I will not dwell on the service rendered by him in the various public offices with which he was honored. That has been done by those who knew him for a longer time than I did. He always served with ability. He had a keen and incisive mind and a power of ridicule and sarcasm which made him a dangerous adversary in debate. Easily one of the most effective debaters in the House, he did not often speak, and when he did so it was only on some subject in which he was deeply interested and on which he had strong convictions. But on such occasions his fluent and elcquent tongue was as keen as a shining rapier in the hands of a trained swordsman. He never failed to arouse and interest his audience.

He has passed on, Mr. Speaker, to that bourne toward which we are all rapidly traveling. In time of grief and lament words are unavailing, but we are comforted by an abiding and unshakable faith that the soul is immortal and that it leaves the mortal body only to find a better and higher existence in some higher sphere of life.

Mr. TREADWAY resumed the Chair as Speaker pro tempore.

ADJOURNMENT

The SPEAKER pro tempore (Mr. TREADWAY). 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 to-morrow at 12 o'clock.

Accordingly (at 3 o'clock and 30 minutes p. m.) the House adjourned until to-morrow, Monday, May 7, 1928, at 12 o'clock noon.

SENATE

MONDAY, *May 7, 1928*

(Legislative day of Thursday, May 3, 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 House of Representatives.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Haltigan, one of its clerks, announced that the House had passed without amendment the bill (S. 3791) to aid the Grand Army of the Republic in its Memorial Day services, May 30, 1928.

The message also announced that the House had passed the following bills of the Senate, each with an amendment, in which it requested the concurrence of the Senate:

S. 744. An act to further develop an American merchant marine, to assure its permanence in the transportation of the foreign trade of the United States, and for other purposes; and

S. 3674. An act to amend the act entitled "An act to provide that the United States shall aid the States in the construction of rural post roads, and for other purposes," approved July 11, 1916, as amended and supplemented, and for other purposes.

ENROLLED BILL SIGNED

The message further announced that the Speaker had affixed his signature to the enrolled bill (S. 3438) authorizing a per capita payment to the Rosebud Sioux Indians, South Dakota, and it was signed by the Vice President.

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

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

ORDER FOR EVENING SESSION ON TUESDAY

Mr. CURTIS. Mr. President, I ask unanimous consent for the adoption of the following order.

The VICE PRESIDENT. The order will be read.

The Chief Clerk read the order, as follows:

Ordered (by unanimous consent), That on Tuesday, May 8, 1928, at not later than 6 o'clock p. m., the Senate take a recess until 8 o'clock p. m., and that at the evening session, which shall not continue later than 11 o'clock p. m., the Senate proceed to the consideration of unobjected bills on the calendar.

The VICE PRESIDENT. Is there objection?

Mr. HEFLIN. Mr. President, may I inquire on what day it is proposed to have the evening session?

Mr. CURTIS. To-morrow evening. I wish to say also that one evening later this week I shall ask for the consideration of bills under Rule VIII.

Mr. HEFLIN. Under Rule VIII a Senator can move the consideration of a bill when objection is made.

Mr. CURTIS. Not to-morrow night, but at the next evening session.

Mr. KING. Mr. President, I suggest to the Senator that he modify the unanimous-consent request and have the evening session conclude at not later than 10.30 o'clock, or that we recess not later than 5 o'clock.

Mr. CURTIS. I am willing to make it 10.30.

Mr. KING. We are busy with the tax bill and shall have to devote a great deal of time to that measure.

Mr. CURTIS. It will be satisfactory to make it 10.30.

Mr. NORRIS. Does that mean that we shall take a recess at not later than 5.30 o'clock?

Mr. CURTIS. No; not later than 6 o'clock.

The VICE PRESIDENT. The clerk will read the unanimous-consent request as modified.

The Chief Clerk read the modified unanimous-consent request, as follows:

Ordered (by unanimous consent), That on Tuesday, May 8, 1928, at not later than 6 o'clock p. m., the Senate take a recess until 8 o'clock p. m., and that at the evening session, which shall not continue later than 10.30 o'clock p. m., the Senate proceed to the consideration of unobjected bills on the calendar.

The VICE PRESIDENT. Without objection, it is so ordered.

PETITIONS AND MEMORIALS

Mr. WARREN presented resolutions adopted by the Big Horn County Farm Bureau, of Greybull, and the Natrona County Poultry Association, of Casper, in the State of Wyoming, favoring the passage of legislation to provide for aided and directed settlement on Federal reclamation projects, which were referred to the Committee on Irrigation and Reclamation.

Mr. VANDENBERG presented resolutions adopted by the councils of the villages of Riverview and Sibley, in the State of Michigan, favoring the passage of the bill (H. R. 13065) authorizing the Detroit River Canadian Bridge Co., its successors and assigns, to construct, maintain, and operate a bridge across the Detroit River at or near the township limits of Grosse Isle, Wayne County, State of Michigan, which were referred to the Committee on Commerce.

Mr. LOCHER presented a resolution adopted by the convention of the Ohio district, International Association of Y's Men's Clubs, at Youngstown, Ohio, favoring the adoption of the so-called Gillett resolution (S. Res. 139) suggesting a further exchange of views relative to the World Court, which was referred to the Committee on Foreign Relations.

Mr. COPELAND presented resolutions adopted by the Seneca Falls (N. Y.) Historical Society, favoring the making of a special postage stamp to commemorate the sesquicentennial of the military expedition of Maj. Gen. John Sullivan in 1779, whereby aggression on the western frontier was checked and central New York was opened for colonization, which were referred to the Committee on Post Offices and Post Roads.

He also presented a petition of sundry citizens of New York State, praying for the passage of legislation requiring the taking of finger and foot prints of mother and child at birth on joined cards, the identification of persons injured, lost, or otherwise unmarked, and also requiring that every alien and traveler carry an identification card with his own proper fingerprints thereon, etc., which was referred to the Committee on Education and Labor.

Mr. BINGHAM presented a letter in the nature of a petition from Sarah Williams Danielson Chapter, Daughters of the American Revolution, of Danielson, Conn., favoring the retention

of the so-called national-origins quota provision in the immigration law, which was referred to the Committee on Immigration.

He also presented a resolution adopted by the Department of Connecticut, Veterans of Foreign Wars of the United States, favoring the passage of the so-called Gold Star Mothers bill, which was referred to the Committee on Military Affairs.

He also presented a resolution of the Connecticut Chamber of Commerce, expressing its opposition to the principle of the entry of the Federal Government into the field of private industry as proposed in the Boulder Dam bill and the Muscle Shoals resolution, which was ordered to lie on the table.

Mr. WALSH of Massachusetts presented numerous telegrams and letters in the nature of petitions from business firms of the State of Massachusetts, praying for the passage of Senate bill 3890, to amend section 5 of the act entitled "An act making appropriations for the service of the Post Office Department for the fiscal year ending June 30, 1921, and for other purposes," which were referred to the Committee on Post Offices and Post Roads.

He also presented a letter signed by Rev. Ralph A. Baker, South Acton, Mass., scribe of the Middlesex Union Association of Congregational Churches, expressing the support of the association of the Government's efforts to put into effect the multilateral treaties having for their purpose the elimination of war, which was referred to the Committee on Foreign Relations.

He also presented petitions from officers and members of the Young Women's Christian Association, of Sprinfield, Mass., New Haven, Conn., Akron, Ohio, and Detroit, Mich.; the United Polish Societies, Jersey City, N. J.; Plymouth Church, Brooklyn, N. Y.; Yale University Christian Association, New Haven, Conn.; the Erie section of the Council of Jewish Women, Erie, Pa.; Epiphany Church, Niagara Falls, N. Y.; Kiwanis Club, and Beta Missionary Society of Westminster Church, Milwaukee, Wis.; and sundry citizens of Yonkers, N. Y., Manchester, N. H., Milwaukee, Wis., and Los Angeles, Hollywood, and Long Beach, Calif., all praying for the passage of Senate Joint Resolution 122, providing for the reunion of families of alien declarants, which were referred to the Committee on Immigration.

POSTAL RATES ON CERTAIN MATTER

Mr. WALSH of Massachusetts. Mr. President, I present a communication from one of my constituents which strikingly calls attention to the excessive and almost prohibitive postal rates imposed upon newspapers, periodicals, and magazines when sent through the mails by other than publishers or registered news agents.

The writer also, for the purpose of emphasizing the harm that results in denying reading matter to many poor people located in some remote parts of the country, attaches a leaflet from a periodical called the Cheerful Letter, in which evidence is to be seen of the pleasure and help that result to many from receiving remailed magazines and periodicals.

I took this matter up with the Post Office Department and find that the department has made several recommendations to the Congress and that there is a bill now pending before Congress, which meets with the approval of the department, providing for substantial reductions in the postal rates for mail matter of this description.

I ask that the communication, with accompanying leaflet, be published in the RECORD and treated in the nature of a petition and referred to the Committee on Post Offices and Post Roads.

There being no objection, the letter and accompanying matter was referred to the Committee on Post Offices and Post Roads and ordered to be printed in the RECORD, as follows:

BILLERICA, MASS., *May 2, 1928.*

Hon. DAVID I. WALSH,
United States Senate, Washington, D. C.

DEAR SENATOR: In my mission of sending reading matter to families (especially in the South) who are in great want of this in educational and stimulating lines, I have realized for the past year or two the greatly increased cost of this service from increased postal charges on this class of mail—miscellaneous magazines, etc. On Monday I mailed two packages to North Carolina section, of weight together to equal three Literary Digests, and the postage called for was 16 cents.

This rate is practically prohibitive of this service, which certainly is one of appeal to us, and I write to ask if you will present to the Post Office Department or to the congressional committee whose authority is over these rates the fact of these excessive and prohibitive charges and ask if relief can not be had?

You will, I feel, perform a needed service in this direction if you can do this.

Respectfully yours,

EDWARD F. DICKINSON.

Will you please note these requests for reading matter on leaf inclosed? It is such as these I supply as I am able.

Requests

* * * * * * *

2. I am an 18-year-old school girl. I would be glad of any kind of good books to read, also some quilt scraps or any sort. Yours truly, Ossie Carpenter, Grassy Creek, N. C.

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4. I am a mother of five children and would be glad to receive any books or magazines, and I would be more than glad to receive any kind of quilt scraps for patchwork. For my reference write to Rev. Avery Powers, Grassy Creek, N. C. (Mrs.) Claud Wallace, Grassy Creek, N. C.

5. I am a poor woman and have three little children, and would appreciate some good reading or anything, as I am badly in need. Mrs. Zenn Blevins, Silas Creek, N. C.

6. Miss Thelma Jones, of Copeland, Ark., writes: "I am a young girl, age 18 years, and will teach my first term of school this summer. And it is so far to get help of any kind here. For primary work, such as busy work, books, or pictures, I am writing to see if you will help me, and surely will appreciate your help. I would also like a correspondent. I live in a very remote district, 45 miles from the railroad, and we usually have so short a term of school I want to do all the good I can in the length of time (two months)." (This appeal came too late to be published in our summer magazine. Can we not remember Miss Jones and her needs when she teaches her second term of school? B. W. A.)

7. Am writing to thank dear Cheerful Letter friends for the help they have been to the school in helping us get a library, for it has surely been a great benefit to the school, one that certainly is appreciated. We would also like books, cards, or pictures. Help of any kind from first to third grade is needed so badly and will surely be appreciated by the school. Mrs. Hazel Watson, Copeland, Ark.

