr. COLE of Iowa. Mr. Speaker, I ask unanimous consent that the gentleman from New York may have two additional minutes.

The SPEAKER. The gentleman from Iowa asks unanimous consent that the gentleman from New York may proceed for two additional minutes. Is there objection?

Mr. WHITE of Maine. Mr. Speaker, I am not going to object to the two additional minutes to be accorded to the gentleman from New York, but I am going to object to any further requests for time.

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

There was no objection.

Mr. FISH. Mr. Speaker, this resolution is more far-reaching than it would appear at first glance. It is one of the most important measures that will come before Congress during this session and is practically the only important contribution of Congress since the armistice to lessen the likelihood of another great war and of dragging us into it. Therefore I ask the Members of the House to study the report, read the resolution, and acquire all the facts they can upon this particular joint resolution. I for one feel that if we go ahead and pass this resolution it will put an end to all the talk in foreign countries that we are nothing but a slaughterhouse, willing at all times to sell munitions for the sake of profit, to destroy human lives. And what happens when we do sell munitions of war? Those countries that receive the munitions immediately say they are buying them at exorbitant prices and that we are profiteering on their misfortunes, while the nations against whom these munitions are used because they do not control the seas, hold our Government morally responsible, claiming that we are doing our best to destroy their people, and naturally they have nothing but bitterness and hostility toward us, which may eventuate in dragging us into almost any foreign war. Therefore, if we continue the policy of exporting munitions of war, we will be doing more to bring the United States into another war than anything we can do at the present time. [Applause.] If we prohibit it, it will be a constructive, useful, and worthwhile accomplishment in the direction of peace and good will between the United States and other nations. [Applause.]

The SPEAKER. The time of the gentleman from New York has again expired.

Mr. ANDREW. Mr. Speaker, I ask unanimous consent to address the House for five minutes.

Mr. KING. Mr. Speaker, I object.

Mr. ANDREW. If the gentleman will withhold his objection a moment, I think we ought to have the right to answer what was said here. I have only asked for five minutes in order to try to explain to the House. I think we ought to have the chance to answer.

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

Mr. KING. I object.

FEDERAL RADIO COMMISSION

Mr. WHITE of Maine. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill (S. 2317) continuing for one year the powers and authority of the Federal Radio Commission under the radio act of 1927, and for other purposes.

The motion was agreed to.

Accordingly, the House resolved itself into the Committee of the Whole House on the state of the Union for the further consideration of the bill S. 2317, with Mr. CHINDBLOM in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. The Chair will state for information that there is 1 hour and 38 minutes of general debate remaining, of which the gentleman from Maine [Mr. WHITE] has 40 minutes, the gentleman from Tennessee [Mr. DAVIS] 20 minutes, the gentleman from Michigan [Mr. CLANCY] 30 minutes, and the gentleman from New York [Mr. CELLER] 8 minutes.

Mr. WHITE of Maine. Will the gentleman from Michigan utilize some of his time?

Mr. CLANCY. Mr. Chairman, I yield 10 minutes to the gentleman from Minnesota [Mr. NEWTON].

Mr. NEWTON. Mr. Chairman, I find myself in harmony with the general purposes of this legislation, which provides for extending the powers of the Radio Commission.

However, in the consideration of a subject of this character we ought to keep in mind a number of different things, not the least of which is this: It has only been 15 years that have elapsed since we passed our first radio regulatory measure, and it was only about six years ago when there was first established any radio broadcasting. I mention this to show the very rapid development of the radio and the broadcasting. In passing any regulatory legislation pertaining to an infant industry we ought always to so draft it, as to not circumscribe it or put barriers around it so that it can not properly develop.

Very wisely, in my judgment, in drafting the radio commission act, we vested the commission with a good deal of discretionary power. We can not foresee just where this radio development is going. In its infancy we ought to leave the commission broad discretionary power.

I think the committee in its endeavor to extend this legislation, and in its attempt possibly to correct some abuses, has made the mistake of making these provisions so inelastic as to cause not only embarrassment to the industry, but a great deal of dissatisfaction throughout the land wherever the radio is used. I refer to the amendment at the bottom of page 2, section 4.

Section 9 of the radio act in reference to the granting of licenses, contains this provision:

> In considering applications for licenses and renewals of licenses, when and in so far as there is a demand for the same, the licensing authority shall make such a distribution—

Now, here is the material proposition—

> shall make such a distribution of licenses, bands of frequency of wave lengths, periods of time for operation, and of power among the different States and communities, as to give fair, efficient, and equitable radio service to each of the same.

The present law does not seek to put this along certain definite and well-defined lines, but puts it up to the commission, the same as we do with the Interstate Commerce Commission in fixing a reasonable rate. In this language of the basic law the commission is told to so conduct itself as to provide for efficient and equitable distribution of stations, power, and so on.

The amendment that is before us changes this provision very materially, by providing that the licensing authority shall make an equal allocation to each of the five zones established in the act.

The five zone lines are, of course, merely arbitrary lines. They have no relation whatever to radio as such. They are arbitrary lines, and yet in this amendment the commission is told that they must make an equal allocation to each of the five zones. If we have, say, 600,000 watts, then each one of the zones will be allotted one-fifth, or 120,000 watts for distribution.

Mr. HUDSON. Will the gentleman yield?

Mr. NEWTON. Yes.

Mr. HUDSON. Would the gentleman wipe out the zones?

Mr. NEWTON. No.

Mr. HUDSON. The gentleman's contention, then, is based simply on the use of the word "equal"?

Mr. NEWTON. That is all. I would not wipe out the zones, because the zones serve a purpose in administration, distribution, and all that sort of thing. However, I would not hamstring the discretion of the commission to such extent that they have got to allocate equally among the zones.

Mr. HUDSON. If the gentleman will yield further, there is no point gained, in other words, in storing up in some zone unused allocations which the country needs at other places.

Mr. NEWTON. Not at all. If one zone does not want the power, their full number of stations, or wave lengths, we should not prevent other zones from using them.

Mr. JOHNSON of Texas. Will the gentleman yield?

Mr. NEWTON. I will yield to the gentleman.

Mr. JOHNSON of Texas. The gentleman lives in zone 4, and zone 4 has 30 high-powered stations, whereas I live in zone 3, which has only 3 high-powered stations. Have I not cause for complaint?

Mr. NEWTON. It is possible the gentleman has cause for complaint, I do not know. I do know this, that if the gentleman's zone had wished for additional power in the first instance they could have applied for it and received it.

Mr. JOHNSON of Texas. In reply to the gentleman let me say that there has been applications made and have been refused—in Shreveport, La., for instance.

Mr. NEWTON. I do not think there has been the abuse of power that has been stated. There may have been mistakes. The commission has been in existence one year. The Senate has only confirmed one member. The commission has been operating under difficulties. We ought not to meet that situation with an attempt on the part of Congress to draw these lines in a fixed and arbitrary way and say that stations, wave lengths, and all of that have got to be allotted to these zones and only within the zones.

That might leave us in a great predicament. Suppose, for example, a particular zone does not use the amount that is allocated to it. When there comes the duty to renew the licenses then there must be a reallocating of stations, watts, power, wave lengths, and all that, and it seems to me you can make a pretty fair argument if your zone does not use what is allocated to it that there are other zones which will be cut down because there must be equal allocation in the use of power.

Mr. HUDSON. In other words, if this is carried into effect you are making retroactive legislation?

Mr. NEWTON. As to the licenses that have been granted, let me suggest this: The committee uses practically the same language for distribution within the zones as among the States in the existing law—"equitable distribution." If that is a good thing within the zone, why is not it a good thing in the country? Why one rule for zones and another within the zones? In other words, why make any change in the law? Furthermore, you say that an equitable distribution in the different States is to be made in proportion to the population and area. What is the use of counting acreage? The radio pays no attention to acreage.

Mr. WHITE of Maine. Will the gentleman yield?

Mr. NEWTON. I will yield to the gentleman from Maine.

Mr. WHITE of Maine. For the information of the gentleman and of the House generally, permit me to say that I am authorized by the committee to offer an amendment when we reach the section providing that the distribution shall be on the basis of the population—cutting out the area.

Mr. NEWTON. I am glad to know that the chairman has concluded to amend it in that respect. I hope by the time the debate is concluded that the committee will agree to recommend the further amendment that will take away the question of "equal allocation" and put it back where it belongs, to "equitable distribution."

Mr. CELLER. If the gentleman will yield, I am glad to hear that the gentleman from Maine has concluded to amend the bill with reference to the area. There still will be the inequality of the zones. You take the Pacific coast zone, and there

are about 5,000,000 people, whereas in zone 3 there are about 124,000,000 people, and in zone 2 about 25,000,00 people.

The CHAIRMAN. The time of the gentleman from Minnesota has expired.

Mr. CLANCY. I yield the gentleman three minutes more.

Mr. NEWTON. Here is the thing we are confronted with now. Here is a commission that has been handicapped in getting under way. One member, a very able man, had to quit because he could not afford to stay; for he could not afford to go without pay, and he had to leave. They have been under this handicap. Undoubtedly they have made mistakes; but we are dealing with a proposition in which millions of the people in the country are vitally interested. Every man, woman, and child that sits down to his receiving set wants to be able to get not only the music and program from the immediate locality—they enjoy that—but there is great pleasure in being able to contact with some stations thousands of miles away. When we set up purely arbitrary lines, it seems to me we are doing a thing that we ought not to do.

Mr. Chairman, if this amendment becomes a law as it is worded, Congress will further handicap and seriously interfere with proper radio regulation. If we require the commission under all circumstances to allocate equally within certain artificial and purely arbitrary lines we are very apt to bring the wrath of the radio receiver upon our heads. A thousand-watt station has a sending radius of about 75 miles. What service can such a station be to the lone receiver in the West, where we have magnificent distances. These folks enjoy the distant stations where the best of music can be secured for programs. Give the commission a chance to work out our theory of "equitable distribution."

I plead with the committee to hesitate before changing the present law and substituting this one of putting in these arbitrary lines. [Applause.]

Mr. WHITE of Maine. Mr. Chairman, I yield 10 minutes to the gentleman from Wisconsin [Mr. KADING].

Mr. KADING. Mr. Chairman and Members of the House, I am a new Member of Congress and, therefore, a new member of the Committee on Merchant Marine and Fisheries, which committee has had this radio legislation to continue the power and authority of the Radio Commission for another year under consideration. I shall not take up much of the time of the committee. I admit right now that I do not know all about this great art and force known as radio, and I hope that some of you, my colleagues, will admit that you are in my class in this respect. As a member of the committee I have learned considerable about this great radio question in the course of my participation in the examinations of the members of the Radio Commission and other parties interested who appeared before our committee in connection with this legislation.

The members of the Radio Commission were examined very carefully, and our committee, before reporting this bill, was quite generally satisfied that there ought to be no objection to continuing the life of the commission for another year; and there does not seem to be any general objection to such continuation by the Members of the House.

There is an important issue, however, in that there is objection to amending subdivision 2 of section 9 of the radio act of 1927, as recommended by our committee. The old section so proposed to be amended reads as follows:

SEC. 9. Subdivision 2: In considering applications for licenses and renewal of licenses when and in so far as there is a demand for the same, the licensing authority shall make such a distribution of licenses, bands of frequency, of wave lengths, periods of time for operation, and of power among the different States and communities as to give efficient and equitable radio service in each of the same.

A difference of opinion has arisen as to a proper construction of that section. Judge Sykes, the chairman of the Radio Commission, in the course of this examination before our committee said:

Now, there is some difference of opinion as to the construction of that particular clause of the act. A great many people for whose opinion I have the highest regard and respect, eminent lawyers, have this idea, as I understand, of that clause of the law—that if a State and a community in a State is getting good radio service from stations in other States, then that State and community are getting good radio service and, therefore, that State or community is being served and, as a State or community in a State, is not entitled to a radio station. That is not my opinion of this clause of the law. My opinion of that clause is it means it was put there to give to the States their pro rata quota of radio stations and to communities in States, and that has been my insistence as a member of the Federal Radio Commission on the construction of that section of the law.

Another member of the Radio Commission, Mr. Caldwell, differs with the chairman of the Radio Commission in construing such section of the law. Commissioner Caldwell, in the course of his examination, testified as follows:

Certainly, from the standpoint of giving purely radio service and good radio service to listeners; that is my understanding of the purpose of the law, and is the basis on which I have worked on the commission. I feel that both must be considered. There is a place for the comparatively high-powered station, and there is also a place for the local stations rendering a local service.

He continued later in his examination and said:

I believe it will be in the public interest to have four or five high-powered stations on the chain, widely distributed geographically. In other words, there is a proper use for the high-powered chain station on the air, one around Chicago, one in the Southwest, and perhaps one in the South, because this commission has undertaken through these chains to bring to every home in America a clear program, and as long as we have merely local stations such clear programs are impossible.

Mr. JOHNSON of Texas. Mr. Chairman, will the gentleman yield?

Mr. KADING. I do not care to yield, as I have only a very limited time. I desire to call your attention again to the fact that a difference of opinion exists between the individual members of commission and also between eminent lawyers, some of whom represent broadcasting stations. Judge Sykes, the chairman of the Radio Commission, invited legislation to clarify this section. In answer to a question put by me to Commissioner Sykes at the hearing before our committee Mr. Sykes said, "Personally, I would be glad, of course, if Congress would clarify it"; further questions by Mr. Davis, of our committee, and answers by Commissioner Sykes were as follows:

Mr. DAVIS. In other words, your opinion is, naturally, even from the viewpoint of the commission itself, it is highly important for whatever statutory provisions are enacted for your guidance to be unambiguous and about which there can be no controversy or conflict of opinion?

Commissioner SYKES. I would be delighted, Judge, to see it set at rest.

Mr. DAVIS. I want to state I am in thorough accord with that and, so far as I am concerned, will undertake to effect that result.

Commissioner SYKES. I wish you would.

In view of that situation, the members of our committee deemed it advisable that they should put forth an honest effort with the idea of clarifying that section of the law so as to enable the Radio Commission to work better in the performance of their duty in connection with rendering service to all the people of the United States in connection with this great art. The committee considered the question of a change of language of such section very carefully. They discussed it. They agreed that it was hard to formulate language that probably would cover the situation exactly.

Mr. CELLER. Mr. Chairman, will the gentleman yield?

Mr. KADING. No; I do not care to yield, as I have only a few minutes of my allotted time left. The committee, however, in their honest endeavor finally suggested that they would leave the matter of formulating the proper language clearing such section up to express the true intent of Congress when the law was enacted to Mr. WHITE, the chairman of our committee—a man who knows as much about this great radio question as any man that I know of, and to Mr. DAVIS, of our committee, a close second to Mr. WHITE, if not his equal, so far as radio knowledge is concerned, both of whom are honest, conscientious, and able, and who are actuated by an honest desire to advance this legislation fairly and squarely for the best interests of the great mass of the people. And these two men worked upon this thing.

I believe they had many conferences about the matter. They finally agreed upon language which the committee saw fit to report for the consideration of you gentlemen, and that language is the language contained in section 4 of this bill proposed as an amendment by the committee to the Senate bill passed by the Senate. The language of this amendment of said section 9, subdivision 2, is as follows:

The licensing authority shall make an equal allocation to each of the five zones established in section 2 of this act of broadcasting licenses, of wave lengths, and of station power; and within each zone shall make a fair and equitable allocation among the different States thereof in proportion to population and area.

Our committee agreed to the wording of such amendment after Mr. WHITE and Mr. DAVIS had so finally prepared the same, excepting that a few members of our committee believed that the word equitable should have been used in the first line, instead of the word equal.

Now then, in view of the situation and in view of the honest effort given to this difficult matter by those gentlemen and our committee, I believe, my colleagues, that you will not make a mistake by following the recommendation of the committee. You should at least, in my opinion, give very serious consideration to this amendment as proposed by the committee, as it represents an effort for legislation in the best possible shape, for the best interests of the people.

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. KADING. Mr. Chairman, may I have a few minutes more?

Mr. WHITE of Maine. I yield to the gentleman two additional minutes.

The CHAIRMAN. The gentleman from Wisconsin is recognized for two additional minutes.

Mr. KADING. Under the situation as it is, certain large high-powered stations are situated at certain large cities, and I believe you gentlemen will find the Representatives coming from the States containing those large cities in favor of legislation which will permit the high-powered stations to hold what they already have, and you will find them voting against this amendment with but few exceptions. I ask you in this connection to profit by the experience of the past, in that the people of the whole country have many times lost many advantages by reason of great conservation projects, such as water powers, oil fields, and other natural resources, that have easily drifted into the hands of monopoly due to ill-considered national and State legislation. The gentleman from New York [Mr. CELLER], in the debate on this bill last Saturday, said:

> Now, gentlemen, if I may give you an example, it is just like having a sort of large radio pie and endeavoring to divide that radio pie into five equal parts and to give a one-fifth equal part to each of the five radio zones, as it were. Suppose you sit down to a table and there are children and adults at that table. I am sure you would not be very likely to give an equal piece of pie to the child as you would to the adult

The CHAIRMAN. The time of the gentleman from Wisconsin has again expired.

Mr. KADING. May I have two minutes more?

Mr. WHITE of Maine. I yield to the gentleman two minutes more.

Mr. KADING. There is the situation in a nutshell. The large monopolies and the high-powered stations in a few large cities, including New York, from which State Mr. CELLER comes, have the "pie," in that they have the high-powered and greater number of stations, and they can not see any justice in giving a part of that "pie" to anyone who is not at that pie counter, or to anyone who is not there but who might be entitled to a piece of it.

Mr. CELLER. Mr. Chairman, will the gentleman yield at that point?

Mr. KADING. No; my short time prevents me from yielding to the gentleman from New York.

This view of the situation, my colleagues, should cause you to sit up and take notice. Big business temporarily has possession of the "radio pie" and it proposes to keep it if possible, without properly sharing it with others who are entitled to share in it. These big interests are already claiming that they have vested rights in this great radio force, and we should be careful in our legislation not to enable them to try to base any further alleged claims upon any legislation upon this matter by Congress to the detriment of all the people that we represent, and, therefore, we should be careful not to pass any law the language of which would permit any such construction.

Now, then, the gentleman from Massachusetts [Mr. TREADWAY] also spoke against this amendment on Saturday, and he said, among other matters:

> I am not one of those scared by the talk of monopoly or big business. The people of this country to-day do not care a continental how radio comes to them or who is providing it for them, so long as they get it.
>
> As a listener-in and not as a scientific student of the subject I am convinced that the only way to get results is through the large stations. It is a favorite pastime of this House to talk about monopoly and big business, but big business, whether in the form of the corporations that have put large sums of money into the establishment of these stations or in the form of concerns that are buying the time of those stations and employing the highest-priced talent, is giving results to the people of the country, and that is what the people want.

The CHAIRMAN. The time of the gentleman from Wisconsin has again expired.

Mr. KADING. Will the gentleman yield me one minute more for a conclusion?

Mr. WHITE of Maine. I yield to the gentleman one minute. I hope the gentleman will not ask for more.

The CHAIRMAN. The gentleman is recognized for one minute more.

Mr. KADING. The above quotation from Mr. TREADWAY'S speech gives you, in my opinion, another view of monopoly on this subject. Big business believes that the people should be satisfied with whatever it hands out to the people in the way of programs whether it be jazz music or advertising pink pellets for pale people.

I have no quarrel with big business. I am only calling your attention to the fact that I believe we should be alert in the performance of our duties as Representatives of the great mass of people who are not organized, who have no lobbyists, who have sent no telegrams to us, but who expect us as their Representatives to properly protect their interests.

Big business has able men in charge of their affairs, it has able attorneys, and it is working all the time in the interests of its business. While no charge seems to be made from "listeners in" at this time—not directly at least—who can say that it may not be the intention of monopoly to get and keep control of all of the high-powered stations as well as the manufacturing and selling of all the receiving sets, and then what is there to prevent them from tacking $25 onto the price of each receiving set that they sell by raising the price of such radio set and collecting a large toll from the purchasers of sets in a short time. In passing this amendment proposed by the committee, we are going just a little slow; we are demanding more equality in the distribution of this great power and are feeling our way forward in the administration of this great art.

In conclusion I want to say to my colleagues in all seriousness, acting as we should, in the interests of our constituents in the South and in the West and in the Central States, and in fairness to the people everywhere, that we will make no mistake by following the recommendations of the committee and pass this legislation. [Applause.]

Mr. WHITE of Maine. Mr. Chairman, will the gentleman from New York [Mr. CELLER] use some of his time?

Mr. CELLER. We have eight minutes. We believe the proponents of the bill should consume time now.

Mr. WHITE of Maine. There will be but one speech more on that side in favor of the bill, and one on this side.

Mr. CELLER. Yes. I think the proponents of the bill should continue.

Mr. CLANCY. Mr. Chairman, I yield one minute to the gentleman from Massachusetts.

Mr. GIFFORD. Mr. Chairman, through some of the members of the committee I am informed that the Associated Press of yesterday reported that I supported the amendment known as section 4 on Saturday although I strongly opposed it. I expressed a feeling of sympthy with those who favored the amendment because they feel something ought to be done; I could not possibly be construed as favoring the amendment. I do not like to be misrepresented in that way.

Mr. WHITE of Maine. Mr. Chairman, will the gentleman from New York now use some of his time? There is but one speech on this side in the affirmative, and I take it I have the privilege of closing the debate.

Mr. CELLER. Mr. Chairman, I yield four minutes to the gentleman from New York [Mr. GRIFFIN].

Mr. GRIFFIN. Mr. Chairman and colleagues, the hardest task of the human mind is to rid itself of tribal or sectional bias. I was sorry on Saturday to hear a little element of sectionalism introduced in this debate, and my chief purpose in rising here to-day is to give my personal assurance to my colleagues from all over the United States that, so far as New York is concerned, we are only too anxious to see that fair play is accorded to every section of this great country. I think that the complaint coming from zone 3—embracing the Southern States—is justified, but I do not think that the Davis amendment, as carried in section 4 of the bill before us, will give the desired relief.

The following table shows the inequality in the distribution of radio facilities. A mere glance shows that the complaint of the Southern States is well founded:

Comparison of radio stations and power in different zones

Zones (States included)	Population	Population (per cent)	Number of stations	Total station power in watts	Percentage of station power	Stations with over 1,000 watts
1. New England States and New York	24,378,131	22.73	138	213,055	35.30	10
2. Michigan, Ohio, West Virginia, Kentucky, and Pennsylvania	24,337,341	22.69	115	116,805	19.34	8
3. Southern States	24,826,050	23.14	102	47,105	7.80	4
4. Illinois, Indiana, Missouri, Iowa, Minnesota, North Dakota, South Dakota, and Kansas	24,492,986	22.83	215	164,870	27.31	30
5. Pacific States	9,213,720	8.59	131	61,785	10.24	8
Total	107,248,228	100	701	603,620	100	60

Of course this does not indicate that there has been any willful or unfair discrimination. The fact is that the radio industry has been an evolution and that broadcasting stations have been naturally first established in the large centers of population, where programs of interest could be conveniently arranged.

A great deal of capital has been invested in these stations, particularly in the first and fourth zones. Naturally the owners look with anxiety at any proposal which even slants toward the scrapping of these properties and investments.

It is contended that the word "shall" in the Davis amendment constitutes a mandate, and that under this construction the commissioners may very well assume that Congress has directed them forthwith to abolish the big stations in the large cities so as to reduce them to a parity of number and power apparently required under the terms of the bill. This is the whole controversy in a nutshell: Does "shall" mean "must"?

For my part, I can not see the necessity for a mandatory direction. All that we are trying to do—at least all that we should in fairness try to do—is to make it clear to the Radio Commissioners that the air should be free and that all the zones into which the country is divided should have equal opportunities and that no zone should secure a monopoly.

It is perfectly feasible to build up the broadcasting facilities in zone 3 without lessening or impairing those in the other zones. That is all we ought to try to do in this law. The proposed amendment threatens more, and it is to allay fears from such sources that I will offer an amendment at the proper time.

I simply want to remove from this amendment the obvious uncertainty and ambiguity of its language.

The best proof that section 4 of the bill is not clear is that the committee, in its report, undertook to defend it before it was attacked. They seemed to feel that it was vulnerable, for they take great pains to assure the House that it was not their intention to molest existing stations.

I want to present for your consideration at this moment an amendment which I intend to offer when this section of the bill is reached, and to set our attitude clearly before our friends from the other zones. I propose this in place of the language of section 4:

> Each of the five zones established in section 2 of this act shall be entitled to an equal allocation of broadcasting licenses, of wave lengths and of station power.

And while I am reading this I would like the attention of the gentleman in charge of the bill. I did not have a chance to consult with him in regard to this amendment but I hope he will take it under consideration. It accomplishes, perhaps, what you have in mind, and it takes out of the language its mandatory form and sets a rule of action or conduct for the commission to follow in the allocation of licenses, wave lengths and power. This is the amendment I submit:

> Each of the five zones established in section 2 of this act shall be entitled to an equal allocation of broadcasting licenses, of wave lengths, and of station power; and the licensing authority shall make a fair and equitable allocation among the different States, within each zone, so far as practicable in proportion to population and demand for service.

[Applause.]

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. DAVIS. Mr. Chairman, I yield one minute to the gentleman from Texas [Mr. BLANTON].

Mr. BLANTON. Mr. Chairman, I am heartily in favor of the amendment that is to be offered by the gentleman from Tennessee [Mr. DAVIS]. It should carry by a substantial majority.

For some time, and especially during the last 60 days, I have been receiving numerous complaints, not only from my own district but from all over the State of Texas, protesting against discrimination accorded their section of the country. Many of the complaints come from farmers and stockmen living in rural communities. They are not at all satisfied with Commissioner Caldwell. And they do not understand that the House of Representatives has nothing to do with his appointment or his being retained as commissioner. That is a matter wholly with the President and the Senate of the United States.

But it is our duty here in the House of Representatives to see to it that this law is now properly framed, and now is the time, and here is the place, and we are the ones to properly frame it with wholesome provisions, so that no more discrimination may be shown, but that the people in every part of the country will be given a fair, square deal and get what is coming to them.

The radio monopoly is becoming the greatest in America. I warned against its growing encroachments several years ago. It has been charged several times, and never denied, that the Radio Corporation of America has been paying General Harbord a salary of $50,000 per year to run its business. And it will be remembered that during all of such time he has been retired from the United States Army, drawing a retired general's pay for life. If he is able mentally, physically, and otherwise to run this big business for the Radio Corporation of America and is worth $50,000 per year to them, he ought to be giving his time, energies, and talents to the Government, as it educated him and made him qualified to thus officiate.

And it will be remembered that after Admiral Bullard was appointed a radio commissioner at $10,000 per year it developed that he, too, was on the pay roll of the Radio Corporation of America at a tremendous salary, and he, too, was then drawing a retired admiral's pay for life, having been retired from the Navy, which had educated and trained him at Government expense.

And it has developed in this hearing that in addition to the salary of $10,000 per year Commissioner Caldwell receives from the people of this Government he admitted that he is also drawing $7,000 per year from the McGraw-Hill Co., which does a tremendous business annually with all radio dealers in the United States. Commissioner Caldwell's testimony in this respect, on page 195 of the printed hearings, should be read by everyone.

The testimony of Mr. Oswald F. Schuette, executive secretary of the Radio Protective Association, on page 274 of the printed hearings, shows that the assets of the corporations that make up the Radio Corporation and its constituency, the Radio Trust, is headed by the American Telephone & Telegraph Co., with assets on December 31, 1926, of $1,841,102,088; the General Electric Co., with assets of $428,328,764; the Westinghouse Electric Co., with assets of $226,961,520; the United Fruit Corporation, with assets of $203,821,287; and the Radio Corporation of America, with assets of $61,976,432, making total assets of $2,762,190,091. And it will be remembered that the General Electric Co. is the parent-he-mogul of the great Power Trust, now seeking to get control of all of the water power and public utilities in America. This is one giant monopoly that must be watched and curbed by law.

I wish, Mr. Chairman and gentlemen, that I had the time to discuss this bill at length. It is a measure concerning which every citizen in the United States is vitally affected. We must protect the people in their inherent rights and must see that they are not trampled upon by giant trusts, combinations, and monopolies.

Mr. CLANCY. Mr. Chairman, I yield two minutes to the gentleman from Ohio [Mr. BRAND].

Mr. BRAND of Ohio. Mr. Chairman and members of the committee, I am on this committee and I have never been able to agree to the amendment offered by my colleague from Tennessee [Mr. DAVIS]. The entire question resolves itself about the word "equal" and the word "equitable." The country is divided into five zones and this amendment arranges an equal distribution of the power, and so forth, and in the old law, as we passed it, it was arranged for an equitable distribution. To my mind you never have the need in Ohio, for instance, of the power, and so forth, that they need in New York. You will never have the need in Mr. DAVIS's territory in Tennessee that you have in New York. I would say that you never can divide this power and the other things that are to be divided equally over the United States.

Now, another thing. You do not want them divided equally, because here is the peculiar thing about it: The territory that has the great power is at a disadvantage. For instance, the use of the radio is not as satisfactory in Washington, where they have great power, as it is out in my home in Urbana, Ohio, where we have none. We can get anything from anywhere in the center of Ohio, while here in Washington you have only Washington to hear; and the same applies to New York.

The CHAIRMAN. The time of the gentleman from Ohio has expired.

Mr. DAVIS. Mr. Chairman, I yield myself the remainder of my time, 19 minutes.

Mr. ABERNETHY. Mr. Chairman, I think I shall suggest that there is not a quorum present.

Mr. DAVIS. I do not want the gentleman to do that. I would like to have as large a hearing as possible; but I would rather the gentleman would not make the point.

Mr. ABERNETHY. I withdraw it, Mr. Chairman.

Mr. DAVIS. Mr. Chairman and members of the committee, this is a very important matter and one about which there seems to be a great deal of misunderstanding. The controversial feature of the pending bill is the equalization amendment, and that is a perfectly simple and a perfectly fair proposition.

I am surprised that the Representatives of the people, or at least some of them, shy at equality under our Government. If there is anything that is supposed to be basic under our Constitution and our institutions, it is that there shall be equality of opportunity and of governmental rights.

In the last Congress the Committee on the Merchant Marine and Fisheries reported to the House a bill for the regulation of radio. Conceiving at that time that there was a very unfair, inequitable, unbalanced, and unscientific distribution of broadcasting privileges, the committee reported without question, and the House passed without question, so far as that provision was concerned, a distribution clause which was very similar to the one now under discussion. When this bill went to conference the distribution clause was changed in its phraseology, and in my discussion of that matter when the conference report was under consideration in the House I called attention to the change and stated that it was ambiguous and that two different constructions could be placed upon it. Other conferees and Members disagreed with me, but my prediction came true literally.

When the committee was holding hearings on the present bill it appeared there were two interpretations placed upon this provision by members of the Radio Commission, one of them, the commissioner from New York, Mr. Caldwell, taking the position it was a compliance with the law for equitable service to be rendered to the various States and sections of this country even though it be done by far-away stations in other sections and in other States and without the States or sections thus served (?) having any broadcasting stations.

The committee in reporting this bill conceived the idea that the distribution clause in the present law should be clarified, and, in fact, members of the commission themselves said that they would like to see it amended and clarified. So there resulted this amendment.

Various and specious arguments have been advanced against it. People suggest change in phraseology. Perfectly frankly, we have made the language or have undertaken to make it so clear and so unambiguous that there can be no misunderstanding and no misinterpretation. We want an amendment that can not be misunderstood and so we say that is necessary, especially if it is to be administered by the present commission. The present commission has not carried into effect the existing equitable distribution clause, because under the spirit of it they should have made a fair and equitable distribution among the different sections of the country; they have not only not done that, but I charge, and the records show, that they have affirmatively violated that provision, because when this law went into effect the first zone and New York City had far beyond their quota, and in this connection I want to state that every State in the first zone except New York is below its quota on a division of the present national power. And yet the commission has favored New York more than all other States and sections.

The excuse first proposed by this commission was that they could not initiate licenses; that they had to act upon applications; and they said this particularly with respect to the third zone.

Now, what are the facts? We had them file with the committee—and they are in the committee hearings, pages 41 to 51—records of applications for new licenses and the action thereon; applications upon the part of existing stations for increased power and the action on that. Now, what do these records show with respect to the class which I have just mentioned? They show that in the first zone—this is under the administration of the commission—there were 22 station applications for increased power. The power requested was 89,655, and the power granted was 81,905, and of the 81,000 granted, 60,500 of it was in New York. Without taking the time to give the applications of this kind for the other four zones, I will state that the other four zones in his country had 55 applications for 185,650-watt power, and they were granted by this commission a total of only 45,110. In other words, the other four zones in this country applied for more than twice as much power as did the first zone, and yet the first zone was granted nearly twice as much increased power as all the other four zones combined; or putting it differently, the city of New York, according to these figures, was granted 15,000 more watts than was granted all the other 47 States in the Union. These figures do not include applications denied or not acted upon.

Now, if this is equitable distribution, make the most of it.

Mr. O'CONNELL and Mr. CELLER rose.

Mr. DAVIS. I yield to the gentleman from New York for a question.

Mr. O'CONNELL. I will say to the gentleman that we have a case right adjoining my district where a man for a year has been trying to get an increase and has not been paid any attention to at all.

Mr. DAVIS. Not all of them have got an increase, but I have given the aggregate of the increases made.

Mr. KINCHELOE. Will the gentleman yield there?

Mr. DAVIS. Gentlemen, I have many things I would like to state, and I think I will cover a good many points that you have in mind if you will give me the opportunity.

Mr. CELLER. I yielded to the gentleman on Saturday and I hope the gentleman will yield to me.

Mr. DAVIS. I yield to the gentleman.

Mr. CELLER. Will the gentleman tell the members of the committee whether or not he feels that the population is the test in the various zones, or the radio population applied to the States?

Mr. DAVIS. Well, suppose you put it on that ground. There is little difference whether you put it on the total population or on the radio population. The first zone, that is given 37 per cent of the total national power in all the zones, has only 24.2 per cent of the receiving sets. The second zone has only 17.68 per cent of the national power and has 21 per cent of the receiving sets. The third zone has but little more than one-fifth of the station power held by the first zone and yet has 16 per cent of the receiving sets in the entire Nation and the largest population of any zone. As a matter of fact, the people in the southern zone have manifested a remarkable interest in purchasing as many receiving sets as they have, in view of the intolerable conditions under which they have suffered. If accorded proper treatment, there will be a large and immediate increase in the purchase of receiving sets in the third zone. I have a letter from a radio dealer in my State, stating that radio reception is so bad that he does not sell one-fourth as many sets as he did a year or so ago; that the people are trying to sell their sets.

The fourth zone has more receiving sets than the first zone, but much less power. So you can put it on either ground you please.

Mr. LAGUARDIA. Is it not wrong in principle?

Mr. DAVIS. I think so. We are living in a democracy, and I submit that 25,000,000 citizens in one section are entitled to just as much consideration as 25,000,000 residing anywhere else. [Applause.]

Mr. KINCHELOE. Two and a half million people in my State get only two broadcasting stations, with low power——

Mr. DAVIS. Oh, I have put official data into the RECORD showing the greatest sort of discrimination. If you do not increase the present aggregate national power, all sections of the country will be favored with an increase except about four States, and two of these barely have their quota. I want to say that I have nothing against the great city of New York. It is a great city, and we want to get their programs. We want to keep in touch with them, but we insist that they should not have all the cream. I know that the most of the citizens of that great city will join the gentleman from New York [Mr. GRIFFIN] when he says that they do not want to "hog" any more than they are entitled to. I have numerous letters from citizens of New York commending this equalization amendment and complaining of the congested conditions there.

The argument that the adoption of this amendment, designed to insure a fair distribution of broadcasting licenses, wave lengths, and station power, would result in injury to the broadcasting situation, particularly the listening public in the New York City area, is wholly unfounded. Those opposing this equalization clause, led by the Radio Corporation of America

and its affiliated interests, persistently disseminate the false statement that the station power in all the other zones under the provisions of this amendment would be reduced to the power now allocated to the zone with the lowest power. The amendment directs no such thing; nobody wants that done, and surely not even the present commission would be foolish enough to so administer the provision. The amendment authorizes and directs an equalization between the zones and a fair and equitable allocation within each zone in proportion to population. It is a perfectly fair and simple proposition.

The station power allotted to all the zones now amounts to about 600,000 watts. There would certainly be no good reason for reducing this power. It could well be increased.

If the first zone, with only 3.63 per cent of the total geographical area, can absorb 223,000, or 36.98 per cent of the power, surely the other zones with so much greater geographical area could absorb as much power much more easily. Consequently if the Radio Commission desires to continue the present amount of power in the first zone and the people therein are satisfied with the present condition they need not reduce the power in the first zone, but increase the power in the other zones. However, the commissioners have repeatedly stated that there should be reductions in the congested areas, and probably the course which would and should be pursued would be that a fair equalization would be brought about by both increases and reductions—that would be a matter of administration to be worked out by the commission.

As a matter of fact, the listeners in the highly congested areas are suffering more than anybody else. They can satisfactorily hear only a few of their very high-powered stations and no outside stations.

However, those in the neglected areas are only asking for a square deal for their sections. They want an opportunity to have some of their own stations with good wave lengths and adequate power so that they can hear them, as well as hear the New York stations. They would also like for the listeners in New York City to hear outside stations when they desire to do so.

The matter of a fair and equitable allocation of broadcasting privileges throughout the country is not an "intricate and technical matter." It is a matter of national interest and right and involves a legislative policy. The pending amendment is not destructive but constructive. It does not undertake to tear down or to injure the broadcast structure, but to improve and build it up. To give the balance of the country outside of New York City and Chicago an equal deal in radio does not involve an injury to the broadcasting situation in those cities.

The discrimination is not so much due to favoritism to cities or a section as it is due to class favoritism discrimination. What are the circumstances? We have in this country an iron-clad radio monopoly according to the report and the charge of the Federal Trade Commission in a complaint now pending. This monopoly has more than one-third of all the station power in the country. They have the choicest wave lengths. Together with the affiliated stations they have 327,000-watt power as compared to 600,000 for all the balance of more than 600 stations.

Mr. GRIFFIN. Will the gentleman yield?

Mr. DAVIS. I will yield.

Mr. GRIFFIN. Every one of us will concede that all the zones are entitled to equality. I do not think you will find anybody opposing you on that, but we ask you to confine yourself to the phraseology of the amendment and let us know whether there is any danger in that phraseology in connection with the increase arbitrarily of power in the administration of the bill.

Mr. DAVIS. The existing law divides the country into five zones by States. The first four zones are substantially equal in population, the zone I have the honor to represent being the largest of any of them. The fifth zone embraces the Pacific coast and Mountain States, and although it has much less population than the other zones yet it has nearly 50 per cent of the geographical area of the country, and in addition that great section is divided by the Rocky Mountains, which constitute a serious static impediment.

We felt when we enacted the law in the last Congress that the fifth zone was entitled to as much consideration as the other four zones. So we treated them on an equal basis. Consequently, this amendment provides that there shall be an equal allocation between the different zones established in the act, and that there shall be a fair and equitable distribution among the States within a zone according to population. The zones are equal, but the States are unequal in population as well as area, and you could not apply the same yardstick to all the States. The distinguished gentleman from New York [Mr. GRIFFIN] candidly admits that there should be equality and equal division, but he differs with me as to the phraseology employed in order to bring it about. I say, it is a simple proposition. It is workable. It is fair. It is American.

Mr. CELLER rose.

Mr. DAVIS. Oh, they argue, and the gentleman from New York [Mr. CELLER] in his speech repeated the old threadbare argument that the southern zone and other sections were backward, that they were at fault because they did not have any more, and following that he inserted in the RECORD a list of stations to which he said he was advised by members of the commission they had tentatively agreed to grant an increase of power to in the southern zone, and that list which he inserted in the RECORD shows that in the 17 stations they have tentatively agreed to grant an increase of 33,710 watts, and in the list of applications for new licenses which he said they had tentatively agreed to grant there were 4,810 additional watts. That that does not include requests for a large amount of additional power which they have not yet acted upon. In other words, instead of your having to wait, as the gentleman from New York feared, until the South and the other sections of this country catch up with their applications, I say that formal applications are on file to raise the southern zone to a parity with the other zones, on the basis of the present national power. And the same is true in the second zone, which is below its quota, and in the fifth zone, as shown in the hearings, and much of which I have put into the RECORD; and that does not include hundreds of informal applications which the commission said have been made, but which they discouraged so much that the applicants did not follow them up with formal applications.

As evidence of the demand from other sections, here is a list of some of the existing stations which have requested increased power, but which requests have either been denied or are still pending:

	Present power	Power requested	Action
Second zone: WTAM—Willard Battery, Cleveland, Ohio.	3,500	20,000	Pending.
Third zone:			
WBAW—Waldrum Drug Co., Nashville, Tenn.	500	10,000	Do.
KFJF—National Radio Manufacturing Co., Oklahoma City, Okla.	750	15,000	Do.
KWKH—W. K. Henderson, Shreveport, La.	1,000	10,000	Do.
Fourth zone:			
WTMJ—Milwaukee Journal, Milwaukee, Wis.	1,000	5,000	1,000.
WMBH—Edwin Dudley Aber, Joplin, Mo.	100	10,000	1,000.
KTNT—Norman Baker, Muscatine, Iowa.	2,000	14,000	1,000.
WJJD—Loyal Order of Moose, Mooseheart, Ill.	1,000	20,000	1,000.
WAMD—Radisson Radio Corporation, Minneapolis, Minn.	500	40,000	500.
Fifth zone: [1]			
KEX—Western Broadcast Co., Portland, Oreg.	2,500	20,000	Denied.
KJR—Northwest Radio Service Co., Seattle, Wash.	2,500	20,000	Do.
KGA—Northwest Radio Service Co., Spokane, Wash.	2,000	20,000	Do.

[1] Samuel Insull's company was granted a permit to construct a 50,000-watt station with studio at Chicago.

Mr. CELLER. Mr. Chairman, will the gentleman yield for a question?

Mr. DAVIS. Yes.

Mr. CELLER. The gentleman apparently does not want to leave this matter in the discretion of the commission.

Mr. DAVIS. Just a question.

Mr. CELLER. Yet in the second part of the amendment discretion is left to the commission to allocate the States within the zones. You do not tie the hands of the commission within the zones.

Mr. DAVIS. If you are in favor of giving them discretion on everything, why do you quarrel about the provision of our amendment that gives them discretion in part?

Why all of this allocation of power in a small area? What is the situation, and why this tremendous drive, this tremendous propaganda, sent all over this country against this perfectly fair amendment? I will tell you why it is and where it hits. It hits the Radio Corporation of America and its affiliated companies.

They have not only been given more than a third of the power but choice wave lengths, and so forth, for broadcasting, but in commercial radio they have been granted seven times as much as all other stations combined, and the same is practically true with respect to experimental licenses. They and their associates have the whole radio field there tied up. They have been favored beyond measure by this commission, and what has it meant to the Radio Corporation of America? [Applause.]

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

Mr. DAVIS. Under leave granted I extend my remarks as follows:

When the Federal Radio Commission went into office the common stock of the Radio Corporation of America was selling at about $52 per share. It is now selling for about $122 per share. This is an increase in market value of about 135 per cent under the benign administration of the Radio Commission. According to a recent report, in addition to its preferred stock, the Radio Corporation of America is capitalized at 1,155,400 shares of common stock—nonpar. Consequently, the common stock during this period has increased more than $80,000,000, not to speak of the increase in the preferred stock.

Since I delivered this speech the stock of the Radio Corporation of America has continued to advance, and to-day, March 17, sold for about $140 per share.

Some two or three years ago the Radio Corporation of America placed the transmitter of its station WJZ at Bound Brook, N. J., and began broadcasting on 50,000-watt power. It created such havoc with New Jersey broadcasting stations and with receiving sets that there was widespread and indignant protest. City councils passed resolutions of protest. The Legislature of New Jersey adopted a resolution declaring station WJZ an "intolerable nuisance" and directed the attorney general of the State to take appropriate steps in the matter, and the legislature also urged upon Congress to enact appropriate legislation to prevent the operation of this and similar stations.

During this controversy David Sarnoff, vice president and general manager of the Radio Corporation of America, was quoted in the New York Times, in part, as follows:

> Greater * * * power allows the station to ask and receive greater returns for the sale of time on the air. * * * The business of advertising on the air is becoming better established and is on a firmer basis than ever before.

Although the protests against station WJZ of the Radio Corporation of America raged during the fall of 1925 and winter of 1925–26 and numerous appeals were made to the Department of Commerce and the Congress, yet the citizens and officials of New Jersey were unable to effect the removal or substantial reduction in the power of said station. During the controversy officials of the Radio Corporation asserted that the interference complained of was due to the use of obsolete receiving sets. Yet at that time this corporation was urging its dealers to press the sale of its own obsolete receiving sets, as shown by the following letter:

OCTOBER 16, 1925.

To prospective RCA authorized dealers:

GENTLEMEN: The new RCE selective-dealer plan has received generous commendation from radio dealers throughout the country. The proposed method of selecting Radiola merchants is universally acclaimed as being fair. The only misgiving that has been expressed is whether radio dealers entitled to the RCA franchise might possibly be overlooked in the final selection.

DEALER REQUIREMENTS UNDER THE NEW RADIOLA PLAN

If you will refer to our Bulletin No. 1 describing the RCA dealer plan, you will find the process of selection is clean and unequivocal. * * *

Sales volume, as set forth above, will be one of the factors governing our selection of "authorized RCA dealers" on and after January 3, 1926; but mere volume, in itself, will not be the determining factor in judging the dealer's eligibility to represent RCA. It is necessary to make this distinction at this time of year, because "sales volume" might be easily attained merely by meeting the natural consumer demand for the new RCA models. The best indication of the dealer's ability to aggressively push the sale of RCA products will be found in the record of his sales on standard items which may temporarily meet with a certain amount of sales resistance.

Speaking with the utmost frankness, the best proof that dealers can present to RCA that they should be selected as Radiola merchants will be found in our records of their ability to develop a sales movement on the Radiola III family; i. e., Radiola III, Radiola III–A, and Radiola balanced amplifier. Dealers who make marked progress in moving these instruments to the public, even though their total sales volume may be below those whose sales are mainly on the new RCA models, will be particularly eligible for selection, because in so doing they have demonstrated their ability to do a "selling job."

* * * * * * *

From time to time I shall appreciate receiving personally a brief note from you direct, posting me on the progress you are making in the sale of the Radiola III group. Not only will I personally read these letters, but they will be attached to the records of this office as supporting data in Radio Corporation of America's selection of authorized dealers on the basis of volume, credit, and service.

* * * * * * *

The cooperation which dealers throughout the Nation have extended to us has been a source of gratification. We ask for its continuance, and we in turn will reciprocate to the extent humanly possible.

Very cordially,

E. E. BUCHER,
General Sales Manager.

We are reminded of the fulsome claims in behalf of the alleged benevolent development of radio by the Radio Corporation of America.

Broadcasting stations operating for hire and profit have been most favored. It is claimed that they must charge for advertising in order to make an income. The Radio Commission, in accordance with a request made at the hearings, filed a list of stations which sell time and those who do not sell time, or otherwise advertise; and they also filed a list of stations whose policy in this respect is not known. These lists appear on pages 258 to 269 of the recent hearings of the Committee on Merchant Marine and Fisheries. It appears that there are 190 broadcasting stations which operate for profit by selling time—broadcasting advertising; 323 broadcasting stations do not sell time or transmit advertising, and the policy of 170 stations is not known.

HIGH-POWERED STATIONS

As a matter of fact, there is no need for such station power as 50,000 or 30,000 watts.

In his testimony at the hearings, pages 104 to 107, Commissioner Caldwell, who is the strongest advocate among the members of the commission of high station power, stated that different powered stations could transmit a consistent, satisfactory program at all times, as follows:

	Miles
500-watt station	15 or 20
1,000-watt station	25 or 30
5,000-watt station	50 or 75
50,000-watt station	100 to 150

Commissioner Caldwell testified as follows:

> Experience has shown that no station gets out with any consistent and good service more than 100 or 150 miles, regardless of how much power is put back of it. In other words, the limit is not the amount of power you put back of the station but the fading which takes place, which may take place at 150 miles or it may take place as close as 60 miles.

It will be noted that the relative increase of radius is very slight compared with the increase of power, especially above 5,000-watt power. That is because a 5,000-watt station reaches practically out to the fading point.

However, the high-powered stations play havoc with other stations. The higher the power the more blanketing interference and heterodyning is produced.

Commissioner Caldwell further testified:

> Our experience with these 50-kilowatt (50,000-watt) stations has been that they cause such interference with both sides of them that they render those channels practically useless, and I think we should go slowly in granting this increased power (p. 111).

And yet he objects seriously to interfering with the high-powered monopoly stations. (Hearings, pp. 176, 177.)

Commissioner Pickard testified that 90 per cent of the stations in this country are now heterodyned.

It must be remembered that the ether waves set in motion by a broadcasting transmitter extend ten times as far as the audible program.

High-powered stations are not needed for local reception. Neither are they needed for chain programs, which are sent over wires to the different stations and then broadcast from the different chain stations.

These chain stations—some 57 in one chain—serve the entire country with programs broadcast from station WEAF, New York. For this purpose it is not necessary or advantageous for any of these stations to have over 5,000-watt power, and, generally speaking, 500 or 1,000 watt power is sufficient. And yet there are on this chain three 50,000-watt stations and one 30,000-watt station, all belonging to the same group and in close proximity to each other.

No broadcasting station should be authorized to use over 10,000 watts or 20,000 at the very outside.

PIONEER BROADCASTING STATIONS

We are hearing much about the rights of so-called pioneer stations. It is urged by those opposing the equalization amendment and defending the high-powered monopoly stations that these stations have been pioneers in the development of radio; that they have "vested rights" in the air which can not and should not be disturbed. It is further claimed that broadcasting privileges and high-powered stations are largely concen-

trated in the small area in the eastern section of the United States, notably New York, because that section has been more active in seeking licenses and power, while other sections, particularly the South and the West, have been backward in pressing their claims.

These claims are not founded upon fact. What are the real facts?

Some of these stations were among the first licensees, but there were other stations as early as theirs, not only in the eastern zone, but scattered throughout the country. Many independent stations were established and licensed prior to some of those now given cleared wave lengths and high power and who are posing as pioneer stations.

The first broadcasting stations established and licensed were in the fall of 1921. These stations were designated as commercial land stations, later termed "limited-power" stations, and eventually listed as broadcasting stations. According to the official records, there were seven of such stations on January 1, 1922, as follows:

WCJ, New Haven, Conn.: A. C. Gilbert & Co, 360 meters for broadcasting; 300 and 600 meters for other purposes.

WDY, Roselle Park, N. J.: Radio Corporation of America, 360 meters.

WBZ, Springfield, Mass.: Westinghouse E. & M. Manufacturing Co., 360 meters.

WBL, Detroit, Mich.: Detroit News, 360 meters.

KQL, Los Angeles, Calif.: Arno A. Kluge, 360 meters.

WJX, New York City, N. Y.: De Forest Radio Telephone & Telegraph Co., 360 meters.

KYW, Chicago, Ill.: Westinghouse Electric & Manufacturing Co., 360 meters.

The number of broadcasting stations increased materially after January 1, 1922.

The Official Radio Service Bulletin, issued by the Department of Commerce in April, 1922, contains a list of licensed broadcasting stations up to April 15, 1922, there being 186 of such stations, divided among the different States, and in the present zones, as follows:

FIRST ZONE

State:	Stations
Maine	1
Massachusetts	4
Connecticut	2
New Jersey	7
Maryland	1
District of Columbia	6
New York	12
Total	33

SECOND ZONE

State:	
Pennsylvania	12
Virginia	1
West Virginia	3
Ohio	13
Michigan	5
Total	34

THIRD ZONE

State:	
North Carolina	1
Georgia	2
Alabama	2
Tennessee	2
Arkansas	2
Louisiana	3
Texas	5
Oklahoma	2
Total	19

FOURTH ZONE

State:	
Indiana	5
Illinois	7
Wisconsin	2
Minnesota	4
Iowa	2
Nebraska	2
Kansas	6
Missouri	9
Total	37

FIFTH ZONE

State:	
Wyoming	1
Colorado	3
New Mexico	2
Washington	10
Oregon	6
California	40
Hawaii	1
Total	63
Grand total	186

It will be noted that at that time there were more licensed broadcasting stations in the second, fourth, and fifth zones than in the first zone, and 19 broadcasting stations in the third zone, as compared with 33 in the first zone, notwithstanding the persistent unfair argument that the third zone is even now a "child in broadcasting" and is backward in asking broadcasting privileges.

Mr. CELLER. Mr. Chairman, I yield four minutes to the gentleman from New York [Mr. BOYLAN].

Mr. BOYLAN. Mr. Chairman and gentlemen of the House, the Radio Commission has had only one year in which to dispose of the immense amount of work that has been put before it. I think it would be very poor policy to circumscribe their work by the adoption of the amendment in the bill before us. Much money has been spent in the large cities for the erection and installation of radio plants, and that was done long before the Radio Commission was empowered to act on the distribution of wave lengths. These men in the large cities were the pioneers. They were willing to put their money in and take a chance as beginners in a new field, but now, through this proposed amendment, you come along and want to scrap millions of dollars that have been expended in and about the large cities in broadcasting stations.

Mr. GRIFFIN. Mr. Chairman, will the gentleman yield?

Mr. LAGUARDIA. Mr. Chairman, will the gentleman yield?

Mr. BOYLAN. I have only four minutes. Wait until I make a few remarks. I deprecate the effort to array the country against the cities. The country needs the large cities and the cities need the country. We in the large cities are willing to vote for almost anything the other sections of the country want. We vote for reclamation, we vote for irrigation, to exterminate the corn borer and the boll weevil.

Mr. KVALE. And for farm relief?

Mr. BOYLAN. We will vote for farm relief when the farmers agree on a bill, and we are willing to vote for flood control, and although we have had floods in northern New York and other sections of the North and East, we do not ask that part of the appropriations be allocated to us.

We welcome talent from all over the United States, and we afford them the opportunity to demonstrate their ability. Only a few weeks ago a distinguished young lady from the State of the gentleman, Mr. DAVIS, who has just taken his seat, a fair daughter of the Southland, Miss Grace Moore, came to New York from Tennessee and there made her debut at the Metropolitan Opera House. We gladly entered into the enthusiasm of her people and we gloried in her success, because it meant the success of an American girl and because it afforded the people in the great city of New York an opportunity to hear her, and the city of New York afforded her an opportunity for a display of her talents. We welcomed another young lady from the West, Miss Marion Talley, and we rejoiced in her success. We are glad that she made good, and that the great city gave her an opportunity to make good. We also welcomed a young lady from Missouri, Miss Telva. We were keen in her success. We joined with her people in rejoicing over her achievements, and we were glad to give the wonderful music-loving population of the great city of New York and the radio population of the country an opportunity to participate in those concerts and to give these young women the emoluments that were justly theirs after long years of study.

You say that the cities control the large power stations. The cities do not put any control over the air radius; the broadcasters spend their money freely in providing interesting and instructive programs. No charge of any kind is made for the excellent services rendered.

Anyone can tune in on these programs. We do not limit them to our own State. The whole United States is welcome to hear the talent broadcast by the stations in the great city of New York. [Applause.]

Do not, then, by the passage of this bill destroy the excellent broadcasting stations developed in the large cities at great cost and expense.

The cities are willing to spend the money necessary to provide the highest type of amusement and instruction. Why take away from them allocated wave lengths and assign them to zones where, perhaps, there would be no need or demand for them? The radio has a great future. Do not attempt to circumscribe its usefulness by provincial legislation. [Applause.]

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. CLANCY. Mr. Chairman, I yield to myself the balance of my time.

Mr. Chairman, I favor that portion of this bill which extends the life of the Federal Radio Commission another year, but I am strongly opposed to section 4 of this bill, which provides for

an equal allocation to each of the five zones of broadcasting licenses, of wave lengths, and of station power.

It is true that the present radio situation in this country is unsatisfactory, but this drastic and destructive equal allocation provision will not remedy the situation. Moreover it certainly fearfully damages radio, and I honestly believe that the members of the Radio Commission and practically all the experts of the radio industry are correct when they say this provision will wreck radio.

The present law is sufficient to work out satisfactory relief to the third zone which is making practically all the complaint. The present law provides for a distribution which will "give fair, efficient, and equitable radio service to each" of the zones. What words could be stronger or more compelling than "fair, efficient, and equitable"?

I was opposed to this fourth section from the very beginning. I pointed out to members of the committee defects which were most startling and most dangerous. After the bill was reported I asked for executive sessions of the committee to continue consideration of this vicious section.

FURTHER CONSIDERATION MADE NECESSARY

The distinguished chairman of our committee, Mr. WHITE of Maine, was most courteous in granting my request for executive sessions and we held four of them on this section after it was reported to the House. The committee then realized that the section considered only States and omitted the District of Columbia, Territories, and possessions of the United States. Therefore, unless amended, the section would have disfranchised over a million American citizens living in the District of Columbia, Territories, and possessions, of their radio rights. It also would have junked and destroyed the radio stations in Washington, the Territories, and possessions, and these amount to a large investment.

This plain injustice only serves to show the slipshod manner and inconsiderate treatment which the committee has given this tremendously important matter.

Mr. McKEOWN. Mr. Chairman, will the gentleman yield?

Mr. CLANCY. I regret I can not yield.

Mr. McKEOWN. The District of Columbia was omitted in the original act.

AREA AS A BASIS RIDICULOUS

Mr. CLANCY. Now, the bill when reported, and which you have before you at present, contained another serious defect. It provides for distribution of licenses, power, and so forth, in proportion to population and area. The word "area" constituted the defect and damaging principle. The aim was to use vast areas practically uninhabitable as a partial basis of awarding licenses. Such areas would include Death Valley, the deserts of Arizona and New Mexico, the "bad lands" of the Northwestern States, the Rocky Mountains, and even the 600,000 square miles of Alaska as a partial basis of awarding service to human beings.

It was a new and startling method of allocating, something novel in political theory and science. After three sessions the committee, realizing that according to the rules of the House it could not get back into committee this absurd section, agreed to submit to the House after the debate a committee amendment correcting the two monstrous defects, and undoubtedly at the proper time our distinguished chairman will present the amendment.

But, gentlemen, remember that if I had not asked for executive sessions and insisted upon some sort of reconsideration, the committee would have asked you to accept this wild and fantastic amendment uncorrected. And remember that the favorable report which accompanied the bill to the floor painted this vicious section in rosy colors and did not warn you of its startling defects.

SUBCOMMITTEE REPORT IS REJECTED

These defects are only two evidences of the hasty and careless manner in which this section has been drawn and presented. The committee's subcommittee on radio, of which Mr. ROWBOTTOM, of Indiana, was chairman, originally reported against this fourth section and said it should not be included in the bill, but in spite of that the committee went ahead and incorporated the section.

Another startling feature in the legislative history of this section is that there were no hearings on it. The committee did have some general hearings, on radio, but not on the subject of equal allocation of licenses, wave lengths, and station power.

NO HEARINGS IS UNJUST

Equal allocation is a radical departure from the purpose of the present law. It dramatically and completely changes the present law, and yet there were no hearings on it. I demanded hearings after the subcommittee report on radio was rejected, but was told I could not have them.

I did not then fully understand what disaster the section in question would work to radio, and the great majority of the members of the committee were just as ignorant on the probable effect as I was. But since then I have learned a great deal more of the iniquity in this section.

Now, I maintain that it was a plain injustice to the committee and to the House not to have hearings and get the testimony of experts on the effect of equal allocation. No member of a committee should be expected to vote on such a tremendously important question without being given a chance to get all available information on the subject.

It is also an injustice to the membership of the House that they can not get any printed hearings on the highly technical question of "equal allocation." For the past few days a newspaper controversy has raged on this subject, but the information gained thereby is not so reliable or so complete as that gained by calm, orderly hearings, with an opportunity for cross-examination of experts.

I have been told by scores of Members that they do not satisfactorily understand the radio controversy in general and this section in particular. There were very few Members in the House listening to the debate Saturday afternoon.

The only safe course to pursue when not fully understanding a radical change in the basic law affecting an important industry, as is the case on this section, must be to vote against it, and give time for further consideration for hearings. Then a law can be drawn up which will be the result of due and mature consideration. I want to make it very clear that I understand there were general hearings on the subject of radio but it is also true that no hearings were held on this section 4 and what its language would do to the radio industry. I maintain our committee membership, and therefore the House, did not get hearings with the testimony of radio experts explaining just what equal allocation of licenses, wave lengths, and station power for 90 days would do to radio.

Now, I also maintain it was unfair and unjust to the radio industry as a whole not to have hearings so that the American citizens, who have millions of dollars invested in stations and in receiving instruments, could give their opinion. Radio after all belongs to the people as a whole, and they are entitled to be heard.

Certainly also the Federal radio commissioners should have been allowed to tell how unworkable this proposed law would be. They are the ones who will have to bear the burden of the grief and anxiety of trying to enforce a bad law.

GENERAL SHAKE-UP AND SHAKE-DOWN EVERY 90 DAYS

I don't believe many of our committee realized that this law provides and makes it mandatory, too, that there shall be a general drastic shake-up of the entire radio industry every 90 days, for none of these broadcasting licenses are good for more than 90 days.

I think the House in general will be startled to learn that this section provides that there shall be an equal allocation every 90 days of licenses, wave lengths, and power. There can not be any fooling about it. The commission must get at it and whittle down some zones and build up at least one zone so that there are an equal number of licenses, and so forth, in each zone.

Every 90 days the whole mess is thrown on the table of the Federal radio commissioners and they arbitrarily, numerically, mechanically, and mathematically begin to cut and hack.

If a station goes out of business in any zone, if it goes bankrupt or is burned down, then a station or stations must be put out of business in each of the four other zones so that there is an equal allocation of licenses, wave lengths, and of station power.

This section compels just that or it does not compel anything. Can you contemplate anything more monstrous than that, anything more unjust, more unfair to American business men and the great common people who want to hear from certain stations?

CAN NOT HAVE EQUAL NUMBER OF LICENSES

Now, consider another weird provision in this section. It calls for an equal allocation to each zone of licenses, wave lengths, and of station power. Now, here is where this section so hastily drawn piles up too much language. If it had only called for an equal allocation of wave lengths and of station power, the commission might have worked out something satisfactory and complied fairly well with the wording of the section.

But when you say the number of licenses also must be equal in the five zones, then you include a mathematical and mechanical impossibility, for you all know that each station does not ask for the same power, for the same number of watts—one may want 500 watts and another may need 1,000 watts, and again two licenses may share the same wave length.

Mr. O'CONNELL. Mr. Chairman, will the gentleman yield?
Mr. CLANCY. Yes.
Mr. O'CONNELL. If the bill is as rotten as that, why should it be before us at all?
Mr. CLANCY. I will say to the gentleman that the committee, the majority of the committee, were rather ashamed of the way this measure came out, and they would just as lief have it forgotten.

WHY NOT EQUALLY ALLOCATE ALL INDUSTRIES?

Now, gentlemen, if this wonderful principle of "equal allocation" is going to be a panacea for radio and treat all zones of the country fairly, why not try it on other industries? Why not use its marvelous healing powers more generally?

Everybody knows that industries, means of communication and transportation, and Government services are more centered in the North and East and Middle West than they are in the southern and far western sections of the country.

If the proponents of this section are logical and sincere, they will present a bill to force the Interstate Commerce Commission to divide up the railroads of the country into the five zones, and they should do it every 90 days.

They will also present a bill to force the Federal Trade Commission to arbitrarily divide up the Western Union and Postal Telegraph Cos. into five equal zones and every 90 days, and particularly they must do that to the moving-picture industry and to the newspaper industry, for the movies and the newspapers influence people and may be suspected of propaganda. They also advertise American products and sell American goods and help American industry and promote American prosperity.

Why not zone the newspapers, big and little, and particularly cut down the circulation of the great newspapers of New York City, Chicago, Pittsburgh, Detroit, and other large cities? If they domicile in the big cities, surely they must be wicked and un-American.

NO DISCRIMINATION AGAINST SOUTH

Now, gentlemen, I certainly have no desire to discriminate against the South in the distribution of radio, and I do not believe there is any member of our committee who wants to discriminate against the South in radio or in any other respect. In fact, one or two of the southern members of our committee have been kind enough to say that the committee as a whole wants to help them solve their radio problem.

I do not have much faith in the statements that the Federal Radio Commission has discriminated against the South. I can quote the best authority in the country on that question, and that man is Commissioner E. O. Sykes, of Mississippi, who is acting chairman of the Federal Radio Commission. He represents the southern zone on the commission, and he says flatly in a recent letter to Senator KENNETH MCKELLAR, of Tennessee:

WHAT THE SOUTHERN COMMISSIONER SAYS

There is no discrimination against our section by the Federal Radio Commission; on the contrary, I find the other members quite sympathetic with our needs, and believe that my recommendations, or practically all of them, for increases in power will be granted.

Mr. DAVIS. Will the gentleman yield?
Mr. CLANCY. Yes.
Mr. DAVIS. The fact that he takes that position in the face of the record which his commission has filed with the committee shows that the people can not rely upon him to protect their interests unless we give specific direction to that effect.

Mr. CLANCY. I will say to the gentleman from Tennessee that if he wishes to impeach Judge Sykes, then he must impeach Senator HUBERT STEPHENS and Senator PAT HARRISON, who recommended him and who had him reconfirmed. He must impeach every southern Senator who was willing and anxious to have him confirmed. He must impeach Mr. ABERNETHY, who indorsed Judge Sykes on Saturday, and he must impeach the two gentlemen from Mississippi, whose constituent he formerly was, Mr. RANKIN and Mr. COLLIER, and he must criticize Mr. BLAND, of Virginia, who praised Sykes.

Now, who is Commissioner Sykes? He was a justice of the State Supreme Court of Mississippi for nine years, and is now 52 years old. He comes from an ancient English Cavalier family which settled in Virginia in the early colonial days, and gained the distinction of being an F. F. V. His grandfather was killed in the Civil War by General Grant's men at the Battle of Fort Donelson. He was fighting on the southern side. So was the father of Commissioner Sykes in the Civil War, and he was wounded three times in action.

Now, that is the kind of southern stock that Judge Sykes comes from. He was appointed to the Federal Radio Commission through Senators HUBERT STEPHENS and PAT HARRISON. The gentleman from Virginia [Mr. BLAND] paid him a personal tribute here on Saturday, and other distinguished southerners did also.

Recently he was confirmed with the assistance and consent of all the southern Senators. He enjoys the honor and distinction of being the only member of the commission who has been confirmed, and he has been on the commission since it was formed. He appeared before our committee for several days and I am sure he impressed practically all our members as a fair, honorable, intelligent, and patriotic man.

ARE SOUTHERN MEMBERS OF CONGRESS TRAITORS

Yet he has been roundly abused as a traitor to his zone and to the Southland by an unscrupulous broadcaster in Louisiana, but if Commissioner Sykes is a traitor to the Southland it naturally follows that our colleagues here and in the Senate who believe in Sykes are wrong.

Judge Sykes has also been criticized as a "me-too" man who did not stand boldly for the South and as one who was dominated by another member of the commission, but as a matter of fact Judge Sykes has often opposed this very commissioner; and as a trained judge and a man of strong convictions he is not a "me-too" man, and was never known as such during his nine years on the Mississippi bench.

Now, he says further in his letter of February 28, 1928, to Senator MCKELLAR, and which is printed in the CONGRESSIONAL RECORD of March 7, 1928, on page 4351:

With reference more particularly to the third or southern zone, the Federal Radio Commission during its existence has increased the power of a great many stations in this zone, and has a number of applications for increase in power, which I have recommended, and which I think will be granted just as soon as a majority of the commission has been confirmed by the Senate.

Our people in the South, because of lack of large cities, financial backing, etc., have not been in a position to ask for very great increases in power. For instance, the most powerful stations we have at the present time have only 5,000 watts. These stations are satisfied with that power. I have personally taken the matter up with a number of good stations in the South, and recommended to them that they request increases in power in order to serve our part of the country, and have gotten some responses to this appeal.

PICKARD IS NO COWARD

I have heard Members on this floor denounce the members of the Radio Commission, and yet my investigations, particularly of Judge Sykes and Commissioner Pickard convince me they are able, fair-minded, and honorable men. I was informed that Commissioner Pickard has been called a coward in the Halls of Congress.

Why, gentlemen, he gained a great reputation as a hero in the World War, and he is the last man in the world to deserve the epithet of "coward." He flew his airplane across the German lines and was wounded in battle within the enemy lines. He is dearly beloved by many of the leaders of the American Legion and widely respected as a brave, brainy man. These men of the American Legion particularly resent the unbridled abuse that is being heaped on Commissioner Pickard. He could swing them into action for him with telling results, but he has been too modest and too much a gentleman to answer the attacks so unfairly made on him.

Give the Radio Commission a fair, fighting chance. Do not hamper them further with this absurd legislation, and they will make good.

Radio is too precious a gift to mankind to be toyed with by new legislation of this character. I have seen it grow from the very humblest beginnings.

RADIO PRECIOUS AND GROWING

About 25 years ago, according to my recollection, I remember advising with a friend of mine, Robert Oakman, a prominent citizen of Detroit, to get financial aid for a struggling inventor who was working on radio. We went to John F. Dodge, the multimillionaire automobile manufacturer and former partner of Henry Ford, and Dodge gave the inventor $2,500 to buy food and the necessities of life while he worked on radio, and promised him more if necessary. The result was the first radio in Detroit, Clark's wireless, as I recall it.

Detroit was also the first city in the country to have the vision and the public spirit to establish a regular broadcasting service and that was done by the Detroit News. This newspaper hired a whole symphony orchestra to delight the farmer and the far-distant citizen who had never, in many cases, heard a symphony orchestra.

So you can see from these instances of the hungry inventor and the first American broadcasting service that radio has come up like all great American industries and all grand blessings to

mankind, through hunger and suffering and service and benevolence and enterprise.

In Heaven's name do not injure or wreck radio while in the throes of a legislative brainstorm.

I stood on the floor of this House four years ago when the appropriation for the United States air mail was knocked out, and it could only have been done because the Members did not understand aviation. But now we have had the investigations of Col. William Mitchell; we have had Lindbergh's flights, and there is not a Member who dares now to talk against commercial aviation. The United States air mail was assassinated on the floor of this House, and that was the service in which Lindbergh was trained. When Lindbergh was here the other day, in hiding for two nights after he had flown here through the night from St. Louis, he told about his approach to the city of Washington. He said that when he came within sight of Washington a great light lighted up the sky. He wondered whether it was Washington. It was red, it turned green, and then it turned yellow, and he finally realized it was the morning star. He said it was beautiful and was mysterious. Then I took some satisfaction in the fact that if I had not fought, to the best of my ability, for the United States Air Mail Service—and I was assisted in that fight by the gentleman from Tennessee [Mr. BYRNS]—probably we would not have had any Lindbergh. And radio is as beautiful and mysterious and as full of hope to struggling humanity and a darkened world as the morning star!

Now, in God's name, give radio a chance. Give it a chance to develop its Lindberghs. Do not take this hasty and ill-considered action.

A WILD DEPARTURE

This amendment is a radical departure from the purpose of the present law. Congress, by the language in the present law, undertook to insure, as far as possible, equitable radio service to the listening public in every section of the country. The right to operate a broadcasting station depended on the wishes of the listening public.

The amendment asserts an entirely different theory as a basis for granting a broadcast license. The proposed amendment requires that each zone shall have an equal number of stations, an equal amount of power, and an equal number of waves or channels. The citizens of each zone have no choice. They must take these stations, power, and waves, and the power of each of the zones must be equalized every 90 days, which is the license period specified by this amendment. The unavoidable result will be that the uniform number of stations, power, and waves will be controlled by the zone having the least number of stations, power, and waves. It can not be otherwise because the law will require an equality, and there is nothing in the law which permits the forcing of an increase in number of stations or the power to be used. The number can be decreased or power decreased but not increased. This means that four of the five zones must be cut in stations and power.

CHARGE AGAINST PUBLIC INTEREST

The desires or the will of the listening public in any zone is not a factor to be considered in determining the number of broadcast stations they shall have. The ability to obtain acceptable material for a continuous broadcast program is not a factor which can be considered. Each zone must have an equality of stations, power, and waves. The question now before Congress is not hard to understand. If the listening public is more anxious to have a broadcasting station located in their community than it is in the character of program it receives, then they should favor the amendment, because it provides for equal number of stations; but if the public is more anxious to have a variety of good programs from stations capable of getting material and talent to make a good program, then the public should oppose this amendment. They must choose, because they can not have both if this amendment becomes a law.