8. I have just undergone a serious operation, and it will be some time before I can get around or do any work much, and I would be so glad of something to read and would appreciate so much some reeds or raffia for basketing work. I thank all the Cheerful Letter friends for past favors. Your friend, (Mrs.) Bessie McFarland, Manchester, N. C.

9. Mrs. Lelah Mabe, of Lawsonville, N. C., would enjoy receiving the Cheerful Letter magazine each month after some one has finished reading it.

10. I am a girl and live in the mountains. There are not many girls around. I get very lonesome sometimes and would appreciate any kind of books or magazines to read. For reference I refer you to Rev. I. J. Freeman, Tellico Plains, Tenn., route 1. Miss Sarah B. Jones, Tellico Plains, Tenn., star route.

11. Mrs. Carbit Wallace, of Lansing, N. C., would appreciate very much some good reading matter for herself, also some A, B, C books and cards for her little 3-year-old daughter.

12. Miss Viola Bredwell, of Decatur, Tenn., route 1, writes: "I live with my grandparents, my mother being dead. My grandparents are both old and not able to work much. Grandmother would appreciate some quilt scraps and I would like some good books or magazines suitable for my age, which is 18 years."

13. A request has been received in behalf of Miss Alice Haynes, of Bassett, Va., saying she is a very poor and afflicted little girl; her father is a cripple. She would appreciate a little cheer from some good lady. She is destitute of the advantages that other children enjoy.

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15. Bessie Smith, of Polkton, N. C., route 1, is an adopted child 15 years old. She lives in the country, 3 miles from school, and attends church and Sunday school regularly. She would like books or magazines, bits of lace or ribbon, also cards for her little 3-year-old brother.

16. I am a little boy just 11 years old. I have four little brothers and one little sister younger than I. I help mother care for them. I would appreciate the Beacon paper or a small Testament to read, if any of the Cheerful Letter ladies have them to spare. I will send a reply to every paper or book I may get. Hope to see my letter in print soon. My address is Benjy Philpott, Roanoke, Va., box 224, route 5.

17. I wish to thank you all for your good cheer and kindness. I haven't words to express my heartfelt thanks. I am a poor mother and hope you all will still remember me in my distress and lonely moments. My husband is at work several miles from home most of the time, so I am left here with the children, so sad and lonely. Will enjoy any kind of cheer. May God bless you all and aid you all in your good work. Yours, Mrs. E. F. Adams, Brandan, N. C.

* * * * * * *

20. As it has been a long time since I have written to the Cheerful Letter, I thought I would write again, as I have changed my name. I used to be Miss Grace Saunders, now I am Mrs. Grace Plemons. I married a man with four small children and my husband works away from home all the time, so we get lonesome while he is away and wish some one would send me some reading matter and bits of embroidery thread. Now, I hope I have not asked too much, and may God bless every one of you. (Mrs.) Grace Plemons, Tellico Plains, Tenn.

21. Dear Cheerful Letter: We are twin girls in high school. Our mother is a widow with seven children, two sets of twins. We live in the country. Next year we will study parts of Shakespeare and would like to have "Tales of Shakespeare" by Lamb, as our time is limited

and we have to work part of the time. Refer to Rev. Mrs. W. F. Galloway, Burlington, N. C. Thanking you all in advance. Sincerely yours, Mary and Madge Murray, Burlington, N. C., R. F. D. 7.

22. In 1923–24 your society sent me magazines and books; they were such a great help to me and to my school children.

I am going to teach at Chase City this coming session and assure all of your dear, kind people that any books or magazines would certainly be appreciated.

I am going to teach the fifth grade. I am also interested in all histories, English and American novels, and poetry. Hoping to keep in touch with you and again thanking you for the help you have given me in the past, I am, yours most truly, Clara M. Willis, Chase City, Va.

* * * * * * *

24. I am a girl 15 years old. My father is dead. I live with my stepfather and mother. Mother and I get lonesome and we would like to have good novels and short stories to read. We live 45 miles from the railroad and 10 miles from a little town. I have two little brothers that would enjoy funny papers and books for boys. My mother's name is Mrs. D. A. Dean, Rex, Ark. I will give you Rev. Elmer Waddell for reference. Beatrice Jones, Rex, Van Buren County, Ark., box 57.

25. I wish to thank all the Cheerful Letter friends for their kindness and for the things they have sent me for the past year. I have answered all that had addresses, but some didn't give any address. I surely have enjoyed the books and magazines and would appreciate any good books, literature (especially Good Housekeeping), and would pass them on to my friends; also anything suitable for my children, one girl, age 9 years, and three boys, 7, 5, 3. I have not heard from any of the dear friends for quite a while, but hope they will remember me in the coming year. I would be glad to correspond with anyone that would care to write, as I am in poor health this summer and am by myself quite a lot. Mrs. Lee M. Kilby, Rugby, Va., route 1.

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REPORTS OF COMMITTEES

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

A bill (S. 1511) for the exchange of lands adjacent to national forests in Montana (Rept. No. 1044);

A bill (S. 4022) authorizing the Secretary of the Interior to lease land in Stanley County, S. Dak., to Henry A. O'Neil for a buffalo pasture (Rept. No. 1014);

A bill (H. R. 9789) for the relief of Sallie E. McQueen and Janie McQueen Parker (Rept. No. 1015); and

A bill (H. R. 12049) to authorize the Secretary of the Interior to sell to W. H. Walker, Ruth T. Walker, and Queen E. Walker, upon the payment of $1.25 per acre, the southeast quarter section 34, township 2 north, range 14 east, Choctaw meridian, Clarke County, Miss. (Rept. No. 1016).

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

A bill (S. 1577) to add certain lands to the Boise National Forest, Idaho (Rept. No. 1045); and

A bill (S. 1578) to add certain lands to the Idaho National Forest, Idaho (Rept. No. 1046).

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

A bill (H. R. 332) validating homestead entry of Englehard Sperstad for certain public land in Alaska (Rept. No. 1017);

A bill (H. R. 11716) authorizing and directing the Secretary of the Interior to issue patents to Ethel L. Saunders, and for other purposes (Rept. No. 1018);

A bill (S. 2572) granting certain land in the town of Hot Springs, N. Mex., to the State of New Mexico (Rept. No. 1019); and

A bill (S. 3136) creating the Roswell land district, establishing a land office at Roswell, N. Mex., and for other purposes (Rept. No. 1020).

Mr. CUTTING also, from the Committee on Public Lands and Surveys, to which was referred the bill (H. R. 11990) to authorize the leasing of public lands for use as public aviation fields, and for other purposes, reported it with amendments and submitted a report (No. 1021) thereon.

Mr. DALE, from the Committee on Post Offices and Post Roads, to which was referred the bill (S. 2107) to provide for steel cars in the railway post-office service, reported it with amendments.

He also, from the Committee on Commerce, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

A bill (S. 4253) authorizing H. L. McKee, his heirs, legal representatives, and assigns, to construct, maintain, and operate a bridge across Lake Sabine at or near Port Arthur, Tex. (Rept. No. 1022); and

A bill (S. 4254) authorizing the State of Texas and the State of Louisiana to construct, maintain, and operate a free highway bridge across the Sabine River at or near Pendleton's Ferry (Rept. No. 1023).

Mr. STEPHENS, from the Committee on Claims, to which was referred the bill (H. R. 4927) for the relief of Francis Sweeney, reported it without amendment and submitted a report (No. 1024) thereon.

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

A bill (S. 4173) to transfer jurisdiction over certain national military parks and national monuments from the War Department to the Department of the Interior, and for other purposes (Rept. No. 1026);

A bill (H. R. 15) authorizing an appropriation to enable the Secretary of the Interior to carry out the provisions of the act of May 26, 1926 (44 Stat. L. 655), to make additions to the Absaroka and Gallatin National Forests, and to improve and extend the winter-feed facilities of the elk, antelope, and other game animals of Yellowstone National Park and adjacent land (Rept. No. 1025); and

A bill (H. R. 9612) authorizing and directing the Secretary of the Interior to allow Norman P. Ives, jr., credit on other lands for compliances made in homestead entry, Gainesville, 021032 (Rept. No. 1027).

Mr. NYE also, from the Committee on Public Lands and Surveys, to which were referred the following bills, reported them each with an amendment and submitted reports thereon:

A bill (S. 3954) to quiet title in the heirs of Norbert Boudousquie to certain lands in Louisiana (Rept. No. 1028); and

A bill (H. R. 5695) authorizing the Secretary of the Interior to equitably adjust disputes and claims of settlers and others against the United States and between each other arising from incomplete or faulty surveys in township 19 south, range 26 east, and in sections 7, 8, 17, 18, 19, 30, 31, township 19 south, range 27 east, Tallahassee meridian, Lake County, in the State of Florida (Rept. No. 1029).

Mr. NYE also, from the Committee on Public Lands and Surveys, to which were referred the following bills, reported them each with amendment and submitted reports thereon:

A bill (S. 3537) providing for the confirmation of grant of lands formerly the United States barracks at Baton Rouge, La., to the board of supervisors of the Louisiana State University and Agricultural and Mechanical College (Rept. No. 1050); and

A bill (S. 3620) granting certain land to the Roman Catholic congregation of St. Joseph's Roman Catholic Church of the city of Baton Rouge, La. (Rept. No. 1051).

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

A bill (S. 3452) for the relief of George W. Abberger (Rept. No. 1030); and

A bill (H. R. 8474) for the relief of Elmer J. Nead (Rept. No. 1031).

Mr. NYE also, from the Committee on Claims, to which was referred the bill (S. 443) for the relief of Larry M. Temple, reported it with an amendment and submitted a report (No. 1032) thereon.

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

A bill (H. R. 158) to amend chapter 137 of volume 39 of the United States Statutes at Large, Sixty-fourth Congress, first session (Rept. No. 1033);

A bill (H. R. 8307) amending section 5 of the act approved June 9, 1916 (39 Stat. L. 218), so as to authorize the sale of timber on class 3 of the Oregon & California Railroad and Coos Bay Wagon Road grant lands (Rept. No. 1034); and

A bill (H. R. 9568) to authorize the purchase at private sale of a tract of land in Louisiana, and for other purposes (Rept. No. 1035).

Mr. GOODING, from the Committee on Public Lands and Surveys, to which was referred the bill (H. R. 7946) to repeal an act entitled "An act to extend the provisions of the homestead laws to certain lands in the Yellowstone forest reserve," approved March 15, 1906, reported it without amendment and submitted a report (No. 1036) thereon.

Mr. KING, from the Committee on Immigration, to which was referred the bill (S. 717) to provide for the deportation of certain alien seamen, and for other purposes, reported it without amendment and submitted a report (No. 1037) thereon.

Mr. STEIWER, from the Committee on Claims, to which was referred the bill (S. 584) for the relief of Frederick D. Swank, reported it with an amendment and submitted a report (No. 1038) thereon.

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

A bill (H. R. 4303) for the relief of the Smith Tablet Co., of Holyoke, Mass. (Rept. No. 1039); and

A bill (H. R. 5935) for the relief of the McAteer Shipbuilding Co. (Inc.) (Rept. No. 1040).

Mr. BLACK, from the Committee on Claims, to which was referred the bill (S. 116) for the relief of R. S. Howard Co., reported it with an amendment and submitted a report (No. 1041) thereon.

He also, from the same committee, to which were referred the following bills, reported them each without amendment and submitted reports thereon:

A bill (S. 3743) for the relief of C. N. Markle (Rept. No. 1042); and

A bill (H. R. 5894) for the relief of the State Bank & Trust Co., of Fayetteville, Tenn. (Rept. No. 1043).