ONE-THIRD OF THE PEOPLE LOSE RADIO

Members of Congress who favor this amendment will argue that it gives to each section of the country an equality of stations, power, and waves and such an arrangement will not interfere with the reception of distant stations. All it will do is to cut down the number of the distant stations in order that you may have your own local radio stations, the same as the people in the larger centers. This sounds attractive, but not a single Congressman who takes this position ever operated a broadcasting station in his life, knows comparatively little of the practical side of broadcasting, and his promise is the mere guess and hope of an uninformed person as to what will happen if his scheme is tried. On the other side, you have the radio engineer and operators of stations who have had years of practical experience, who state that the amendment will not produce any of the results claimed by the proponents. They insist that the amendment requiring an equal distribution of stations, power, and waves will destroy all radio receptions for at least one-third of all the people who now own receiving sets and will prevent 50 per cent of the entire population of the country from receiving any station more than 75 miles away from their homes. Figure out how many stations you now receive which are located more than 75 miles from your home and you have the answer to what the proposed amendment will do to your radio reception.

CONGRESS PARTLY TO BLAME

Members of Congress who favor this amendment are pointing to the present condition of radio as an argument why Congress should do something to improve it, but they fail to tell you that the radio chaos of 1926 and 1927 was caused by a mistake which Congress made in the radio law of 1912. They also fail or deliberately refuse to tell you that the present bad condition was at least partially caused by another mistake of Congress in creating a Federal Radio Commission and then failing to give them any help or money to employ the necessary help and that the members of the commission have been working without salary.

Someone said that two wrongs never make a right, and one might inquire from Congress how three mistakes can improve two mistakes. This amendment was inserted without any advice from experts or hearings to determine what it would do, and this amendment was the product of unadulterated wishes and not wisdom.

BIG STATIONS INJURED

The proponents of the amendment assert that it will diminish the power and the number of stations in certain sections, such as New York, Chicago, and so forth. They positively assert that it will cut the power of KDKA at Pittsburgh; WEAF at New York; WJZ at Bound Brook, N. J.; WGN at Chicago; WOR at Newark; and many other outstanding stations who have millions of listeners. The Federal Radio Commission gets more complaints from listeners if KDKA of Pittsburgh does not come through clear than from any other station.

This means that millions of people throughout the country will not be able to get any of the larger stations which may have been their favorities. It means that millions of listeners who have enjoyed the remarkable talent of Chicago, New York, and the other large cities must give up this luxury and accept the local talent of their respective communities. Congress is about to legislate that millions of listeners can not in the future have the programs from Chicago, New York, and so forth. Because they are bad? No; just because a few Members of Congress feel they are doing a great public service by giving to each section of the country exactly the same number of broadcasting stations.

Many of these sections have always had the opportunity to get and have a broadcasting station, but they do not want one because they prefer to get their entertainment from a large city where there is an abundance of talent. They prefer to go to the theaters in New York, Chicago, Cincinnati, and so forth. They prefer to listen to the remarkable metropolitan orchestras led by such peerless musicians as Walter Damrosch, and so forth. But Congress says, "No; hereafter you must build your own theaters; you must import into your own communities the metropolitan orchestras."

The CHAIRMAN. The time of the gentleman from Michigan has expired.

Mr. WHITE of Maine. Mr. Chairman, may I inquire as to the time remaining?

The CHAIRMAN. All time has expired except that assigned to the gentleman from Maine, who has 25 minutes remaining.

Mr. WHITE of Maine. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, I join with the last speaker in giving assurance to the House and to the committee that some of the Members of the House have little knowledge of existing law, have little knowledge of the present situation with respect to radio; that they know little of the hearings that took place in the committee; that they know little of the purpose or of the effect of this amendment, but I deny that is true generally of our committee members. At this time I state to you men, members of this committee, there were hearings held. They occupied 12 days of time and they are represented here in this volume [indicating], and a very substantial portion of the time of the 12 days was devoted to the consideration of the particular matter now engaging the attention of the House.

Mr. CLANCY. Will the gentleman yield?

Mr. WHITE of Maine. No; I beg the gentleman's pardon. I have much to say, or at least I think I have, and I want to go on in my own time.

Now, may it please the members of the committee, I want in the first instance to tell you something of the matters other than this amendment of section 9 that are in this legislation.

This is a Senate bill. It involves in the first instance an extension of the original jurisdiction of this commission for one year's time. The original act, the existing law of 1927, gave the Radio Commission original jurisdiction for one year, and thereafter made of it an appellate body only. The first section of this bill extends that original jurisdiction for one year from the 16th of this month.

The second section of the Senate bill provides, it seems to me, in an entirely logical way, for the salaries of these members for the additional year.

The third section of the Senate bill sought to change the tenure of office of these commissioners fixed by the original law at two years, three years, four years, and so forth; and to provide that the existing commissioners should have a tenure of but a single year and that at the end of that year the commissioners then appointed should have their terms of office fixed as by existing law. The House committee was against this suggestion, believing it to be aimed primarily at the present members of the commission, believing also that if these commissioners were improper persons to perform the duties of this office the remedy of the other body was by a rejection of their nomination and not by this change in the tenure of office.

The fourth section of the bill is the amendment which now engages your thought.

There has been much misapprehension as to what the terms of existing law are. There has been reference to this law as providing that there shall be equitable service throughout the different sections of the country, and this is the only thing you have heard said about existing law; but this is not all there is in the present law.

The particular section of the law which we seek here to amend has in it three principles, and first and dominant, I should say, is the principle of equitable service. But equitable service to whom?

Why, gentlemen, read the language of the law, and it is perfectly obvious that this equitable service is not to the people of one section of this country alone, but it is all the States and all the communities of this country. [Applause.]

How is this to be brought about? Gentlemen, the very letter of the law points out how this equitable service is to be attained. It is to be accomplished by a distribution of licenses, of stations, of wave lengths, and of power among the different States and the communities thereof; it is to be brought about—get this—by a distribution among the States and among the communities thereof. This is the way this equitable distribution was to be brought about.

Now, gentlemen, has this been done? Let me point out to you the situation which confronts the country and which was in the minds of the members of this committee when we undertook to legislate or to recommend legislation upon this subject.

Mr. TUCKER. This distribution is by the commission?

Mr. WHITE of Maine. The distribution is by the commission.

Let me take this up in three or four different ways.

Take it in its general aspect and see what you have with respect to an equitable distribution among the States and communities thereof. The law set up five zones. Those zones are almost equal in population. What do you find when you analyze the figures? Here is the third zone, comprising, I may say, the Southern States of this Nation, extending from North Carolina down along the Atlantic seaboard, following the Gulf and taking in the great empire State of Texas, with a population of almost 25,000,000 people, and we find they have the smallest number of stations allocated to any of the zones. If you look at it in terms of power, that zone, with 23.14 per cent of the population of the United States, has less than 8 per cent of the power allocated to the United States. First in population, least in number of stations, with less than 8 per cent of power allocated to the people of the rest of the United States! Who can say with respect to this situation that there is an equitable distribution among the States and among the communities of this Nation? [Applause.]

Take the fifth zone; that is the zone that takes in the great Rocky Mountain area. It takes in the Pacific coast and has an area approximately of 1,775,000 square miles. With approximately one-half of the whole United States in area, it only has 10.2 per cent of the power allocated within the United States. That vast empire stretching from the eastern foothills of the Rocky Mountains through to the coast, taking in the Territory of Alaska, taking in the Hawaiian Islands, has half the area of the United States, and only 10 per cent of the power allocated within the United States.

Take my own first zone. In area it has less than one twenty-fifth of the area of this fifth zone, and it has 36 per cent of all the power allocated within the United States. Then talk to me about equal distribution among the States and communities thereof. [Applause.]

Take the first zone again and see what exists with respect to it and other parts of the country. All New England with 1,000,000 more people than the State of Illinois has 26 less stations than the single State of Illinois, and only a little more than one-third of the power of that single State. New England with a million more population than the entire State of Illinois has less stations within her territory than are allocated to the city of Chicago alone. And you talk to me about equal distribution. [Applause.]

Within the first zone what do we find? Taking the State of New York alone—and I am speaking only of the first zone—the State of New York alone in the first zone has 72 per cent of power of that zone while the adjoining State of Connecticut has one-tenth of 1 per cent of the power—72 per cent in New York, and one-tenth of 1 per cent for Connecticut. Talk to me about equal distribution. [Applause.]

Go to the second zone and what do you find? Take Kentucky, with one-third the population of the State of Pennsylvania. It has one-fifteenth the number of stations of Pennsylvania, and there has been accorded to it one-fiftieth of the power accorded to the State of Pennsylvania.

Take West Virginia, with one-sixth of the population of the State of Pennsylvania, and it has one-fifteenth of the number of stations accorded Pennsylvania, and has one one-hundred-and-fiftieth of the power allocated to the State of Pennsylvania. The State of Pennsylvania, speaking in terms of power has substantially the same power accorded to it that is given the entire fifth zone.

Go to the next zone. Take Indiana for illustration. With 500,000 more population than Iowa, it has seven less stations than Iowa and one-quarter of the power.

I see the gentleman from Wisconsin before me. The State of Wisconsin, with one-third of the population of the State of Illinois, has one-fourteenth of the power accorded to the State of Illinois. It has not a single station in excess of 1,000 watts, while Illinois has 13 stations with 1,000 watts or more. I ask the gentleman from Wisconsin if he considers that an equitable distribution among the States?

Take Kansas, with 500,000 more population than Nebraska and one-half the number of stations that Nebraska has, and I ask the committee if they call that an equitable distribution. I do not.

Go to the southern zone and what do you find? Here is the State of Georgia with approximately 3,000,000 people, with five stations with 1,950-watt power, while the State of New Jersey—and this may explain in some measure the attitude of some of those who may hereafter speak—with only about 260,000 more people, has 21 stations with over 17,000-watt power.

South Carolina, with slightly less population than Kansas, has a single station of 75-watt power, while Kansas has eight times as many stations and eight times the volume of power. Why, my friends, do you know what an analysis of this thing shows? It shows that 10 Southern States, excluding the State of Texas, with over three times the population of Illinois, have but one more station than the single State of Illinois and are privileged to use only one-third of the watt power of that single State. These 10 Southern States, still excluding the State of Texas from consideration, have but a single station with 1,000-watt power or more, while the State of Illinois has 13 such stations, and there has been granted another there with 50,000-watt power.

Mississippi with 500,000 more people than Nebraska has a total of 250-watt power, while Nebraska has seventeen times that number of stations, and about twenty-nine times the power allocated to it.

Mr. QUIN. How many stations are there in Mississippi?

Mr. WHITE of Maine. One! North Carolina, South Carolina, and Georgia, with approximately 8,000,000 people, have the same number of stations that the small State of Rhode Island has, with 600,000 people. The same privilege is accorded to 600,000 people in the State of Rhode Island that is meted out to 8,000,000 people in North and South Carolina and Georgia. I might multiply these illustrations almost indefinitely.

Compare the fifth zone, which has half the area of the whole United States, and the fourth zone. This single zone has almost three times the area of the fourth zone, but that fourth zone has 84 more stations than the fifth zone, and 103,000 watts more power allocated to it. The fifth zone is fourteen or fifteen times larger in area than the first zone, but it has seven less stations than the first zone, and between

a third and a quarter of the power allocated to it. I wish I had time to tell you something about the high-powered stations within the United States. There are in the United States 43 stations with 5,000 watt power and over, and in this entire southern zone of almost 25,000,000 people there are just 3 of these 5,000 watt stations. Three out of 43, and again excluding the State of Texas, there are in these 10 Southern States, with 20,000,000 people, but a single 5,000-watt station—1 out of 43—while in the single State of Illinois there are 11 of these stations of 5,000 watts or over. And they talk to me about equitable distribution and equity and justice in the management of this situation. [Applause.]

I do not like to talk and rave about monopolies, but there are some significant things to be observed. Take the city of New York. I do not know that I particularly blame the membership from New York City for being here, but what is the fact? There are allocated to the stations in New York City, if we charge to this city those stations which have their studios there, in round numbers, twice the power allocated to the great southern zone of 11 States. There is allocated to that city alone almost 37,000 watts more of power than to that great fifth zone, comprising half of the United States.

Mr. BLOOM. Mr. Chairman, will the gentleman yield?

Mr. WHITE of Maine. No. And if you go into it further, getting down to individual stations, what do you find? Here are 12 stations owned by the General Electric, the Westinghouse, the Radio Corporation of America, and the National Broadcasting Co. which, speaking in terms of radio, constitute a single interest, and there are allocated to this interest 215,000 watts power, which is one-third of all of the power throughout the United States, one-third of all of the power allocated to, roughly, 675 other stations. Talk to me about equity under this existing situation! [Applause.]

That is the situation brought to the knowledge of your committee. And what were we to do about it? This amendment is the answer of your committee to this inequality, to this injustice. Where did this amendment spring from? What was the inspiration of the amendment? The chairman of the Federal Radio Commission, the only lawyer appointed, the only member confirmed, suggested to us that the proper construction of the law was that there should be a pro rata quota among the States, and if that is not precisely what we have undertaken to do among the zones, then I do not know what language means. [Applause.] We have provided for the zones of this country an equal division of stations and power and wave lengths. We have stopped there and then have provided that within these zones there may be the exercise of discretion, that other elements may be taken into account, and that there shall be a fair and equitable distribution according to population. On that amendment I stand, and to that amendment I give my cordial support. [Applause.]

What is back of the opposition to this amendment? Strip it of everything, look at it in all its hideous nakedness, and this is a fight by those who are in to stay in. This is an assertion on the part of those who oppose this amendment that they have vested rights. They are asserting a right above the obligation of this Congress to legislate in behalf of the whole United States. [Applause.] They are asserting the right to hold that which they first acquired. They are seeking to foreclose by their opposition to this amendment the future of this great southern zone, and they are seeking to foreclose the future of this great section of our country lying to the west.

My friends, let me tell you that if you have only a local viewpoint, if your ears are attuned only to the call of selfishness, if you subscribe to the doctrine that any station has rights superior to the authority of this Government, if you are indifferent to inequality and injustice, if you can see a part only instead of the whole United States, you will be opposed to this amendment; but if you see this Nation as a whole, if you visualize the American people as one people, and if you think of this United States of ours as a Union of sovereign and equal States, then you will support this amendment. [Applause.] That is the conception that I urge upon you, for which I ask your loyalty, and in behalf of which I plead for your votes. [Applause.]

The CHAIRMAN. The general debate is exhausted. The Clerk will read the bill for amendment.

Mr. LEHLBACH. Mr. Chairman, I make a point of order.

The CHAIRMAN. The gentleman will state his point of order.

Mr. LEHLBACH. I make the point of order that there is no quorum present.

The CHAIRMAN. The gentleman from New Jersey makes the point of order that there is no quorum present. [After counting.] One hundred and ninety gentleman are present. A quorum is present in the Committee of the Whole. The Clerk will read.

The Clerk read as follows:

Be it enacted, etc., That all the powers and authority vested in the Federal Radio Commission by the radio act of 1927, approved February 23, 1927, shall continue to be vested in and exercised by the commission until March 16, 1929; and wherever any reference is made in such act to the period of one year after the first meeting of the commission, such reference shall be held to mean the period of two years after the first meeting of the commission.

Mr. LAGUARDIA. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from New York moves to strike out the last word.

Mr. LAGUARDIA. Mr. Chairman, if I came from a State that fared as badly as some of the States outside of the zone in which my State is located, I would fight like a demon to get the rights that belong to my State. [Applause.] The positions being reversed, I am ready to grant the same consideration I would expect to those States not getting a fair deal under the present conditions. [Applause.]

Mr. Chairman, it would be a calamity if the broadcasting powers were to be concentrated in one or two points in this country. We must look at this new means of communication and education as a great national necessity. [Applause.] It is simply absurd, it is ridiculous, to so construe the law as to hold that equal service means equality in ability to receive.

Why, gentlemen, what would you say if the post office were so conducted that some of the States could receive all the mail they wanted from New York and other large centers, but would not have sufficient means and facilities of sending mail to other parts of the country? [Applause.]

I want to take exception to the statement put into the RECORD by my colleague from New York [Mr. CELLER] intimating or suggesting that any individual or company may acquire the right to a monopoly of the air. There is no such thing as a vested right in broadcasting, no matter how great the investment or how many years a company may have operated. Let the RECORD show clearly that in passing the act of 1927 and in considering the bill now before the House it is the clear, unequivocal intent of Congress that no one operating under a temporary license acquires any permanent rights for the future. The ownership and right to the use of the air is vested in the people, and individuals or private companies may use the air only under license from the Government. I do not see why my colleagues from New York City take the position that they do. Permit me to say to my colleagues coming from the great city of New York at this time——

Mr. GRIFFIN. Mr. Chairman, will the gentleman yield there? Does not the gentleman know that I am with him in this matter?

Mr. LAGUARDIA. I know the gentleman is with me.

Let me say to the majority of the Representatives from New York, my colleagues, coming from the great Democratic Party of New York, when the eyes of the country are directed to the leadership of their party in that State, that if instead of assuming a narrow, provincial, and selfish position, you would display a broad, generous, national attitude toward the other States, you would be doing more for that leadership of your party. [Applause.]

This is a national question. This great means of communication, of exchanging thought, gives the control to whoever controls the broadcasting powers to mold public opinion; and I submit, Mr. Chairman, that the generous people, the country-loving people of the city of New York, understand the situation. They are as anxious to tune in and hear the thought and the viewpoint of the South and West and Middle West as they are to hear themselves and their own sectional viewpoint. I believe that the amendment that has been so criticized is not only timely but it is absolutely necessary. It is in proper parliamentary form, and it finds itself properly on the bill before us. I shall support this amendment, assuming full responsibility for what I do, because the people whom I have the honor to represent in New York City are always willing to give a fair, square deal to their fellow countrymen in other parts of the United States. [Applause.]

Mr. CELLER. Mr. Chairman, I yield to the gentleman from Mississippi [Mr. QUIN] five minutes.

The CHAIRMAN. The gentleman from Mississippi is recognized for five minutes.

Mr. QUIN. Mr. Chairman and gentlemen, the gentleman from Maine [Mr. WHITE] gave facts and figures to this House which certainly entitle his amendment to the very highest

degree of careful, legitimate, intelligent consideration. We have in this country monopolies. Everyone who runs for the United States Senate or who is a candidate to be a Member of the House of Representatives always asserts that he is against combines, trusts, and monopolies.

The trusts, despite all this talk, have been growing and growing, until to-day they dominate practically every legitimate line of industry in this Republic. Within the last few years there have been important inventions which have become necessities of human existence in this Republic. Monopolizing these industries has been not only a profitable pastime, but it has been considered a legitimate business. The power that God placed in the water of the earth has been monopolized, until there is a great giant to-day straddling this Republic, with one foot upon the Atlantic and one foot on the Pacific, and to-day his face is turned toward the South for the purpose of capturing the control of the air. The water power has already been monopolized; and we find, after the short time that the radio has been invented, that a monopoly exists and is paramount in this Republic.

Do not misunderstand that the radio is a necessity. The transmission of beautiful programs of music and the transmission of every line of intelligence by radio is now a household necessity. The poor man can sit back in his little cottage or in his little log cabin and listen to the finest music that is produced; he can listen to the most charming voices; he can listen to the finest instrumental music and to the greatest orators of the world. Are we going to sit idly by and let this radio monopoly, composed of a few giant corporations, with their watered stocks, rob these poor people, the unfortunates of this Republic, of their real chance to hear all of these fine things over the radio? [Applause.] Yet that is what is being done to-day.

According to the table submitted, the State of Mississippi, which I have the honor to come from, has one little, insignificant station with only 250 watts. [Laughter and applause.] Can you conceive of such an injustice? Can you conceive that a great State, with 2,000,000 people, with this radio monopoly controlling, as it does to-day, has but one little station of 250 watts? And they seem to even be jealous of that, and they have influence somewhere to keep anything from being done by the commission.

I want to say, gentlemen, that in my judgment, if this amendment is killed to-day, this Congress would do a good day's business to kill the entire bill and put the Radio Commission out of business. [Applause.] The people of the United States then might get a law through Congress that would give justice and there would be an equitable distribution of radio power and wave lengths to all the States according to their population. It matters not to me if it is a State in the southwest portion of this Republic with only 100,000 people—they are entitled to their pro rata share of the air the same as the greatest city of this Republic.

The CHAIRMAN. The time of the gentleman from Mississippi has expired.

Mr. QUIN. Mr. Chairman, I would love to go on for five minutes more.

The CHAIRMAN. The gentleman from Mississippi would love to go on for five additional minutes. Is there objection?

There was no objection.

Mr. QUIN. I thank you, gentlemen. These gentlemen who are fortunate enough to come from the large centers, like New York and Chicago, I am sure will do the clean thing and vote that this amendment shall be adopted in order that all the States of this Union shall receive their just pro rata share under this legislation.

The air was presumed to be free. You have always heard that God gave us free air. The air belongs to all the people, but, lo and behold, a few of these great monopolistic corporations have combined to control the air.

I have never believed that you could have a commission, appointed by an honest President of the United States, that would put this in the power of a great monopoly, so that great corporations could rob all the people and secure a monopoly of the free air of this country. When you strip it of all its verbiage that is exactly what has happened.

If this Radio Commission can not control it under the law and when its chairman said he understands that equitable distribution to be what the law intends, then Congress must come with unmistakable language and make it mandatory that it shall be done. That is the only way the States and all the people of this Republic will receive what is coming to them under the legislation which we have already passed. We can not afford to sit idly by and say trust the commission to do it. I do not know why it has been that only this small amount of power and one little old station is allowed for the State of Mississippi. I can not say why it is that 10 Southern States, excluding the State of Texas, have only 8 per cent of the power, when there are only 48 States in this Union. Yet that is exactly the thing that has happened and it will continue to happen. I said that Texas was excluded, but I believe Texas is included in that lot; a great State that stretches over the southwest portion of this counry and covering as much territory as five ordinary States of this Union. As I say, I do not know why under the present operation of the Radio Commission those States are only allowed 8 per cent. And, by the way, gentlemem, one gentleman—and he is a good man, too—is on that commission from the State of Mississippi. If we did not have him on there, do you reckon we would have even that 1 station and 250 watts? [Laughter.] I trust that the gentleman on that commission from that State can at least see that we get a little more allowance of voltage than is permitted to-day.

But, gentlemen, if I lived in the city of New York or in the city of Chicago, I would vote for this amendment. I would vote to give all the people of this country and all of the States their just pro rata share of the radio power they are entitled to, as well as the voltage and number of stations. I would vote that they have that right under the law which Congress passed. The legislation is all right. There is nothing the matter with the law as it stands, but it is the determination that the commission makes, and since they have taken that attitude it is binding on the Congress to put this amendment in the law so it can not be misconstrued. These gentlemen have misconstrued what Congress intended. We know that the Congress of the United States intended to be fair, equitable, and just in making a pro rata distribution among all the States. I thank you, gentlemen. [Applause.]

The CHAIRMAN. The time of the gentleman from Mississippi has again expired. Without objection, the pro forma amendment will be withdrawn.

There was no objection.

Mr. CROWTHER. Mr. Chairman, I move to strike out the last two words.

Mr. Chairman and gentlemen of the committee, the chairman of the committee a few moments ago certainly indicted the Federal Radio Commission that endeavored to function under the last law.

This is a matter, gentlemen, that there is no need of getting unduly excited about. For the moment I thought this was a masquerade ball. I scarcely recognized the chairman, the gentleman from Maine [Mr. WHITE], disguised as a special pleader for the people and a trust buster. [Laughter.] He was indeed clever in this new rôle. There is nothing, as I say, to get unduly excited about, and the question here seems to hinge on the two words "equal" and "equitable" as regards distribution of power.

The chairman of the committee came down here and made a very forceful speech and cited existing conditions as to a preponderance of stations in some zones, how few there were in other zones, and how unfair had been the distribution of power, and then dramatically exclaimed, "Talk to me about equitable distribution!"

Then the gentleman from Mississippi [Mr. QUIN] states that there is only one broadcasting station in the State of Mississippi. Who is to blame? Is it the fault of the Radio Commission? The Radio Commission does not organize, finance, and build radio stations and allocate them to the States. They only act upon license applications when the initiative has been taken by progressive people with capital who build the stations in the various cities of the States.

The fact of the matter is, folks, those of you who have radios, and nearly everybody has one nowadays, know if you attempt to get somebody on the radio whom you wish to hear five hundred or one thousand miles away, who has perhaps written you that he was going to speak or sing at a certain hour and you have several of his friends come in to hear him, you find it is almost impossible to do so. Why? Because, in the first place, with respect to the first 200 of these stations that are listed, from 199 meters up to 217 meters, there is scarcely an instrument that is on the market to-day that you can tune one of those stations in on, unless you reside close to the station, or are within its field. Here in Washington we have a station broadcasting on 202 meters down here at Mount Vernon, WTFF—the Fellowship Forum, so called—they use 10,000 watts, and when you are within the field of a station of that kind you can hear it on almost any instrument; but if you are outside the field and the coils are not the proper size and the condensers of proper construction and capacity you can not tune in a station that is broadcasting on these very low wave lengths.

The necessity of perfect reception is what has made chain broadcasting popular. I live in a city where we have one of the pioneer stations. A school boy was asked the other day by his teacher, "How do you spell Schenectady?" He answered, "WGY." This was the easy way to spell it, and this bill is the easy way out of the difficulties that faced the committee. They incorporated this section 4, and then the chairman [Mr. WHITE] waxed eloquent in his charges of unfairness on the part of the commission, and trembled with emotion as he shook the trust bug before our eyes.

We passed the act a year ago providing for the appointment of a radio commission, but the fact is that at no time has it functioned at full capacity. Death claimed two of its ablest members, and its membership is not yet complete.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. CROWTHER. I ask unanimous consent to proceed for 10 minutes more.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. CROWTHER. We had 536 stations and 89 wave lengths, an average of 6 stations on each wave length; and at that time there was very little complaint throughout the country regarding interference, because by taking advantage of the geographical locations, differences in power allotment, and trading or swapping time, as it was called, they managed with 536 stations on 89 wave lengths to get along with a minimum of interference.

Then the trouble began when the Zenith Radio Co. went to court to test the authority of the Secretary of Commerce as to allocation of wave lengths, and the Government was defeated in that suit and it was declared that the Secretary of Commerce no longer had such authority.

This decision presented the necessity of a new law on the subject, because the old law was no longer able to function. In the meantime or just as soon as this decision had been rendered, there sprang up all over the country new radio stations to the number of about 250 or 260; and what did they do? They just pirated and bootlegged any wave length that they chose, because by the decision of the court, nobody had any authority to grant wave lengths and nobody could punish them for broadcasting on any frequency they chose to use.

So when this Radio Commission went in office we had probably something like 780 stations. Now, it is impossible to license more than 536, for the same conditions as to available wave lengths exist now as existed then, and radio instruments tune no sharper. Now, as then, the 10-kilocycle separation is all that is available, practically 4½ or 5 meters.

That is as close as you can get them and keep them clear and separate in receiving from distant stations.

Distant reception, notwithstanding the great improvement in radio, is after all a delusion and a snare. It is almost impossible to get more than three to five minutes of continuous good reception from a station a thousand miles away. Sometimes occasionally you can get 5 to 10 minutes of good, fair reception. Why is it? Because the interference that nature produces—static—and man-made interference—electric-light plants, steel buildings that absorb the electrical energy, the peculiar phenomenon of fading signals—all contribute to the difficulties attending good radio reception.

You are not going to help the listeners in any way by incorporating this equal distribution of power section. If the people of a given State have no desire or ambition to build radio stations, blame the State, not the Radio Commission.

Mr. McKEOWN. Will the gentleman yield?

Mr. CROWTHER. I will.

Mr. McKEOWN. The gentleman says it is nobody's fault except the States; but what does the gentleman say about the application from States for more power than have been denied?

Mr. CROWTHER. I have nothing to say about that. I have no knowledge as to how many stations have been denied. It seems to me the commission might have been able to adjust and grant requests for additional power. The addition of power to a broadcasting station does no material damage if the station is working on a wave length sufficiently separated from other stations.

Mr. McKEOWN. There have been many applications that have been denied; they have had no attention whatever.

Mr. CROWTHER. Well, you need a real commission. You have not really had a commission. It has been an unfortunate body from the very beginning. The only one alive that was finally confirmed by the Senate is Judge Sykes, a very estimable gentleman, but he did not know any more about radio than the man in the moon knew about Blackstone. He was not placed on the commission because of his knowledge of radio; he had been a judge of the supreme court of his State and is an attorney of marked ability. I think he was put on as a legal adviser. So I do not see that he can be held responsible for the failure in mathematical technique of equitable distribution of wave lengths and power.

Mr. McKEOWN. Will the gentleman yield again?

Mr. CROWTHER. Yes.

Mr. McKEOWN. If the commission can not be held responsible for not giving power to other parts of the country, why did they give additional power to these large cities?

Mr. CROWTHER. Because high-class programs come from the large cities, there is where talent congregates. The station at Tulsa, in your State, has 1,000 watts and broadcasts many of these splendid chain programs.

Mr. MacGREGOR. Will the gentleman yield?

Mr. CROWTHER. I will.

Mr. MacGREGOR. In the hearings Commissioner Caldwell said, "I feel that the South has been granted a larger percentage in proportion to the requests for power than any other section of the country."

Mr. DAVIS. Will the gentleman yield?

Mr. CROWTHER. Yes.

Mr. DAVIS. I want to say that that is absolutely untrue. We have not received as much as other sections. That statement was in the hearing, and I have put it into the RECORD.

Mr. CROWTHER. Mr. W. K. Henderson, of Shreveport, has registered many complaints because he has not been granted more power, but his chief difficulty lies in the fact that he is sandwiched between two high-powered stations—WBBM at Chicago and WTAM at Cleveland. We hear him splendidly in Washington when these other two stations are silent. It seems to me his best bet would be to swap time with one of these stations. I have heard KWKH in all parts of the West. Mr. Henderson does not run his station for profit, he does not make a dollar out of it. It is his hobby, and he runs it for his own pleasure and for the entertainment of the community where he lives and the thousands of distant listeners. There is a great deal of money invested in broadcasting stations. It costs from $10,000 to $50,000 to build a broadcasting station, and it costs $5,000 to $50,000 a year to run it, depending upon the type of programs broadcast.

Of course many have adopted advertising programs which some people object to, but still the owners feel that they have got to get at least interest on their investment. We have in the so-called chain programs the very best talent of every description that can be secured. On Sunday nights we have from 9.15 o'clock to 10.15 o'clock what is known as the Atwater-Kent hour, when either one or two Metropolitan Opera House stars sing, and some wonderful instrumental music as well. That melody is carried into the homes of the rich and poor of the country. That is the music that the constituents of my good friend Mr. QUIN, from Mississippi, listened to, and they are not estopped from hearing it because there is only one station in Mississippi. That is the real reason why they can hear it so well, in fact, because there is no interference from other stations in that great State.

Mr. DAVIS. Mr. Chairman, will the gentleman yield?

Mr. CROWTHER. Yes.

Mr. DAVIS. I am sure the distinguished gentleman from New York will concede that three 50,000-watt stations hitched to a 30,000-watt station are not needed in a chain program?

Mr. CROWTHER. But what harm do they do?

Mr. DAVIS. They do a great deal of harm. The commissioners and everyone else says that they blanket or heterodyne the balance of the country.

Mr. CROWTHER. That is not so.

Mr. DAVIS. And the stations everywhere else.

Mr. CROWTHER. Not unless they are on the same wave length.

Mr. DAVIS. Oh, the gentleman is mistaken.

Mr. CROWTHER. I am not mistaken. For years I have experimented in this work, in an amateur way to be sure, and I am quite certain as to the correctness of that statement. I say to you that the power makes absolutely no difference unless they are very close to the same wave length. A station with 50,000 watts on 400 meters would not interfere 3 miles away with a station of 50,000 watts on 300 meters.

Mr. DAVIS. But they do not need them on chain programs, do they?

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. CROWTHER. Mr. Chairman, I ask unanimous consent to proceed for five minutes more.

The CHAIRMAN. Is there objection?

Mr. WHITE of Maine. Mr. Chairman, reserving the right to object, and I shall not object, I take this opportunity to make one suggestion to the membership of the committee. I take it that the only real controversial matter in this bill is section 4. Section 4 is the House committee amendment. It is perfectly well understood that there is to be a point of order directed against that amendment. If that point of order should prevail, the amendment goes out, and then there is no occasion to talk. On the other hand, if the point of order is not sustained, as far as I am concerned, I shall be disposed to allow the greatest latitude in the discussion of the amendment. It does seem to me that it is altogether in the interest of time and the convenience of Members if we can get to this real issue just as speedily as possible.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. BLOOM. Mr. Chairman, will the gentleman yield?

Mr. CROWTHER. Yes.

Mr. BLOOM. Would there not be a remedy to what the gentleman suggests about wave lengths if they should go on to short wave lengths instead of continuing on long wave lengths?

Mr. CROWTHER. If they used what is ordinarily termed "short wave" lengths, it would require an absolute change in the type of receiver.

Mr. BLOOM. That is the matter with the manufacturers?

Mr. CROWTHER. Yes.

Mr. BLOOM. Let me tell the gentleman from New York and the committee that the manufacturers say that if we should change from the long wave length to the short wave length we would have to dispense with all of the receiving sets in use to-day. I can not understand why the manufacturers of receiving sets should be so much concerned about the public when they say that is the reason they do not want the short wave length. They seem afraid that they are going to sell too many sets. That is an attitude that I can not understand.

Mr. CROWTHER. Oh, well, the average folks all over this country are not rolling in wealth as are the constituents of the gentleman from New York, who can afford to throw away a $150 instrument and buy a new one. The fact is that the majority of the people of this country who listen to radio have made very great sacrifices to get a good radio set in their homes, and they hope not to be compelled to scrap them as a result of adopting the short waves.

Mr. BLOOM. Is it not a fact that it is more on account of the amateur operators that they do not go into the short wave lengths than anything else?

Mr. CROWTHER. No; and let me say that the amateur operators have a very definite place, and we should not take away from them what they have. Their code messages are heard around the world.

They have done wonderful work in floods, in disasters in mines, in conflagrations, and in transmitting radio messages regarding stolen cars, criminals, bank robbers, and the like. These amateurs have done a wonderful work, and I hope the band allocated to them will never be disturbed.

Mr. BLOOM. And the gentleman says that that is the reason why we should not go into the short wave lengths, when it has been conceded that the amount of short wave lengths can not be estimated, that they might run into a million.

Mr. CROWTHER. Oh, no; they do not run into a million. The gentleman must know that the short wave lengths being used now by the large broadcasting stations are, on the average, 28 meters, 46 meters, and 63 meters; and let me tell you this: If you are using a superheterodyne set where a station is broadcasting on three different wave lengths, on account of the developed harmonics, you will likely find that station at six different points on the dial. [Applause.]

Let me say to the gentleman——

Mr. BLOOM. I want to say this——

Mr. CROWTHER. Let me say to the gentleman that thousands and thousands of dollars have been spent by the manufacturers of this country in displacing the old style of condenser and building what is called the straight-line radio-frequency condenser in order that stations on the lower bands might be more easily separated.

Mr. BLOOM. Mr. Chairman, will the gentleman yield there?

Mr. CROWTHER. No; I do not yield further, because the gentleman does not understand what I am talking about. [Laughter.] I am reminded the chairman found fault because New York had 72 per cent of the power in that territory and Connecticut had few stations and very little power. But what difference does that make? Mr. Chairman, the farthest point in Connecticut is only about 100 miles from New York City, and every station in New York City is heard as well as if it were a local station in Connecticut.

Mr. ABERNETHY. Why, Connecticut, anyway? [Laughter.]

Mr. CROWTHER. Well, that is the home of my distinguished majority leader [Mr. TILSON], and I am strong for him and his State. [Laughter.] There is not another country in the world but where the listening constituency have to pay a license for owning an instrument, whereas all the programs in this country are free; and we do not have to pay a tax on the instruments, as they do in foreign countries. [Applause.]

The CHAIRMAN. The gentleman from New York's time has expired.

Mr. WHITE of Maine. Mr. Chairman, I move that the debate on this section and all amendments thereto be now closed.

The CHAIRMAN. The gentleman from Maine moves that all debate on this section and all amendments thereto be now closed. The question is on agreeing to that motion.

The motion was agreed to.

The CHAIRMAN. The Clerk will read.

Mr. EDWARDS. Mr. Chairman, I ask unanimous consent to extend my remarks in the RECORD.

The CHAIRMAN. The gentleman from Georgia asks unanimous consent to extend his remarks in the RECORD. Is there objection?

There was no objection.

Mr. EDWARDS. Mr. Chairman, radio is an important and interesting subject. It is in its infancy. We marvel at this and other present-day discoveries which are startling, and we say, "It is wonderful." We ask the question, "What will man accomplish next?" Truly these things are "wonderful," and radio is one of the world's greatest discoveries. It is new in that it has been recently discovered by man, but have not the causes that produce the effects been in existence since the beginning of time? Solomon said, "There is nothing new under the sun." Wonderful things happened in his day, but back of the ingenuity of mere man he knew another force with which all things are possible and without which nothing is possible. "God moves in mysterious ways His wonders to perform," and to the highly trained and scientific mind His wonders are one by one being unlocked and revealed to mankind, and to Him we should gladly and humbly acknowledge our debt.

For centuries men had seen the lightnings play in dazzling beauty across the skies. They had wondered at its capers and its powers. One day, as if by accident, the key to the electric elements was found, and since the time Franklin felt the tingle of the electric current from a key tied at the end of a kite string man has been permitted to go deeper and deeper into this subject, until to-day the world stands in amazement as to what has been accomplished and we no longer dare say any discovery is impossible. We now have assurances from certain quarters that a fuelless motor has been invented.

Is it possible that in an age of which history holds no record, men harnessed and used the elements in a civilization that had produced even greater minds than the present age? Is it possible that in a day not recorded by historians men had harnessed the lightnings and had talked on the air from continent to continent? I think not. I think it has been given to the present age to produce these wonderful discoveries. Truly this is the most rapidly progressing civilization of which there is any record.

Measured by accomplishments, a man who has lived in the last 50 years has lived longer than a man who lived a hundred years prior to this electric age; and we are told by scientific men that we are just at the dawn of the electric age. Within my lifetime—and I am not yet quite 50—I have seen the telephone perfected. I have seen the streets of the towns and cities turned from night into day through the coming of the electric lights. I have seen the telegraph develop from an uncertain and cumbersome stage into its present swift and almost perfect use. As a lad I thought the bicycle, the buggy, and the carriage wonderful means of transportation. I have seen the small railway locomotive built into a thing of power and speed, and I have seen this land of ours girded with rails of steel over which the commerce of the country has been and is being moved to meet the needs of our civilization. I have seen the bicycle, buggy, and carriage, as well as the wagons and drays, supplanted by motor vehicles, and all so quickly that it seems like a dream.

I have seen our trails and mudholes, called roads, converted into highways over which traffic pulsates in an amazing manner. I have seen the transoceanic cables laid, traversing the deep, to carry messages of good will and of general international intercourse from continent to continent, until to-day the world is held so closely together the peoples of the earth are as one big

family. I have seen the rapid development of the small and uncertain steamship grow into the mighty ocean liners that ride the waves like palatial castles. I have seen the development of the submarine, that yet uncertain engine of brutality, nose its way into the picture. Then, too, within that time I have seen what might be termed the higher development of photography, from the tintype to the present photographs, and then I have seen that line develop into the moving pictures and the "movitone," and as if reaching almost the very impossible, I have seen it developed until, by wireless or radio, pictures are flashed through thousands of miles of space. It was as yesterday I stood, with doubting thousands, and witnessed the trial flight made by the Wright brothers at Fort Myer, just outside of Washington, and well do I remember the indescribable feeling that came over me as I saw a man rise in his plane on that occasion and fly away like a bird. I have seen that idea developed until to-day the skies are full of machines and flights have been made across the Atlantic and around the world.

I served in the House with Congressman Lindbergh, father of our beloved world-famed hero, Colonel Lindbergh, and I knew this hero when he was a mere lad, with no more promise, apparently, than any of his fellows; yet, I have seen him leap from obscurity, through skill and daring, to a place that is all his own in the hearts and admiration not only of his fellow countrymen but of the world. I have seen the advent of wireless, the talking machine, and I have witnessed the development of type and adding machines until they are almost human in the things they accomplish; and in my time, among many other marvelous inventions, discoveries, and accomplishments, I have witnessed the arrival of television and the radio. It is bewildering, it is inspiring, it is thrilling, and it is wonderful! I thank God I have been permitted to live to see these great accomplishments. If the progress is to be as marked in the next 50 years, inventions and discoveries will be made that will make what I have referred to pale into insignificance. Is it all the work of man—mere man—or has a divine hand directed the way, and have not the master minds been inspired in the great work they have done? From isolation, only a few years since, the farthest parts of the earth have been brought so close to each other that, we are told, through wireless and radio the farthest man from us, thousands of miles away in distance, is just 10 seconds from us. Truly the world is one big family, and as surely as we live we are to be brought in even closer contact in the future than we are to-day.

Some think of radio only as it relates to the program that gives us entertainment, and of course that is great. But the scientific minds tell us there are other useful and valuable things in this field that have not as yet been touched. Already photographs and signatures are sent by radio and by wireless. Why not expect that in the course of time type copy will be flashed across space and newspapers be printed by radio? No one yet fully understands just what can or will be accomplished through this force or art. It is something that belongs to all the people, and its highest development should be encouraged. If it can be prevented, the monopoly that has developed and that is being developed should not be permitted to own and control it as they are starting out to do.

It was a common idea a few years ago that to a man who owned a piece of land also belonged everything beneath the land to the center of the earth and everything above the land to the high heavens. It seems, however, that it is rapidly developing that he does not own the space nor the air above him and that he barely has an easement in that regard.

Last year, and prior to that time, it was apparent that there were those who were trying to monopolize the air power and the wave lengths with respect to radio, and the act of 1927 creating the Radio Commission was passed with the hope that the commission would protect the rights of the public. Now, we are told that conditions with respect to the monopoly are grossly worse, and that unless something is done only a few men will control this great discovery that belongs to all men and that a limited area will bottle up the power and the wave lengths so that the people of the country as a whole will not be able to enjoy what is rightfully theirs. We are told that we must write legislative restrictions to keep this God-given heritage from being taken from us. The Teapot Dome and other valuable oil lands were stolen from the people through the help of men high in authority. No one is wearing stripes yet because of that crime. They should follow it up until the criminals are in stripes.

Gentlemen have in a way defended what we might term "big business" and they contend it takes big capital to promote and put over these enormous enterprises. I have no fight to make on "big business." It is "crooked business" I am hitting at. It is theft and plunder by crooks who look for protection from those who benefit by the big campaign contributions they make. Our laws and rights ought to be respected by all and the fact that a man or a concern happens to have large capital is no justification when that man or concern is crooked. The one clear call to-day is for honesty in government. We have been heading for years, very rapidly, to a commission form of government, controlled by "bureaucrats," who in turn are controlled by what some term "big business." I fear it has already degenerated from a government of the people, for the people, and by the people into a government of the bureaucrats, for the bureaucrats, and by the bureaucrats.

That the power and wave lengths might be equitably allocated to the country five radio zones were established under the act of 1927. Those zones are made up as follows:

FIRST ZONE

	Population	Stations	Total station power in watts	Stations with over 1,000 watts
Maine	768,014	3	850	
New Hampshire	443,083	3	650	
Vermont	352,428	3	160	
Massachusetts	3,852,356	20	19,565	1
Connecticut	1,380,631	5	2,100	
Rhode Island	604,397	10	2,750	
New England	7,100,909	44	26,075	1
New Jersey	3,155,900	21	17,280	2
Delaware	223,003	1	100	
Maryland	1,449,661	5	5,700	1
District of Columbia	437,571	3	11,150	1
Porto Rico	1,299,809	1	500	
Virgin Islands	26,051	0	0	
	13,992,904	75	60,805	5
New York	10,385,227	63	162,500	7
Zone total	24,378,131	138	223,305	12

SECOND ZONE

Pennsylvania	8,720,017	45	59,845	1
Virginia	2,309,187	10	2,365	
West Virginia	1,463,701	3	400	
Ohio	5,759,394	31	27,670	4
Michigan	3,668,412	23	15,475	2
Kentucky	2,416,630	3	1,050	
Zone total	24,337,341	115	106,805	7

THIRD ZONE

North Carolina	2,559,123	4	1,750	
South Carolina	1,683,724	1	75	
Georgia	2,895,832	5	1,950	
Florida	968,470	12	5,660	
Alabama	2,348,174	5	1,375	
Tennessee	2,337,885	17	9,805	1
Mississippi	1,790,618	1	250	
Arkansas	1,752,204	3	1,550	
Louisiana	1,798,509	13	3,435	
Texas	4,663,228	31	19,130	3
Oklahoma	2,028,283	10	2,925	
Zone total	24,826,050	102	47,105	4

FOURTH ZONE

Indiana	2,930,390	18	6,315	1
Illinois	6,485,280	70	83,170	13
Wisconsin	2,632,067	19	6,335	
Minnesota	2,387,125	18	10,130	1
North Dakota	646,872	6	720	
South Dakota	636,547	10	2,345	
Iowa	2,404,021	25	25,200	4
Nebraska	1,296,372	17	5,930	1
Kansas	1,769,257	8	3,950	1
Missouri	3,404,055	24	17,015	5
Zone total	24,492,986	215	164,870	26

FIFTH ZONE

Montana	548,889	4	660	
Idaho	431,866	4	2,275	1
Wyoming	194,402	1	500	
Colorado	939,629	15	6,450	1
New Mexico	360,350	1	5,000	1
Arizona	334,162	5	765	
Utah	449,396	4	1,200	
Nevada	77,407	0	0	
Washington	1,356,621	24	11,975	2
Oregon	783,389	15	5,390	1
California	3,426,861	54	26,460	2
Hawaii	255,912	1	500	
Alaska	55,036	3	610	
Zone total	9,213,720	131	61,785	8

The amendment offered by the gentleman from Tennessee [Mr. DAVIS] proposes that there shall be an equal allocation to each of the five zones of wave lengths and station power, and that within each zone there shall be a fair allocation among the States thereof in proportion to the population and area. It is argued this will retard the development in the zones that have proceeded more rapidly than others have, but this will not be the result. The question is asked, Why have this restriction if it is apparent it is not going to be used soon? Even if the power and wave lengths are not immediately used, the right should be preempted for the zones to be used when they are ready to develop the stations for broadcasting. The question has been asked, Why have some of the zones been backward in developing, while others have forged ahead? It has been an easy and simple matter, so the hearings show and so the debate shows on this subject, to obtain licenses in some of the zones and practically impossible in others. For instance, the debate shows with respect to zone 3, in which Georgia is located, that it has been discriminated against, and applications in that zone have been denied and delayed, despite the fact that zone 3 is larger in population than any of the zones. It will be observed that zone 3 has less station power in watts than any of the five zones. This is, indeed, a shameful injustice. The Davis amendment will remedy this injustice and will prevent unfair discriminations in the future.

Big capital is indeed helpful in the development of enterprises. No one is making a fight on capital simply because of its being "big," but the fight is being made because it is in this case using an improper influence and doing a wrong and hurtful thing in trying not only to have a monopoly on radio equipment and instruments, but in literally monopolizing the air and in taking the station power and the wave lengths without regard to justice and to the detriment of millions of people.

The CHAIRMAN. The Clerk will read.

The Clerk read as follows:

SEC. 2. The period during which the members of the commission shall receive compensation at the rate of $10,000 per annum is hereby extended until March 16, 1929.

Mr. CELLER. Mr. Chairman, I move to strike out the last word.

The CHAIRMAN. The gentleman from New York moves to strike out the last word.

Mr. CELLER. Mr. Chairman and gentlemen of the committee, it is very easy to become excited and to arouse feeling when you speak about equality. It is very easy to become more or less demagogic. But remember this, gentlemen, that to say there must be an equal division of radio and stations and station power is no more reasonable than it would be to say that there should be equal telephone facilities and telegraphic facilities and poles apportioned among the States or in five different zones. You might just as well say that if you expend a certain amount of money for the extermination of the boll weevil in any one State in the South, for example, you must expend a proportionate amount in Alaska. Mr. Chairman, I do not subscribe to that doctrine.

Mr. ABERNETHY. Mr. Chairman, will the gentleman yield?

Mr. CELLER. Not at this moment. Many of these stations of high power were established before the Radio Commission came into effect. In my own State and in the adjacent State of New Jersey there are at the present time 48 stations, and of those 48 stations, 45 sprang into being before the Radio Commission was established and before we passed this radio act of 1927. Incidentally only three of them are owned by the members of the Radio Trust; all others are independent. That dispels any idea that the so-called trust influences New York in this matter. I speak for the independent stations primarily. I am not on the trust side. It is on my side. I hold no brief for any radio combine or for any trust. I am opposed to monopoly just as much as any man here is. But you strike at independent, enterprising station owners by your amendment of equality.

It is absurd to place radio upon a quantitative basis. It is just as logical to divide the sun into fractions, or the rainbow, as to divide equally the radio spectrum.

The gentleman from Maine [Mr. WHITE] read off certain States and showed how badly they fared when compared to New York, Illinois, or New Jersey. The answer is that those States never tried to increase its radio facilities. There was no demand for radio stations in those States. Wyoming, Montana, and Idaho have but three small stations all told. Nevada has not even one station. Must New York or New Jersey wait until those States get ready to apply for stations? Must wide-awake, enterprising States wait until other States, heedless or unknowing of the value of radio, apply in belated fashion for stations?

The 48 stations, for example, in the New York-New Jersey area have rights—vested rights.

I do not sympathize with the doctrine of radio vested rights, but after a review of the case—see my remarks in Saturday's RECORD, March 10, 1928—I have come to the conclusion that the instant bill will be declared unconstitutional unless some provision of compensation is made for taking away vested rights in stations which are to be closed down.

At the time of the World War we endowed the President with authority to take away radio stations and radio facilities, and this Congress, having in mind the fact that these stations have vested rights, which could not be taken away from them, in pursuance of the fifth amendment, provided in a joint resolution passed July 16, 1918—H. J. Res. 309—that just compensation should be made for such possession, control, or operation of radio stations or radio facilities.

Why, gentlemen, did you enact that? You did it because of the doctrine that no private property can be taken for a public use without just compensation? You did it because you recognized that these stations had certain rights which you could not arbitrarily take from them. And the very next year, when you repealed the act of July 16, 1918, by passing Senate bill 120 on July 11, 1919, you provided in effect that these compensatory provisions in that act of 1918 should remain in full force and effect, and any radio station that has had its facilities taken away from it in 1918 would still have the right under this act of 1919 in the Court of Claims to demand just compensation from the Government.

Strangely enough, too, you recognize the principle of compensation in the radio act of 1927, for in section 7 thereof you said:

The President shall ascertain the just compensation for such use or control and certify the amount ascertained to Congress for appropriation and payment to the person entitled thereto. If the amount so certified is unsatisfactory to the person entitled thereto, such person shall be paid only 75 per cent of the amount and shall be entitled to sue the United States to recover such further sum as added to such payment of 75 per cent which will make such amount as will be just compensation for the use and control. Such suit shall be brought in the manner provided by paragraph 20 of section 24 or by section 145 of the Judicial Code, as amended.

The American Bar Association pointed out in 1926 that any statute refusing licenses to existing stations without affording compensation would be unconstitutional.

Now, gentlemen, if you deprive a man of the use of his property you take away that man's property.

The United States may control the ether which is the medium of radio, but the United States can not in that control, destroy a man's broadcast apparatus used to initiate radio waves.

If I erect a broadcasting station, if I have the enterprise and energy and capital—as some of my constituents in New York—to do that you can not come and take my gains and my property away from me.

Under the guise of regulating the radio or the ether you can not deny me the use of my station, especially if it was established before the radio act of 1927.

The courts have held time and again that use of property is the value of the property, is in fact, the property itself. Take the case of Corneli against Moore, reported in Federal Reporter, volume 267, page 456, where these very significant words appear:

I also think it may be conceded that any statute which restricts the use and possession of personal property owned by the citizen has the effect to confiscate such property, within the purview of the fifth amendment, for that it deprives the owner of certain inherent rights which are inalienable attributes of ownership. It follows, that it does not aid the argument to urge that the rule does not apply because the property is not physically taken, or the ownership disturbed, but that the use and possession are merely restricted. In short, the owner may not in such use exercise his own volition, but is compelled to use the property in a way he does not desire to use it, or not use it at all.

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. CELLER. Mr. Chairman, I ask unanimous consent to speak for three more minutes.

Mr. ABERNETHY. Mr. Chairman, reserving the right to object, the gentleman makes these arguments and declines to yield to a member of the committee. Now, he is asking the permission of the committee to proceed further.

Mr. CELLER. I will be very glad to yield but I wanted to develop my thought without interruption. I will be very glad to yield as I always yield.

The CHAIRMAN. The gentleman from New York asks unanimous consent to proceed for three additional minutes. Is there objection?

Mr. WHITE of Maine. Mr. Chairman, the gentleman from New York has already had 40 minutes, which is 15 minutes more than any Member has had, so I am constrained to object.

Mr. DAVIS. Mr. Chairman——

The CHAIRMAN. The gentleman from Tennessee, a member of the committee, is recognized for five minutes.

Mr. WHITE of Maine. Mr. Chairman, at the end of five minutes I shall move to close all debate, or I will make the motion now.

The CHAIRMAN. Does the gentleman from Tennessee yield to the gentleman from Maine?

Mr. DAVIS. I yield to the gentleman.

Mr. WHITE of Maine. Mr. Chairman, I move that at the end of five minutes all debate on this amendment and all amendments thereto close.

The CHAIRMAN. The gentleman from Maine moves that at the end of five minutes all debate close.

The motion was agreed to.

Mr. DAVIS. Mr. Chairman and gentlemen of the committee, the gentleman from New York [Mr. CELLER] contends that certain alleged pioneer stations have acquired vested rights in the air, but the question of vested rights, alleged confiscation, and right of compensation has been settled contrary to his contentions by the Supreme Court of the United States in the cases growing out of the laws prohibiting the manufacture and sale of intoxicating liquors. However, the fact that they are insisting upon these vested rights shows the necessity of this Congress taking definite action that will put that question to the test. [Applause.]

Now, Mr. Chairman, when my time under general debate expired——

Mr. HUDSON (interposing). Will the gentleman yield?

Mr. DAVIS. Yes.

Mr. HUDSON. I want to say that such a decision was also made in the Slaughterhouse case.

Mr. DAVIS. There are any number of cases; it has long since been settled and it is not open to argument by those who have really investigated the law.

After enumerating the great favoritism that had been shown the Radio Corporation of America, I inquired what that meant. I will tell you what it means. Since this Radio Commission went into power and began to administer the law, the stock of the Radio Corporation of America has increased from $52 to $122 per share, or an aggregate amount of about $85,000,000. No wonder they are fighting this amendment; no wonder they are claiming vested rights in and out of Congress; and we must meet the issue.

Now, the gentleman from New York [Mr. CROWTHER] referred to the relative difference between wave lengths, and he is correct about that. There has been as great a discrimination in that particular as there has been with respect to power. What has this commission done? The chief thing to which they and their champions point is that they have cleared 25 wave lengths or channels between 600 and 1,000 kilocycles. Everybody who knows anything about the subject knows that these are the most valuable and the most useful channels for broadcasting. And for whom did they clear them? They removed 77 stations off of those channels and put them onto other already crowded channels. When they cleared these channels whom did they leave or place on them? Nine powerful monopoly stations, 3 of them with 50,000 watt power each, 1 of them with 30,000 and another 15,000, all owned by the same group and in practically the same area, and on 24 out of these 25 wave lengths they have placed the chain stations. That is the reason the remainder of the more than 600 independent stations of this country are practically put out of business. Commissioner Pickard said that 90 per cent of the stations were being heterodyned, and they are heterodyned by reason of these high-powered stations. Mr. CROWTHER, of New York, said that high power was unnecessary; that the important matter was the wave length. If that be true, why give this high power to one group of people and in a few areas? West of Pittsburgh to the Pacific coast and south of Pittsburgh to the Gulf and Mexico there is not one 50,000 or 30,000 watt station, but in all of that area—96 per cent of the area of the country, with 75 per cent of the population—there are only two stations with over 5,000-watt power, one of them a 15,000-watt station in Chicago and the other a 10,000-watt station here in Washington, which, as Mr. CROWTHER says, is practically useless, because of the wave length assigned to it. [Applause.]

The CHAIRMAN. The time of the gentleman from Tennessee has expired.

The Clerk read as follows:

SEC. 3. Prior to January 1, 1930, the licensing authority shall grant no licenses or renewal of license under the radio act of 1927 for a broadcasting station for a period to exceed six months and no license or renewal of license for any other class of station for a period to exceed one year.

With the following committee amendments:

In line 7, page 2, strike out the word "six" and insert in lieu thereof the word "three," and in line 9 strike out the words "one year" and insert in lieu thereof the words "six months."

Mr. BLOOM. Mr. Chairman and gentlemen, I simply want to explain, if I may, the situation with reference to the city of New York regarding the so-called Davis amendment.

The gentleman from New York [Mr. LAGUARDIA] and the chairman seem to think that New York City is taking a position with respect to this amendment so as to control the wave lengths. Let us see what would happen if you were to take the wave lengths out of New York City and out of the other large cities of this country.

I am not now, and I shall not at any time, vote in favor of doing anything that will embarrass any part of the country; but it is impossible to secure real programs from any part of the country except the large cities.

If the South, or if the smaller towns of the country, should secure a large broadcasting station it reminds me of a thing that happened to me when I was first elected to Congress. A gentleman said to me, "Now that you have got it, SOL, what are you going to do with it?" The same thing applies to this situation. If they were to have a large broadcasting station, what are they going to do with it. They have not the talent to broadcast seven days a week, day and night, and therefore the station would be idle for that one reason alone.

Remember also, ladies and gentlemen, that you secure all of the best talent of the world free of any cost to you.

Mr. ABERNETHY. Will the gentleman yield?

Mr. BLOOM. Yes; certainly.

Mr. ABERNETHY. That statement applies to Members of Congress as well as others?

Mr. BLOOM. I presume so.

You receive these programs for nothing, and the only way the stations can secure these programs for you is by reason of the advertising. Every other country in the world charges for listening in. You do not want that arrangement in this country, and I certainly do not want it; but unless they get the advertising you can not get the programs.

Tell me of any city in Mississippi of more than 25,000 population that can pay $40,000 or $50,000 for one program. It would be impossible.

Mr. LAGUARDIA. Will the gentleman tell us how the other countries charge for these programs?

Mr. BLOOM. In England, the post-office branch of the Government has the matter in charge and they charge so much a year for every set and you have to get a license. In Canada they did at one time charge a percentage on the cost of everything pertaining to radio, and in the small countries they charge so much a year for listening in.

If you were to take away from New York City the opportunity of broadcasting these programs which, I know, as a Member of Congress, you are not going to do, you would be destroying the great use that broadcasting is put to to-day. This would inevitably happen if you were to take broadcasting out of the large cities where the talent is. The talent is in no other place in this country, and that is why New York City and the other large cities of the country can give you the broadcasting programs without any cost which you are getting to-day.

You Members of the South would be destroying the only use and the only benefit you can get out of broadcasting if you were to take the broadcasting stations from the big cities and endeavor to put them in the South.

This is my only reason in rising to explain to you my position with respect to all these large broadcasting stations in New York City and the other large centers of our country. I thank you. [Applause.]

Mr. WHITE of Maine. Mr. Chairman, I move that all debate on the committee amendment do now close.

The motion was agreed to.

The committee amendment was agreed to.

Mr. LAGUARDIA. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The genteman from New York offers an amendment which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. LAGUARDIA: On page 2, line 9, after the word "months," insert: "All licenses and renewal of licenses hereafter

granted shall provide that not more than six minutes out of each hour of broadcasting shall be used for advertising purposes, and shall provide further that a violation of this provision shall terminate the license."

Mr. LEHLBACH. Mr. Chairman, I make the point of order against the amendment.

Mr. LAGUARDIA. I thought the gentleman would permit the amendment to go to a vote on the merits.

The CHAIRMAN. The Chair thinks the amendment is out of order, and therefore sustains the point of order.

The Clerk read as follows:

SEC. 4. The term of office of each member of the commission shall expire on February 23, 1929, and thereafter commissioners shall be appointed for terms of two, three, four, five, and six years, respectively, as provided in the radio act of 1927.

With the following committee amendment:

Beginning in line 10, on page 2, strike out all of section 4 and insert in lieu thereof the following:

"SEC. 4. The second paragraph of section 9 of the radio act of 1927 is amended to read as follows:

"'The licensing authority shall make an equal allocation to each of the five zones established in section 2 of this act of broadcasting licenses, of wave lengths, and of station power; and within each zone shall make a fair and equitable allocation among the different States thereof in proportion to population and area.'"

Mr. LEHLBACH. Mr. Chairman, I make the point of order against the amendment on the ground that it is not germane. I do not make the point that it is not germane to the section for it was not intended as an amendment to section 4, but intended as a new section. I make the point of order to the new section that it is not germane, and I reserve my right to discuss the point of order in case anybody wants to support the amendment.

The CHAIRMAN. The Chair desires to inquire whether the proposal is a substitute for section 4?

Mr. WHITE of Maine. It was the intention of the committee to offer it as a new section. I presume the vote first will be on striking out section 4.

The CHAIRMAN. Without objection the Chair will put the question first on striking out section 4 of the Senate bill.

The question was taken, and the amendment to strike out section 4 was agreed to.

The CHAIRMAN. The question now recurs on the new section 4 proposed by the committee, to which the gentleman from New Jersey makes a point of order.

Mr. WHITE of Maine. Mr. Chairman, I am somewhat in doubt as to the grounds of the point of order the gentleman has raised.

Mr. LEHLBACH. I stated that it was on the ground that the amendment is not germane to the bill.

Mr. WHITE of Maine. I wish, Mr. Chairman, I might consider myself an authority on parliamentary matters. It does seem to me, however, that the proposition is so clear that it admits of no doubt as to its germaneness. The first section of this bill provides that all the powers and all the authority vested in the Federal Radio Commission by the act of 1927 shall be vested in and exercised by the commission until March 16, 1929. It proposes in that language to extend for the period of another year each and every one of the powers vested by the 1927 law in the Radio Commission, and it does that by the general language as fully and effectually as though the portions of the 1927 law were set out seriatim.

Now, paragraph 2 of section 9 of the 1927 law, one of the powers which, if it were not for this amendment, would be extended by that general language is that the commission shall make such distribution of wave lengths, licenses, power, and periods of time for operation among the States and among the communities thereof as shall work out equitable service to those States and to those communities.

That proposition is before us by the general language with which this act starts. It is as fully and completely before us as though recited word for word and letter for letter. This amendment to which the point of order is directed seeks to amend that specific section and that specific paragraph. It seems to me it is clearly germane, clearly within the authority of the House and the committee to deal with that specific power when we undertake to deal with all the powers.

Mr. GARRETT of Tennessee. Mr. Chairman, I think the gentleman who made the point of order, or some one who believes that it should be sustained, ought to present the matter, and if precedents are to be relied upon produce them. Those of us who do not think the point of order well taken should have those precedents cited. With reference to the precedents that exist on the subject—which I have no doubt are before the Chair—those which I have been able to find I think are clearly distinguishable from the case at bar.

Mr. LEHLBACH. Will the gentleman yield?

Mr. GARRETT of Tennessee. Yes.

Mr. LEHLBACH. I followed the procedure which took place earlier in the week, where a point of order having been made, those who offered the amendment were first heard, and then the person who made the point of order closed. I am perfectly willing to proceed with my point of order if the gentleman from Tennessee thinks it best.

Mr. GARRETT of Tennessee. I should be glad if the gentleman would do so.

Mr. LEHLBACH. Mr. Chairman, this is a Senate bill which was reported by the House Committee on the Merchant Marine and which, after consideration thereof, made a certain amendment and offered it as a new section. The committee amendment has no greater status than any amendment that might be offered during the consideration of the bill in Committee of the Whole House on the state of the Union by an individual Member.

On a certain occasion, by special order, certain bills were made in order on a certain date. A Senate bill such as this had been reported with a committee amendment striking out the original text of the Senate bill and substituting a committee amendment. A point of order that the original Senate bill did not fall within the class embraced by the special order was made. But the committee substitute would have been in order if that were before the House, and Mr. Speaker Cannon ruled as follows, and the ruling can be found in fourth volume of Hinds' Precedents, section 4623:

The substitute is a mere proposition of no higher grade than an amendment that might be offered by any Member. Perhaps the House might agree to the amendment and it might not. * * * The amendment can have no status, and if it gets consideration at all, it gets consideration by virtue of the bill which was referred to the Committee on Naval Affairs and reported back.

Of course we are considering a Senate bill that was referred to the committee and reported back, and we have now reached the point where we are considering an amendment recommended by the committee that reported back the bill. It is in exactly the same position as any other amendment that might have been offered by a Member on the floor, and the time for making the point of order, and the consideration whether it is in order or not, are exactly the same as if it were an amendment offered by an individual Member on the floor. I think there is no question on that subject.

Is it germane? Fortunately the Senate bill is short, and we can examine it with a good deal of particularity. The radio act of 1927 covered the field of radio and laid down permanent substantive law in accordance with which radio activities were to be governed and regulated, and it provided for an authority to carry out that permanent and substantive law. Certain of the functions of the commission created by that act to carry out some of these functions and to put into operation this permanent, substantive law by limitation would expire on the 15th of March next. The Senate passed this legislation for what purpose? In section 1 it provides that the power and authority vested in the Federal Radio Commission should continue until March 16, 1929, and that is all that section 1 does. It does not in the slightest particle alter the substantive permanent law that is written into the radio act of 1927. Section 2 provides that these commissioners shall continue to receive a salary at the rate of $10,000 a year while they continue to exercise these functions. It does not in the slightest particular touch the permanent, substantive law written in the act of 1927. Section 3 provides that this commission during its functioning and for a few months thereafter, until January 1, 1930, shall not issue licenses under the act for more than six months and one year. It does not in any way alter the permanent, substantive law with respect to the length of time for which licenses should be issued, but merely restricts the functioning for a short period of time and leaves the law unchanged. That is all there is here. How an amendment that radically and vitally changes the substantive law on the subject of radio can be germane to such a proposition is more than I can see.

Mr. BLACK of Texas. Mr. Chairman, will the gentleman yield?

Mr. LEHLBACH. Yes.

Mr. BLACK of Texas. Section 1 of the bill provides for the continuing of the commission and also affirmatively provides that all power and authority vested by the radio act of 1927 shall continue.

Mr. LEHLBACH. Why, surely.

Mr. BLACK of Texas. Would it not be parliamentary to add, for example, at the end of that section—

Provided, That the licensing authority shall make an equal allocation to each of the five zones established in section 2, etc.

If that would not be germane, why not?

Mr. LEHLBACH. Because that would be changing the substantive law, which is not the purpose of the bill which we are considering and to which this proposition is intended to be appended. Mr. Chairman, I want now to cite the authorities. They are more to the point than in a much closer case that was decided the other day and sustained by the House by a vote of 209 to 33, and I respectfully refer the Chair to the authorities that were involved in that decision without repeating them. I do call the attention of the Chair to one precedent, which is so absolutely in point as to settle this question without any further doubt at all, and that is to be found in Fifth Hinds', section 5806. On the 24th of April, 1900, while Mr. Henderson was Speaker and was occupying the chair, the gentleman from Wisconsin, Mr. HENRY A. COOPER, from the Committee on Insular Affairs, reported a joint resolution of the Senate, the purpose of which was to continue the existing arrangement for the government of Porto Rico for another period. To that bill the Committee on Insular Affairs attached an amendment to regulate the issuing of franchises in Porto Rico. How can anything be more pat? Here is a bill extending the authority of the present commission with respect to its functions in radio, just as the temporary government was sought to be extended. In neither case was the substantive law in question. An attempt was made at that time to bring in an amendment to change the substantive law and it was ruled out of order, and Speaker Henderson says this:

The resolution is for the sole purpose of extending the time in regard to the putting in operation of the new government of Porto Rico. The amendments are entirely outside of that question and enter upon amendments of the law in respect to matters entirely outside of that question.

Here we have a bill to extend the powers of the Radio Commission, just as the temporary government of Porto Rico was sought to be extended. In that case there were substantive propositions of law attached as amendments, just as here is an amendment changing the substantive law with respect to radio. It was out of order in that case just as it is out of order in this case.

The CHAIRMAN. The Chair would direct the attention of the gentleman from New Jersey to the original section 4 which came from the Senate, and which was a part of the Senate bill, and would ask him whether, in his opinion, that would alter the views that he has expressed.

Mr. LEHLBACH. No, it would not; because that deals entirely with the term of the members of the commission. It does not deal with the substantive propositions of the radio law at all. It deals with the terms of the commission, just as section 2 deals with the salaries and section 1 with the functions.

Mr. BEEDY. Will the gentleman yield to me?

Mr. LEHLBACH. Yes; I yield to the gentleman from Maine.

Mr. BEEDY. Has the gentleman examined the organic law of Porto Rico as it existed at the time of the precedent which he cites?

Mr. LEHLBACH. No.

Mr. BEEDY. It would be well if he were able to inform the House whether there was in that organic act any provision of law empowering the government of Porto Rico to regulate the issuance of franchises.

Mr. LEHLBACH. The gentleman did not believe that was in point, and therefore did not go back to the record as to whether the common law or the organic law by which the Territory is governed was referred to, or whether it was the specific law with reference to Porto Rico. It did not make any difference because here was an amendment to alter existing law.

Mr. BEEDY. If the gentleman from New Jersey will permit me, I would direct the attention of the Chairman in his construction of the precedent cited to the fact that it is most pertinent to know whether the amendment offered by the Committee on Insular Affairs attempted to vest new power in the Porto Rican government or whether it modified existing law. If the former, then clearly the decision was correct under the facts of the case there presented; but it would not necessarily be controlling in the case now before the Chair. Here the provision creates no new power, but places a limitation on existing authority. I submit to the Chairman that the precedent cited by the gentleman from New Jersey clearly would not be in point unless he can show that there was in existing Porto Rican law a provision which authorized the existing government of Porto Rico to deal with franchises. If such were the fact, the precedent becomes more persuasive.

Mr. COOPER of Wisconsin. Mr. Chairman, will the gentleman yield? I wish to ask a question.

Mr. LEHLBACH. Yes.

Mr. COOPER of Wisconsin. Do I understand that the motion or bill or resolution, whatever it was, in that case was to extend the time, and for what?

Mr. LEHLBACH. To extend the time for the provisional government of Porto Rico.

Mr. COOPER of Wisconsin. Was it to extend the term of office?

Mr. LEHLBACH. I do not clearly recollect what was the subject of the resolution.

Mr. GARRETT of Tennessee. Mr. Chairman, I have before me the record and expect to read it to the Chair.

Mr. COOPER of Wisconsin. I will simply state to the gentleman from New Jersey that the extension of terms of officers might have been the purpose of the express phraseology of that. But this is to change the content of the amendment entirely.

Mr. GARRETT of Tennessee. When I was informed that there would be a point of order interposed to the committee amendment, I made an examination of the precedents, and, of course, I found there, as one of the first, the case which the gentleman from New Jersey [Mr. LEHLBACH] has cited, section 5806 of Hinds' Precedents, to be found in volume 5 thereof. I will say very frankly that when I came to analyze that decision and to analyze this situation more carefully than was done in a casual reading it occurred to me that it was a precedent that might be decisive of the question. But upon the examination of the CONGRESSIONAL RECORD itself and a reading of the precise thing that was in the resolution reported by the gentleman from Wisconsin I came to the conclusion that the case at bar can be clearly differentiated from the one which existed there. I have before me the CONGRESSIONAL RECORD of April 24, 1900, and I should like to read the resolution which had passed the Senate and which was reported by the Committee on Insular Affairs and presented by the gentleman from Wisconsin [Mr. COOPER]. I read:

That until the officer to fill any office provided for by the act of April 12, 1900, entitled "An act temporarily to provide revenues and a civil government for Porto Rico, and for other purposes," shall have been appointed and qualified, the officer or officers now performing the civil duties pertaining to such office may continue to perform the same under the authority of said act; and no officer of the Army shall lose his commission by reason thereof: *Provided,* That nothing herein contained shall be held to extend the time for appointment and qualification of any such officers beyond the 1st day of August, 1900.