Mr. CARAWAY, from the Committee on Claims, to which was referred the bill (S. 382) for the relief of Joseph F. Thorpe, reported it without amendment and submitted a report (No. 1047) thereon.

Mr. PITTMAN, from the Committee on Territories and Insular Possessions, to which was referred the bill (S. 4257) to authorize the payment of certain salaries or compensation to Federal officials and employees by the treasurer of the Territory of Alaska, reported it without amendment and submitted a report (No. 1048) thereon.

Mr. HALE, from the Committee on Naval Affairs, to which was referred the bill (S. 4338) to authorize the President to award, in the name of Congress, gold medals of appropriate design to Albert C. Read, Elmer F. Stone, Walter Hinton, H. C. Rodd, J. L. Breese, and Eugene Rhodes, reported it without amendment and submitted a report (No. 1049) thereon.

ENROLLED BILL PRESENTED

Mr. GREENE, from the Committee on Enrolled Bills, reported that this day that committee presented to the President of the United States the enrolled bill (S. 3438) authorizing a per capita payment to the Rosebud Sioux Indians, South Dakota.

BILLS INTRODUCED

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

By Mr. MOSES:

A bill (S. 4369) to amend the act entitled "An act to amend and consolidate the acts respecting copyright," approved March 4, 1909, as amended, in respect of mechanical reproduction of musical compositions, and for other purposes; to the Committee on Patents.

By Mr. WALSH of Massachusetts:

A bill (S. 4370) granting an increase of pension to Elizabeth A. Smith; to the Committee on Pensions.

By Mr. VANDENBERG:

A bill (S. 4371) granting a pension to Wesley H. Crockett; to the Committee on Pensions.

A bill (S. 4372) granting an annuity to Aleta Wheeler; to the Committee on Civil Service.

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

A bill (S. 4373) to amend section 17 of the act of June 10, 1922, entitled "An act to readjust the pay and allowances of the commissioned and enlisted personnel of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service," as amended (with accompanying papers); to the Committee on Military Affairs.

By Mr. HAWES:

A bill (S. 4374) granting a pension to Amanda Kinder (with accompanying papers); and

A bill (S. 4375) granting a pension to William B. Haring (with accompanying papers); to the Committee on Pensions.

By Mr. STEPHENS:

A bill (S. 4376) for the relief of Harry M. King; to the Committee on Claims.

By Mr. FESS:

A bill (S. 4377) granting an increase of pension to Malissa Wilson; to the Committee on Pensions.

By Mr. DENEEN:

A bill (S. 4378) granting an increase of pension to Katie P. B. Farver (with accompanying papers); to the Committee on Pensions.

By Mr. GOODING:

A bill (S. 4379) granting an increase of pension to Belle Greenslate; to the Committee on Pensions.

A bill (S. 4380) authorizing the Secretary of the Interior to execute an agreement or agreements with drainage district or districts providing for drainage and reclamation of Kootenai Indian allotments in Idaho within the exterior boundaries of such district or districts that may be benefited by the drainage and reclamation work, and for other purposes; to the Committee on Indian Affairs.

By Mr. HOWELL:

A bill (S. 4381) authorizing H. A. Rinder, his heirs, legal representatives, and assigns to construct, maintain, and operate a bridge across the Missouri River at or near Niobrara, Nebr.; to the Committee on Commerce.

AMENDMENTS TO TAX REDUCTION BILL

Mr. COUZENS submitted an amendment, Mr. COPELAND submitted three amendments, and Mr. SIMMONS submitted five amendments intended to be proposed by them to House bill 1, the tax reduction bill, which were separately ordered to lie on the table and to be printed.

ESTABLISHMENT OF ADDITIONAL LAND OFFICES

Mr. CUTTING submitted an amendment intended to be proposed by him to the bill (S. 1794) establishing additional land offices in the States of Montana, Oregon, Idaho, and South Dakota, which was ordered to lie on the table and to be printed.

POSITION OF THE UNITED STATES FLAG

Mr. HEFLIN. Mr. President, I send to the Clerk's desk a concurrent resolution, which I ask may be read.

The VICE PRESIDENT. The clerk will read, as requested.

The Chief Clerk read the concurrent resolution, as follows:

Whereas it is alleged that the Roman Catholic flag, the same design as the flag flown at the Vatican at Rome, has been recently hoisted above and flown above the United States flag on the U. S. battleship *Cincinnati* and the U. S. battleship *Florida;* and

Whereas it is the solemn duty of Congress to see to it that no flag of a foreign power or potentate shall fly above the United States flag on any foot of American soil or on any American battleship or on any other American ship or in any foreign American possession; and

Whereas the act of placing the flag in question or any other flag above the United States flag has the appearance of questioning its right to be first and of challenging its supreme authority and sovereign power: Therefore be it

Resolved by the Senate (the House of Representatives concurring), That it is hereby declared to be the fixed principle and policy of the United States that hereafter, nowhere on land within her jurisdiction or on her battleships or on her merchant ships, shall any other flag be placed above and flown above the United States flag.

Resolved, That it shall be the duty of Government officials in civil authority and in the Army and Navy to see to it that the principle and policy here set forth is strictly observed.

Mr. HEFLIN. Mr. President, I have here a picture of the battleship *Florida* with the Catholic flag flying above the Stars and Stripes. I have also a picture cut from the Washington Post within the last two months showing the Roman Catholic flag flying above the United States flag on the battleship *Cincinnati.*

I ask for the present consideration of the resolution.

Mr. CURTIS. Mr. President, this being a joint resolution, it ought to go to a committee. I suggest that it be referred to the Committee on Commerce, which has charge of shipping matters.

Mr. BRUCE. Mr. President, I object to the present consideration of the resolution.

Mr. HEFLIN. The Senator from Maryland objects?

Mr. CURTIS. It ought to go to a committee, it being a joint resolution.

The VICE PRESIDENT. The resolution is a concurrent resolution.

Mr. NORRIS. Mr. President, I would like to suggest to the Senator from Alabama that he make it a joint resolution instead of a concurrent resolution, so that if it should be passed it would become a law.

Mr. HEFLIN. It would become a law anyway.

Mr. NORRIS. Oh, no; a concurrent resolution would not receive the signature of the President. If the Senator makes it a joint resolution and it should be passed by the Senate and House and signed by the President, it would then be the same as a statute.

Mr. HEFLIN. I ask permission to do that. I thought they had the same effect.

The VICE PRESIDENT. The Senator has the right to modify his resolution.

Mr. HEFLIN. I move to strike out the words making it a Senate concurrent resolution and to insert the ordinary words which are affixed to a joint resolution.

The VICE PRESIDENT. That change will be made if there be no objection.

The concurrent resolution was changed to a joint resolution (S. J. Res. 143) to prevent the flying of a foreign flag above the United States flag, which was read twice by its title.

Mr. HEFLIN. Mr. President, I want to say that when I prepared this resolution I said to myself, "If the resolution is objected to, the Senator from Maryland [Mr. BRUCE] will be the man to make the objection."

Mr. BRUCE. The Senator was dead right for once in his life.

The VICE PRESIDENT. The joint resolution will lie on the table.

Mr. HALE subsequently said: Mr. President, this morning when I was absent from the Chamber the senior Senator from Alabama [Mr. HEFLIN] introduced a resolution to prevent the flying of a foreign flag above the United States flag. The flag to which he alluded was the usual church pennant, I understand, which is always flown above the ensign during divine service.

I took the matter up with the Navy Department, and I have from them an article on the church pennant by Evan W. Scott, Chief of Chaplains, United States Navy. I ask that it be inserted in the RECORD immediately after the introduction of the resolution by the Senator from Alabama.

The PRESIDING OFFICER (Mr. SACKETT in the chair). Is there objection?

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

NAVY DEPARTMENT,
BUREAU OF NAVIGATION,
Washington, D. C., May 7, 1928.

Hon. FREDERICK HALE,
Naval Affairs Committee, Senate Office Building,
Washington, D. C.

MY DEAR SENATOR: Complying with your telephone request this noon, I am inclosing herewith an article on the "Church Pennant," which I hope will answer your inquiry.

If there is any further information you desire, I shall be glad to furnish same.

C. H. DICKINS,
Captain, Chaplain Corps, United States Navy.

[From the Century Church Bulletin]

CHURCH PENNANT

By Evan W. Scott, Chief of Chaplains, U. S. Navy

It may be of interest to learn that when divine service is being held on any Navy vessel in commission, the church pennant is hoisted above the Stars and Stripes. As Preble states in his history of the American flag, "It is the only flag to which the national ensign shows submission."

The church pennant is a triangular white pennant charged with a blue Latin cross. The records of the Navy Department clearly show that this pennant has been in use since about 1850, as a French book on the flags of all nations, edited in 1858, shows a United States church pennant similar to that now in use. In fact, it is believed to date back to the organization of the Navy, and is supposed to have been taken over from the British Navy, along with many other customs, the uniform regulations, armament, etc., and to have been in force from the beginning.

The following is quoted from a letter from Engineer Commander, Royal Navy, H. S. Brown, acting naval attaché to the British Embassy, dated October 12, 1922, based on information received from the British Admiralty, and which would seem to bear out statements made in paragraph above:

"The present church pennant is a survival of the old 'common pennant' which went out of general use in 1864.

"The use of a pennant to signify that the ship's company was at prayers appears to have been instituted by Rodney during the American war, circa 1780. Article X of his Additional Sailing Instructions provided:

"'In order that the performance of divine service may meet with as little interruption as possible, the ships are to hoist a common pennant at the mizzen peak before they begin the same, and to keep it flying until they have finished.'

"This was adopted by Admiral Arbuthnot when commander in chief on the North American station in 1781, by Kempenfelt in 1782, and by Howe in his signal book of 1790, and became the established practice."

The earliest official recognition of such a practice in our Navy, so far as I have been able to learn, is found in the United States Navy Signal Code, 1867, approved by Hon. Gideon Welles, then Secretary of the Navy. Article 45 of this code reads: "Church pennant will be hoisted immediately above the ensign at the peak or flagstaff at the time of commencing and kept hoisted during the continuance of divine service on board all vessels of the Navy." All succeeding editions of the Signal Code have had the same provision, although a slight change in the wording (for the better) occurs in the instructions now in force, which reads: "The church pennant is to be hoisted at the same hoist and over the ensign during the performance of divine service on board vessels of the Navy."

The use of the Latin cross has no sectarian significance, though it was probably selected for historical reasons and because its shape was easily adapted to such a pennant. It is a Navy pennant, and not the pennant of any church or denomination, as some have surmised. It is absolutely nondenominational and nonsectarian. It flies only during divine service to indicate to the ship's company and to other vessels near at hand, that religious worship is being conducted on board, and that all persons should conduct themselves accordingly, to the end that the service be not interrupted. It serves a practical purpose similar to that of the powder flag, which warns that ammunition is being taken aboard, and the meal pennant, which indicates that men are at their "mess" and are not to be disturbed except in case of necessity.

Although the church pennant has no sectarian significance, it does have a distinctly religious significance. The place of honor given it clearly indicates the importance attached to religious worship by a people having neither a State church, nor a State religion, and shows that the sovereignty of Almighty God is duly acknowledged by those in authority and that the highest honor is accorded Him.