Now, to that the House committee adopted certain amendments, which fell before the point of order, or rather would have fallen before the point of order but for the fact that later on the Speaker held that the point of order came too late.

Those amendments that were proposed by the committee I shall not read, but there were two of them, and they went into section 32 of the act apparently passed in that section of Congress, and undertook to amend that section 32 by a very elaborate provision touching the question of franchise to be granted in Porto Rico.

Now, Mr. Chairman, I have before me the radio act of 1927 and I desire to read section 9 thereof, which is very brief and which it is proposed to amend here. I read:

SEC. 9. The licensing authority, if public convenience, interest, or necessity will be served thereby, subject to the limitations of this act, shall grant to any applicant therefor a station license provided for by this act.

In considering applications for licenses and renewals of licenses when and in so far as there is a demand for the same, the licensing authority shall make such a distribution of licenses, bands of frequency of wave lengths, periods of time for operation, and of power among the different States and communities as to give fair, efficient, and equitable radio service to each of the same.

No license granted for the operation of a broadcasting station shall be for a longer term than three years and no license so granted for any other class of station shall be for a longer term than five years, and any license granted may be revoked as hereinafter provided. Upon the expiration of any license, upon application therefor, a renewal of such license may be granted from time to time for a term not to exceed three years in the case of broadcasting licenses and not to exceed five years in the case of other licenses.

No renewal of an existing station shall be granted more than 30 days prior to the expiration of the original license.

That is all of section 9.

Now, Mr. Chairman, Senate bill 2317, the bill before the Committee of the Whole, is not merely an extension of the time of the Radio Commission. It contains positive, substantive matters of law changing the existing law which I have just read to the Chair. In the first place, as was pointed out by the gentleman from Maine, in the very first section of the act there is the general extension of all powers and authority vested in the Federal Radio Commission, including its authority to issue licenses. But go to section 3 of the Senate bill. There you find your modification and there you find legislation entirely new in character changing the third paragraph of section 9 of the law. This proposal changes the time which was there fixed, and makes what the gentleman from New Jersey is pleased to designate as substantive, positive law.

Now, section 9 is being amended in a material respect, a very material respect. The committee comes with a proposal to further amend section 9, but not bringing in some new law, as was proposed to be done by the Committee on Insular Affairs back in 1900, when they attached extraneous matter to a simple resolution extending the time for the appointment of certain officers in Porto Rico.

We have in section 3 of the Senate bill a change of existing law, law asserted in section 9 of the original radio act. The committee simply proposes to go further and by an amendment amend another clause of the very same section brought before the House by the Senate bill, both of them embraced in the authority and the power of the Radio Commission, which by the terms of the first section of the act is being extended in this measure.

Mr. MOORE of Virginia. May I ask the gentleman a question?

Mr. GARRETT of Tennessee. Certainly.

Mr. MOORE of Virginia. Does not the case stand exactly as though the Senate, instead of using the general language the gentleman has read, should have embodied all of the provisions of the act of 1927 in this bill with respect to the powers of the commission?

Mr. GARRETT of Tennessee. That is, if they had sought to reenact it in hæc verba.

Mr. MOORE of Virginia. In hæc verba instead of by general language?

Mr. GARRETT of Tennessee. Unquestionably that addresses itself to my mind as being absolutely sound.

Now, it seems to me, Mr. Chairman, that unquestionably when we come to examine the language of the law, the language of the proposed act, we can differentiate from both the cases that are laid down in the precedents, one of which has been cited by the gentleman from New Jersey and the other of which was quoted in that same decision rendered by Mr. Speaker Henderson in 1900.

Therefore, Mr. Chairman, I respectfully submit that the committee amendment is germane and is in order.

Mr. LEHLBACH. Mr. Chairman, I just want to make one observation. The test, in accordance with the argument of the gentleman from Tennessee, is whether the Senate bill in any way amends section 9 of the radio law. It does not amend section 9 in a jot or tittle; it does not cross a "t" or dot an "i," and section 9 remains exactly as it is in the law. The purpose of the bill is to extend the powers of the commission until March 16, 1929, and then, by section 3, it limits the exercise of the powers described in section 9 up to January 1, 1930. It leaves the permanent law just as it is now.

Mr. STEVENSON. Will the gentleman submit to a question?

Mr. LEHLBACH. Surely.

Mr. STEVENSON. Suppose this act were not passed. Will not the act of 1927 terminate at the date fixed?

Mr. LEHLBACH. No.

Mr. STEVENSON. The commission terminates absolutely.

Mr. LEHLBACH. It is the permanent law until repealed, and this merely terminates certain functions of the commission. That is all.

Mr. CRISP. Will the gentleman yield to me for a question?

Mr. LEHLBACH. Surely.

Mr. CRISP. I understood the gentleman to say that the Senate bill in no wise changes section 9 of the radio law?

Mr. LEHLBACH. No. As a permanent, legal proposition, it remains absolutely unchanged.

Mr. CRISP. What does the gentleman say to the proposition in the Senate bill changing the term of years for which, under the original law, they could issue licenses, because the Senate amendment changes the original act by providing that licenses shall be issued for six months and one year instead of three years and five years. Is not that a substantial change in the original law dealing with the authority to issue licenses? The House committee proposes to amend the Senate amendment by a further reduction of the time of the license.

Mr. LEHLBACH. That is just the very gist of my argument. The bill does not provide a permanent method of issuing licenses. The law of the land is that licenses shall be issued for three years and five years. That remains unchanged. All this does is by section 1 to extend the functions and powers of the commission and tells them how to exercise those powers. We put a limit on licenses up to January 1, 1930, but leave the permanent law exactly in the shape it now is.

Mr. NEWTON. Mr. Chairman, in the radio act of 1927 authority is granted to two different governmental agencies. Throughout the body of the act the expression "licensing authority" is used. Now, in the first instance, the licensing authority is the Radio Commission. After the Radio Commission shall have functioned they then go out of existence under the terms of the original act, and the licensing authority then devolves upon another agency of the Government, the Department of Commerce.

Now, turning to section 1 of the bill that is before us and which has formed the basis of the remarks of the gentleman from Maine and, to a large extent, of the gentleman from Tennessee, what do we find? We do not find that the powers of the "licensing authority" are changed. All we find is this:

> That all the powers and authority vested in the Federal Radio Commission by the radio act of 1927 shall continue to be vested in and exercised by the commission until March 16, 1929; and wherever any reference is made in such act to the period of one year after the first meeting of the commission, such reference shall be held to mean the period of two years after the first meeting of the commission.

It is apparent that powers are extended not to the "licensing authority" but to only a portion of the "licensing authority"; that is, to the commission itself. The Senate wanted to extend the life of the commission. I have the Senate report here. The substance of that report has to do with the difficulties that the commission has been up against, the failure of the appropriation, the inability to get together, and the desire to give the commission additional time within which to function.

Getting down to the committee amendment, what do we find? We find that the committee amendment changes the substantive law, the second portion of section 9, so that the "licensing authority" shall do certain things. This includes not only the Radio Commission but likewise the Department of Commerce. So that the statement that was made by the gentleman from Virginia that instead of using section 1 of the bill they might just as well have reenacted every part of the original act having to do with this subject does not apply, because section 1 only extends the powers of the Radio Commission, while the amendment seeks to extend the powers not only of the commission but of the Department of Commerce. I submit, Mr. Chairman, that the terms of the amendment are in no sense germane to the bill.

Mr. CRISP. Mr. Chairman, I shall endeavor not to repeat, and yet I am frank to say I can add practically nothing to what has been so well said by the Chairman of this committee, the gentleman from Maine [Mr. WHITE], and the gentleman from Tennessee [Mr. GARRETT].

In addressing the Chair on this point of order, of course, the merits or demerits of the amendment are not to be considered. While I personally favor the amendment, this has no bearing on the situation. The question for the Chair to decide is whether or not this amendment is germane.

Now, Mr. Chairman, I am familiar with the decision in which it was held by Speaker Henderson that you could make a point of order against an amendment added to a Senate bill by a House committee.

I think the Chair could render the House a service by overruling this decision, for I do not believe the decision is well founded. What is the object in parliamentary law of requiring that proposed amendments be germane? It is to keep the House from being taken by surprise in voting upon an amendment that has not been considered or digested or reported by a committee of the House. The natural presumption is that the committees of this House, whose members are intelligent men and good legislators, would not report an amendment to a bill which they were considering that did not relate, that was not relevant, that was not germane to the matter they were considering.

Now, what does this Senate bill do, Mr. Chairman? This Senate bill reenacts the radio control bill; and the body of the bill itself expressly says that all powers conferred on the Radio Commission by the original act are continued, with certain changes and limitations, and the Senate limits it and changes section 9, dealing with the issuing of licenses. The Senate bill itself, in section 3, in dealing with the issuing of licenses for radio and the permits which were issued under the original act, reduces and cuts down the time from three years and five years to one year and six months. This is a sub-

stantive change. The House committee proposed an amendment still further reducing the time for which licenses may be granted.

Now, Mr. Chairman, the Congress is not prohibited from changing any act of Congress if Congress sees fit to do it. There is nothing sacred about an act of Congress; and if Congress desires to change the act creating this Radio Commission, Congress can do it with whatever limitations or changes it desires to make.

The Senate bill in this instance proposes to amend section 9 by curtailing the time for which the licenses can be issued. Now, Mr. Chairman, will this House of Representatives take the position that the Senate has more legislative power in proposing amendments than we have?

Will you take the position that the Senate can amend the radio act by changing section 9, reducing the time that these licenses may be issued, but, forsooth, the House of Representatives is impotent and can not change the same section of the original radio act by providing in what manner these licenses shall be issued?

To my mind it is inconceivable how anyone can hold, under the facts in this case, this amendment is not germane.

Whether we ought to accept it is another matter, but I hold that under the facts in this case this amendment, dealing with a bill extending all the powers and all the provisions of the radio act is the same as if every one of those sections was enumerated in the bill. The Senate amended the original radio act by curtailing the period for which licenses can be issued, and further amended it by expressly changing the time and the term of service of the commissioners, then to say the House of Representatives can not offer an amendment dealing with the manner and method under which these licenses shall be granted seems to me making the legislative body absurd and ridiculous. The amendment is unquestionably germane to the bill, and in my opinion there is no merit in the point of order.

Mr. BEGG. Mr. Chairman, I want to consume one minute in calling the Chair's attention to this fact: If there was no legislation enacted, the radio basic law of 1927 would remain as it is to-day. But the commission of five men who were appointed, or supposed to have been appointed, to execute the basic law would go out of existence on March 15. If this bill is intended to do anything other than continue in office these men, the title is misleading, because the only thing contained in the title is the extension of the life of the commission.

Mr. CRISP. If the gentleman will read the first few lines of the bill, he will see that "all the powers and authority vested in the Federal Radio Commission by the radio act of 1927 shall continue to be vested in and exercised by the commission," and so forth.

Mr. BEGG. Certainly, there is an extension of the life of the commission, and that is all there is to it. If section 4 does not change at all the way in which the commission shall function—in other words, if it does not change the basic law, it is germane. But I submit, Mr. Chairman, if section 4 does change in the least particular the manner in which the commission shall function, then it is not germane to the extension of the life of the commission.

Mr. CANNON. Mr. Chairman, I desire to subscribe to the argument advanced by the gentleman from Georgia [Mr. CRISP], and I especially indorse his suggestion that the theory under which amendments to Senate bills recommended by House committees have been held subject to points of order as to germaneness is fundamentally erroneous. I have often wondered why decisions so obviously out of keeping with the fundamental purposes of parliamentary law have been retained, and I agree with the gentleman from Georgia that the Chairman would render a service to the House if he overruled them. But this line of decisions is so well established and the gentleman has covered that subject so fully that I shall take only a minute or two to discuss a phase of the pending point of order not yet touched on.

The question of germaneness is ordinarily one of the most difficult questions relating to parliamentary procedure which Speakers and Chairmen are called upon to decide. The twilight zone between what is germane and what is not germane is frequently so wide that the Chair may often with apparently equal justification throw the weight of his opinion on either side as the exigencies of the occasion may demand.

But happily the proposition here presented falls within a class on which there is little room for difference of opinion. That is, the class of amendments germane and admissible under the doctrine of limitation. To a bill delegating a prerogative or function an amendment restricting the exercise of such prerogative or function is always germane. To a proposition to grant a general power an amendment limiting the power so proposed to be granted is germane and if otherwise in order is admissible.

And that is the proposition presented by the pending amendment. It has been contended that the bill merely proposes to extend the life of the commission and that no delegation of power is involved. But it is only necessary to read the title of the bill or the first section of the bill itself to note that it also continues "the power and authority" as well as the term of the commission. To continue power is to grant power. There can be no distinction. When the subject of continuing power and authority is brought into the House the subject of granting such power and authority is as truly under consideration as if submitted for the first time. And any proposition to limit the power and authority so sought to be conferred is therefore germane.

Permit me to refer the Chair to one or two decisions from the many which might be cited on this point. For example, on November 17, 1919, while the House was considering the railroad bill providing for the termination of Federal control of interstate carriers, a paragraph was read authorizing the Interstate Commerce Commission to change rates. An amendment was offered prohibiting the changing of rates upward. In other words, the amendment proposed a limitation of the power and authority granted by the bill. The question presented by the point of order raised against the bill was analogous with that before us to-day. The railroad bill proposed to grant the commission power to change rates. The pending bill proposes to grant the commission power to change radio allocations. The amendment to the railroad bill proposed to restrict the power of the commission by prohibiting the changing of rates in any way except by lowering them. The pending amendment here proposes to restrict the power of the commission by prohibiting the changing of allocations in any way except by allocating them equally. This is the proposition: That in the exercise of this unrestricted power to be given the Radio Commission to allocate facilities they must divide them equally——

Mr. LEHLBACH. Will the gentleman yield?

Mr. CANNON. I yield.

Mr. LEHLBACH. That is the existing law restricting the commission, it provides for reasonable service for all sections of the country, and this merely makes an added restriction, a mere direction.

Mr. CANNON. The gentleman concedes, then, that the proposal to delegate power is limited by this amendment? That is precisely the point at issue. Whether the power originally granted was limited is not material. It is sufficient that the pending amendment proposes further limitation.

The decision was handed down by Mr. Joseph Walsh, of Massachusetts, whose opinions are classics in the parliamentary history of the House. He held that the amendment constituted a restriction on the power to be conferred on the commission, and that as such the amendment was germane.

Another notable decision sustaining the doctrine of limitation was made in the Sixty-seventh Congress during the consideration of the bill to amend the act to regulate radio communication. This bill conferred on the Secretary of Commerce power and authority to regulate both interstate and intrastate communication. An amendment was offered proposing to reserve to the States the control of intrastate operations. A point of order being made that the amendment was not germane, the chairman, Mr. William H. Stafford, of Wisconsin, said:

> The measure under consideration is all pervading, so far as the regulation of radio communication is concerned. It is a general law, and in the first section covers radio communication among the several States or with foreign nations.

Similarly, the measure before us here is all pervading, so far as the power and authority granted to the Radio Commission is concerned. In that respect the two situations are identical. Both are general laws.

The Chairman therefore held:

> This being a general law, it is within the power of the committee to restrict it in whatever way it sees fit.

Just as the amendment before the committee proposes to restrict the powers of the Radio Commission.

> The extent of the jurisdiction to be exercised is for the committee to pass upon, and the Chair holds the amendment is germane and overrules the point of order.

Mr. Chairman, the records of all recent Congresses are interspersed with similar decisions. I shall not take time to more than refer to them, because those cited are typical and the committee is impatient. The doctrine of the germaneness of limitations in legislative bills is well summed up in the statement of Mr. James R. Mann, of Illinois, on June 1, 1917:

I am not in favor of the amendment, but here is a section which makes provision for the insurance of vessels. * * * A limitation upon that authority, of course, is germane to it.

So in the case at bar a proposition to limit the power of the commission which the bill proposes to extend is, of course, germane to it. To a proposal to grant powers or delegate authority, amendments limiting such powers or restricting the exercise of such authority are germane and are admissible. [Applause.]

The CHAIRMAN. The Chair is ready to rule. The Chair was advised that this point of order would be made, and therefore gave considerable study to it prior to the consideration this afternoon. The Chair realizes the importance of the issue, so far as the merits of the question before the committee are concerned, and has attempted to divest himself of any interest in that question in the determination of the point of order.

The bill, S. 2317, as it came from the Senate, read as follows:

An act continuing for one year the powers and authority of the Federal Radio Commission under the radio act of 1927, and for other purposes

Be it enacted, etc., That all the powers and authority vested in the Federal Radio Commission by the radio act of 1927, approved February 23, 1927, shall continue to be vested in and exercised by the commission until March 16, 1929; and wherever any reference is made in such act to the period of one year after the first meeting of the commission, such reference shall be held to mean the period of two years after the first meeting of the commission.

SEC. 2. The period during which the members of the commission shall receive compensation at the rate of $10,000 per annum is hereby extended until March 16, 1929.

SEC. 3. Prior to January 1, 1930, the licensing authority shall grant no license or renewal of license under the radio act of 1927 for a broadcasting station for a period to exceed six months and no license or renewal of license for any other class of station for a period to exceed one year.

SEC. 4. The term of office of each member of the commission shall expire on February 23, 1929, and thereafter commissioners shall be appointed for terms of 2, 3, 4, 5, and 6 years, respectively, as provided in the radio act of 1927.

The committee amendment, as to which a point of order has been made, reads as follows:

SEC. 4. The second paragraph of section 9 of the radio act of 1927 is amended to read as follows:

"The licensing authority shall make an equal allocation to each of the five zones established in section 2 of this act of broadcasting licenses, of wave lengths, and of station power; and within each zone shall make a fair and equitable allocation among the different States thereof in proportion to population and area."

The Senate bill amended in certain particulars the radio act of 1927, which the Chair has before him. The Chair believes it in point to consider the structure and contents of that law. It is a large enactment, covering 15 pages of the usual public law print, and contains over 10,000 words. It relates to a large number of subjects in connection with "the regulation of radio communications." The first section states the general purposes of the act. The second section creates the five zones into which the country is divided for the purposes of the act.

The third section establishes the Federal Radio Commission. The fourth section states the authority of that commission. The fifth section provides for the transfer after the expiration of one year of a large part of the authority granted to the commission to the Secretary of Commerce. The law then contains numerous provisions regarding radio stations owned by the United States and provides for the use of private radio stations and facilities by the Government in time of emergency. Then follow a number of sections relating to the granting of licenses, beginning with section 9 and running through sections 10, 11, 12, 13, and 14, all of them relating to the matter of granting licenses, not only to broadcasting stations but to other stations. Section 15 relates to the matter of violations of law as to unlawful restraints and monopolies. Section 16 relates to appeals to the courts by persons dissatisfied with the action of the commission or of the Secretary of Commerce. Thus, throughout the bill a large number of subjects are treated, all relating to the general subject of radio communication and the control of radio operations and facilities by the Federal Government, including prosecutions and penalties for violations of the act. It will be seen, therefore, that the pending bill affects only a very small portion of the radio act of 1927 and can not be said to be a general revision of that act.

There are two main questions involved here, one of which has been raised only incidentally by the suggestion of the gentleman from Georgia [Mr. CRISP] that in his opinion it would be well if there would be a reversal of the decisions heretofore made with reference to the rules applicable to committee amendments, as affecting perhaps particularly amendments to Senate bills. Of course, the present occupant of the chair would not feel warranted in overruling a rather long line of decisions by very distinguished Chairmen and Speakers. The Chair thinks that it is clear that a committee amendment is subject to the same rules with respect to germaneness and all other limitations as are amendments proposed on the floor.

The gentleman from Tennessee [Mr. GARRETT] made reference to the precedent in Hinds' Precedents, volume 5, paragraph 5806, page 411, where the introductory paragraphs read as follows:

To a bill amendatory of an existing law as to one specific particular an amendment relating to the terms of the law rather than to those of the bill was held not to be germane.

The rule that amendments shall be germane applies to amendments reported by committees.

It was the case in which the gentleman from Wisconsin [Mr. COOPER] offered amendments on behalf of the Committee on Insular Affairs to the law relating to the government of Porto Rico. As the Chair understood it, the gentleman from Tennessee said that at first he was quite impressed with the force of this precedent as applicable to the instant case. The Chair is quite impressed with the force of this precedent, and wishes to call attention to the very close similarity of the case now before the committee and that which then arose. It was on April 24, 1900, and the Chair now refers to the CONGRESSIONAL RECORD, volume 33, part 1, Fifty-sixth Congress, first session, page 4613. The gentleman from Wisconsin obtained consent for the consideration of Senate Joint Resolution 116, entitled:

Joint resolution to provide for the administration of civil affairs in Porto Rico pending the appointment and qualification of the civil officers provided for in the act approved April 12, 1900, entitled "An act temporarily to provide revenues and a civil government for Porto Rico, and for other purposes."

The act itself provided as follows:

That until the officer to fill any office provided for by the act of April 12, 1900, entitled "An act temporarily to provide revenues and a civil government for Porto Rico, and for other purposes," shall have been appointed and qualified, the officer or officers now performing the civil duties pertaining to such office may continue to perform the same under the authority of said act; and no officer of the Army shall lose his commission by reason thereof: *Provided*, That nothing herein contained shall be held to extend the time for appointment and qualification of any such officers beyond the 1st day of August, 1900.

It will be noted that here was a provision for the continuation of a system of government in Porto Rico, with a limitation as to when that system of government should expire, just as in the pending bill there is a provision for a continuation of the work and authority of the Radio Commission within the limit of the period of one year. Neither the Porto Rican act nor the present bill, as passed by the Senate, changed the permanent provisions of the laws whose operations were thus temporarily extended.

The gentleman from Wisconsin [Mr. COOPER], on behalf of the Committee on Insular Affairs, offered two amendments relative to certain "franchises, privileges, and concessions," as to the granting and effect of which various preliminary requirements and restrictions were proposed, and subsequently the question arose as to the germaneness of those amendments.

The question raised here in debate was as to whether the original law which was then being extended in time of operation contained anything with reference to the very franchises, and so forth, to which the amendments referred. On that question the Chair will say that the amendments were specifically directed to section 32 of the act, which was then in question, and which read as follows:

SEC. 32. That the legislative authority herein provided shall extend to all matters of a legislative character, not locally inapplicable, including power to create, consolidate, and reorganize the municipalities, so far as may be necessary, and to provide and repeal laws and ordinances therefor; and also the power to alter, amend, modify, and repeal any and all laws and ordinances of every character now in force in Porto Rico, or any municipality or district thereof, not inconsistent with the provisions hereof: *Provided, however*, That all grants of franchises, rights, and privileges or concessions of a public or quasi-public nature shall be made by the executive council, with the approval of the governor, and all franchises granted in Porto Rico shall be reported to Congress, which hereby reserves the power to annul or modify the same.

So that in the act, which was amended by the Senate bill providing for the temporary continuance in office of certain officers, there was actually contained a provision with reference to the franchises, privileges, and concessions to which the

amendments offered by the gentleman from Wisconsin, on behalf of the Insular Affairs Committee, related, and still the Speaker held that the amendments were not germane.

That decision was delivered by Mr. Speaker Henderson, of Iowa, who said:

The Chair thinks that much of the difficulty in the minds of Members comes from the fact that the joint resolution sent from the Senate and the amendments added by the Committee on Insular Affairs all refer to the same statute, the Porto Rican bill, that became a law some time ago. The question as to whether these sections are germane can not be determined by the title alone, as has been suggested, because an act amending an act will always describe the title amended, although it may only touch one feature or part of the law; but the whole resolution has to be considered and the amendments to the resolution. If this was not clear, possibly the title would be brought into consideration. But there is not a particle of doubt as to the purpose of this resolution or as to the purpose of the amendments.

The resolution is for the sole purpose of extending the time in regard to the putting in operation of the new government of Porto Rico. The amendments are entirely outside of that question and enter upon amendments of the law in respect to matters entirely outside of that question. They have no relation in any shape or form to the proposition of the joint resolution. It will not be contended that if the Committee on Rules brought in a report to amend one rule, that thereby, by an amendment, you would open up for consideration of the House all the rules. A suggestion has been made by one gentleman as to the authority cited, and it is seldom within the power of the Chair to find an authority so completely on all fours like this. In that case the bill treated on the forfeiture of land grants, and the amendment was a regulation as to the forfeiture of lands, bearing upon the same subject, and that therefore they are not similar.

The case that the Chair has cited shows clearly that it was an amendment on the subject of the time when certain regulations went into operation. This joint resolution is for the same purpose. The amendments here are for wholly another purpose; and every Member of the House must see that no one of these amendments is germane to the original resolution. Suppose the original resolution was before the House for consideration and a Member should move to recommit with instructions to add these amendments. The point of order could be made at once that they were not germane and that the motion to recommit could not be held to be in order when it was asked to do in the House what could not be done in the committee. The case is perfectly parallel with the other. The Chair profoundly regrets that he has to sustain the point of order that it is not germane.

The case referred to, in this decision, is discussed on page 412 of Hinds' Precedents, Volume V, section 5807, where a Senate bill (S. 4814) was before the House, which was entitled "An act to amend an act to forfeit certain lands heretofore granted for the purpose of aiding in the construction of railroads, and for other purposes." To this bill Mr. Thomas H. Carter, of Montana, moved an amendment providing for a method of classification to determine the mineral or nonmineral character of lands selected by railroads. The Speaker (Mr. Thomas B. Reed, of Maine) sustained the point of order in the following language, which shows the similarity of that case to the one now pending:

The Chair can only consider, in determining the question, whether the amendment be germane to the bill before the House and the proposition therein contained. The pending bill relates solely to the time when a period named in the original act shall begin to run. The amendment proposed relates to a reclassification of lands, a subject so remote from that of the bill, that it can be justified only by a claim that any amendment germane to this act proposed to be altered would be germane to this bill. But the very claim is its own answer. The test must be the bill before the House, for that is the bill which is to be amended.

On March 9, 1928, the House was in Committee of the Whole House on the state of the Union considering Senate amendments to an Indian appropriation bill. One of those amendments read as follows:

That the time fixed for the Indian appropriation act approved June 7, 1897, for opening for location and entry, under all land laws of the United States, the lands of the Uncompahgre Indian Reservation in Utah, under the limitations and exceptions as therein provided, is hereby extended six months from the 1st day of April, 1898.

To this amendment Mr. James S. Sherman of New York offered an amendment, which provided, in substance, that the Secretary of the Interior should be authorized to lease the said reserved lands containing minerals upon such terms and conditions as to royalties, length of leases, assignments of the leases, and other "regulations and limitations," as the Secretary of the Interior might determine. Mr. KING of Utah interposed a point of order, claiming, among other objections, that the Sherman amendment was not germane to the Senate amendment then under consideration.

The Chairman, Mr. Hepburn, of Iowa, sustained the point of order that the Sherman amendment was not germane.

Reference has been made, in debate, to the decision of Mr. Speaker Cannon on February 11, 1905, when the Committee on Naval Affairs, under a special order of the House permitting the consideration, on that day, of certain private bills, by a substitute for a bill not in the privileged class, under the order, sought to bring the bill within the special order. Mr. Speaker Cannon then said (Hinds' Precedents, Vol. VI, Sec. 4623, p. 954):

The substitute is a mere proposition of no higher grade than an amendment that might be offered by any Member. * * * The amendment can have no status and if it gets consideration at all it gets consideration by virtue of the bill which was referred to the Committee on Naval Affairs and reported back.

Thus, in the case now before the committee, the amendments recommended to the Senate bill by the Committee on the Merchant Marine and Fisheries have no advantageous position on the question of germaneness, notwithstanding that committee has jurisdiction of the subject matter and the Senate bill was referred to it. The amendments must survive the same test as would amendments offered on the floor of the Committee of the Whole or of the House. What, then, is that test?

The rule was never better stated than by the distinguished gentleman from Tennessee [Mr. GARRETT], when he said on September 19, 1918, as reported in the advance sheets of Hinds' Precedents, in section 9776, that—

the meaning of the expression "germaneness"—

In the case then before him was—

that the fundamental purpose of the amendment must be germane to the fundamental purpose of the bill.

The latest decision on a question of this sort was made in an admirable opinion by the gentleman from New Jersey [Mr. LEHLBACH], on the 8th of this month, which occurs on pages 4368–4370 of the CONGRESSIONAL RECORD. That decision was sustained by the Committee of the Whole by the vote of 207 ayes to 33 noes. For the present record, it may be well to insert the statement in that decision as to the issue then involved. Chairman LEHLBACH said:

The Committee of the Whole House on the state of the Union has before it for consideration the text of the committee substitute for the Senate Joint Resolution 47. This substitute being read for the purpose of amendment, the gentleman from Alabama [Mr. BANKHEAD] offers the following amendment:

"SEC. 2. The House of Representatives shall be composed of Members chosen every fourth year by the people of the several States."

To this a point of order is made that the amendment is repugnant to the provisions of the rule on germaneness, which reads as follows:

"And no motion or proposition on a subject different from that under consideration shall be admitted under color of amendment."

In order to determine whether this amendment is on a subject different from that under consideration it is necessary to examine the subject matter of the legislative proposition to which it is offered as an amendment. An examination of the entire article shows that it is composed of four sections having two distinct and definite purposes. Sections 1 and 2 provide that the term of the President shall commence on the 24th day of January and the terms of Senators and Representatives shall commence on the 4th day of January, instead of as now on the 4th day of March, and that the Congress shall assemble on the 4th day of January, instead of as now on the first Monday of December. That is the distinct proposition involved in the first two sections, the reason for the proposition being to abolish the session of Congress after its successor has been elected and to bring the session of the new Congress nearer the date of election, so that the Congress will be more responsive to the will of the people.

The other proposition deals entirely with who shall exercise the powers of the Chief Executive and perform his duties in the event of the failure to elect the President, Vice President, or both, or in the event of the death of the President elect, or the Vice President elect, or both. These are the distinct and clear-cut propositions involved in the article, and there are no other propositions.

There is no proposition to alter permanently the length of the terms of any of the officers dealt with, either President, Vice President, Members of the Senate, or Members of the House. While in one instance throughout the future history of the country the terms of these officers are shortened by two months, that is merely incident to moving forward the date of the assembling of Congress and the abolition of the session of Congress subsequent to election.

Now, an examination of the amendment offered by the gentleman from Alabama shows that its effect not only deals with the length of the term of the Members, but necessarily affects the make-up of the Senate and of the Congress. Although the Constitution does not in

express words say so, it is a necessary result of the structure of our legislature as laid down in the Constitution that a Congress begins with the term of the Members of the House of Representatives and ends with the expiration of the term of the Members of the House of Representatives. That is not the case with the Senate, because the Senate is considered a continuing body, one-third of its Members going out every two years.

So, if this amendment were adopted, it would result in this, that where now in each Congress every Member of the Senate and every Member of the House is a Member at the beginning and remains a Member of the Senate and House until the expiration of Congress, we would have a situation where one-third of the Members of the Senate who began with the Congress would go out in the middle of its work and one-third of the membership of the Senate would come in when the work of the Congress was half done. That shows that this proposition involves not merely the length of the term of the Members of the House of Representatives, and for that reason might be deemed germane to section 1, but other consequences by reason of which it could not be held germane to section 1.

That decision is almost on all fours with the pending question. What is the fundamental purpose of this Senate bill 2317? Who will say that it has any other purpose than to extend for another year the operation and the work of the Radio Commission which, under the radio act of 1927, was limited to one year?

Section 1 does it in about the same language as is employed in the other bills which have been heretofore quoted. Section 2 continues the salaries of the commissioners for this same work for another year. Section 3 makes an incidental provision with reference to limiting licenses during this enlargement of the activities of the Radio Commission, and section 4, which the House committee struck out but which must be considered in this connection was also a part of the general scheme for continuing the life of the commission for one more year along the same lines and with the same powers and for the same purposes as were contained in the original radio act of 1927, when the commission was granted certain powers for one year only. Nowhere in the original Senate bill is there any permanent fundamental change in the wide range of the substantive provisions of the radio act of 1927, to which the Senate bill is an amendment.

The amendment proposed by the House committee, which is now designated as section 4, relates to an entirely different subject. It provides for the permanent territorial distribution and allocation of broadcasting licenses, in respect of wave lengths and of station power, among the five zones created by the radio act of 1927, and to the distribution and allocation of such broadcasting licenses, not all licenses, but broadcasting licenses only, among the different States in proportion to population and area.

It seems clear to the Chair that the fundamental purpose, in fact, the sole object of the Senate bill is the temporary extension of the jurisdiction of the commission and that the other matters which are inserted by the Senate bill are merely incidental thereto. If that is so, then section 4 is not germane, because it relates to an entirely different subject matter.

The Chair therefore sustains the point of order that the committee amendment, designated as section 4, is not germane to the Senate bill.

Mr. CRISP. Mr. Chairman, I respectfully appeal from the decision of the Chair, and desire to be heard on that. [Applause.]

The CHAIRMAN. The gentleman from Georgia is recognized for five minutes.

Mr. CRISP. Mr. Chairman and gentlemen of the committee, the Chairman who has just made his ruling is one of my good friends. I know he is an able lawyer, but I think the decision is an erroneous decision and, therefore, I have respectfully appealed from the decision so you may pass on it.

I know the older Members of the House will believe me when I say I never have argued a point of order to any Chairman or taken any position on a parliamentary question but what I absolutely believed to be right under parliamentary law. [Applause.] Now, I may have been wrong, but I was sincere in the position I have always taken and I am sincere to-day in this position.

The fundamental purpose of this bill is not to continue the life of the commission but it is to continue this Radio Commission with all of its powers, including the power for 12 months to continue to issue licenses. The Senate bill not only extended all the powers for 12 months but it extended them with certain limitations. The Senate bill amended section 9 of the original radio act by saying that this commission, with its life extended, could only grant licenses for one year and six months, instead of five and three years, and the House committee still further amended it by striking out the one and three years and putting in three months and six months.

Now, gentlemen, do you want to tie yourselves? I apprehend that a majority of this House desires to adopt the Davis amendment. I am appealing to your common sense. If you do not believe the amendment germane to this Senate bill, then vote to sustain the Chair; if you do believe it germane, be true to yourselves, be true to your convictions, and be true to your legislative duty, for you have as much right to say what the rules of this House are as the presiding officer. [Applause.]

I am not going to say any more. As I said, the Chairman is my friend, and I know he is a good lawyer. I give him credit for being sincere in his ruling, but I think he is wrong. I know I am sincere in my position. I know it is a legislative monstrosity to say this amendment is not germane to this bill which the House is now considering, and I ask you to do the intelligent thing by expressing yourselves to the effect that the House can consider it. That does not mean of necessity that the House adopts it. That simply gives you an opportunity to pass upon it. The Chairman of this committee, who is my friend, is not thin-skinned or sensitive. He will take no offense if he is reversed, and he will not be the first Chairman of this House or the first Speaker of this House who has been reversed in a ruling, and I am sure he will not be the last one.

I believe this amendment is in order and, therefore, I respectfully appeal from the decision of the Chair to give you an opportunity to pass upon it. [Applause.]

Mr. LEHLBACH. Mr. Chairman, I beg the indulgence of the committee for about 60 seconds. The gentleman stated correctly that the Senate bill was for the purpose of extending the powers and authority of the Radio Commission for 12 months with certain limitations. If section 4 were a limitation upon the powers and authority of the Radio Commission during the period for which their powers and authority are extended, it would be in order, but it does not refer to the functioning of the Radio Commission for the next 12 months. It changes, until amended, for all time the basic law with respect to radio, no matter who exercises the function, which will be the Secretary of Commerce after the 12 months if this bill passes. Consequently, it is in no sense germane. [Applause.]

The CHAIRMAN. The question is, Shall the decision of the Chair stand as the judgment of the committee?

Mr. CRISP. Mr. Chairman, I ask for tellers.

Tellers were ordered.

The Chair appointed as tellers Mr. LEHLBACH and Mr. CRISP.

The committee divided; and the tellers reported—ayes 140, noes 168.

So the decision of the Chair was not sustained as the judgment of the committee.

Mr. WHITE of Maine. Mr. Chairman, by authority of the Committee on the Merchant Marine and Fisheries I offer an amendment to this section.

The CHAIRMAN. The gentleman from Maine offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment to the committee amendment by Mr. WHITE of Maine: Amend section 4 by inserting, in line 21, after the word "States," the words "including the District of Columbia and the Territories and possessions," and by striking out the words "and area" in line 22, so that as amended the amendment will read:

"The licensing authority shall make an equal allocation to each of the five zones established in section 2 of this act of broadcasting licenses, of wave lengths, and of station power, and within each zone shall make a fair and equitable allocation among the different States, including the District of Columbia and the Territories and possessions thereof, in proportion to population."

Mr. WHITE of Maine. Mr. Chairman, the first part of the language of the amendment is purely clerical. The language which we sought to amend by the committee amendment did not make reference to the District of Columbia or the Territories or possessions of the United States. Manifestly, this language should be carried in the amendment.

The second part of the amendment seeks to avoid a dual standard, a measure by population and a measure by area, and to set up in lieu thereof the single standard of population.

Mr. BURTNESS. Will the gentleman yield for a question?

Mr. WHITE of Maine. Yes.

Mr. BURTNESS. Is there any objection to splitting this amendment in two so that there may be a division of the questions involved in the amendment?

Mr. WHITE of Maine. That is not for me to say. I would rather dispose of it all at once.

Mr. GRIFFIN. Mr. Chairman, I offer an amendment as a substitute both to the amendment in the bill and the amendment offered by the gentleman from Maine.

The CHAIRMAN. The gentleman from New York offers a substitute to what?

Mr. GRIFFIN. To the lines in the bill and to the amendment offered by the gentleman from Maine.

The CHAIRMAN. The amendment of the gentleman from Maine is not yet a part of the amendment offered by the committee.

Mr. GRIFFIN. I am offering my amendment as a substitute for the gentleman's amendment.

The CHAIRMAN. The gentleman offers an amendment as a substitute for the amendment offered by the gentleman from Maine, which the Clerk will report.

The Clerk read as follows:

Substitute amendment by Mr. GRIFFIN: Strike out lines 15 to 22, inclusive, and insert: "Each of the five zones established in section 2 of this act shall be entitled to an equal allocation of broadcasting licenses, of wave lengths, and of station power; and the licensing authority shall make a fair and equitable allocation among the different States and the District of Columbia within each zone so far as practicable in proportion to population and demand for service."

Mr. BLACK of Texas. Mr. Chairman, I make the point of order that the amendment is not a substitute for the pending amendment. It seems to me it would now be in order to have a vote upon the amendment to the amendment and then if the gentleman from New York wants to offer his amendment as a substitute for the amendment as amended, it would be in order. I make the point of order it is not in order as a substitute for the pending amendment.

The CHAIRMAN. The point of order is sustained. The question is on the amendment offered by the gentleman from Maine.

The amendment to the committee amendment was agreed to.

The CHAIRMAN. The question now recurs on the committee amendment as amended.

Mr. GRIFFIN. Mr. Chairman, I now offer my amendment.

The CHAIRMAN. To which the gentleman from New York offers the substitute which has already been reported. Without objection, it will not again be reported, and the gentleman from New York is recognized.

There was no objection.

Mr. GRIFFIN. Mr. Chairman and colleagues, we have listened to a long debate. I have given the arguments on both sides the closest attention and have come to the conclusion it has all been a "tempest in a teapot."

I do not think there is a blessed soul in this House coming from any part of the country who is opposed to the fundamental principle underlying the Davis amendment. Nobody is opposed to an equal distribution of licenses, of stations, of wave lengths, and of power. This is not the point. All of the arguments over which so much time has been spent are confessedly the result of the ambiguity of section 4, and which, I am sorry to note, the amendment of the gentleman from Maine [Mr. WHITE] does not cure.

The burden of the debate on this bill has fallen on the construction of the so-called Davis amendment, which reads as follows:

The licensing authority shall make an equal allocation to each of the five zones established in section 2 of this act, of broadcasting licenses, of wave lengths, and of station power; and within each zone shall make a fair and equitable allocation among the different States thereof in proportion to population and area.

Its purpose, I think, is to freeze into the law a rule of conduct to be followed by the commission, but the fear is expressed that it goes further than the mere expression of the right of each of the five zones to an equality of broadcasting facilities. Objection is made to the use of the term "shall."

The sponsors of the amendment deny that the word "shall" is mandatory. Nevertheless, the word "shall" is a mandatory word and, in my opinion, the fears of some of the bigger stations have some justification.

It is probable that the courts will take into consideration in any adjudication of the matter the intent of the sponsors of this amendment, but why should language be used so ambiguous in its form as to invite litigation and long-drawn-out adjudications?

Now, gentlemen, they anticipate this very objection in the report. They say:

The equality here sought is not an exact mathematical division. The language does not contemplate the withdrawal of station licenses, of power, and of wave length from others and an impounding thereof in the absence of applications from the third or other zones therefor.

Further along they say:

This equality does not necessarily require the reduction of all other zones to the level of the least favored.

What an absurdity to frame a bill so obviously inexact in terms that it must be explained in the report! On the other hand, if your bill tells what you mean, what is the necessity of explaining it? Why not use the precise language that you have in mind—that all the zones shall be entitled to equal allocations.

Having this point in view, my amendment substitutes the following language for that in the bill, to wit:

Each of the five zones established in section 2 of this act shall be entitled to an equal allocation of broadcasting licenses, of wave lengths, and of station power; and the licensing authority shall make a fair and equitable allocation among the different States and the District of Columbia, so far as practicable, in proportion to population and demand for service.

This language is in strict conformity to the assurances of the proponents of the measure and simply freezes into the law a principle of allocation to be followed by the commissioners without raising the question of vesting in them the power to revoke licenses already existing, changing wave lengths, and scrapping stations. My amendment expresses what is admitted by the sponsors of this bill to be in their minds but which they have failed to express clearly in the bill.

Mr. WHITE of Maine. Mr. Chairman, I move that all debate on this amendment and all amendments thereto close in one minute.

The motion was agreed to.

Mr. WHITE of Maine. Mr. Chairman, I hope the amendment now offered by the gentleman from New York will not prevail. When I am in doubt as to the language of an amendment as to what it does or does not do, I am instinctively against it; and that is my attitude in regard to this amendment offered by the gentleman from New York. I do detect, however, the omission of all reference to Territories and possessions of the United States. Clearly in that respect it is defective. I believe the committee amendment as now perfected accomplishes what a clear majority of the House desires. Therefore I hope the pending amendment will be rejected.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York [Mr. GRIFFIN].

The question was taken, and the amendment was rejected.

Mr. CELLER. Mr. Chairman, I offer the following amendment.

The Clerk read as follows:

Page 1, line 2, add a new paragraph to section 4, as follows:

"Just compensation shall be made for the closing of any radio broadcasting station or for substantial impairment of any radio broadcasting station resulting from the action of the Radio Commission hereunder. The person entitled to such just compensation shall be entitled to sue the Government of the United States in the Court of Claims in the manner provided by section 24, paragraph 20, section 145, of the Judicial Code, as amended."

Mr. JOHNSON of Washington. I make the point of order that we have passed that section.

The CHAIRMAN. On that point of order, that it was not offered at the proper place, the Chair sustains the point of order. The question is on adopting the committee amendment as amended.

The question was taken; and on a division, there were 175 ayes and 83 noes.

So the committee amendment as amended was agreed to.

Mr. WHITE of Maine. Mr. Chairman, I move that the committee do now rise.

The CHAIRMAN. The rule provides for the rising of the committee.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. CHINDBLOM, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having had under consideration the bill (S. 2317) continuing for one year the powers and authority of the Federal Radio Commission under the radio act of 1927, and for other purposes, had directed him to report the same back with sundry amendments, with the recommendation that the amendments be agreed to and the bill as amended do pass.

The SPEAKER. Under the rule the previous question is ordered. Is a separate vote demanded on any amendment?

Mr. LEHLBACH. Mr. Speaker, I ask for a separate vote on the amendment, including section 4.

The SPEAKER. Is a separate vote demanded on any other amendment? If not, the Chair will put them in gross.

The other amendments were agreed to.

The SPEAKER. The Clerk will report the amendment on which a separate vote is asked.

The Clerk read as follows:

Page 2, after line 14, add the following:

"SEC. 4. The second paragraph of section 9 of the radio act of 1927 is amended to read as follows:

"'The licensing authority shall make an equal allocation to each of the five zones established in section 2 of this act of broadcasting licenses, of wave lengths, and of station power; and within each zone shall make a fair and equitable allocation among the different States, including the District of Columbia and the Territories and possessions thereof, in proportion to population."

The SPEAKER. The question is on agreeing to the amendment.

Mr. LEHLBACH. Mr. Speaker, I demand the yeas and nays.

The yeas and nays were ordered.

The question was taken; and there were—yeas 235, nays 135, not voting, 64, as follows:

[Roll No. 46]

YEAS—235

Abernethy	Drewry	Kincheloe	Reed, Ark.
Adkins	Driver	King	Robsion, Ky.
Allgood	Edwards	Knutson	Romjue
Almon	Englebright	Korell	Rubey
Andresen	Eslick	Kvale	Rutherford
Arentz	Evans, Mont.	LaGuardia	Sanders, Tex.
Arnold	Faust	Lampert	Sandlin
Aswell	Fisher	Langley	Schafer
Ayres	Fitzgerald, Roy G.	Lanham	Schneider
Bachmann	Fitzgerald, W. T.	Lankford	Sears, Nebr.
Bacon	Fletcher	Lea	Selvig
Barbour	Frear	Leavitt	Shallenberger
Beck, Wis.	Free	Linthicum	Simmons
Bell	Fulbright	Lowrey	Sinclair
Berger	Fulmer	Lozier	Sinnott
Black, Tex.	Gambrill	Lyon	Smith
Bland	Garber	McClintic	Speaks
Blanton.	Gardner, Ind.	McDuffie	Sproul, Kans.
Bowling	Garner, Tex.	McKeown	Steagall
Box	Garrett, Tenn.	McLaughlin	Steadman
Brand, Ga.	Garrett, Tex.	McMillan	Steele
Briggs	Gasque	McReynolds	Stevenson
Brigham	Gibson	McSwain	Summers, Wash.
Browne	Gilbert	McSweeney	Sumners, Tex.
Browning	Gregory	Major, Ill.	Swank
Buchanan	Green, Fla.	Major, Mo.	Swing
Bulwinkle	Greenwood	Manlove	Tarver
Burtness	Griffin	Mansfield	Taylor, Colo.
Busby	Hall, Ind.	Martin, La.	Thatcher
Byrns	Hall, N. Dak.	Milligan	Tillman
Canfield	Hammer	Monast	Tucker
Cannon	Hardy	Montague	Underwood
Carss	Hare	Mooney	Vincent, Mich.
Carter	Hastings	Moore, Ky.	Vinson, Ga.
Cartwright	Hawley	Moore, Va.	Vinson, Ky.
Casey	Hersey	Moorman	Ware
Chalmers	Hill, Ala.	Morehead	Warren
Chapman	Hill, Wash.	Morgan	Weaver
Clague	Hogg	Morin	Welch, Calif.
Clarke	Holaday	Morrow	White, Colo.
Cole, Md.	Hope	Murphy	White, Kans.
Collier	Houston, Del.	Nelson, Mo.	White, Me.
Collins	Howard, Nebr.	Nelson, Wis.	Whitehead
Colton	Howard, Okla.	Norton, Nebr.	Whittington
Cooper, Ohio	Huddleston	O'Brien	Williams, Mo.
Cooper, Wis.	Hudspeth	O'Connor, La.	Williams, Tex.
Corning	Hull, Morton D.	Oldfield	Williamson
Cox	Hull, Tenn.	Oliver, Ala.	Wilson, La.
Crisp	Jeffers	Oliver, N. Y.	Wilson, Miss.
Crosser	Johnson, Ill.	Parks	Wingo
Curry	Johnson, Okla.	Peavey	Winter
Davenport	Johnson, Tex.	Peery	Woodruff
Davis	Jones	Porter	Woodrum
Deal	Kading	Pou	Wright
Dickinson, Mo.	Kahn	Quin	Wurzbach
Dominick	Kearns	Ragon	Yates
Doughton	Kemp	Rankin	Yon
Douglas, Ariz.	Kent	Rayburn	Zihlman
Drane	Kerr	Reece	

NAYS—135

Ackerman	Cohen	Fort	Johnson, Ind.
Andrew	Cole, Iowa	Foss	Johnson, Wash.
Auf der Heide	Connery	Freeman	Kelly
Bacharach	Crail	Frothingham	Kendall
Beedy	Cramton	Furlow	Ketcham
Begg	Crowther	Gallivan	Kopp
Black, N. Y.	Cullen	Gifford	Kurtz
Bloom	Dallinger	Glynn	Leech
Bohn	Darrow	Goodwin	Lehlbach
Bowles	Dempsey	Green, Iowa	Letts
Bowman	Denison	Griest	Landsay
Boylan	Dickinson, Iowa	Guyer	Luce
Brand, Ohio	Dickstein	Hadley	McFadden
Britten	Douglass, Mass.	Hale	McLeod
Burdick	Doyle	Hancock	MacGregor
Burton	Dyer	Haugen	Maas
Butler	Eaton	Hickey	Madden
Carew	Elliott	Hoch	Mapes
Carley	England	Hoffman	Martin, Mass.
Celler	Estep	Hooper	Mead
Chindblom	Evans, Calif.	Hudson	Menges
Clancy	Fenn	Hull, Wm. E.	Michener
Cochran, Mo.	Fish	Irwin	Miller
Cochran, Pa.	Fitzpatrick	James	Moore, N. J.
Moore, Ohio	Reed, N. Y.	Stobbs	Vestal
Nelson, Me.	Reid, Ill.	Strong, Kans.	Wainwright
Newton	Robinson, Iowa	Swick	Watres
Niedringhaus	Rogers	Taber	Weller
O'Connell	Rowbottom	Tatgenhorst	Welsh, Pa.
Parker	Seger	Temple	Williams, Ill.
Prall	Shreve	Thompson	Wolverton
Purnell	Somers, N. Y.	Thurston	Wood
Rainey	Sproul, Ill.	Tilson	Wyant
Ramseyer	Stalker	Underhill	

NOT VOTING—64

Aldrich	De Rouen	Kunz	Sanders, N. Y.
Allen	Doutrich	Larsen	Sears, Fla.
Anthony	Dowell	Leatherwood	Sirovich
Bankhead	French	Magrady	Snell
Beck, Pa.	Golder	Merritt	Spearing
Beers	Goldsborough	Michaelson	Strong, Pa.
Boies	Graham	Norton, N. J.	Strother
Buckbee	Hall, Ill.	O'Connor, N. Y.	Sullivan
Bushong	Harrison	Palmer	Sweet
Campbell	Hughes	Palmisano	Taylor, Tenn.
Chase	Igoe	Perkins	Timberlake
Christopherson	Jacobstein	Pratt	Tinkham
Combs	Jenkins	Quayle	Treadway
Connally, Tex.	Johnson, S. Dak.	Ransley	Updike
Connolly, Pa.	Kiess	Rathbone	Wason
Davey	Kindred	Sabath	Watson

So the amendment was agreed to.

The Clerk announced the following pairs:

On the vote:

Mr. Bankhead (for) with Mr. Treadway (against).
Mr. De Rouen (for) with Mr. Quayle (against).
Mr. Jenkins (for) with Mr. Igoe (against).
Mr. Chase (for) with Mr. Buckbee (against).
Mr. Spearing (for) with Mr. Updike (against).
Mr. Goldsborough (for) with Mr. O'Connor of New York (against).
Mr. Magrady (for) with Mrs. Norton (against).
Mr. Palmer (for) with Mr. Sweet (against).

General pairs until further notice:

Mr. Connolly of Pennsylvania with Mr. Connally of Texas.
Mr. Dowell with Mr. Harrison.
Mr. Hughes with Mr. Kunz.
Mr. Kiess with Mr. Sirovich.
Mr. Michaelson with Mr. Sullivan.
Mr. Snell with Mr. Palmisano.
Mr. Johnson of South Dakota with Mr. Davey.
Mr. Pratt with Mr. Jacobstein.
Mr. Ransley with Mr. Sears of Florida.
Mr. Taylor of Tennessee with Mr. Larsen.
Mr. Perkins with Mr. Combs.
Mr. French with Mr. Kindred.
Mr. Wason with Mr. Sabath.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the third reading of the bill.

The bill was ordered to be read a third time, and was read the third time.

The SPEAKER. The question is on the passage of the bill.

Mr. BOYLAN. Mr. Speaker, on that I demand the yeas and nays.

The SPEAKER. The gentleman from New York demands the yeas and nays. Those in favor of ordering the yeas and nays will rise and stand until counted. [After counting.] Five Members, not a sufficient number, and the yeas and nays are refused.

The question is on the passage of the bill.

The question was taken, and the Speaker announced that the ayes seemed to have it.

Mr. BOYLAN. Mr. Speaker, I object to the vote and make the point of order that there is no quorum present.

The SPEAKER. The gentleman from New York makes the point of order that there is no quorum present. The Chair will count. [After counting.] Two hundred and forty-six Members present, a quorum.

So the bill was passed.

A motion to reconsider the vote by which the bill was passed was laid on the table.

LEAVE TO PRINT—RADIO LEGISLATION

Mr. WHITE of Maine. Mr. Speaker, I ask unanimous consent that all Members may have three legislative days in which to extend their own remarks in the RECORD upon the bill just passed.

The SPEAKER. Is there objection?

There was no objection.

Mr. JOHNSON of Oklahoma. Mr. Speaker, for the past two days this House has been discussing the pending radio bill, which, if passed, proposes equal distribution of the air. Not only is this proposed, but the bill requires the Radio Commission to make an equal distribution of power, to give the South and West a square deal—that which it has never received at the hands of the present Radio Commission.

It is conceded by all that when the present law was enacted Congress had this in mind when the words "equitable distribution" were used; but the intent of the law has been ig-

nored. For my part, Mr. Chairman, I favor this bill with the Davis amendment, making the proposed law so plain, so mandatory, that there can be no misunderstanding nor evasion on the part of the Radio Commission.

I have no desire to be unkind nor to criticize unjustly the present Radio Commission, and yet I do not propose to soft pedal merely because members of that discredited commission may occupy seats in the House gallery. I am delighted that they have "listened in" on the extended discussion of this bill. If the pending measure is passed with the Davis amendment, as I feel will be done, there will be no speculation nor equivocation as to what Congress means when it says "equitable distribution." It will be a direct and unmistakable mandate that in the future there must be an equal distribution of power throughout the country.

That the present situation in which the people of the South and West find themselves is truly deplorable none who are informed will pretend to deny. If there were not such a wide range of difference in the favoritism shown by the commission to the first zone, to the detriment of all others, and especially to the splendid progressive citizenship of Oklahoma, I probably would not ask your indulgence at this time.

We find that one station in Philadelphia has 50,000 watts, as compared with only 47,000 watts allocated to the entire third zone, which is comprised of 11 Southern States. One station in New York is allocated 3,000 watts more power than is given to the combined States of Oklahoma, Texas, Arkansas, Louisiana, Mississippi, Alabama, Tennessee, Georgia, North Carolina, South Carolina, and Florida.

In spite of the fact that the people of the 11 above-named States have not been given a square deal by the Radio Commission, and are being forced to listen to the powerful stations of the East if they "listen in" at all, there are 1,037,950 radio sets in operation in the third zone. Of this number, 100,750 sets are in the State of Oklahoma, which leads all other States in the South in the number of sets in use except Texas.

The third zone has a population of 24,826,050, and leads all others, including the first zone, which has a practical monopoly on the air. And yet the third zone has been pushed to the bottom of the list, with less power than one station in New York.

Judging from its attitude toward the Southwest, the Radio Commission evidently agrees with the gentleman from New York [Mr. CELLER], when he compares the radio situation to a large pie, and remarks that a small child should not have as large piece as an adult. It is obvious that the distinguished gentleman has the audacity to compare the great Southwest to a mere child. I would not wish to be so unkind as to cast aspersions on the great city of New York. But I am tempted to say that all our citizens of Oklahoma understand a radio program broadcasted in good old English, and yet a very large percentage of people of the city of New York could not understand a program unless broadcasted in a foreign tongue. We have no serious objections to these foreign-language programs for New York, but we people down South and West dislike very much to be compelled to listen to so much Italian, French, Greek, and so forth, when we have so many wholesome, educative, and entertaining programs in the air that all can well understand. Even though our stations in the South may be small and many of our people poor, we feel as much entitled to radio programs as are the millionaires of the East.

If the great South must be compared to a mere child, let me say that this vast area stretching from the panhandle of Oklahoma to the everglades of Florida is not now receiving even a child's portion. We have starved long enough; let us have an equal division of this "radio pie"; let us insist that each section of America get a square deal; let us bring order and equality out of the present chaotic conditions.

Much has been said here by opponents of this measure about "vested rights" of the air. Our contention is that no monopoly has any vested rights. If that be true, then we have no more rights in this country. If that be true, the States of New York and Pennsylvania will continue their monopoly of the air and nothing we can do here will right this grave injustice to the South. But that is not true. When enemies of the pending measure resort to the "vested-rights" talk, it is evident that they are about driven from the field of argument. That so-called argument of vested rights is sufficient reason why Congress should enact immediate legislation to preserve the people's rights.

In closing, Mr. Chairman, I desire to take this opportunity to present the views of the people I represent regarding the present deplorable radio situation. I have received a great number of letters and telegrams from every county in my district protesting against the present monopoly of the air by the large chain stations of the North and East. The work of the present Radio Commission is severely criticized, and it is shown by these letters that the smaller stations, especially in the South, are being discriminated against. These good people I represent are demanding freedom of the air.

If I may be given permission, I shall quote here from a few of the many letters I have received on the subject, protesting against the present intolerable conditions and urging immediate relief on the part of Congress:

CANTON, OKLA.

Hon. JED JOHNSON,
Washington, D. C.

MY DEAR MR. JOHNSON: * * * I do not hesitate to say that I feel justified in asking you to do all you can to see that the people are protected in the freedom of the air. The favored interests, who have sought control of speech and the press, are about to get control, and will, if permitted, control the air. The slogan of free speech and free press is no longer a matter of importance; for, since we have the air service it is important to speech and press, and I regard it of grave importance that the rights to the air not be taken away from the people. * * *

T. C. KNOOP.

ALMA, OKLA.

Hon. JED JOHNSON,
Washington, D. C.

DEAR MR. JOHNSON: * * * Try to help us get the air back. The chain gang has taken it from us, so that we can't say any more "nothing is free but the air." We are just about crowded out by the high-priced ads and the chain gang.

A. S. MOORE.

OKEENE, OKLA.

Hon. JED JOHNSON,
Washington, D. C.

DEAR SIR: * * * Don't let the Federal Radio Commission crowd the independent stations off the air, as they are the ones which give us the markets and news—of most importance to the farmers. The reception is horrible at night when the chain stations are on the air. * * *

MRS. WINNIE SEVERN.
GEO. A. SEVERN.

OMEGA, OKLA.

Hon. JED JOHNSON,
Washington, D. C.

DEAR CONGRESSMAN: I am writing you in regard to the Radio Commission. I think it would have been better if the commission had never been created. * * * The people in the South are being cheated out of their share of the air, something that used to be free. * * *

S. EARL PECK.

WALTERS, OKLA.

Hon. JED JOHNSON,
Washington, D. C.

DEAR JED: * * * What is the farmer who owns a radio going to do? In a short while he might just as well junk it, for the chain stations are going to crowd everything else out of the air. On Sunday nights we can't even get church services any more for jazz programs. These chain stations ought to broadcast on one wave length from 7 p. m. to 10 p. m. * * *

G. A. TERMAINE.

DUNCAN, OKLA.

Hon. JED JOHNSON,
Washington, D. C.

DEAR SIR: We are very much interested in radio and, like thousands of others, want freedom of the air for all and not the favored few. Our Congressmen and Senators must see that the people get a square deal. * * *

Mr. and Mrs. A. C. SHROYER.

CHICKASHA, OKLA.

Hon. JED JOHNSON,
Washington, D. C.

DEAR SIR AND FRIEND: It seems to me that the chain stations have their chain around the throat of the radio buyer and user, and are either choking them to death or forcing them to like the stuff they call grand opera, etc. Most of our strong stations have connected up with the chain groups, and from about 7.30 to 10 o'clock at night, no matter where you turn, there is a chain station giving you the same programs until you get disgusted and quit. * * *

O. S. PENNY.

RUSH SPRINGS, OKLA.

Hon. JED JOHNSON,
Washington, D. C.

DEAR SIR: I want you to please help us out on our radio programs. The southern people can get nothing. We want our just share of the air and we do not care to listen to Chicago and New York all of the time. The people here are certainly up in arms about the situation. We can get nothing from this section of the country on account of Chicago and New York and a few other high-powered stations.

J. B. COX.

GEARY, OKLA.

Hon. JED JOHNSON,
Washington, D. C.

DEAR SIR: We are very much interested in the passage of the bill making an equal distribution of the air in the States of radio land. The chain stations are shutting out the independent stations and we are being told just what we must listen in on. We hope you will help the South get her share of the power and not let "big business" grab the air.

Mrs. VERNA B. SWAGGART.
Mrs. JAS. E. PARK.
Mrs. OLIVE ARMSTRONG.
Mrs. FRANK SWAGGART.

ANADARKO, OKLA.

Hon. JED JOHNSON,
Washington, D. C.

DEAR JED: * * * Of course, we are pleased to receive programs rendered by the superstations; but sometimes, you know, JED, a fellow would like to get other programs than those distributed from a superstation through sometimes as many as 15 or 20 other stations. It is almost impossible to get away from receiving the same program again. We do not think the South is getting a square deal in number and size of the stations; as you know, some of the northern superstations are as powerful as all the stations together in a number of States. I am informed that this is true to the extent that all the stations in 11 States of the South are not as powerful as one Northern superstation. This is unfair to the South. It is very hard to get the southern stations at all on account of the low power and limited number of stations that have been granted license, while the entire North is a flood of stations of which a big per cent are owned and controlled by private concerns and used for advertising purposes. All of this makes radioing very difficult, and if you could just come back to Oklahoma and try radioing for one or two nights you would see that the North has absolute control on the air. * * *

J. A. ASHER.

WAURIKA, OKLA.

Hon. JED JOHNSON,
Washington, D. C.

DEAR JED: What is Congress going to do about the radio situation? Conditions in Oklahoma are next to intolerable. The air has become so commercialized that all one can hear is jazz and advertisements. It is disgusting for one to try to get the market reports and other useful information or a musical program from Oklahoma City or Dallas, to find one must listen to jazz or about somebody's pink pills or patent medicine. It seems that New York, Chicago, and Philadelphia have a monopoly on the air. Is it true that one station in New York has actually been given more power by the Radio Commission than Oklahoma and the other 10 States of the third zone?

Yours truly,

H. A. ROACH.

Mr. MORROW. Mr. Speaker, in my State, New Mexico, we have but three or four broadcasting stations. The principal station is at the Agricultural College, State College, N. Mex. The station has received orders to change the frequency of the station, KOB, from 760 to 1,050 kilocycles. This channel is used by seven other stations in the United States, with power from 50 to 5,000 watts, and is not a preferred channel and, of course, it is operated with great interferences.

The station at the college was a pioneer station in broadcasting in the Southwest, starting under experiment license in June, 1920, as 5XD. This was before the licensing of broadcasting stations as such stations. The station is about 799 miles removed from a radius of any other large station. It should be entitled to a cleared channel and to exclusive time. The nearest other large stations are at Los Angeles, Salt Lake City, Denver, Tulsa, Fort Worth, and San Antonio.

The station at the college is equipped for special service and was operating successfully and rendering such service until the arbitrary change by the commission. The station, with proper power, is of great public service, convenience, and is a real necessity.

It serves some 700,000 people of the Southwest living in small communities, on farms, ranches, mining and lumber camps, all of whom are far removed from large cities. Nearly all lack rapid communication and educational entertainment such as those residing in or near large cities receive.

These communities need, and are entitled to, radio service. A glance at the radio map of the country will show very few radio stations in the wide stretches of the open country. Station KOB is the Southwest's only large station, as the map will disclose. The radio law of 1927, in outlining the duties of the Radio Commission, states that—

the licensing authority shall make such distribution of licenses, bands of frequency of wave lengths, periods of time of operation, and of power among the different States and communities as to give fair, efficient, and equitable radio service to each.

The geographical distribution of stations on preferred channels show that Illinois has 15, California 14, Washington and east Texas 8 each, Iowa 7, Massachusetts, Missouri, and New Jersey 6 each, Wisconsin, District of Columbia, and Oregon 2 each, while a few States have no stations, the majority of the rest have 1. And then efforts are made to take KOB off the preferred channel.

In all legislation there is an important factor that must be taken into consideration—that is, the people and their rights should and must be protected. Especially is this true in this day and age, when it appears that organized capital seeks the control and complete monopoly of all the natural resources of the Government; air, water power, in fact, every natural resource of the Nation that can by legislation be brought under their control and in turn capitalized by the same moneyed powers and resold back to the people at a very large return upon the investment. This method at this time is being used to the disadvantage of the citizens of our Nation. Especially is this true in the matter of the use of the air for radio purposes. It seems that the air is to be used in the same manner as the great natural resources of the Nation, all grabbed by man's greed and in turn sold back again to the public at an enormous interest and return to capital.

I am inserting herein part of a communication from the director of station KOB at the New Mexico Agricultural College. This will show that the station is not receiving what rightfully belongs to it under its license. The correspondence follows:

In the late summer another station requested of the commission permission to use the 760 kilocycle channel. We were, according to custom or regulation of the commission, notified of this request and protested the addition of more stations on the grounds of interference existing between the eight already assigned this channel. Their request was turned down, but without our receiving notice or given opportunity to protest and following the above, KMA at Shenandoah, Iowa, was assigned to the 760 kilocycle channel and required to divide time with KWKH. This was protested by KWKH. A little later KWKH requested a hearing before the commission to determine if they should be granted a permit to increase their power from 1 kilowatt to 10 kilowatts, and have full time on our channel. The hearing was held in Washington October 13, 1927. At this hearing KOB was represented by director Symons of the University of Maryland. We strongly protested the increase of power of KWKH unless this station and KMA were made to divide time with KOB, in which case we had no objection to the increase of power. Affidavits showing that bad interference existed were presented. Also correspondence between the undersigned and KWKH and KNA was presented to prove that KOB had made every effort to effect a division of time among these stations with the idea of clearing the existing interference, but without success. The result of this hearing was that KWKH's request for increased power and exclusive time on the 760 kilocycle channel was denied and he was made to divide time on the air with KMA, as originally ordered. KOB, and the strong interference between KOB and KMA or KWKH, was totally ignored in this decision.

The matter was then taken up by correspondence with the commission. In December we again sent them sworn copies of all correspondence with KWKH and KMA to show we had made every effort to get cooperation in eliminating the interference, but without success with KWKH. KMA expressed a willingness to consider a division of time. The commission seems to have assumed that because we had been active in our attempts to clear the situation, that we desired to change our channel. Commissioner LaFount, then, recently appointed to replace Commissioner Dillon, deceased, and representing the fifth zone, which we are in, proposed we change to the 580-kilocycle channel, reduce our power to 2,500 watts, and use time four nights per week from 6 to 8 p. m. only. This was unsatisfactory for three reasons. First, the channel is not one of the preferred channels and which we feel we are entitled to have; second, the time division was not equitable; and third, the other stations using this

channel were Canadian, thereby introducing international complications over which the commission had no control. This proposition was held pending future developments by mutual agreement.

Through our affiliation with the Association of Land Grant Colleges and my being a member of the radio committee of that organization, I was called to Washington for a conference with the commission on January 9, 1928, to take up the general question of educational broadcasting and specific arrangements for some 19 stations of land-grant colleges. Unfortunately for us, Commissioner LaFount was not in attendance at this conference, but Commissioners Sykes, Caldwell, and Pickard were. The commission talked over the situation and expressed themselves as very favorable toward educational broadcasting. Arrangements were agreed upon concerning acceptable compromise solutions of the difficulties of the stations of the association, including KOB. It was understood the carrying out of these arrangements would have to await the confirmation of appointment of Commissioners Caldwell, Pickard, and LaFount by the Senate. I understand that to date these confirmations have not been made.

Concerning KOB at this conference, all recognized the "public convenience, interest, and necessity" for KOB service. It was agreed that KOB should be given equitable exclusive time on a cleared channel with the requested 10-kilowatt power. Commissioner Caldwell suggested that to do this a station in his district under eastern time should be paired with KOB. Thus, they would shut down at 11 p. m. or 9 p. m. our time, after which we could have the air. He suggested a Detroit station. Commissioner Pickard agreed in principle to this idea and advanced the further suggestive idea that since the Springfield, Mass., and Boston, Mass., stations, WBZ and WBZA, of the Westinghouse Co. did not seem to reach very far west, these stations would be good ones to pair us off with. He thought that by this means it might be possible for both of us to work full time, at least under reduced power out of our allotted full-power time, without interference. This suggestion appeared highly satisfactory to all. It was then recommended by the commission that the undersigned proceed to New York City to confer with Mr. Horn, of the Westinghouse Co., in regard to their acceptance of this proposition. I made the New York trip, but unfortunately missed Mr. Horn by about a half hour, so could not confer with him. I then returned to Washington and reported the results to Commissioner Pickard, who assured me that he felt sure everything would be satisfactory and that this arrangement could be carried out. Before leaving Washington and on the suggestion of Commissioner Pickard, I wrote a letter to Commissioner LaFount reporting the conference and its results.

Nothing further was heard from the commission until February 21, when I received the following telegram: "Modification issued to-day, effective March 1, authorizing you operate on 1,050 kilocycles, dividing time KSAU, Boise, Idaho. Signed, Harold A. LaFount, commissioner."

There are listed seven stations on the 1,050-kilocycle channel. Two of these divide time in Nebraska, two more divide time in Minnesota, and one in Arkansas is on only during daylight, thus virtually reducing the possible number of stations that could be on the air at one time during the evening to four. I listened in with a selective superheterodyne receiver and found bad interference on this channel. Therefore to determine if orders changing conditions March 1, when we were supposed to get on this channel, had been issued to reduce the present interference, I sent the following wire to the commission: "Your wire received. Please wire us number stations, location, power, and hours assigned 1,050 kilocycles March 1. Fear heterodyning interference. In conference January 9. Arrangements for acceptable changes suggested by Commissioners Pickard and Caldwell. We prefer equitable division time some cleared channel as agreed upon this conference. Signed, R. W. Goddard."

WASHINGTON, D. C., *February 23, 1928.*

To R. W. GODDARD,
Radio Station KOB, State College, N. Mex.:

Seven stations now on two eighty-five. Five meters through division of time reduced to four. Baltimore 5,000 watt and Minneapolis 500 watt are the only ones that can in any way interfere with your programs. Regret inability to secure cleared channel, 200 similar requests making the task a complicated one. Other commissioners feel that proposed frequency will help you at least temporarily. I suggest that you try it out for a time and report results.

HAROLD A. LAFOUNT,
Commissioner.

Their reply indicates that the present interference will not be cleared up, and that we would be jumping from the frying pan into the fire to change channels, as well as sacrifice our right to a preferred channel under section 4 (f) of the 1927 radio law, which we are now occupying.

"SEC. 4 (f). Make such regulations not inconsistent with law as it may deem necessary to prevent interference between stations and to carry out the provisions of this act: *Provided, however,* That changes in the wave lengths, authorized power, in the character of emitted signals or in the times of operation of any station, shall not be made without the consent of the station licensee unless, in the judgment of the commission, such changes will promote public convenience or interest or will serve public necessity, or the provisions of this act will be more fully complied with."

After conference with President Kent and others I wired commission last night: "Yours February 23d received. Have listened here ten-fifty kilocycle channel with selective superheterodyne and found very serious interference. Nebraska and Minnesota stations with Idaho without reassignment of time or elimination some stations same interference would occur. KOB, when dividing night time with Idaho, can't report regarding Baltimore, as unable to clear interference enough to determine all sources. Temporary change means great inconvenience our thousands of listeners as well as considerable expense for new condensers, crystal, etc. Would need over month notice to obtain these; also forfeit our right under radio law, section 4 (f), to preferred channel. Unwilling to give up good allocation we are entitled to for something worse. Conference January 9 with commissioners recognized right and public necessity KOB service. Agreed to arrange equitable division, exclusive time, cleared channel. Reference records correspondence conference and telegrams to commission from our listeners. KOB service inaugurated 1920. Only large station serving Southwest, with difficult terrene and summer static conditions. Reception satisfactory until channel changed by commission, June 27. Reports of interference with KWKH brought no relief. KMA placed on channel without our knowledge or opportunity to protest, but after our protest addition of other stations desiring to use channel. KOB ignored in division time KMA and KWKH, notwithstanding interference. Reported KOB made every effort to get equitable division time KMA and KWKH and cooperate with commission. Result, present deadlock. Strongly protest change. Desire equitable division time KMA, KWKH, and KOB present channel or equitable division exclusive time other cleared channel. Suggested change manifestly unfair. KOB unwilling surrender our rights in preferred channel or make temporary change. Please wire procedure necessary for us to take, if any."