Mr. HEFLIN. Mr. President, I have been in attendance on a meeting of a subcommittee of the Committee on Agriculture and Forestry investigating the New York Cotton Exchange and its relation to the Agriculture Department regarding price predictions on cotton. A page came and told me a moment ago that some amendment to my flag resolution was being offered. I would like to have it reported.

The PRESIDING OFFICER. No amendment was offered; it was simply an article, which was ordered to be printed in the RECORD.

Mr. HEFLIN. Having reference to my flag resolution?

The PRESIDING OFFICER. Yes; but no amendment was offered.

Mr. HEFLIN. What is the source of it? Who is the author?

Mr. HALE. Mr. President, I will state to the Senator that I called up the Navy Department after I heard about his resolution this morning, and they have sent me an article written by the Chief of Chaplains of the Navy explaining the use of the church pennant. I think that explains the matter. I asked that it be put in the RECORD, and leave was granted.

Mr. HEFLIN. I have asked the Navy Department and the War Department also to give me a copy of the instructions they have issued and what their rules and regulations are regarding the uses and abuses of the flag. I want to know just what system of rules they have permitted to be worked up, and I want the Senate to go on record, and I am going to have it go on record, as to whether any flag can be flown above the United States flag. I do not want to see that done; I do not want to see anybody's church flag fly above the Stars and Stripes. I do not think the Government ought to permit it. That flag represents the sovereign power of the greatest nation in all the world, and it is entitled to be first by its position in the air and as being uppermost in everything. We are guaranteed religious freedom in the United States. It ought to be on the housetop that shelters our religious freedom. It is only by that flag and what it represents that we have religious freedom at all in the United States. I do not want any system to grow up on any battleship or in the Army or in civil life that will lead to the flying of any flag above the Stars and Stripes. Why should it be done? On to-morrow I am going to ask for some action on my resolution.

Mr. HALE. Mr. President, I think when the Senator reads this article his mind will be clarified on this matter. The pennant to which he alludes is not a sectarian pennant in any way. It is the regular church pennant that is always flown when any religious services are held on a ship.

Mr. HEFLIN. Why do they have to fly it above the American flag?

Mr. HALE. If the Senator will read the article he will see.

Mr. HEFLIN. They can not show me why they should fly that above our flag. I have my views about where it ought to fly. I would fly it below the Stars and Stripes.

Mr. HALE. Mr. President, I will read the last paragraph of the article:

Although the church pennant has no sectarian significance, it does have a distinctly religious significance. The place of honor given it clearly indicates the importance attached to religious worship by a people having neither a state church nor a state religion and shows that the sovereignty of Almighty God is duly acknowledged by those in authority and that the highest honor is accorded Him.

Mr. HEFLIN. Mr. President, there is no religion recognized in this Government that requires the pulling down of our flag when a man wants to pray to God. We carried that flag in God's name. We fled from religious persecution in the Old

World in order to create a banner like that which would represent human liberty here in the Western World.

I know what pennants represent and the significance of them. Why is the Senate thinking about permitting this thing to go by without action? They permit them to pull the flag down 2 feet or more and fly this other flag above it. I am not going to consent to it myself. I do not care whether they are church pennants, ensigns, banners, or flags, or whatever they may be called. They have no business flying above the United States flag.

That flag was born in a crusade for liberty. The ragged Continentals prayed to their God for liberty, and for success in achieving that liberty; and to tell me we have to haul the flag down when we want to have religious worship on a battleship is ridiculous. It does not have to be done. If anyone wants to put a card out announcing religious services on a ship, let him do it. But why have we got to draw that flag down in order to give space above it for another flag to fly? Its right to first place is questioned when that is done. Its supreme authority and sovereign power is challenged. I want every Senator in this body on a roll call to say whether or not he wants anybody's flag to fly above it on battleships, in the Army, or in civil life anywhere.

I cut out of the Washington Post a picture of the U. S. S. *Cincinnati* flying the cross flag above the United States flag, and just under it the simple words: "It is Sunday." The flag of the United States is good enough, thank God, to fly first all the time—Sunday, Monday, and every day in the week. I think we owe it to the flag to proclaim it first and foremost in all our dealings. Talk to me about hauling it down when we go to worship God! The God of nations blessed that flag at its birth time, and I am going to insist that the Senate and the Congress take action in the face of any regulation made by any chaplains on the battleships as to what they desire to do when they go to worship. I am going to insist that the Congress declare it as its fixed policy that no flag, here or upon the sea, shall fly above the Stars and Stripes, Old Glory.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Haltigan, one of its clerks, announced that the House had disagreed to the amendments of the Senate to the bill (H. R. 12030) to amend Title II of an act approved February 28, 1925 (43 Stat. 1066, U. S. C., title 39), regulating postal rates, and for other purposes; requested a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. GRIEST, Mr. RAMSEYER, and Mr. BELL were appointed managers on the part of the House at the conference.

POSTAL RATES

The VICE PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H. R. 12030) to amend Title II of an act approved February 28, 1925 (43 Stat. 1066, U. S. C., title 39), regulating postal rates, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. MOSES. I move that the Senate insist on its amendments and agree to the request of the House for a conference, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Vice President appointed Mr. MOSES, Mr. PHIPPS, and Mr. MCKELLAR conferees on the part of the Senate.

RAILROAD VALUATION

Mr. NORRIS. I ask unanimous consent to take from the table Senate Resolution 222, which I introduced on Saturday, and I ask to have it read.

The VICE PRESIDENT. Is there objection?

Mr. SMOOT. I understood it was virtually agreed that the resolution might be taken up this morning.

Mr. NORRIS. I had an understanding before the Senate took a recess that there would be no objection made this morning to taking up the resolution.

The VICE PRESIDENT. The resolution will be read.

The resolution (S. Res. 222) submitted by Mr. NORRIS on the 5th instant was read, as follows:

Whereas in May, 1923, the National Conference on Valuation of American Railroads was organized for the purpose of securing a fair valuation of the railroads of the United States and for the purpose, in behalf of the public interest of the people of the United States, of appearing by counsel before the Interstate Commerce Commission and the courts, with a view of preventing an overvaluation of railroads. Said National Conference on Valuation was organized through the participation and cooperation of Senators, Representatives, governors of various States, mayors of some of the principal cities of the United States, several farm, agricultural, and labor organizations, traveling salesmen's associations, and national organizations of railway employees, and many similar organizations and individuals of national importance; and

Whereas by order of the Interstate Commerce Commission the National Conference on Valuation has been since 1923 a party to all valuation proceedings, has participated in said proceedings, has received notice of all hearings and copies of all the valuation reports, and has been recognized by the commission as a representative of substantial public interests and of a large percentage of travelers, shippers, and consumers dependent upon the railroads for transportation, and of organizations of employees engaged in such transportation, all of which persons have a vital and continuous interest in transportation rates which are and will be established by the commission on the basis of its valuation of the properties of the carriers; and

Whereas the National Conference on Valuation has selected Donald R. Richberg as its counsel, who, as representing said national conference, has advocated principles and methods of valuation which have been opposed by the railroads, but have been widely accepted by lawyers and economists of the highest standing, many of which principles and methods of valuation have been met with the approval of the commission; and

Whereas when the commission considered in public hearing the report upon which its order was based determining the value of the property of the St. Louis & O'Fallon Railway Co., the said Donald R. Richberg, as counsel for the National Conference on Valuation, was the only representative of a party to the proceedings who argued orally and by briefs in favor of the proposed report of the commission, while the official counsel for the commission made no argument for or against said report; and

Whereas suit has been brought by the St. Louis & O'Fallon Railway Co. to set aside the order of the Interstate Commerce Commission fixing the value of its property, which suit is generally accepted as a test case to determine the principles of railroad valuation for rate-making and recapture purposes and has already been heard by a three-judge statutory court, which refused to set aside the order of the commission, and which suit is to be heard on the appeal of the railroads which has been taken to the Supreme Court of the United States; and

Whereas under the circumstances set forth it would seem that the National Conference on Valuation, represented by the said Donald R. Richberg, having advocated the action taken by the commission in said case, should be heard on the appeal of the railroad to the courts to set aside the order of the commission; and it would seem to be in the public interest consistent with the intent of the law that the said national conference, through its counsel, the said Donald R. Richberg, should be heard as a matter of right, and provided in Thirty-eighth Statutes at Large, page 219, and Thirty-sixth Statutes at Large, page 539; and

Whereas the said Donald R. Richberg, as counsel for the National Conference on Valuation, was permitted to present an argument to the statutory three-judge court which heard the O'Fallon case, but the National Conference on Valuation not being permitted to intervene as a party to the proceedings, its counsel must make application to the Supreme Court for leave to be heard in the appeal now pending, which application, being addressed to the discretion of the court, involves primarily consideration of what is in the public interest; and

Whereas, depending upon the valuation principles and methods which may be determined by the O'Fallon case, the aggregate valuation placed on railroad properties may differ to the extent of many billions of dollars, with a consequent difference in the aggregate of transportation rates amounting to hundreds of millions of dollars, so that the O'Fallon case as a test case involved issues of wide and exceptional public interest and of immense consequence to all the people of the United States: Therefore be it

Resolved, That the Senate expresses its approval of the application of counsel for the National Conference on Valuation for leave to participate in the hearing of the O'Fallon case in the Supreme Court without thereby expressing its approval or disapproval of the arguments of counsel and without thereby intimating any opinion regarding the issues in the case; and be it further

Resolved, That the Senate hereby most respectfully requests the Supreme Court to permit the said Donald R. Richberg, as counsel for the said National Conference on Valuation, to intervene in said O'Fallon case for the purpose of making oral argument and filing a brief therein.

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

Mr. REED of Pennsylvania. Mr. President, I should like to ask the Senator from Nebraska [Mr. NORRIS] if there is any previous instance in which the Senate has made such a request of the Supreme Court as is contained in the resolution?

Mr. NORRIS. I do not know of any, but so far as I am aware, this is the only time that any situation such as this has ever arisen in the history of the country.

Mr. REED of Pennsylvania. It seems to me, Mr. President, that we must assume that the Supreme Court is just as anxious to secure the protection of the public interest as are we, and that a request from us that the Supreme Court should make

an order of any kind in a pending case is just as dubious in propriety as would be a formal request from the Supreme Court to us that we should enact a certain law. For that reason, with all respect to the Senator from Nebraska, and with all respect to his motives in submitting the resolution, I think I shall have to ask that the resolution go over.

Mr. NORRIS. I understand that the resolution has gone over, under the rule.

The VICE PRESIDENT. No; we are in the legislative day of May 3, and that was the day on which the Senator submitted the resolution.

Mr. NORRIS. I should like, however, to call the attention of the Senator to the fact that I might not have had my way, but in consultation with the leader on this side of the Chamber, the Senator from Kansas [Mr. CURTIS] and with the agreement of the Senator from Utah [Mr. SMOOT], who has charge of the revenue bill, I consented to a recess instead of an adjournment. If the Senate had taken an adjournment the resolution would have come up regularly.

Let me say to the Senator that it is far from my purpose—and I do not believe the Senator can put such a construction on the resolution—even to suggest to the Supreme Court or to any other court by any action of the Senate what action the court should take in any matter pending before it. There is pending before the Supreme Court a case having to do with the valuation of American railroads, a case involving more money and greater values than any other litigation that has ever been commenced in the history of the world, and one in which the amounts, whatever they may be, must be paid by all the people of the United States, almost regardless of their wealth, but dependent mostly in proportion to the food they eat and the clothes they wear. This organization, of which incidentally I happen to be the president at the present time, is national in its scope; it has participated in this case from the very beginning; and I think I can say, without casting any reflections upon anyone connected with the case in any way, that the representative of the organization presented to the Interstate Commerce Commission an argument and a brief which were more closely followed in the deliberations and decision of the Interstate Commerce Commission than any other brief or any other argument that was there made. The decision reached might have come, anyway; but the National Conference on Valuation of American Railroads, which is not organized for profit, and is composed of Senators, Representatives, governors, and the representatives of the leading organizations of a social and civic nature all over the United States, has only one thing in mind, and that is to have a full and complete argument under the law before the Supreme Court. It is confronted, however, with the condition that under the rules of the Supreme Court, without the consent of both of the parties, the organization through its attorney will not be allowed to be heard. The attorney has undertaken to get the consent of the railroads in this matter, but has failed to get it. I say that even without criticizing the railroad attorneys for their action in declining to give consent. The object of the resolution is to permit this attorney to make an argument and file a brief in the Supreme Court in that case.

Mr. BORAH. As a friend of the court?

Mr. NORRIS. Yes; as a friend of the court or otherwise——

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

Mr. NORRIS. In just a moment—in a case in which every man, woman, and child in the country has a direct and a vital interest and in which as a matter of fact they are not directly represented. As the Senator will notice in the first resolving clause it is specifically stated that the Senate does not approve the arguments or disapprove the arguments made either by the attorney for this organization or any other attorney in the case, and does not express in any way its opinion as to the merits of the case.

Mr. REED of Pennsylvania. Mr. President, I am perfectly certain that it does not require the consent of the railways for the Supreme Court to make an order permitting this gentleman to appear and file a brief and make an oral argument as amicus curiæ. I am perfectly certain that that is the law, because I know of several cases in which they have done it. I hope very much that they will hear Mr. Richberg, and I think his connection with the case, the connection which he has with this association, should move the court to hear him as amicus curiæ. I am perfectly confident—as confident as anyone can be of the future action of some one else—that they will hear him. They ought to do so, and the reasons that lead to saying that will lead them to hear him. There can be no doubt about it. But the thing to which I call attention is what seems to me to be the impropriety of telling the Supreme Court what, in the opinion of the Senate, is the sort of order that they ought to make concerning Mr. Richberg.

Mr. BORAH. Mr. President——

Mr. NORRIS. Will the Senator from Idaho permit me to answer the Senator from Pennsylvania?

Mr. BORAH. Certainly.

Mr. NORRIS. Of course, I may be wrong; if I am and the Senator from Pennsylvania is right, there would not be any doubt about Mr. Richberg being heard. I am confident, however, that the Senator from Pennsylvania is wrong when he says that Mr. Richberg can be heard as a matter of right.

Mr. REED of Pennsylvania. I did not say he could be heard as a matter of right. I said that the Supreme Court has the power, in its discretion, to permit any counsel to file a brief or make an argument.

Mr. NORRIS. Oh, yes; but on this point I talked with Mr. Richberg himself last week and I know what he attempted to do in order to be heard there. He said the railroad attorneys had refused to grant consent for his appearance and that, under the rules of the Supreme Court, it was necessary to get the consent of both sides.

Mr. SHORTRIDGE. Mr. President, if the Senator will yield for a question, has Mr. Richberg filed a petition asking leave to intervene for the purpose of filing a brief?

Mr. NORRIS. I do not think he has, but is making preparations to do that. I do not want anyone to derive the impression that anyone here is trying to indicate to the Supreme Court what they should do.

Mr. REED of Pennsylvania. That is what the resolution says.

Mr. NORRIS. That is true only so far as Mr. Richberg being heard in the case is concerned; that is all. In this resolution we have not even suggested anything further than that; and the only object I have is to take the necessary action that I believe would enable this man to make his argument and file his brief in the Supreme Court.

Mr. REED of Pennsylvania. Let us not have any disagreement about what we mean. I hope the Supreme Court will hear Mr. Richberg. I think, under all the circumstances of this case, it is proper that he should be heard; but I do not believe it is proper that the Senate should be telling the Supreme Court how to conduct its business.

Mr. NORRIS. Oh, we are not trying to do that.

Mr. REED of Pennsylvania. We must assume that the Supreme Court is moved by motives as high as our own.

Mr. NORRIS. And I do not want the Senator to intimate that I have said anything to the contrary. We are not telling the Supreme Court or trying to tell the Supreme Court what they should do.

Mr. REED of Pennsylvania. Just to conclude, I am not going to interpose the technical objection and require this matter to lie over for a day, in view of the Senator's agreement with the Senator from Kansas [Mr. CURTIS] that we shall take a recess. I will not interpose the technical objection; but I am not going to let the resolution pass without having raised my voice in dissent, and without having shown the Supreme Court that there is one Member of the Senate who disapproves of this course of procedure.

Mr. BORAH. Mr. President, as I understand the Senator from Pennsylvania, his objection lies in the fact that he thinks it is improper for the Senate to make the request.

Mr. REED of Pennsylvania. Precisely.

Mr. BORAH. As I understand, the object of the resolution is to secure the appearance of the counsel as what may be called a friend of the court. I recall, when the Oregon case was up for consideration, that the Chief Justice, representing the Supreme Court, came to the Judiciary Committee of the Senate and requested that the Senate provide an attorney to argue the case as a friend of the court; and the colleague of the able Senator from Pennsylvania [Mr. Pepper] argued the case, and with exceptional ability.

I do not see the impropriety of the Senate requesting an opportunity to be heard as a friend of the court as compared with the propriety of the Supreme Court requesting the Senate to present a counsel as a friend of the court. The resolution does nothing more than to request the court for an opportunity to be heard. It is precisely the same nature of request as might come from a corporation or an individual or parties who were interested. If it took the form of anything like a command or a direction, of course the Senate would not approve of it; but it is in the form of a request, and it seems to me that the request has a precedent in principle in the precedent established by the Supreme Court itself.

Mr. REED of Pennsylvania. I do not think that is a precedent at all. If the court wants suggestions from us that is another matter; but for us to volunteer suggestions in particular lawsuits I think is indefensible, and has no precedent.

Mr. BORAH. It has no precedent, perhaps, coming from the Senate; but can it be said to be an impropriety for the Senate

to request an opportunity to be heard upon a matter of litigation before the Supreme Court in which the entire public is concerned, especially in view of the fact that the court has indicated by its own act that it is desirous of having cases presented in that way where the public is interested?

Mr. WHEELER. Mr. President——

Mr. SHORTRIDGE. Mr. President, may I ask the senator a question? Is not this resolution premature? I understood the Senator from Nebraska to say that no application had been made to the Supreme Court for leave to file a brief or to argue the case. Who shall say that the Supreme Court will refuse any such respectful request?

I quite agree with the Senator from Pennsylvania. I know of no written rule, and I am not at this moment familiar with any unwritten practice of the Supreme Court which would require the consent of parties litigant to an order permitting a friend of the court to present an argument; and, for reasons indicated, I have no doubt at all but that if reputable counsel, representing large interests, should, in a respectful manner, request permission to file a brief or to make an oral argument the Supreme Court would grant such a request.

Mr. REED of Pennsylvania. If the Senator will permit a further suggestion, I should like to say that this National Conference on Valuation is not the only association that is interested in this case. Take the Association of Railway Shippers, whose interest is exactly the same as that of this association, presumably, or the Association of Traveling Men. All of them want to see these valuations held down to what they consider reasonable. Are we going to undertake to say here which of these associations representing the public that uses the railroads is to be represented and which not?

Mr. NORRIS. In this national conference, Mr. President, are included, I think, the very organizations that the Senator mentions. They are part and pracel of this national organization.

Mr. REED of Pennsylvania. Very well; then we will take the other organizations. There must be many that are not represented if the body is a wieldy one.

Mr. NORRIS. It may be that there are some that are not represented. I have on my desk a copy of the petition that went to the Interstate Commerce Commission. It contains a list by name of quite a number of United States Senators, quite a number of Representatives, quite a number of governors, and quite a number of organizations. There are a great many of them. I do not think there is any question whatever but that they are national in their scope, and represent as nearly as possible in one organization of this kind all of these organizations. The travelers' associations are part of those associations that are included. There are a great many unions and quite a number of farmers' organizations. I understand, for instance, that the State Grange of the State of Michigan had circulated to all its members documents pertaining to this organization.

Mr. REED of Pennsylvania. That is all right; and that is a cogent reason why the Supreme Court should grant the petition when it is made.

Mr. NORRIS. I think so.

Mr. REED of Pennsylvania. But the Senator must remember that although this case is of tremendous importance to the public, there never passes a term of the Supreme Court but that dozens of cases of importance to the public come before that court. Constitutional questions of the utmost importance come before them every year. Is the Senate to start the precedent of advising the court to hear an amicus curiæ every time an important case comes in there?

Mr. NORRIS. No, Mr. President, I would not say that; and yet the Senator may be justified in making that kind of an argument.

Here, in the first place, is the most important litigation that has ever appeared in the Supreme Court of the United States.

Mr. REED of Pennsylvania. I do not agree with the Senator on that.

Mr. NORRIS. There may be a disagreement about it. Here is an organization that was in the hearings from the beginning, starting with the Interstate Commerce Commission, and up to the Supreme Court; but in the three-judge court that tried this case after it was commenced, when the Interstate Commerce Commission had finished with it, the order of the court did not admit this conference on valuation as a party to the suit, although it did permit the attorney to file a brief and make an argument there. So that, as a matter of fact, as the case comes to the Supreme Court this party is not, as it was before the Interstate Commerce Commission, technically a party to the litigation.

Mr. REED of Pennsylvania. I quite understand that; but the Supreme Court has the same power that the supreme courts of all our States have to send out and draw in an amicus curiæ whenever it wishes, in its complete discretion.

Mr. NORRIS. There is not any question about that. I am not disputing that; but the Senator is afraid of a precedent being established here for all things that might come in the future. In the first place, as I look at it, this is the most important case, as affecting all the people of the United States, that the Supreme Court have ever had before them. In the next place, this organization is not local in its scope. These people comprising it represent all kinds of business—farmers' organizations, laboring organizations, traveling men's organizations, governors, and Senators, and Members of the House of Representatives—and it can be said in their behalf that up to this time they have been in the case. Their attorney has been heard; and it presents a question, therefore, in which it is not an ordinary organization jumping up here or there and asking to get in or asking the Senate to get them in. Something must be done, in my judgment, not withstanding the opinion of the Senator from Pennsylvania, in order to make the proper foundation for this request to be made. While, of course, the Supreme Court have the power to do it, I am satisfied that they would have to make an exception to their practice as it is usually understood to enable this man to appear there without the consent of both parties to the suit to argue the case and to file a brief.

Mr. REED of Pennsylvania. I think we have made the difference in view clear——

Mr. NORRIS. I think so.

Mr. REED of Pennsylvania. And I hope the Senate will express its judgment.

Mr. WALSH of Montana. Mr. President, I do not share the view expressed by the Senator from Pennsylvania [Mr. REED] that there is any impropriety at all in the course proposed by this resolution. It is not at all unknown. It is a very frequent thing that a case is pending in the Supreme Court and some individual walks into the Supreme Court and says: "I am particularly interested in the question that is now before the court. I have a lawsuit pending, or one which I anticipate will be pending, and the decision of the court in this matter will be important in the determination of my own case; and I should like very much, if the court please, to have my counsel heard in this matter."

Mr. REED of Pennsylvania. That is just what I suggest be done here.