By way of explanation of this action, might I state the situation as I see it? We are now on a preferred channel. We can not be removed from it without our consent or a hearing to determine the necessity at which we could prove our rights to a place in the air. If we relinquish our preferred channel for one outside the preferred band, the burden of proof of why we should be put back will be on us and make the situation consequently more complicated.

We certainly want to avoid any unnecessary and frequent changes of channel as our thousands of listeners become accustomed to listening for us at definite settings of their dials. If a change is made we are lost to them until they can find us again. Also a change in channel requires constructional changes in the transmitting equipment, such as replacement of condensers, crystal, oscillator, etc. This costs considerable money for a station the size of KOB. Also it would require at least one month to get this material from the manufacturers in the East under the most favorable conditions. We feel the clearing up of the present interference is of mutual benefit to the stations concerned and are willing to compromise if others will do so equitably. KWKH refuses to do so. We have done our best; therefore it is up to the commission to settle the difficulty. But we can not see why the oldest, most powerful station giving the most service to the greatest area should be penalized and made to take an unfavorable channel, while stations established after KOB and broadcasting entertainment and sales talks only are allowed to keep the present very favorable channel.

For your further information may I quote section 9 of the radio law of 1927, paragraph 2, outlining the duties of the commission?

"SEC. 9, PAR. 2. In considering applications for licenses and renewals of licenses, when and in so far as there is a demand for the same, the licensing authority shall make such a distribution of licenses, bands of frequency of wave lengths, periods of time for operation, and of power among the different States and communities as to give fair, efficient, and equitable radio service to each of the same."

KOB is the only powerful station in a radius of 700 miles between Fort Worth, Tex., and Los Angeles, Calif., east and west, and between Denver, Colo., and Mexico City north and south. At present the geographical location of stations enjoying the preferred channels are: State of Illinois, 15; California, 14; New York and Pennsylvania, 9 each; Washington and east Texas, 8 each; Iowa, 7; Massachusetts, Missouri, and New Jersey, 6 each; Ohio, 4; Florida, Michigan, and Nebraska, 3 each; Wisconsin, District of Columbia, and Oregon, 2 each; while a few States have no stations, the majority of the rest have one. And then they try to take KOB off a preferred channel!

It would appear from the information furnished by the director of KOB that the charge is true that the power to operate stations has been granted larger cities to the detriment of rural communities and that the air for radio use is being commercialized and the power to operate monopolized largely for commercial advertising. The amendment adopted by the House should correct this evil to a great extent, if an honest and fair class of men is retained upon the Radio Commission.

Mr. JOHNSON of Texas. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD upon the bill by incorporating therein a letter and telegram I received from my district.

The SPEAKER. Is there objection?

There was no objection.

Mr. JOHNSON of Texas. Mr. Speaker and Members of the House, there seems to be but one section of this bill (S. 2317) in controversy, and that is section 4, which reads as follows:

SEC. 4. The licensing authority shall make an equal allocation to each of the five zones established in section 2 of this act of broadcasting licenses, of wave lengths, and of station power, and within each zone shall make a fair and equitable allocation among the different States, including the District of Columbia and the Territories and possessions thereof, in proportion to population.

This is a new section to the Senate bill and is offered as a committee amendment thereto by the House Committee on the Merchant Marine and Fisheries. I favor its adoption and the argument of those opposed to it appears to be wholly without merit.

The radio bill of 1926, which is now the law of the land, divided the United States and possessions into five zones for administrative purposes, as follows:

First zone: Maine, New Hampshire, Vermont, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, Maryland, the District of Columbia, Porto Rico, and the Virgin Islands.

Second zone: Pennsylvania, Virginia, West Virginia, Ohio, Michigan, and Kentucky.

Third zone: North Carolina, South Carolina, Georgia, Florida, Alabama, Tennessee, Mississippi, Arkansas, Louisiana, Texas, and Oklahoma.

Fourth zone: Indiana, Illinois, Wisconsin, Minnesota, North Dakota, South Dakota, Iowa, Nebraska, Kansas, and Missouri.

Fifth zone: Montana, Idaho, Wyoming, Colorado, New Mexico, Arizona, Utah, Nevada, Washington, Oregon, California, the Territory of Hawaii, and Alaska.

The purpose of dividing the country into five radio zones was as expressed at the time of the passage of the 1926 bill to provide for "equitable distribution" and service to the entire United States. That such purpose has not been accomplished is evident from the report of the committee as shown by the following table contained therein relative to broadcasting licenses which have been issued under authority of existing law:

Analysis of broadcasting licenses

	Population	Population (per cent)	Area (square miles)	Area (per cent)	Number of stations	Total station power in watts	Percentage of station power	Stations with over 1,000 watts
Zone 1	24,378,131	22.73	129,769	3.63	138	213,055	35.30	10
Zone 2	24,337,341	22.69	247,517	6.93	115	116,805	19.34	8
Zone 3	24,826,050	23.14	761,895	21.33	102	47,105	7.80	4
Zone 4	24,492,986	22.83	658,148	18.42	215	164,870	27.31	30
Zone 5	9,213,720	8.59	1,774,447	49.68	131	61,785	10.24	8
Total	107,248,228	100	3,571,776	100	701	603,620	100	60

It will be noted that these five zones with the exception of zone 5 are almost equal in population, but that in the distribution of broadcasting stations gross discrimination has been shown. Zone 3, in which I live, has the largest population of any one of the zones, and yet has but four high-powered broadcasting stations, while zone 1 has 10 and zone 4 has 30 of such stations. It is my understanding that the total power of the four stations in zone 3 is less than that of one single station in the city of New York.

If the Radio Commission interpret this as "equitable distribution," then it becomes absolutely necessary that Congress shall in no uncertain terms and by mandatory injunction require them to "make equal allocation" as the proposed amendment will do.

The gentleman from New York [Mr. CELLER] stated that he was opposed to the amendment because it "will put the radio art into a strait-jacket." If it requires a "strait-jacket" to have the will of Congress carried into effect by one of the commissions it has created, then the sooner we have one the better. The same gentleman, in opposing this amendment, compared zone 1, in which he lived, as "adults," and zone 3 "children." In order not to be too offensive he hastened to say:

I do not mean to imply that the zone 3 is necessarily like unto a child, but I will say this: That as far as industry, commerce, radio population, and as far as enterprise is concerned with reference to broadcasting, and as far as willingness was concerned to enter this field, certain sections are not as fortunate as others. Some are smaller than others, through causes probably beyond their control.

What are the facts? Take his own speech and the figures therein contained. On January 1, 1927, zone 3 had a total of 1,037,950 radio receiving sets, while zone 1 had 1,444,100 such sets. While his zone had only 25 per cent more receiving sets, it had 150 per cent more high-powered broadcasting stations and 350 per cent greater station power in watts than zone 3.

One reason zone 3 has no more broadcasting stations is that the Radio Commission has declined to grant numerous applications to establish them. He is right, therefore, in saying that the causes are "probably beyond their control." And if this amendment is not adopted it will still be "beyond their control" to secure additional stations.

As to "industry and commerce" of zones 1 and 3, statistics fail to sustain the charge that zone 1 is an "adult" and zone 3 a "child," at least in so far as the value of exports is concerned.

The value of exports determines whether our trade balance is favorable or unfavorable, and is, therefore, an important factor regarding the prosperity of the Nation.

The value of exports for the year 1924 of the States comprising zones 1 and 3 are as follows:

Exports by States for 1924

ZONE 1

Maine	$5,503,356
New Hampshire	6,014,221
Vermont	2,367,212
Massachusetts	114,418,430
Connecticut	35,503,405
Rhode Island	13,576,560
New York	731,593,502
New Jersey	223,921,264
Delaware	5,208,338
Maryland	71,178,310
District of Columbia	555,008
Porto Rico	9,479,436
Total	1,219,319,042

ZONE 3

North Carolina	62,321,924
South Carolina	29,866,769
Georgia	84,963,380
Florida	27,459,986
Alabama	35,739,440
Tennessee	43,041,084
Mississippi	55,647,497
Arkansas	38,899,816
Louisiana	222,847,224
Texas	737,218,927
Oklahoma	47,897,006
Total	1,385,903,053

Of the commodities sold to the other nations of the earth to enrich our own, zone 3, "the child," led zone 1, "the adult," by $166,548,011 in a single year.

And every dollar of the exports from zone 3 represents wealth actually produced therein. It is the producers of wealth rather than the traders in wealth who contribute most to the prosperity of this Nation.

My own State of Texas may be a child in age when compared with the State of New York and its population only about half as large, but in one year its exports exceeded those of its ancient sister by $5,625,425. And aside from that Texas is a growing child. In 1850 when the first Federal census was taken after Texas was admitted as a State, the population of Texas was 212,592 and that of New York State was 3,097,394. The Census Bureau estimates that the 1930 census will give New York State a population of 11,755,000 and Texas 5,633,000. In Texas's 80 years of Statehood her population has multiplied twenty-six times, while in the same period New York State's population has increased less than four times. In other words the population of Texas is twenty-six times greater than it was 80 years ago while New York State is less than four times larger. If the same ratio is continued for the next 80 years at that time Texas will have a population of over 140,000,000 and New York would have about 45,000,000.

But enough of comparisons. I am not a sectionalist. I have a very high regard for the imperial State of New York and, in fact, for every State in the American Union, and the gentleman from New York [Mr. CELLER] is my friend; but when my own great State and its neighbors have been grossly discriminated against by a Federal agency, such as has been done by the Radio Commission, the wrong that has been done us can not be justified by telling us that we are children, and therefore should be seen and not heard. I understand that some members of the Radio Commission justify their conduct in denying the establishment of new stations in our zone by construing existing law as to "equitable service" to mean the right to listen rather than the right to broadcast. That makes the enactment of section 4 of this bill necessary, and without

it we can not hope for relief. The plea of "vested right" interposed by some in behalf of existing stations does not appeal to me as sound either in law or in equity. The right of the people to the use of the air is paramount to the right of any individual, any corporation, or broadcasting station, and the Government of the United States, acting for its citizens, can regulate and control this greatest of modern inventions for the common good and the welfare of all. But the fact that the plea of vested right is claimed for existing stations makes it all the more important that we shall by legislative declaration require that the Radio Commission shall in the allocation of stations, wave lengths, and power give every part of this country equal and fair treatment.

The people in my district are interested in this legislation. I have received a number of communications from them. Here is a telegram received by me only a few days ago:

BRYAN, TEX., *March 7, 1928.*

Hon. LUTHER A. JOHNSON,
Washington, D. C.:

We, the undersigned, heartily indorse honest distribution of the air. Use your influence to this intention.

David Reid, H. Conway, M. Schulman, L. H. Daniels, Henry Locke, Raymond Jones, C. S. Beckwith, R. Erskine, W. B. Moore, C. R. Overt, Ross Groginsky, Will Lawrence, D. L. Wilson, Bryan Miller, R. S. Webb, H. Lockard, H. G. Syptak, Travis Bryan, J. C. Caldwell, W. R. Fairman, J. Kaplan, H. L. Whitley, New York Café, James Page, D. Fountain, Bert McMorris, Allan Kraft, Noah Dansby, C. E. Jones, Donald Cole.

Also, here is a petition from Milano, Tex., dated March 5, 1928:

We are requesting you to use your influence and vote to support the fight being carried on by Mr. W. K. Henderson, of radio station KWKH of Shreveport, La., to provide equal distribution of radio power according to area and population. We are asking you to support the bill just reported out of the Merchant Marine and Fisheries Committee amending the radio law and providing equal distribution of radio power.

We also request that you do all within your power to prevent the Senate from confirming Caldwell as radio commissioner.

We do not believe that Judge Sykes, one of the commissioners who has been confirmed, is giving the South fair representation and treatment.

We would be glad if Congress investigated the whole Radio Commission. Get men on the commission who will give everybody a square deal regardless of whether they are of the big electrical concerns or not.

We do not like those chain programs and that is about all we can hear most of the time. We want something besides advertising programs.

FRANK FASEL (and others).

Those of us who favor amending the existing radio law, as proposed in this bill, do so, not because we are sectionalists but because we are against sectionalism. We believe in the doctrine of equality. Can any one who is imbued with the spirit of democracy—who believes not only in preaching but in practicing the immortal maxim of Thomas Jefferson, "Equal rights to all and special privileges to none," find fault with section 4 of this bill, which merely provides that every section of this Nation shall have equal rights in the use of the air, which God made for all of us.

LEAVE TO ADDRESS THE HOUSE

Mr. ANDREW. Mr. Speaker, I ask unanimous consent that to-morrow, after the reading of the Journal and the disposition of the other unanimous-consent requests now on the program, I shall be permitted to address the House for five minutes.

The SPEAKER. Is there objection?

Mr. GARNER of Texas. Mr. Speaker, reserving the right to object, I understand that there are already standing orders that two gentlemen have 30 minutes each.

The SPEAKER. The Chair understands that the request of the gentleman from Massachusetts is to follow the speeches of the gentleman from Ohio [Mr. BRAND] and the gentleman from Ohio [Mr. BURTON].

Mr. ANDREW. That is my request.

The SPEAKER. Is there objection?

There was no objection.

Mr. DOUGLAS of Arizona. Mr. Speaker, I ask unanimous consent to address the House for a period of five minutes after the reading of the Journal to-morrow and the disposition of the other orders.

The SPEAKER. The gentleman from Arizona asks unanimous consent that following the address of the gentleman from Massachusetts [Mr. ANDREW] he be permitted to address the House for five minutes. Is there objection?

Mr. SCHAFER. Mr. Speaker, reserving the right to object, on what subject?

Mr. DOUGLAS of Arizona. On Joint Resolution 183.

The SPEAKER. Is there objection?

There was no objection.

THE PARTY SYSTEM AND THE PRINCIPLE OF REPRESENTATION ESSENTIAL

Mr. VESTAL. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by inserting therein a speech delivered by my colleague [Mr. WOOD] at the editorial association at Indianapolis on Friday last.

The SPEAKER. Is there objection.

There was no objection.

Mr. VESTAL. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following speech of Hon. WILLIAM R. WOOD, Member of Congress from the tenth Indiana district at the annual banquet of the Indiana Republican Editorial Association at the Columbia Club, Indianapolis, Ind., Friday, March 9, 1928:

Gentlemen of the Indiana Republican Editorial Association, it is always a pleasure to me to get back to Indiana, even for a brief period. It is a very great pleasure, I assure you, to have such an occasion call me here. No gathering could be more reflective of the spirit of our great Commonwealth than a meeting of the Republican editors of the State, and I am deeply appreciative of the honor done me by the invitation to address you upon this the occasion of your annual banquet, bringing to a close the highly successful sessions of the last two days.

As editors and business men you have discussed and heard discussed matters of vital interest to your guild. They say everyone thinks he knows better how to run a newspaper than its proprietor. Looking over your program, however, I do not note that you have taken much in the way of instruction from the uninitiated. So I am not going to tell you how to run your newspapers, because I have had no practical experience. I am going to concede, however, that you have a right to tell something in your newspapers about how to run the Government. A somewhat extended experience in public affairs has convinced me that you will exercise that right anyway. In all earnestness, I want to say to you that I hope you may never cease to exercise it. For without a free and fearless press we can not hope to maintain a representative form of government.

Conducting a newspaper is a business, and as newspaper men you may be proud to know that no other class of business men have so great an opportunity for public service in their communities. You may reach out into all activities and leave the impress of your thought and your zeal upon them. And certainly not the least of the activities of any community is political activity, for it has to do with the science of government. Government in itself alone can not cure all ills and create all prosperity, but without good government prosperity can not for long endure. Aside, then, from your obligations as citizens of a republic, you are as business men vitally interested in good government. It would be a sorry day for this grand old Republic if that day should ever come when business men, for short-sighted business reasons, should refuse to ally themselves with the political parties which best serve as the mediums through which to express their views. We would then have in very fact a government run entirely by politicians in the meanest sense of the term.

I am doubly glad, therefore, that you Republican editors of Indiana stand out in your respective communities not only as editors and business men but as Republican editors, and that you have formed yourselves into this militant Republican Editorial Association of the great State of Indiana.

My Republican friends, a short time ago in this city of Indianapolis the Democratic Editorial Association of Indiana was addressed by my friend and colleague, the Hon. FINIS J. GARRETT, the brilliant Democratic floor leader of the House of Representatives. He took for his theme "Party government" as that most suited to the occasion, and in his masterly way effectively he dealt with it. We may differ with him in party principles, but I for one can not differ with him in his opinion so ably expressed, that the two-party system is essential to the success of a form of government such as ours. I am gratified to know that if, as now proposed by his many admirers in his home State of Tennessee, he should at the next election be sent from the House to the Senate of the United States, we will have in that body to compensate us for so formidable a foe in the field of party politics a champion of the fundamental principles of party government as opposed to the clique and bloc system so rapidly developing in that body.

Like this outstanding Democratic leader thoughtful men in both parties are awake to the danger of the situation. They appreciate that if we are to maintain a republic—a representative form of government—we can do so only through the agency of political parties and their chosen representatives. Early in the history of our country the need of the growing Republic made evident the desirability of parties and party responsibility, and from that day to this every American citizen who for his breadth of vision and his adherence to fundamental principles is gratefully remembered as an American statesman has been a

party man. And as a Republican and a believer in parties, I am proud to say that no man in public life to-day has given more forceful expression to his belief in the desirability of parties than our great leader, Calvin Coolidge.

Last month the anniversary of the birth of Abraham Lincoln was celebrated throughout the United States. That phrase is used advisedly, for his memory and the principles for which he stood were praised more generally this year than in any previous year. A great many representative men of the Southern States, whose fathers bore arms against the Union, took occasion last month to pay tribute to the memory of this great American. More and more it is becoming apparent to thinking men, regardless of geographical or political lines, that Abraham Lincoln stood for the fundamental things in the administration of public affairs, and in the administration of political parties.

I want to read you a letter which Lincoln wrote to Schuyler Colfax, already a political leader in Indiana at that time—July 6, 1859. This letter has peculiar application to present-day tendencies, because it warned against the danger of sectionalism in the Nation and factionalism within the party; because it shows Lincoln, the party man, in a practical effort to save from disaster the newly born Republican Party. It is as follows:

"Besides a strong desire to make your personal acquaintance, I was anxious to speak with you on politics a little more fully than I can well do in a letter.

"My main object in such conversation would be to hedge against divisions in the Republican ranks generally, and particularly for the contest of 1860. The point of danger is the temptation in different localities to 'platform' for something which will be popular there, but which, nevertheless, will be a brand elsewhere, and especially in a national convention. As instances, the movement against foreigners in Massachusetts; in New Hampshire, to make obedience to the fugitive-slave law punishable as a crime; in Ohio, to repeal the fugitive-slave law; and squatter sovereignty in Kansas. In these things is explosive enough to blow up half a dozen national conventions, if it gets into them; and what gets very rife outside of conventions is very likely to find its way into them. What is desirable, if possible, is that in every local convocation of Republicans a point should be made to avoid everything which will disturb Republicans elsewhere. Massachusetts Republicans should have looked beyond their noses, and then they could not have failed to see that tilting against foreigners would ruin us in the whole Northwest. New Hampshire and Ohio should forbear tilting against the fugitive-slave law in such a way as to utterly overwhelm us in Illinois with the charges of enmity to the Constitution itself. Kansas, in her confidence that she can be saved freedom on 'squatter sovereignty,' ought not to forget that to prevent the spread and nationalization of slavery is a national concern, and must be attended to by the Nation."

So we find Abraham Lincoln warning against blocs, though they did not call them so in his day—sectional blocs determined to keep to the front sectional interests, to the detriment of what his party was trying to do for the whole country. He hated slavery, but his first thought was to preserve the Union under the Constitution. He sought to enlist the support of other party leaders in an intelligently directed effort to quiet dissention in the party ranks and keep out of the national convention extraneous issues.

When I think of the mighty results of his efforts—call them manipulations if you will—it matters not a whit to me if in that great national convention of 1860 the voice of some budding orator, burning with the abstract rights of man, was stilled; that there was some restriction of the expression of opinion, some spirit of compromise that a great party might live and perform its mission. In such an atmosphere of compromise in the century before was formed the national charter, guaranteeing to us our rights and liberties, under which we have lived and grown great as a Nation.

It is pertinent to present-day political conditions to observe that the great convention which debated, formulated, and finally adopted the American Constitution, which has withstood the test of 150 years, was a convention composed of delegates which in turn had been selected by other delegate bodies in their home States. It is impossible to conceive of a situation in which greater issues were at stake, issues which involved the destinies of this newly born Nation and the welfare of all those American colonists who had sacrificed everything in order to win political freedom and the right to set up for themselves a government patterned after their own ideas and embodying their own aspirations.

I ask you also to consider that this convention was composed of delegates elected by other conventions at a time and during a period when that most direct and simplest form of popular government was in full bloom, namely, the town-meeting system. There is something unusually significant in the fact that when it came to the tremendous decisions involved in the drafting of a constitution for the Nation that the town-meeting methods were abandoned and our forefathers relied upon the ability, sanity, conservatism of a convention.

Fisher Ames, in the Massachusetts convention which ratified the Constitution, in addressing himself to the subject of delegating responsibility and final authority to members of a convention in contrast to the town-meeting methods of government so long employed by that great Commonwealth, said: "I know but one purpose which the people can effect without delegation, and that is to destroy government. That they can not erect a government is evinced by our being thus assembled in their behalf."

So we find the most distinguished precedent of the convention system of handling public affairs in that great constitutional convention which wrote the charter of our Government, prounounced "the greatest work ever struck off at a given time by the hand and brain of man," giving us a government where freedom and order go hand in hand and liberty is safeguarded by law.

There have been a number of efforts since that day to improve the machinery of human government, both in this country and in other countries. However, well intentioned some of those efforts have been, all of them have failed in that the methods which they substituted and the new forms they put into effect did not bring about either a more democratic government, on the one hand, or a more stable government on the other hand. Those experiments have ranged all the way from the rule of the mob and the decree of the guillotine in the bloody French Revolution to the absolutism of the Czars of Russia, the military despotism of the Turks, and the benevolent monarchy of England. To-day the United States of America is the oldest nation in existence. By that I mean no other government, with the possible exception of some of the family dynasties of India and the Orient which existed at the time of the adoption of the American Constitution, is in existence to-day in the same form and substance; and with one or two exceptions none of the governments which were in existence then are in existence to-day at all. What a tribute to the representative system of handling public affairs!

We have had political experimenting in the United States, but, happily, to date our experiments have not been violent, as were those of European nations. With the single exception of the Civil War, which Abraham Lincoln successfully conducted to a close, there has been no attempt in this country to overthrow our Federal Government and tear up the American Constitution. Our experiments have been more or less sugar coated. They have been wrapped in the pleasing habiliments of so-called idealism. They have been urged in the name of the common people. Most of them purported to make government by the people more direct. Most of them have proven failures.

Take, for example, the experiment of the direct primary system of party nominations. The popular primary was adopted, according to its partisans, for the purpose of getting control of political parties, and particularly party nominations. "in the hands of the people." The main arguments which were used during the time the popular primary was "all the vogue" were that under the old convention system of selecting party nominees the people had no voice; the conventions were boss controlled; the nominees were hand picked and not representative of the people; the convention system was corrupt. Those pretty well cover the charges that were made against the old convention system and were the base upon which there was a popular demand for the adoption of the primary system of making party nominations.

You gentlemen are pretty familiar with what has happened. Primary election returns show that winners of party primaries are frequently nominated by from 3 to 7 per cent of the total eligible party vote of their constituency. Clearly there is no "rule of the people" in such a system.

There have been explanations offered of this condition which are worthy of consideration. The experience of party primaries, by and large, justifies the statement that they too frequently turn into campaigns of personalities characterized by all sorts of mud slinging and quasi-libelous speech instead of intelligent, temperate discussion of issues and principles. Again, there has been a growing tendency to make demagogic appeals to prejudice and ignorance, to certain classes and factions, all of which tends to bring the entire primary to a very low level. As a natural result men of standing in the professional or business world hesitate to enter party primaries and face a campaign of billingsgate by some shyster opponent or be made the target of unfair attack by some organization. From that angle the primary system in many sections of our country has almost eliminated the very class of men which the American people should have in public office.

There is another angle. It is common knowledge that the primary system is making it impossible for any except the very rich men, or men who have the backing of organized wealth in one form or another, to make a campaign for nomination in state-wide primaries. Nor is the immense expenditure of money necessary to conduct a primary campaign necessarily a corrupt expenditure. A candidate for a State office in a party primary, unless he is very widely known, has to bring his name before the voters of his party. He can not simply announce his candidacy and then go about his private business in the expectation that there will be a general outpouring of the public on nomination day to support him. He has to advertise himself the same as a motor car, a breakfast food, a radio, or a toilet soap. That costs money. It requires the organizing of headquarters, the rental of rooms, the employment of stenographers, the purchase of supplies, the writing of letters, the buying of stamps.

If I am not mistaken—I have not recently checked the figures—there are something like 900,000 voters in the Republican Party in

Indiana, and approximately the same number of voters in the Democratic Party. With this as a basis, let us do a little conservative computation.

If a candidate for State office in either party wrote one letter setting forth the merits of his candidacy to each of the voters in his own party, the postage alone would cost him $18,000. Getting out 900,000 letters is no small job, no matter what the method. It requires some one to furnish the equipment and the mechanics, and for this some one must be paid. Ten thousand dollars would be a very conservative estimate of the cost aside from the postage, which brings the expense of the candidate to $28,000. If he wrote two letters, the expense would be increased accordingly. If he indulges in any other kind of campaigning, or in newspaper advertising, his expenses are still further increased.

The salary of the Governor of Indiana, for example, is $8,000 a year; his term of office is four years; that makes his total salary $32,000. It does not take anything more profound than a simple problem in mental arithmetic to arrive at the conclusion that no man can run for nomination in the State of Indiana for its highest office and make an extensive campaign and break even on his salary. Either candidates must have independent fortunes and run for office merely for the honor, or as a pastime; or they must be backed by men of wealth or corporations or more or less secret organizations and thereby place themselves under obligations in event they are successful; or they must borrow money outright and expect, in event they are successful, to pay it back out of an income which they derive from some other source than their salary.

These are the plain, practical facts regarding the primary nominating system. And on the face of it it eliminates poor men and men who do not care, because of ethical reasons, to place themselves under obligations to political bondsmen in connection with the discharge of their official duties in event they are successful.

To say that such a system affords a correct expression of the people is to deny the whole theory of representative government.

Some of you may be of the opinion this is too severe an indictment of the primary system. Some of you may believe you have in mind instances which prove that my conclusions are too sweeping. There may be some exceptions to this rule, but they are so few they prove the rule.

No less a distinguished citizen than Vice President Dawes, in speaking of the modern popular primary system, has said:

"We all realize that as our national wealth and population increase and business broadens and becomes more diversified there arises the necessity not only for the centralization of greater power in State, county, and city government, but for its constant use in the carrying out of its legitimate projects.

"Especially is this true in connection with State governments. Immense road-building projects are being carried out by States, assisted by the National Government. Our State and city administrations are accustomed not only to use public employees in getting out a primary vote to maintain an existing administration in power, but in many places all those interested in construction or other public contracts, with their organization and employees, are expected to perform active service in getting out the primary vote for the same purpose."

Where this condition exists, and it does exist, in some variation in practically every State and community which has the popular primary, we do not have representative government, a government of the people, but a government of interests or classes or organizations who back men to fill public offices and finance their campaigns, fully expecting to control their actions after they have taken the oath of office.

Because of this, our Government is becoming a Government of special interests rather than a Government of the people. These interests may be, as Vice President Dawes suggested, road-building interests; they may be contractors desiring to do business with the State or municipality; they may be organizations working in the professed cause of good government; or some organization with a high-sounding title, financed by those interested in getting us embroiled and entangled in foreign alliances and international organizations; or organizations which represent a very limited class of citizens; or they may be sinister organizations which operate largely in the dark, but operate none the less powerfully and almost invariably corruptly. These are the influences which are, by reason of and through the medium of the primary system, getting their hands on the throat of popular government, and there is no way to get away from this condition, in my opinion, except to repeal the primary laws and go back to the convention system.

Instead of the office seeking the person, the person is compelled to seek the office. Instead of the people getting better service from their public officials as a result of the primary, they get worse service. Instead of making it impossible or harder for corrupt influences to control party nominees, the primary system has made it easier for these influences to foist themselves upon the party, and also has made it harder for the party and the people to get rid of them.

The old-fashioned political boss, whatever his shortcomings, did not, as a rule, attempt to foist upon the party men without character and without mental equipment. The men the convention system drafted for service were men of standing, of mentality, and of high character. Those who made up the convention took small chances on having their slate "shot to pieces" in a campaign by the opposition because the ticket was defective in character or brains. All had an investment in the party machine which had been built up through long years of effort. All felt their influence in party affairs at stake. They did not care to risk their investment or lose their influence by putting up a ticket that could not stand the acid test of public analysis. If you do not believe this is true, compare the men in public office to-day with those of a generation ago and draw your own conclusions.

If you have any doubt of the relative merit of the product of convention-named public officials with the product of primary-named public officials, make a comparison of the laws upon your statute books written before and after the primary system became operative.

Indiana to-day has a model system of management of its penal and charitable institutions and its asylums and orphanages, studied and copied by every other State in the Union. The basic laws governing the State board of charities and the conduct of our State prisons and asylums were framed by legislators, all of whom were nominated by the old convention system. I cite this as one example. Another example is the township and county accounting law. I do not have the time to enumerate any others, but I make the point that the character of the laws of this State which were written by legislators who were products of the convention system will stand the test of any comparison with the quality of laws written since the primary system has been in practice. This is no reflection upon the individual character or mentality of the recent-day legislators.

The difference is due to this fundamental fact. In the old convention system the man who was nominated owned his nomination to the party machinery. He went into office pledged to carry out the party platform. The party platform in those days meant something. Nominees for office were bound by it, and in event they disregarded it after election it meant their political death. The primary system has made party platforms absolutely meaningless, even though parties in some primary States still hold conventions and adopt platforms. Inasmuch as these platform-adopting conventions have no power over the candidates, they can not see to it that the platform pledges are translated into public action. Inasmuch as such conventions have no power to punish candidates who do not carry out the platform, such candidates may feel free to ignore all party pledges. Under the present system a candidate may be his own organization, his own platform, his own policy maker. Such a candidate need have no regard for party organization or party pledges. You can not carry out party platforms and party pledges unless you have discipline. You can not have discipline unless you have a system which makes it possible for the party machinery and the party organization to compel men nominated on its ticket to do what the party has promised to do.

A candidate for public office with a strong belief in a representative form of government and a consequent belief in political parties and party responsibility must proceed then in spite of rather than by reason of the primary system. He must recognize that he is under a handicap and proceed as best he can to live up to his beliefs under that handicap.

And I am glad to say here, in justice to the Republican delegation in the Congress of the United States with which I have the honor to serve, that they are men of a strong sense of party responsibility. Our two Senators are outstanding party men, whose voices are potent in the party councils, and no delegation as a whole presents a more united front upon questions in which party principles are involved than the Republican delegation from Indiana. But it must be remembered that Indiana is a State in which party spirit and a sense of party responsibility are perhaps more inherently strong than in any other State in the Union. This is generally conceded and the election returns of many a hard-fought campaign prove it. While our State has not been and in the very nature of things can not be free from the growing evils that have manifested themselves under the primary system, I can say that it has contributed as little at Washington as any State in the Union to the vicious tendency toward degenerating our Government into the system of government by cliques and blocs which is tormenting Europe to-day. There is a real menace in this situation.

I have quoted from Vice President Dawes. I now quote from another eminent citizen and prominent Republican, Secretary of Commerce Herbert Hoover. There can be no doubt as to his intimate knowledge of conditions in Europe. In a recent letter to William Allen White, the noted editor of Emporia, Kans., Mr. Hoover said:

"You have asked me for my diagnosis of the epidemic of dictatorships that seems to have infected many of the European democracies and my opinion as to whether it might be catching in our country.

* * * * * * *

"In practically every government in Europe there are in these days from 3 to 20 political parties in the legislative assembly, with no single party in majority. In consequence, their cabinets—and thus the administrative branches of their governments—have been necessarily founded on temporary coalitions between parties or ephemeral cabinets representing minorities. Likewise legislative work must be accomplished by coalition. Any coalition between groups of different political thought and object is bound to result in the abandonment of matters of important principle and the consequent adoption of largely negative policies. All virility and strength are lost; cabinets are but short-lived; and

constructive and courageous policies in legislation or administrative action have been conspicuously absent. The problems in economic and social reconstruction have been enormous and in the face of the violent differences of opinion between the different factions the negative policies have resulted in little more than drift and paralysis of government.

"That is the disease. As a result the people in one country after another in exasperation have welcomed some form of dictatorship. This does not necessarily indicate a failure of sentiment for the principles of liberalism. It is a failure in making practical governmental machinery for their application."

In a speech at Springfield, Ohio, in October, 1926, Secretary Hoover said:

"* * * As the population has increased and civilization has grown more complex, as our Government issues have become more infinitely complicated, our system of two dominant political parties has become more and more a vital part of the machinery of self-government. For through political parties alone is there the possibility for self-expression of the will of such great masses of people. It is the sole method by which they can give organized expression of their will through the ballot as a substitute for the violence of revolution. But political parties can not execute their policies, they can not be held accountable for them, unless one of them at a time be trusted with full responsibility and authority.

"Government without one party in full responsibility results at once either in compromise, which nullifies the principles of both parties, or it results in deadlock, which means confusion or dictation of a minority. If you will examine the breakdown of one democracy after another in Europe in the last four years, you will find that it is the repeated failure of their people to place political responsibility and authority in one single party at a time and to continue its policies which has broken down their democracies."

I have dwelt upon the evils and the failure of the popular primary system at length because I regard it as the most important subject confronting the American people. Unless our system of two-party government is preserved it really matters very little what platforms our parties may adopt, for they would be meaningless; what pledges they may make, for they would be incapable of redemption; what policies they may advocate, for they would have no substance and no chance of fulfillment.

I do not know what would have happened if they had had the direct primary in vogue in that critical year of 1860, when men's minds were confused as they had not been confused since the organization of our Government. At that crisis they turned hopefully to the aid and the counsel of the great party leaders, raised to prominence through the old-fashioned convention system. The convention held by the Republican Party in that year offered to a distressed Nation as its candidate for the Presidency a man who was to be intrusted with power in a time of peril as few men have been trusted in the history of man's efforts to maintain stable government. It was a Republican convention that nominated Abraham Lincoln. Had he depended upon a popular primary for his nomination in that period of confusion, which had its demagogues and self-seekers just the same as we have them to-day, it is a matter of great doubt if Lincoln would have been the nominee or if the Republican Party would have been able to coalesce within its ranks sufficient numbers to have secured a majority at the polls commissioning it to assume control of our Government. It was Lincoln who coined the immortal phrase that this is a government of the people, by the people, and for the people. It is so long as we maintain a two-party system of government whereby the people can give virile expression of their desires, but the moment we let it become a government of blocs and by blocs and for blocs it no longer remains a government of the people. It no longer remains a government by majority; it then becomes a confused scramble by a number of minority organizations.

One of the statements we continually hear is that there is no difference to-day between the two old political parties and that, therefore, people are justified in their disregard of party lines and in their refusal to take party platforms and policies seriously. There is more or less truth in that statement, but it is no indictment of the Republican Party. If there are no outstanding differences between the two parties to-day, it is largely because the Republican Party has, since its origin, held to a consistent course. It has never wavered in its support of certain fundamental economic policies. It has never seized upon a fake issue in an attempt, out of desperation, to win a campaign. The Republican Party has always been a party of sound money and sane financial management of public affairs. Sooner or later intelligent and patriotic Democrats have had to support Republican financial policies. The Republican Party, as a party, has never followed strange gods. The Republican Party has always been a party of protective tariff. Contrary to 50 years of Democratic charges that it is controlled by predatory wealth, the record of the Republican Party, as found in Federal legislation, shows that it has placed upon our statute books practically every law which has for its purpose the improvement of "the man in the ranks," as represented by the laborer and the farmer.