Mr. WALSH of Montana. So likewise, Mr. President, an association interested in some public question that is before the court might walk into court in exactly the same way and say: "This is a matter of very great concern to the particular branch of industry which we represent. We should like to have our counsel heard in the matter." The court might say: "We feel that this case is very well represented by counsel now. We can scarcely grant any more counsel leave to be heard in the matter," and deny the application; or they might say, "We shall be glad to hear counsel," and allot them half an hour or an hour in which to be heard.

Here is a case of tremendous importance to all the people of the United States, and certainly in some sense we represent them. What is the impropriety of the Senate sending a respectful notice to the court that they regard this case of particular importance, and that they have in mind a gentleman who has given special study to the particular question, and asking that he might be heard as amicus curiæ?

Mr. REED of Pennsylvania. Does the Senator mean to imply that we represent only the parties on one side of the controversy?

Mr. WALSH of Montana. No; but the other side, everybody recognizes, will be well taken care of.

Mr. REED of Pennsylvania. The Senator implies that the other side will not be properly taken care of.

Mr. WALSH of Montana. No; I undertake to say that they will be. Undoubtedly their selfish interest, altogether commendable, will permit them to command the very best talent that the American bar can afford.

Mr. REED of Pennsylvania. If that is clear to the Senator, why does the Senator presume that it will not be equally clear to the United States Supreme Court?

Mr. WALSH of Montana. I have no doubt that the Supreme Court will recognize that; but that is no reason why we should not respectfully ask the Supreme Court to designate an attorney who we think will well represent the interests of the people.

Mr. REED of Pennsylvania. The Senator has just outlined the procedure by which any interested individual or interested association can make his or its appeal to that court. Does not the Senator think they had better try that first before they come to the Senate to ask its interposition?

Mr. WALSH of Montana. The Senate will proceed upon its own initiative without any suggestion from anybody.

Mr. REED of Pennsylvania. Precisely.

Mr. WALSH of Montana. The Senate merely respectfully requests that this attorney be heard upon the question.

Mr. REED of Pennsylvania. It seems proper to the Senator to do that, but to me it seems an impertinence. Therefore we will have to take the judgment of the Senate upon it.

Mr. WALSH of Montana. I might say, in answer to another suggestion made by the Senator from Pennsylvania, that I do not understand that this is a request that this gentleman exclusively be heard as amicus curiæ.

Mr. REED of Pennsylvania. No; I presume that if the association of railway executives can think of an amicus curiæ that they would like to suggest Congress would then pass a resolution for that; but I should resist that just as I am resisting this.

Mr. WALSH of Montana. That is not the point I was speaking about. The Senator suggested that some other national association would have just exactly the same right to be heard as this particular association. I do not know whether that would be just exactly the same, but there is no impropriety in any general association walking in there and asking that they be represented.

I wanted to ask the Senator from Nebraska about the reference to the two statutes on page 3, where it says:

> should be heard as a matter of right, as provided in Thirty-eighth Statutes at Large, page 219, and Thirty-sixth Statutes at Large, page 539.

Mr. NORRIS. Mr. President, I have a copy of the statutes referred to before me. I did not look the matter up, but I have been told that in the United States Code these statutes were not incorporated.

Mr. WALSH of Montana. I have sent for the statutes, but I can find nothing in them which would seem to justify that statement.

Mr. NORRIS. If the Senator desires, I can read the whole thing. There is only a small part of it that has direct application here. It says:

> The procedure in the district courts in respect to cases of which jurisdiction is conferred upon them by this act shall be the same as that heretofore prevailing in the Commerce Court.

That is Thirty-eighth Statutes at Large, 219. The section referring to the Commerce Court is a long section. It is Thirty-sixth Statutes at Large, 539, section 5. That, it would seem to me, gives almost to this particular organization the right to be heard there.

Mr. WALSH of Montana. Will the Senator call my attention to the language?

Mr. NORRIS. I was trying to pick it out. I do not want to read it all. Section 5 reads, in part, "*Provided further*, That communities, associations"——

Mr. WALSH of Montana. I should say that it was a matter which we should not express any opinion about at all.

Mr. NORRIS. It is doubtful whether that statute did give it as a matter of right. The Customs Court act is probably repealed now by implication, perhaps. This was the section that applied to the Commerce Court:

> *Provided further*, That communities, associations, corporations, firms, and individuals who are interested in the controversy or question before the Interstate Commerce Commission, or in any suit which may be brought by anyone under the terms of this act, or the acts of which it is amendatory or which are amendatory of it, relating to action of the Interstate Commerce Commission, may intervene in said suit or proceedings at any time after the institution thereof, and the Attorney General shall not dispose of or discontinue said suit over the objection of such party or intervenor aforesaid, but said intervenor or intervenors may prosecute, defend, or continue said suit or proceeding unaffected by the action or nonaction of the Attorney General of the United States therein.

Mr. WALSH of Montana. My opinion is that we ought not to express an opinion as to whether one is entitled as a matter of right to appear in the Supreme Court in such a case.

Mr. NORRIS. Of course, I do not want to take any action that is in any way disrespectful.

Mr. WALSH of Montana. It would not be disrespectful at all, but it is for the Supreme Court to say whether one as a matter of right can appear in that court or not.

Mr. NORRIS. That is no doubt true.

Mr. SHORTRIDGE. Mr. President, may I ask a question?

Mr. NORRIS. Let me dispose of this. That is on page 3, the second whereas.

Mr. WALSH of Montana. I suggest that the Senator take out the second whereas on page 3.

Mr. NORRIS. I am wondering whether part of that should not be left in.

Mr. WALSH of Montana. I think it is only a repetition.

Mr. NORRIS. It reads:

> Whereas under the circumstances set forth, it would seem that the National Conference on Valuation, represented by the said Donald R. Richberg, having advocated the action taken by the commission in such case, should be heard on the appeal of the railroad to the courts to set aside the order of the commission.

Mr. WALSH of Montana. Let it stand that way.

Mr. NORRIS. And strike out from there on?

Mr. WALSH of Montana. Yes.

Mr. NORRIS. Mr. President, on page 3, after the word "commission," in line 6 of the second whereas, I will strike out the balance of that whereas.

Mr. WALSH of Montana. In line 6 of the second whereas on page 3, after the word "commission."

Mr. NORRIS. Yes.

Mr. WALSH of Montana. Then I suggest to the Senator to strike out the word "intervene" in line 11, on page 4, that word having a technical significance at law, and substitute in lieu thereof the words "appear as amicus curiæ."

Mr. NORRIS. I have no objection to that.

Mr. WALSH of Montana. So that it will read: "To appear as amicus curiæ," and so forth.

Mr. NORRIS. Very well.

Mr. BRATTON. Mr. President, the action just taken by the Senator from Nebraska in striking certain parts from the resolution relieves it of what I had conceived to be an inconsistency in its terms. If the national conference has that right, namely to intervene, obviously it could exercise it without any action on the part of the Senate.

In other parts the resolution proceeds upon the theory that the conference did not have the right; that it could intervene in the case only as a matter of grace to be extended by the court. That is my concept of the legal situation; that whether this association appears in the case as a friend of the court, and has its views argued by Mr. Richburg, is a matter of grace on the part of the court, to be extended or withheld as the court may determine.

The conference has no right as a matter of law to intervene and present its contentions. That right is confined to the parties to the litigation, those who have some property rights involved in the litigation. If this conference has some indirect interest in the subject matter of the litigation which it desires to present, it has the right, under well recognized rules of procedure, to appear by motion or application addressed to the Supreme Court praying that it be allowed to come in as amicus curiæ. That involves the extension or the withholding of an act of grace under the control of the court exclusively.

My concept of this resolution is that it amounts to nothing more than an expression of opinion on the part of the Senate that the Supreme Court should extend that act of grace to Mr. Richberg. I am unwilling for the Senate to go that far. I think we should proceed on the presumption that the court will act properly in the premises. I think we should assume that the court will grant or extend that act of grace if it should be extended, and that the court will withhold it if it should be withheld. If we assume that, I can see no reason for any action on the part of the Senate.

The illustration given by the Senator from Idaho as a precedent strikes me as being clearly distinguishable from this situation, because there the Supreme Court indicated its desire to have certain phases of the litigation then pending presented and argued by some one acting for the Senate.

Mr. BORAH. Mr. President, is it any more a breach of propriety for the Senate to indicate its desire to the court to have a certain matter argued by counsel as a friend of the court?

Mr. BRATTON. Yes; I think so, because the subject matter is pending before the court. The power to extend the act of grace and hear the attorney is exclusively within the power of the court.

Mr. BORAH. Certainly, and we only request it; we do not undertake to direct it, or order it, or anything of that kind.

Mr. BRATTON. If the court desires to hear from Mr. Richberg, as it desired to hear from some one representing the Senate, undoubtedly it will permit him to argue the case. On the other hand, if the court does not permit Mr. Richberg to appear, it will indicate conclusively that the court does not want to hear him, exactly the contrary situation to what existed in the Oregon case.

Mr. CARAWAY. Mr. President, if it is an impertinence for the Senate to request it now, why should it not be held an impertinence on the part of anybody to file a petition in the Supreme Court and ask to be heard?

Mr. BRATTON. If the Senate had some interest in the matter——

Mr. CARAWAY. It has the most vital interest in that it affects every man, woman, and child now living, and those who will come after us.

Mr. BRATTON. The Senate is concerned with legislative matters—that is, matters having a direct or indirect relation to subjects of legislation—but the Senate has no direct interest in the judicial determination of the subject matter of the litigation now pending before the courts.

Mr. CARAWAY. Let me ask the Senator another question. The Senate has undertaken to say what the rules of procedure shall be in the Supreme Court of the United States. That, according to the Senator's contention, certainly was an impertinence.

Mr. BRATTON. Oh, no; Mr. President.

Mr. CARAWAY. If everything pending before that court shall be settled according to their own views, without any reference to the views that might be entertained by somebody else—I am now talking about the mere matter of procedure—I can not see why we should have ever undertaken to impose our views with reference to what the procedure should be, and who should be parties and who not, and what their rights should be. Why not pass that up to the court and let them make the rules?

Mr. BRATTON. It should be passed on to the courts to interpret and administer existing law.

Mr. CARAWAY. This is not a question of law at all; this is a question of petitioning the Supreme Court, as a petitioner, to have the interests of certain people represented by certain counsel if the court should feel inclined to do so. I am at a loss to follow the reasoning of the Senator. I do not see where the impertinence comes in, if it is not an impertinence for anybody to request that the Supreme Court shall hear every side of a contention. I just do not follow the Senator.

Mr. BRATTON. Mr. President, the Senate is not proceeding here as an amicus curiæ. The Senate is not endeavoring to do that, either directly or through counsel.

Mr. CARAWAY. What is it trying to do, then?

Mr. BRATTON. It is asked to recommend that the court hear somebody in a given case.

Mr. CARAWAY. In which the public is interested. It is not undertaking to say to the court "You shall do it." It stands like a petitioner addressing a request to the court. It is an expression upon the part of the Senate that this case is of vital importance, and there is an association with counsel who has been so intimately connected with it that we feel that he ought to be heard when the court shall have that case under consideration.

Mr. KING. Mr. President, will the Senator from New Mexico permit a suggestion?

Mr. BRATTON. I yield.

Mr. KING. Apropos of the suggestion made by the Senator from Idaho, the Senator from New Mexico will recall that in the case which went up from Oregon there were some Senators who believed that the construction placed upon the law and the Constitution by the President was improper, and gave to the Executive authority not found in the Constitution. The Senate was interested in the case, as it directly related to its functions and powers. It is quite likely that some Senators did not perceive any impropriety upon the part of the Chief Justice of the United States in suggesting that the Judiciary Committee have some one appointed to present to the court the legal questions involved. The issues were very important and involved the authority of the President in matters in which both the Executive and the Senate were concerned.

It seems to me that there is no analogy between that case and the present one, and if there be such relation between them that the action of the Chief Justice constitutes a precedent, it should not determine our course, or justify the passage of the resolution. My view is in accord with that of the Senator from Pennsylvania and the views just expressed by my friend from New Mexico.

Mr. BORAH. Mr. President, the Chief Justice conceived that it was a question which was being discussed before the court which involved a correct construction of the Constitution and, therefore, they solicited the assistance of the Senate in presenting it through counsel who should appear as a friend of the court. That is precisely what we are doing except that we are reversing the program. If the Senate had an interest in the former question, so has it in the same general way an interest in this question.

Mr. BRATTON. Mr. President, as I recall the Oregon case, it involved the right of the President to remove an officer who had been appointed by and with the advice and consent of the Senate. The Senate had an interest there. We may call it direct or indirect, immediate or remote, as we will, but the Senate had that interest in the subject matter in litigation there. It has no such direct interest in the subject matter of litigation in the present case.

The subject matter of the litigation is pending in the Supreme Court. That tribunal alone has jurisdiction of it. We are dealing now with the extension or the withholding of an act of grace by that court in connection therewith. It is a matter that falls directly, primarily, and exclusively within the power and prerogative of that court. It occurs to me that we can not adopt this resolution without assuming in advance that the court will withhold a right when it should grant it. If we indulge the presumption that the court will grant the right because we believe it should be granted, there is no occasion for the adoption of the resolution. I think to ask the court to extend an act of grace because we think it should be extended is going entirely beyond the functions or proprieties of the Senate.

Mr. REED of Pennsylvania. Mr. President, I demand the yeas and nays.

Mr. SHORTRIDGE. Mr. President, I was a member of the Committee on the Judiciary and present when the Chief Justice appeared and made the request or suggestion that counsel be selected to assist the court in a certain case then pending. I remember his statement that the power of the Senate was thought to be involved. The President had seen fit to remove a certain Federal officer to whose appointment the Senate had given its approval. The question arose as to the President's power under the Constitution to remove such an officer and, therefore, inasmuch as the power of the Senate was in a sense indirectly involved, the request or suggestion was made that we assist the court.

If Senators will be patient for a moment, I may say that it is agreed upon all hands that the association named in the resolution should be heard by the Supreme Court, and for reasons which have been stated by the Senator from Nebraska [Mr. NORRIS] and others. It is admitted that no request has been made of the Supreme Court for permission to be heard. I said a moment ago that the resolution is premature, for, if it be proper for them to be heard, I have such confidence in that great tribunal as to feel assured that any respectful request of the kind in mind will be granted. I do not doubt it for one moment. But the resolution proceeds upon the notion that the request might be denied, and disguise as we may attempt to, it is a manifest attempt to bring about an order granting such a request, and in that sense I think the resolution highly improper. I repeat the words, to my mind it is a manifest attempt to bring to bear the influence of the Senate on the Supreme Court.

I regret that it seems necessary for me to express even that thought. I have heretofore believed that this was a legislative body. True, it has almost become a grand jury, and we have almost abandoned our function as a legislative body. But I shall not sit here silent without respectfully entering my protest against this attempt to influence the action of the Supreme Court.

Mr. WALSH of Montana. Mr. President——

The PRESIDENT pro tempore. Does the Senator from California yield to the Senator from Montana?

Mr. SHORTRIDGE. I yield.

Mr. WALSH of Montana. Will the Senator from California kindly advise us what particular act of the nature of a grand jury he objects to?

Mr. SHORTRIDGE. I have in mind a great many.

Mr. WALSH of Montana. Would the Senator specify?

Mr. SHORTRIDGE. I do not wish to bring up a subject which has engaged the attention of the Senator from Montana so long and has yielded so little. I could name a great many resolutions which I think never ought to have appeared here or claimed a moment's attention of the Senate.

Mr. WALSH of Montana. I suppose the Senator could, and I asked him if he would.

Mr. SHORTRIDGE. I may take the time to furnish a bill of particulars or bill of items of from one to a dozen or fifteen, twenty-five, or even a hundred resolutions calling for investigations of the nature of grand-jury investigations. Let not the Senator from Montana think for one moment that I am dissenting from any of his efforts in respect to the Teapot Dome or any other dome.

Mr. WALSH of Montana. Or my colleague's investigation of the Department of Justice?

Mr. SHORTRIDGE. Not at all.

Mr. WALSH of Montana. It was not those to which the Senator was referring?

Mr. SHORTRIDGE. Not at all; but better results could have been achieved, the same results could have been achieved by the ordinary legal processes of our Government. I am not saying but that the Senator's resolution originally introduced has borne good fruit. It has resulted in the cancellation of certain contracts, and very likely to the benefit of the Government; but nobody is in jail yet as a result of the Senator's efforts.

Mr. BORAH. That is the result of the action of the courts and not of the Senate.

Mr. SHORTRIDGE. That is the result of the action of the courts, and I am not ready to abandon the courts of our country. Moreover, while I am on the subject let me say that I have a reverent regard for the jury system. I believe in it and have defended it on many occasions. I am not now dissenting from any verdicts that have been rendered here or elsewhere. I bow to them, I respect them unless, of course, there is charge of fraud, corruption, bribery, or undue influence brought to bear upon jurors or upon judge. I have respect for the judges on the bench in America and I still believe in our jury system.

And now, to make an end, I have not an affected respect but a genuine respect for the intellect and the motives of the Senator from Nebraska [Mr. NORRIS], but I say to him and others that here is a case pending in our Supreme Court of far-reaching importance. Its importance can not be exaggerated or overstated. As remarked again and again, it affects the welfare of the people of the United States and clearly it affects the welfare of my people, if I may call them so, of California. We are remote from the great markets. Freight rates are vital to our prosperity. Therefore, I am in hearty accord with the Senator that any reputable association which has devoted time and thought to this problem should be heard by the Supreme Court. I have not the least doubt in the world. I repeat myself again and again, that any such reputable association appearing in that court, and making the request we have in mind, would be heard. I am deeply interested in the problem, but I am thinking of other things. I am thinking of our form of government. I am thinking of that great tribunal. I am grateful for its existence. I do not think it falls within the scope of our duty or within propriety for us at this stage in the matter to bring to bear the pressure of a resolution upon that body. Let an application be made respectfully, and if it is denied and we then feel that the case will not be presented fairly, elaborately, and capably, I may reluctantly join with others in making the request which this resolution embodies.

Mr. REED of Pennsylvania. Mr. President, I demand the yeas and nays.

Mr. FESS. Mr. President, I do not wish to detain the Senate, but I desire to say that I think the pending resolution involves more than a mere incident in legislation. It involves the relationship between coordinate departments of this Government, which I think is very important. Mr. Bryce, who, I think, wrote the greatest work on the American Government that has been written by a foreigner, called special attention to the distinguishing feature of our Government that differentiates it from all other governments in history. That particular distinction is the independence of the coordinate departments of the Government. Mr. Bryce points out that all governments are alike in that they all have legislative, executive and judicial functions, but that they differ in the power given to the individual departments. A monarchy includes in the executive department largely the legislative and judicial functions; that is especially true as to a despotism; while a pure democracy very largely ignores the executive as well as the judicial departments. There is not any such thing as an unconstitutional law in England. The body that passes the law in that country repeals it if it so desires, or it remains a law until it is repealed. There is not any such thing as a judiciary separate from the legislative that may set aside an act of parliament.

Mr. BORAH. Mr. President, the Senator from Ohio certainly does not mean to indicate that this resolution, which merely requests that some one be permitted to appear before the Supreme Court to argue amicus curiæ a particular question, it being wholly within the power of the court to refuse that request, would be an infringement upon the judicial power of the Supreme Court of the United States?

Mr. FESS. I will say to the Senator that I rather think it would be. It is a case of one branch of the legislative department suggesting to another branch of the Government that is coordinate with it what it should do.

Mr. BORAH. I desire the Senator to notice the language of the resolution, which reads:

> That the Senate hereby most respectfully requests the Supreme Court—

It is wholly within the power of the Supreme Court to reject the request. It is a mere presentation of a request upon the part of a body which represents a part of the public interest that a particular question be argued by one who has been associated with its presentation heretofore.

Mr. FESS. I am of the opinion that the Senator from Idaho is one of the Senators who insist upon each coordinate branch of the Government being left independent in the function for the performance of which it exists.

Mr. BORAH. Yes, I am; and if this were an attempt to adopt a resolution directing the court or authorizing it or bringing any pressure to bear upon it, I should not favor it; but it is simply the presentation of the request that an attorney be allowed to appear before the court. No one need get the idea that the Supreme Court is going to be overawed by an ordinary request of this kind on the part of the Senate.

Mr. FESS. Mr. President, if it is sufficiently important for the Senate to set aside time to discuss and act on a resolution expressing to the Supreme Sourt of the United States what we want it to do, then it is of sufficient importance that we ought to halt before we undertake to make such a suggestion to the Supreme Court.

As I stated a moment ago the one distinguishing feature of this Government that makes it different from any other government in history is that each of the three departments of government is not only independent in its organization but it is also wholly independent in the performance of its functions. It is true that the Supreme Court has power over the Executive under certain circumstances; it is true that this body, in conjunction with the other body, has certain control over the Supreme Court; it is true that this body has a restrictive power on the Executive in the case of treaties and appointments; it is true that the Executive is sometimes overruled by this and the other body in the exercise of the veto power; but when it comes to the exercise of the functions of either or each, neither ever attempts to interfere with the other.

In the exercise of the functions of legislation the President never goes further than to give his opinion under the requirements of the Constitution; and in the exercise of the judicial function by the Supreme Court neither the Executive nor the legislative ever undertakes to interfere. The Supreme Court never undertakes to interfere with the exercise of the function of legislation or of the enforcement of law. When the Senate, acting as a branch of the legislative body, adopts a resolution, sends it to the Supreme Court and asks that court to do what it has not requested, I insist it is an interference not only with the function of the Supreme Court but is against the very genius of our Government.

I very much deplore a tendency that might lead to legislation interfering with the judicial function or legislation permitting the Executive to interfere with the judicial function or the judiciary to interfere with either the legislative or the Executive.

The genius of American institutions calls for the preservation of the independence of the exercise of the functions of each of these departments, and I can not look with any degree of complacency upon the adoption of a resolution such as this, although it is said that it is perfectly harmless, because, if it means anything, it is an interference with the judiciary.

I admit all that has been said as to Mr. Richberg; I know him very well; he is a very capable man, and whenever he presents a case on any occasion his presentation is worth listening to. I also admit the tremendous importance of the valuation of railroads, which it was once stated would not cost over $2,000,000 and would be completed in two years. It has, however, cost considerably over $100,000,000, and as yet we are nowhere in sight of the end of such valuation. I recognize the importance of the work, but I think it is of still greater importance that, under the genius of our Government, the legislative branch, either this body acting alone or the other body acting alone or the Congress acting as a whole, should not undertake to interfere with the Executive in the performance of his functions or, especially, with the judiciary in the performance of its function. The greatest bulwark to our institutions is an independent judiciary, and any encroachment upon it from any source, especially by a coordinate branch of the Government, is, to my mind, seriously important. While I have great sympathy with what the Senator who is the author of the resolution wants to do, it seems to me the price proposed to be paid is too great; and for that reason I can not support the resolution.