Some idea of how the Democratic Party has abandoned all its former positions may be obtained from a speech delivered at the recent Jackson Day dinner in Washington, held under the auspices of the Democratic national committee. The orator of the occasion was Claude G. Bowers, an Indiana product, a former newspaper man of this State, a student, a scholar, a man of fine character, and unusual mental attainments. He was selected for this occasion because he had produced two magnificent literary works upon the lives and times of the early Democratic leaders, principally Jefferson, and Jackson. His speech was printed in the CONGRESSIONAL RECORD at the request of a Democratic Member of Congress. As a piece of oratory it was superb. As a depiction of the changes which have occurred in the Democratic Party since the days of Andrew Jackson, it was unequaled, not because of what it did contain, but because of what it did not contain. Andrew Jackson was a protectionist. He was a high-tariff advocate. He gave vigorous support to the protective tariff measures. Yet Mr. Bowers did not mention this fact in his speech.

Andrew Jackson did not believe in a Federal bank. With one exception, his outstanding policy was violent opposition to the establishment of the national-banking system. Yet to-day Colonel House, of Wilson "kitchen-cabinet" fame; and Senator CARTER GLASS, of Virginia; and former Democratic Senator Owen, of Oklahoma; and former Democratic Senator Hitchcock, of Nebraska, are engaged in a public quarrel, extending over many months, as to which of them contributed the most to the creation of the Federal banking system. Mr. Bowers did not remark at all on this departure from the principles of Andrew Jackson.

The thing which made Andrew Jackson a heroic figure, the outstanding, spectacular act of his career, was his threat to hang a number of gentlemen in South Carolina if they attempted to set aside and nullify Federal laws. Mr. Bowers did not refer to this episode, principally because of the fact that the leading candidate for the nomination at the hands of his party is basing his fight for the nomination largely upon the fact that he does not believe in one of our best-known Federal laws, enacted to enforce the Federal Constitution, and as chief executive of his own State he aided and abetted legislation to prevent that State from lending its assistance in the enforcement of Federal law.

Mr. Bowers said nothing at that Democratic round-up as to what Andrew Jackson really advocated, because to have done so probably would have precipitated a riot. There may be one exception noted to this statement, namely, Andrew Jackson believed in the theory that "to the victor belongs the spoils," which is the only Jacksonian doctrine which the Democratic Party to-day faithfully practices whenever it gets in power.

Mr. Bowers took occasion to pour the contents of his vitriolic vocabulary over the head of the Republican Party on that occasion, by attempting to identify it as the party of corruption in official places. However, in his bill of particulars, he made no mention of the fact that Democratic State officials of Nevada have been caught with a shortage of funds of something between a half million and a million dollars; that the government of Arkansas, two or three years ago, under solid Democratic control, became so corrupt in the handling of public highway funds and its construction of public highways that the Federal Government had to refuse to continue to extend Federal highway aid to that State; that the conditions of corruption and graft in the great State of Texas have been so notorious continuously for the last five or six years as to occupy first-page positions in the newspapers, split the Democratic Party in that State wide open, and kept a large percentage of its State officials standing trial in the State courts; that the same condition has prevailed in the solid Democratic State of Oklahoma for nearly a generation, beginning with Theodore Roosevelt's exposure of Democratic Governor Haskell and continuing until a few weeks ago when the Democratic legislature called itself into session in order to impeach the governor for alleged corrupt practices only to be run out of town by the State militia, under his command; that less than two months ago the Democratic attorney general of the State of Alabama, after sincere efforts to convict criminals of that State who held positions high in his party, publicly announced his intention to nolle prosequi all indictments on the ground he was unable to secure convictions on account of the influence of the Democratic governor and other Democratic officials who were interested in protecting the criminals and suppressing the facts; that Tammany Hall politicians to-day in the State of New York are being exposed as back of tremendous scandals and graft in connection with municipal contracts, and also in connection with pollution of the milk supply furnished that great State. Why, Mr. Daily, who to-day is being touted as a favorite candidate for governor by the Democratic Party in this State first earned his reputation as a prosecutor by sending the Democratic officials of Terre Haute and Vigo County to the penitentiary. All of these facts were known to Mr. Bowers, who is still a newspaper man, well advised as to what is going on throughout the United States. No, gentlemen, there is no party issue in the question of the personal guilt of members of a political party, and if there were, the Democratic Party might be hard put for a plausible defense.

Because there are a great variety and number of selfish and powerful interests in this country, and in other countries, desirous of getting rid of our protective tariff, because they can not expect any aid from the Republican Party and do expect aid from the Democratic Party, and are willing heavily to finance that party in such a fight, there will probably be a general assault on our protective tariff in the coming campaign. I have not the time to make a protective tariff speech, but I warn you Republican editors to prepare yourselves against the day of

attack. More cold, hard facts can be marshaled in support of the present tariff law and in defense of the protective tariff system than can be marshaled in defense of any economic policy ever maintained by the Republican Party. Despite this, more grotesque misrepresentations of the tariff are made than of any other subject of current politics, probably because the enemies of the tariff can not stick to the truth and make even a passably plausible argument. It is hard for Democrats to stick to facts and remain Democrats. The two positions are inconsistent.

At the present time the enemies of the tariff are making a drive to persuade the farmer he gets no benefit from the present tariff schedules. No proposition is easier of support than the defense of the protective tariff from the standpoint of the farmer.

Take wheat for example. Canada is the greatest wheat-exporting country in the world. By reason of lower land values, lower labor costs, lower taxes, lower fertilizer costs, and lower transportation costs, Canadian wheat is raised and marketed at Great Lake ports, 42 cents a bushel less than American wheat can be raised and marketed at Great Lake ports.

The United States is the greatest wheat consuming country in the world. The only barrier between the world's greatest wheat consuming people and the world's greatest wheat exporting people is a tariff of 42 cents a bushel. No one who is sane will contend that that barrier affords the American grower no protection, or that its removal would not be followed by gigantic inundation of American markets by Canadian wheat. Were the tariff removed, Canadian wheat, enjoying a differential of 42 cents a bushel because of lower production and lower transportation costs, would undersell American wheat at every Lake port from Duluth to Buffalo, and still show a good profit.

There is nothing theoretical about this. Canada has annually exported an average of 300,000,000 bushels of wheat since our tariff became effective, able to lay it down at our very boundary line at 42 cents less than American wheat can be produced, yet the market records show that during the period of 222 weeks from July 1, 1923, the beginning of the first harvest following the Fordney-McCumber tariff, to October, 1927, the average price of wheat at Minneapolis has been 19 cents above that at Winnipeg, and during one-fourth of this entire time the average price of wheat at Minneapolis was 30 cents more than the price at Winnipeg. During those four crop years the American farmer produced 3,000,000,000 bushels of wheat for which he received $602,000,000 more than he would have received had he sold it at Winnipeg prices.

In 1921 the annual production of butter in this country was, in round numbers, 1,000,000,000 pounds. Last year it was 1,500,000,000 pounds, an increase of 50 per cent, or 500,000,000 pounds. In the same period exports of butter from Australia and New Zealand increased 200,000,000 pounds and from the Scandinavian countries 188,000,000 pounds. In the face of this tremendous, almost incredible increase in butter production in this country and butter production and exportation from foreign countries the price of butter has increased 8.5 per cent in this country since 1921, despite the fact that the investigations of the United States Tariff Commission showed butter could be produced in Denmark for 13 cents a pound less than it could be produced in this country, and could be produced in New Zealand at 24 cents per pound less than it could be produced in this country. Had it not been for our protective schedules on butter there is not the slightest doubt that by this time the dairy interests in this country would have been in bankruptcy.

The Argentine Government has made the most bitter and relentless fight during the last three years to break down our protective schedules on cattle and fresh beef. Within the last month, the issue became so acute at the Pan-American Conference at Habana that the Argentine ambassador to this country, who also represented the Argentine at that conference, resigned because he could not obtain an agreement to have the United States lower its tariff on agricultural products from the Argentine. I am informed the Argentine ambassador is one of the largest cattle raisers in the Argentine. The representative of his Government, attending the Pan American Conference in this country last year, insisted that we modify our tariff to the extent of permitting 350,000,000 pounds of fresh beef to be imported in this country from the Argentine every year. This is the equivalent of 718,000 head of beef steers. Data collected by this Government shows that in the Argentine cattle can be produced, ready for market, at a cost of 75 cents per hundred pounds.

The fact that we are not importing fresh beef from the Argentine, the fact that the Argentine and its representatives have made the issue so acute is proof without any further elaboration that the live-stock industry of this country is being protected by our present tariff schedules. I could go into details regarding numerous other farm products.

The market price paid farmers at their farms as distinguished from prices paid in Chicago and other markets show that since the tariff went into effect the farm price of wheat has increased 20 per cent; rye, 20 per cent; corn, 70 per cent; oats, 50 per cent; barley, 60 per cent; flaxseed, 27 per cent; beef cattle, 70 per cent; calves, 48 per cent; hogs, 35 per cent; sheep, 93 per cent; lambs, 86 per cent; wool, 100 per cent. And yet in the face of these official records there persists the free-trade propaganda that the existing tariff has not enhanced the value of farm products.

On the other hand, it is plain to my mind that the present schedules are not high enough in some instances to afford proper protection to certain agricultural products. That is because foreign competitive conditions have developed in intensity far beyond expectation at the time the present tariff law was enacted. The dairy industry affords an illustration of such unforeseen competitive conditions, and there are many others, not only in agriculture, but in the various manufacturing industries.

Competition in and for the world markets has become increasingly severe in the last six years. This is true in both the agricultural and industrial world. Abroad, vast industrial interests are organizing cartels, or combines, frequently international in their membership, for the purpose of lessening competition among themselves in their domestic markets, in order that they may offer more formidable competition in other parts of the world. Much of this competition is aimed directly at the United States market and United States industries. Foreign governments are lending substantial assistance to such movements in the form of subsidies and bonuses, preferential tariffs and concessions in rail and ocean freight rates on government-owned railroads and steamships.

The same movement is discernible in the agricultural world, taking the form of great cooperative associations, as in the dairy industry of the Scandinavian countries, where government aid is extended not only to the cooperatives but to butter-export societies.

As fast as the development of international competition jeopardizes the American market and the American agricultural producer, tariff schedules will have to be raised to afford needed protection, for certainly the way to meet this increasing foreign drive at our home markets at the expense of our home producers is not by lowering or abolishing our tariff rates and inviting foreign producers to help themselves. That is the remedy offered by the Democratic Party. That is the policy it promises to inaugurate in event it ever secures control of the legislative and executive branches of our Government.

This is characteristic of the Democratic Party. It is a party of destruction. It would correct any inequalities in our present tariff law by destroying the protective-tariff system. It sought to destroy our financial system and our national credit. Twice the Republican Party has carried the Nation through periods of reconstruction, with practically every constructive measure it proposed meeting with the opposition of the Democratic Party. The Democratic Party sought to destroy the sovereignty of the United States of America in order to join a European league.

For 68 years the Republican Party has been a party of construction, upholding American traditions, defending American institutions. For 68 years it has been a party laboring to benefit all of the people, discriminating against no section of America or any class of Americans. In all that period it has never had to abandon any policy because it was unsound, uneconomic, or un-American. Within that period all of its constructive policies have been vindicated by the judgment of the American people and the verdict of time. The history of the development of this Nation in territory, in prosperity, in the promotion of the welfare of its people to a point where they now live better, have better opportunities for themselves, and finer prospects for their children has been the history of the Republican Party.

ENROLLED BILLS SIGNED

Mr. CAMPBELL, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills of the following titles, when the Speaker signed the same:

H. R. 66. An act authorizing B. L. Hendrix, G. C. Trammel, and C. S. Miller, their heirs, legal representatives, and assigns, to construct, maintain, and operate a bridge across the Ohio River at or near Mound City, Ill.;

H. R. 6073. An act authorizing E. M. Elliott, of Chicago, his heirs, legal representatives, and assigns, to construct, maintain, and operate a bridge across the Ohio River at or near Ravenswood, W. Va.;

H. R. 7183. An act authorizing C. J. Abbott, his heirs, legal representatives, and assigns, to construct, maintain, and operate a bridge across the Ohio River at or near Golconda, Ill.; and

H. R. 7921. An act authorizing A. Robbins, of Hickman, Ky., his heirs, legal representatives, and assigns, to construct, maintain, and operate a bridge across the Mississippi River at or near Hickman, Fulton County, Ky.

ADJOURNMENT

Mr. TILSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; and accordingly (at 5 o'clock and 33 minutes p. m.) the House adjourned until to-morrow, Tuesday, March 13, 1928, at 12 o'clock noon.

COMMITTEE HEARINGS

Mr. TILSON submitted the following tentative list of committee hearings scheduled for Tuesday, March 13, 1928, as reported to the floor leader by clerks of the several committees:

COMMITTEE ON APPROPRIATIONS

(10.30 a. m.)

Navy Department appropriation bill.
Legislative appropriation bill.

COMMITTEE ON THE DISTRICT OF COLUMBIA—SUBCOMMITTEE ON FISCAL AFFAIRS

(10.30 a. m.)

To fix the amount to be contributed by the United States toward defraying the expenses of the District of Columbia (H. R. 5768).

SUBCOMMITTEE ON THE JUDICIARY

(Room 346)

To authorize the Commissioners of the District of Columbia to compromise and settle certain suits at law resulting from the subsidence of First Street east, in the District of Columbia, occasioned by the construction of a railroad tunnel under said street (H. R. 5759).

COMMITTEE ON THE MERCHANT MARINE AND FISHERIES

(10 a. m.)

To further develop an American merchant marine, to assure its permanence in the transportation of the foreign trade of the United States (S. 744).

To promote, encourage, and develop an American merchant marine in connection with the agricultural and industrial commerce of the United States, provide for the national defense, the transportation of foreign mails, the establishment of a merchant marine training school, and for other purposes (H. R. 2).

To amend the merchant marine act, 1920, insure a permanent passenger and cargo service in the north Atlantic, and for other purposes (H. R. 8914).

To create, develop, and maintain a privately owned American merchant marine adequate to serve trade routes essential in the movement of the industrial and agricultural products of the United States and to meet the requirements of the commerce of the United States; to provide for the transportation of the foreign mails of the United States in vessels of the United States; to provide naval and military auxiliaries; and for other purposes (H. R. 10765).

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

402. A communication from the President of the United States, transmitting supplemental estimate of appropriation under the legislative establishment, United States Senate, for the fiscal year 1929 in the sum of $500 (H. Doc. No. 198); to the Committee on Appropriations and ordered to be printed.

403. A letter from the Acting Secretary of War, transmitting proceedings of the joint board composed of officers of the Army and Navy to survey ammunition storage conditions, pursuant to the act approved December 22, 1927 (Public Law, No. 2, 70th Cong.) (H. Doc. No. 199); to the Committee on Appropriations and ordered to be printed, with illustrations.

404. A letter from the Secretary of the Navy, transmitting draft of a bill "to authorize the Secretary of the Navy to lease the United States naval destroyer and naval base, Squantum, Mass.; to the Committee on Naval Affairs.

405. A letter from the Secretary of the Navy, transmitting draft of a bill "to provide for the settlement of damage claims arising from the construction of the Petrolia-Fort Worth gas pipe line"; to the Committee on Naval Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. KIESS: Committee on Insular Affairs. H. R. 8559. A bill to amend section 58 of the act of March 2, 1917, entitled "An act to provide a civil government for Porto Rico, and for other purposes"; without amendment (Rept. No. 885). Referred to the House Calendar.

Mr. KIESS: Committee on Insular Affairs. H. R. 9363. A bill to provide for the completion and repair of customs buildings in Porto Rico; without amendment (Rept. No. 886). Referred to the House Calendar.

Mr. KIESS: Committee on Insular Affairs. H. R. 10952. A bill to fix the salaries of certain judges of Porto Rico; without amendment (Rept. No. 887). Referred to the House Calendar.

Mr. WAINWRIGHT: Committee on Military Affairs. H. R. 11762. A bill to authorize an appropriation to complete construction at Fort Wadsworth, N. Y.; without amendment (Rept. No. 888). Referred to the Committee of the Whole House on the state of the Union.

Mr. McSWAIN: Committee on Military Affairs. H. R. 11808. A bill to authorize an appropriation for the purchase of land at Selfridge Field, Mich.; with amendment (Rept. No. 889). 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. 3325. An act for the relief of Horace G. Knowles; with amendment (Rept. No. 884). Referred to the Committee of the Whole House.

Mr. UNDERHILL: Committee on Claims. H. R. 5953. A bill for the relief of E. L. F. Auffurth and others; without amendment (Rept. No. 890). Referred to the Committee of the Whole House.

CHANGE OF REFERENCE

Under clause 2 of Rule XXII the Committee on Pensions was discharged from the consideration of the bill (H. R. 11901) granting an increase of pension to Ada Lee Ritter, and the same was referred to the Committee on Invalid Pensions.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of Rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. WILSON of Louisiana: A bill (H. R. 11980) granting the consent of Congress to the Fisher Lumber Corporation to construct, maintain, and operate a railroad bridge across the Tensas River in Louisiana; to the Committee on Interstate and Foreign Commerce.

By Mr. ANTHONY: A bill (H. R. 11981) to authorize officers of the Medical Corps to account certain service in computing their rights for retirement, and for other purposes; to the Committee on Military Affairs.

By Mr. HUDSPETH: A bill (H. R. 11982) to increase the immigration border patrol for the purpose of enforcing the immigration laws on and adjacent to the boundary between the United States and Republic of Mexico, and the boundary between the United States and the Dominion of Canada, and elsewhere; to the Committee on Immigration and Naturalization.

By Mr. FRENCH: A bill (H. R. 11983) to provide for issuance of perpetual easement to the Department of Fish and Game, State of Idaho, to certain lands situated within the original boundaries of the Nez Perce Indian Reservation, State of Idaho; to the Committee on Indian Affairs.

By Mr. HICKEY: A bill (H. R. 11984) for the appointment of two additional associate justices to the Court of Appeals of the District of Columbia; to the Committee on the Judiciary.

By Mr. HUDSPETH: A bill (H. R. 11985) to amend the act of March 3, 1927, granting pensions to certain soldiers who served in the Indian wars from 1817 to 1898, and for other purposes; to the Committee on Pensions.

By Mr. LaGUARDIA: A bill (H. R. 11986) to create a Federal Child Relief Board, and for other purposes; to the Committee on the Judiciary.

By Mr. RATHBONE: A bill (H. R. 11987) to amend paragraph (5) of section 20 of the interstate commerce act; to the Committee on Interstate and Foreign Commerce.

By Mr. VESTAL: A bill (H. R. 11988) to protect trade-marks used in commerce, to authorize the registration of such trade-marks, and for other purposes; to the Committee on Patents.

By Mr. MADDEN: A bill (H. R. 11989) providing that subscription charges for newspapers, magazines, and other periodicals for official use may be paid for in advance; to the Committee on the Judiciary.

By Mr. SINNOTT (by departmental request): A bill (H. R. 11990) to authorize the leasing of public lands for aviation, and for other purposes; to the Committee on the Public Lands.

By Mr. SUMMERS of Washington: A bill (H. R. 11991) to appoint a day for the annual meeting of the Congress required by the Constitution; to the Committee on the Judiciary.

By Mr. OLDFIELD: A bill (H. R. 11992) granting the consent of Congress to the Arkansas Highway Commission to construct, maintain, and operate a free highway bridge across the Current River; to the Committee on Interstate and Foreign Commerce.

By Mr. DYER: A bill (H. R. 11993) to increase the salaries of the Solicitor General, Assistant to the Attorney General, and the Assistant Attorneys General; to the Committee on the Judiciary.

Also, a bill (H. R. 11994) to abolish bailiffs and criers in the United States courts and to provide for the performance of their duties by United States marshals and their deputies, and for other purposes; to the Committee on the Judiciary.

By Mr. BUTLER: A bill (H. R. 11995) to provide for the settlement of damage claims arising from the construction of the Petrolia-Fort Worth gas-pipe line; to the Committee on Naval Affairs.

By Mr. DEAL: A bill (H. R. 11996) to provide for the replacement of quarters for the enlisted men of the naval training station at Hampton Roads, Va.; to the Committee on Naval Affairs.

By Mr. CROSSER: A bill (H. R. 11997) to provide capital at reasonable rates of interest in order to promote the establishment and ownership of homes by the people of the United States, and for other purposes; to the Committee on Banking and Currency.

By Mr. FREAR: A bill (H. R. 11998) to prohibit experiments upon living dogs in the District of Columbia or in any of the Territorial or insular possessions of the United States, and providing a penalty for violation thereof; to the Committee on the Judiciary.

By Mr. KELLY: A bill (H. R. 11999) to amend section 197 of the Criminal Code; to the Committee on the Post Office and Post Roads.

By Mr. LEAVITT (by department request): A bill (H. R. 12000) to extend the period of restrictions of lands of certain members of the Five Civilized Tribes, and for other purposes; to the committee on Indian Affairs.

By Mr. McLEOD: A bill (H. R. 12001) to provide for the preservation of Fort Wayne as a national park and museum, to commemorate the winning of the Northwest Territory, and for other purposes; to the Committee on Military Affairs.

By Mr. STALKER: A bill (H. R. 12002) to amend the national prohibition act, as amended and supplemented; to the Committee on the Judiciary.

By Mr. MacGREGOR: Joint resolution (H. J. Res. 234) to permit admission within quota of relatives of declarants who have been admitted into the United States prior to July 1, 1924; to the Committee on Immigration and Naturalization.

By Mr. HAUGEN: Joint resolution (H. J. Res. 235) authorizing the acceptance of title to certain lands in the counties of Benton and Walla Walla, Wash., adjacent to the Columbia River Bird Refuge in said State established in accordance with the authority contained in Executive Order No. 4501, dated August 28, 1926; to the Committee on Agriculture.

By Mr. JOHNSON of Washington: Joint resolution (H. J. Res. 236) authorizing the Secretary of War to lend tents and camp equipment for the use of the housing committee for the convention of the American Legion for the Department of Washington, to be held at Centralia, Wash., in the month of August, 1928; to the Committee on Military Affairs.

Also, resolution (H. Res. 136) providing for the appointment of assistant clerk to the Committee on Immigration and Naturalization; to the Committee on Accounts.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. ANDRESEN: A bill (H. R. 12003) granting a pension to Philip L. Daly; to the Committee on Pensions.

By Mr. ANTHONY: A bill (H. R. 12004) granting an increase of pension to Josephine Chacey; to the Committee on Invalid Pensions.

By Mr. BEERS: A bill (H. R. 12005) granting an increase of pension to Rhoda J. Jenkins; to the Committee on Invalid Pensions.

Also, a bill (H. R. 12006) granting an increase of pension to Mary Ann Brought; to the Committee on Invalid Pensions.

By Mr. BOYLAN: A bill (H. R. 12007) for the relief of Mr. and Mrs. Peter J. Egan; to the Committee on Claims.

By Mr. CARTER: A bill (H. R. 12008) granting a pension to Patrick Cahill; to the Committee on Pensions.

Also, a bill (H. R. 12009) for the relief of Ernest Owen Hughes; to the Committee on Naval Affairs.

Also, a bill (H. R. 12010) for the relief of William Smerden; to the Committee on Military Affairs.

By Mr. CARTWRIGHT: A bill (H. R. 12011) granting a pension to Mary E. Fry; to the Committee on Invalid Pensions.

Also, a bill (H. R. 12012) for the relief of Albert I. Riley; to the Committee on Military Affairs.

By Mr. CHALMERS: A bill (H. R. 12013) granting a pension to Edith A. Fuller; to the Committee on Invalid Pensions.

By Mr. CHAPMAN: A bill (H. R. 12014) granting a pension to Radford Fain; to the Committee on Pensions.

By Mr. COHEN: A bill (H. R. 12015) for the relief of Faber, Coe & Gregg (Inc.); to the Committee on Claims.

By Mr. GAMBRILL: A bill (H. R. 12016) for the retirement as ensign of Daniel Mershon Garrison, jr.; to the Committee on Naval Affairs.

By Mr. GRIFFIN: A bill (H. R. 12017) for the relief of Edward J. Doyle; to the Committee on Military Affairs.

By Mr. HOGG: A bill (H. R. 12018) granting a pension to Emily B. Jennings; to the Committee on Invalid Pensions.

By Mr. HULL of Tennessee: A bill (H. R. 12019) granting a pension to Sam E. Hall; to the Committee on Invalid Pensions.

By Mr. KEARNS: A bill (H. R. 12020) granting a pension to Jennie Whitman; to the Committee on Pensions.

By Mr. KVALE: A bill (H. R. 12021) for the relief of Samuel S. Michaelson; to the Committee on Claims.

By Mr. MOORE of Ohio: A bill (H. R. 12022) granting an increase of pension to Annie E. Fryer; to the Committee on Invalid Pensions.

By Mr. MURPHY: A bill (H. R. 12023) granting a pension to Louisa B. Smith; to the Committee on Invalid Pensions.

By Mr. NELSON of Maine: A bill (H. R. 12024) granting a pension to Maria C. Garland; to the Committee on Invalid Pensions.

By Mr. NELSON of Wisconsin: A bill (H. R. 12025) granting a pension to Halana Schlick; to the Committee on Invalid Pensions.

By Mr. SPEAKS: A bill (H. R. 12026) granting an increase of pension to Alice Morgan; to the Committee on Invalid Pensions.

By Mr. SUMNERS of Texas; a bill (H. R. 12027) granting an increase of pension to Mary E. Elliott; to the Committee on Invalid Pensions.

By Mr. THURSTON: A bill (H. R. 12028) granting an increase of pension to Jennie A. Pyle; to the Committee on Invalid Pensions.

By Mr. WILLIAMSON: A bill (H. R. 12029) granting a pension to Richard C. Stirk; to the Committee on Pensions.

PETITIONS, ETC.

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

5265. By Mr. BURTNESS: Petition of 45 residents of Abercrombie, N. Dak., urging repeal of national-origins provisions of immigration act; to the Committee on Immigration and Naturalization.

5266. By Mr. CARTER: Petition of Berkeley Post No. 7, the American Legion, Department of California, urging the United States to stand with the American Legion's permanent policy of requiring a Navy second to none; to the Committee on Naval Affairs.

5267. By Mr. CHAPMAN: Petition of Floyd Martin, G. W. Aldridge, Milt Harding, Forest Rucker, E. J. Rucker, G. M. Aldridge, and three other citizens of Henry County, Ky., protesting against the passage of a compulsory Sunday observance bill, or any other national religious legislation; to the Committee on the District of Columbia.

5268. By Mr. COLE of Iowa: Petition of George A. Boyer, of Cedar Rapids, Iowa, and 117 other signers, residents of Cedar Rapids, Iowa, protesting the passage of House bill 78, or any other national religious legislation which may be pending; to the Committee on the District of Columbia.

5269. By Mr. CRAIL: Petition of sundry citizens of Los Angeles County, Calif., for the Civil War pension bill; to the Committee on Invalid Pensions.

5270. Also, petition of sundry citizens of Los Angeles County, Calif., against the passage of House bill 78, or any other similar legislation; to the Committee on the District of Columbia.

5271. By Mr. CULLEN: Resolution of Brooklyn Democratic Club, in re repeal of eighteenth amendment; to the Committee on the Judiciary.

5272. By Mr. CURRY: Petition of citizens of the third California district, favoring the enactment of House bill 9775, providing for certain bird refuges; to the Committee on Agriculture.

5273. Also, petition of citizens of the third California district, protesting against the enactment of House bill 78; to the Committee on the District of Columbia.

5274. By Mr. DAVENPORT: Petition of Mary A. Bohn and other citizens of New York State, protesting against the enactment into law of House bill 78; to the Committee on the District of Columbia.

5275. By Mr. DICKINSON of Missouri: Petition by certain citizens of Bates County, Mo., protesting against the passage of any compulsory Sunday observance legislation, particularly House bill 78; to the Committee on the District of Columbia.

5276. By Mr. ESTEP: Petition of board of governors, William Penn Motor Club, Philadelphia, Pa., commending the action of the House of Representatives in rescinding the automobile sales tax in the revenue act of 1928, etc.; to the Committee on Ways and Means.

5277. By Mr. EVANS of California: Petition of Jolidan Croake, of Tujunga, Calif., and 35 other citizens, for the relief of the permanently disabled emergency officers of the World War; to the Committee on World War Veterans' Legislation.

5278. By Mr. EVANS of Montana: Petition of Mrs. Roy Lyman and other residents of Darby, Mont., protesting against the passage of House bill 78; to the Committee on the District of Columbia.

5279. By Mr. GOODWIN: Petition in opposition to the provisions of House bill 189, known as the purification bill, signed by Alexander La Due and 30 other interested persons resident at or near International Falls, Minn.; to the Committee on Indian Affairs.

5280. Also, petition of Swen C. Sundeen and 60 other residents of Hinckley and Pine City, Minn., in protest against enactment into law of the Lankford Sunday observance bill (H. R. 78); to the Committee on the District of Columbia.

5281. Also, petition of Edward Anunsen, Esq., 2629 Clinton Avenue, and 31 other residents of Minneapolis, Minn., protesting against the enactment into law of the Lankford Sunday observance bill (H. R. 78); to the Committee on the District of Columbia.

5282. By Mr. GRIEST: Petition of Millersville Council, No. 188, Fraternal Patriotic Americans, Millersville, Pa., urging the enactment of House bill 10078, the Johnson deportation bill; to the Committee on Immigration and Naturalization.

5283. By Mr. HOWARD of Nebraska: Petition signed by A. Drake, of Columbus, Nebr., and 504 other persons in Columbus, protesting against the passage of the Lankford bill for compulsory observance of the Sabbath or any other proposed legislation favoring the compulsory observance of Sunday in the District of Columbia; to the Committee on the District of Columbia.

5284. By Mr. HALL of North Dakota: Petition of the Mutual Fire & Lightning Insurance Co. of Cooperstown, N. Dak., against Senate bill 1752, known as the Oddie bill; to the Committee on the Post Office and Post Roads.

5285. By Mr. HOGG: Petition of John T. Currall and 11 other citizens of Fort Wayne, Ind., protesting against passage of the Lankford bill; to the Committee on the District of Columbia.

5286. By Mr. HOWARD of Nebraska: Petition signed by H. B. Cowin, of Oakdale, Nebr., and 23 other citizens of Oakdale, Nebr., protesting against the passage of the Lankford bill (H. R. 78) for the compulsory observance of the Sabbath, or any other proposed legislation providing for the compulsory observance of Sunday in the District of Columbia; to the Committee on the District of Columbia.

5287. By Mr. LINDSAY: Petition of National Organization, Masters, Mates, and Pilots of America, Local No. 2, Philadelphia, Pa., presenting set of resolutions in unalterable opposition to the passage of House bill 11137 on the ground that it is a positive detriment to the best interest of all licensed men in the merchant marine; to the Committee on the Merchant Marine and Fisheries.

5288. Also, petition of national defense committee of the American Legion, Washington, D. C., protesting against House Joint Resolution 183 as being inimical to the public interest and would impose a self-imposed enlargement of the definition of neutrality such as agreed to by no other nation; to the Committee on Foreign Affairs.

5289. Also, petition of Charles L. Noble, of Clyde, N. Y., protesting the passage of the corn sugar bill; to the Committee on Interstate and Foreign Commerce.

5290. By Mr. LYON: Petition of certain citizens of Wilmington and Scotts Hill, N. C., protesting against the passage of House bill 78, in regard to Sabbath observance for the District of Columbia; to the Committee on the District of Columbia.

5291. By Mr. MORROW: Petition of citizens of Mesilla Valley, N. Mex., protesting against House bill 78, Lankford Sunday observance bill; to the Committee on the District of Columbia.

5292. Also, petition of citizens of Mora County, N. Mex., protesting against House bill 78, Lankford Sunday observance bill; to the Committee on the District of Columbia.

5293. Also, petition of citizens of Clovis and Texico, N. Mex., and others, protesting against House bill 78, Lankford Sunday observance bill; to the Committee on the District of Columbia.

5294. By Mr. MURPHY: Memorial of Thelma King, secretary, and Lowell Whinery, master, Butler Grange, No. 993, of Salem, Ohio, stating that Butler Grange 993 voted unanimously in favor of the passage of the "export debenture plan" of farm relief; to the Committee on Agriculture.

5295. By Mr. O'CONNELL: Petition of the Motor and Accessory Manufacturers Association of New York City, favoring the passage of the Capper-Kelly bills (S. 1448 and H. R. 11) to permit the manufacturer of identified merchandise to control his selling prices; to the Committee on Interstate and Foreign Commerce.

5296. Also, petition of the American Legion National Legislative Committee, Washington, D. C., opposing the passage of House Joint Resolution 183; to the Committee on Foreign Affairs.

5297. Also, petition of the Municipal League of Los Angeles, Calif., with reference to the construction of Boulder Dam; to the Committee on Irrigation and Reclamation.

5298. Also, petition of the Richmond Hill Post, No. 212, American Legion, Richmond Hill, Long Island, N. Y., favoring the construction of such vessels and airplanes as are necessary to place the United States on a par with the other signatory powers to the armament conference; to the Committee on Naval Affairs.

5299. By Mr. ROBINSON of Iowa: Resolution adopted by the members of the Dubuque and Waterloo districts of the Upper Iowa Conference of the Methodist Episcopal Church and sent in signed by Lillian Ludwig, of Independence, Iowa, protesting against the large increase in our Navy; to the Committee on Naval Affairs.

5300. By Mr. SINNOTT: Petition of numerous citizens of Sprague River, Klamath County, Oreg., protesting against House bill 78, the compulsory Sunday observance bill; to the Committee on the District of Columbia.

5301. By Mr. SWING: Petition of citizens of Anaheim, Calif., protesting against compulsory Sunday observance laws; to the Committee on the District of Columbia.

5302. By Mr. THURSTON: Petition of 99 citizens of Mystic, Iowa, and vicinity, protesting against the passage of House bill 78, or the compulsory Sunday observance bill; to the Committee on the District of Columbia.

5303. By Mr. WURZBACH: Petition of M. J. Barber, O. H. Moss, R. J. Haas, Mrs. R. J. Haas, and 71 other citizens of San Antonio, Bexar County, Tex., protesting against the Lankford compulsory Sunday observance bill (H. R. 78); to the Committee on the District of Columbia.

5304. Also, petition of M. A. Nelson, W. E. Edmundson, G. F. Arps, E. B. Nullinaux, and other citizens of Brownsville, Cameron County, Tex., protesting against the Lankford compulsory Sunday observance bill (H. R. 78); to the Committee on the District of Columbia.

5305. By Mr. WYANT: Petition of Sewickley Grange, No. 1897, Patrons of Husbandry, West Newton, Westmoreland County, Pa., favoring passage of House bill 10078; to the Committee on Immigration and Naturalization.

5306. Also, petition of J. M. McCall, West Newton, Pa., protesting against Senate bill 2806 and House bill 10022; to the Committee on Agriculture.

5307. Also, petition of State executive committee, Department of Pennsylvania of the American Legion, favoring Navy program outlined by President Coolidge; to the Committee on Naval Affairs.

5308. Also, petition of William Harry Davidson Post, No. 114, Vandergrift, Pa., the American Legion, favoring passage of proposed bill for building up of the American Navy; to the Committee on Naval Affairs.

5309. Also, petition of Capt. George A. Cribbs Post, No. 276, Grand Army of the Republic, Greensburg, Pa., indorsing Morgan bill in behalf of Union Civil War veterans and widows; to the Committee on Invalid Pensions.

SENATE

TUESDAY, *March 13, 1928*

(Legislative day of Tuesday, March 6, 1928)

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

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

The VICE PRESIDENT. The clerk will call the roll.

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

Ashurst	Couzens	Gooding	La Follette
Barkley	Curtis	Greene	McKellar
Bayard	Dale	Hale	McLean
Bingham	Deneen	Harris	McMaster
Black	Dill	Harrison	McNary
Blease	Edge	Hawes	Mayfield
Borah	Edwards	Hayden	Metcalf
Brookhart	Fess	Heflin	Neely
Broussard	Fletcher	Howell	Norbeck
Bruce	Frazier	Johnson	Norris
Capper	George	Jones	Oddie
Caraway	Gerry	Kendrick	Overman
Copeland	Glass	King	Phipps