Mr. PITTMAN. Mr. President, the court proceeding, as I understand, is to restrain the Interstate Commerce Commission with regard to some of its functions. The Interstate Commerce Commission in an agency of Congress. The Constitution of the United States did not grant to the executive department

nor to the Federal Government control over interstate commerce; it granted to the Congress control over interstate commerce. In the performance of that function we have delegated that authority to the Interstate Commerce Commission. The Interstate Commerce Commission has been interfered with in the performance of what it believes its function to be under that delegated authority. It would be perfectly proper, I should think, for the Congress of the United States to pass an act directing that special counsel appear for the Interstate Commerce Commission before the Supreme Court of the United States.

The Congress of the United States interfered with the Attorney General's office, another branch of the Government, by passing an act requiring the President of the United States to appoint special counsel to conduct the oil suits. The Congress of the United States are more deeply interested in this case than any other case that has recently come before the Supreme Court. The question of the constitutional authority of Congress to regulate commerce, while not directly involved, must be effected if the functions of the commission shall be circumscribed.

All that this resolution indicates is that the Senate of the United States desires additional counsel to be heard in support of the position taken by its agency, the Interstate Commerce Commission. The case involves the whole question of interstate commerce; it involves every railroad in the United States in the long run. It involves the welfare of every producer, every shipper, and every consumer.

Mr. SHORTRIDGE and Mr. LA FOLLETTE addressed the Chair.

The PRESIDENT pro tempore. Does the Senator from Nevada yield; and if so, to whom?

Mr. PITTMAN. I yield first to the Senator from California.

Mr. SHORTRIDGE. Does the Senator from Nevada think for one moment, in view of what has gone on here to-day, that the Supreme Court will deny an application permitting the argument to be made and the brief to be filed? Does anybody think the court would deny such an application?

Mr. PITTMAN. I do not think so. I do not think the Supreme Court would deny it.

Mr. SHORTRIDGE. No such application has been made as yet, as I understand.

Mr. PITTMAN. No; and I do not think the Supreme Court would deny it for the very reason that they will think it is a very reasonable, natural, and proper request. Now I yield to the Senator from Wisconsin.

Mr. LA FOLLETTE. I merely wish to direct the attention of the Senator from Nevada to the fact that when this case was argued before the Interstate Commerce Commission Mr. Richberg, representing the National Conference on Valuation of American Railroads, was the only attorney who appeared and argued in behalf of the tentative report of the commission. The chief counsel of the commission did not appear in the case at all.

Mr. PITTMAN. That is another reason why the Senate of the United States may express a desire for such special counsel to be heard on behalf of its agent, the Interstate Commerce Commission.

Mr. KING and Mr. FESS addressed the Chair.

The PRESIDENT pro tempore. Does the Senator from Nevada yield; and, if so, to whom?

Mr. PITTMAN. I yield first to the Senator from Utah.

Mr. KING. If I understand the Senator from Nevada correctly, his position is that the Interstate Commerce Commission have taken a certain position respecting an important question. We support that position, and therefore desire to have that position argued before the Supreme Court. Speaking for myself, I am not willing to adopt that view. I am not willing to say that I approve or disapprove of the action of the Interstate Commerce Commission. I have not had time to investigate it; and it does seem to me, if the Senator will pardon me, that that is one of the vices incident to the adoption of this resolution. It projects into the Senate questions which are controversial in character and compels us to diverge from our labors as a legislative body to consider controverted questions before the court, as to which we would be compelled to express an opinion and make investigations before we can act.

Mr. NORRIS. Mr. President——

Mr. PITTMAN. Let me first answer the question of the Senator from Utah.

Whether we know anything about the position of the Interstate Commerce Commission or not, we desire the law as we intended it upheld. There are some of us who may know something about it, and some of us who may know nothing about it, and others who may know more or less about it. We do know what the intent of the act was; and if we are not satisfied with the ability of the counsel of the Interstate Commerce Commission to present our intent with regard to that law, it is perfectly proper for us to represent that to the Supreme Court of the United States, as any other association or citizen or group might do.

Mr. FESS. Mr. President——

Mr. PITTMAN. If there were any coercion, if the Senate were doing anything other than is done throughout this whole country before courts by individuals, by citizens, by corporations, by associations, then I should say it might be considered an imposition upon the court, or an act of discourtesy. But is there any reason why this body should not be interested in this matter like any other body, whether it be corporate or an association? And if it is interested in the matter, and pursues exactly the same practice as every individual or corporation, is such a respectful request of this body for additional counsel on behalf of one of its agents to be considered as an improper interference with the functions of the court?

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

Mr. PITTMAN. I yield now to the Senator from Ohio.

Mr. FESS. If it is the desire of the Interstate Commerce Commission to have Mr. Richberg appear in its behalf, it would be perfectly in order, if it did not have the authority to engage him, for Congress to give that authority. It would not be sufficient for the Senate to do it, but it would be proper for Congress to do it. That, however, is entirely different from making a request of this kind of a coordinate body like the Supreme Court.

Mr. PITTMAN. Not at all.

Mr. FESS. I think it is.

Mr. PITTMAN. If your agent were conducting a suit of vital importance to you and that agent had a counsel employed, you say it would be all right if your agent asked for additional counsel, but you deny your authority as principal to ask for additional counsel. What is the Interstate Commerce Commission but an agency of this body? It is nothing but an agency of Congress; and yet, because the Interstate Commerce Commission is satisfied with its counsel, you think that this body, which created it, should stand silent forever.

Mr. NORRIS. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Nevada yield to the Senator from Nebraska?

Mr. PITTMAN. I yield.

Mr. NORRIS. I should like to call the attention of the Senator from Utah to the first "*Resolved.*" It seems to me it meets his objection entirely. In that resolution we say:

> Without thereby expressing its approval or disapproval of the arguments of counsel and without thereby intimating any opinion regarding the issues in the case.

Mr. REED of Pennsylvania. Then the Senator does not agree with the Senator from Nevada, who thinks the Senate should take one side of this case?

Mr. NORRIS. No; I do not think there is any disagreement with the Senator. The Senator from Nevada argues that we have created the Interstate Commerce Commission. An attorney has argued before them on the tentative report made before the Interstate Commerce Commission sustaining it. He argued again before the court, when he got into court, sustaining the position of the Interstate Commerce Commission. So far it has been sustained. Now, we are asking if the Supreme Court will not permit this man to make an argument before them in his attempt to sustain the action of the Interstate Commerce Commission, an organization that has been created by law.

Mr. REED of Pennsylvania. But the Senator from Nevada says that Mr. Richberg represents the Senate's view of the proper interpretation of the interstate commerce act, as I understand him.

Mr. PITTMAN. I beg the Senator's pardon; the Senator from Nevada made no such assertion.

Mr. REED of Pennsylvania. Then the Senator does not believe that?

Mr. PITTMAN. I have no knowledge as to whether he does or not.

Mr. REED of Pennsylvania. But I understood the Senator to say that the Senate had a right, as a legislative body, to have its interpretation of the interstate commerce act presented to the Supreme Court.

Mr. PITTMAN. That is what the Senator from Nevada said.

Mr. REED of Pennsylvania. Is not that what I said?

Mr. PITTMAN. No, Mr. President.

Mr. REED of Pennsylvania. What is the difference between what I said and what the Senator said?

Mr. PITTMAN. What I say is that if the Senate agree that Mr. Richberg is an able lawyer and can present the intent of

this body with regard to that act, they have an absolute right, without any reflection on the Supreme Court of the United States, to request the Supreme Court, as other institutions do, to permit him to make the argument.

Mr. REED of Pennsylvania. Is it the Senator's idea that that is what we would be doing if we passed this resolution?

Mr. PITTMAN. Exactly.

Mr. REED of Pennsylvania. Then it is the Senator's idea that Mr. Richberg represents our view of the proper outcome of this controversy, and therefore we want him to be before the court to express our view?

Mr. PITTMAN. I feel that he does; yes. That is my view. I do not know about the Senator's view. If he appeals to my view, I will vote for him. If he does not, I will not.

Mr. REED of Pennsylvania. Then the Senator does not agree with the recital in the resolution that this action is taken without expressing any view as to the merits of the controversy?

Mr. PITTMAN. Undoubtedly we are not expressing any views. Those will be expressed by our counsel in the proper, legitimate way. It would be entirely improper for us to attempt to influence the court by resolutions as to what we believe should be the outcome. We simply desire to inform the court now that we will abide by any decision of the matter that they may make; we will not criticize any decision they may make; we will not attempt to prejudge that matter; we ask only that a counsel in whom we have confidence, if we have confidence in him—and those who have will vote for him—be allowed to present the case to the Supreme Court.

Mr. REED of Pennsylvania. I doubt whether the Senator's view of this resolution corresponds to that expressed by the Senator from Nevada. The Senator from Nevada bases our supposed right to pass this resolution upon our right to legislate on the subject of interstate commerce. This is a Senate resolution; it is not a joint or a concurrent resolution; and the Senate has not any more power to legislate by itself than one leg has power to walk by itself.

Mr. PITTMAN. I do not base the right on the Constitution at all. The right exists inherently in any citizen of the United States to-day to petition a court for the privilege to have a counsel appointed as amicus curiæ. That is the basis of our right. I am stating the Senator's interest in it as one of the congressional bodies. The Senate's interest is the control of interstate commerce. While we, as a separate body, can not pass an act with regard to interstate commerce, we are just as much interested in legislation as the other body or as both of the bodies; and we have a right, as a separate body, to act with regard to the protection of interstate commerce by resolution or other procedure within our separate jurisdiction. Our jurisdiction is not separate with regard to legislation, because the other House must join; but our jurisdiction is separate with regard to resolutions, and we are within our jurisdiction when we petition the Supreme Court of the United States for the hearing of extra counsel with regard to a matter in which we are deeply interested.

Mr. REED of Pennsylvania. We have a right to legislate. The litigation that follows our legislation is a matter for the judicial branch of the Government, and is none of our business.

Mr. KING. Mr. President, will the Senator from Nevada permit me to ask him a question?

Mr. PITTMAN. Certainly.

Mr. KING. Suppose that the view of the Senator from Nevada with respect to a proper interpretation of the interstate commerce act runs along certain lines—say the lines represented by Mr. Richberg, and voiced by him in his brief. Suppose that the views of myself and some other Senators should be quite different from those of my able friend.

Mr. PITTMAN. Then I would vote against him.

Mr. KING. Then, if a resolution comes here asking the court to hear Mr. Richberg, why might not those who took the other view from the Senator from Nevada submit a counter resolution asking for the appointment of somebody else who would be more in harmony with their views? Would not that result in projecting into the Senate all controversies which were before the court which involve legislation by Congress? And, finally, would we not be dividing upon controversial matters that come before the court; and might not some Senator deeply interested in some matter before the court submit a resolution recommending the court to hear A or B or C who represented his view; and might not some other Senator, having a different view, submit a counter resolution asking that some other attorney be appointed to represent his view?

Mr. PITTMAN. Mr. President, will the Senator yield there?

Mr. KING. Certainly.

Mr. PITTMAN. I do not believe that it would be a good practice for the Senate of the United States to pursue this course often. I think it should be utilized only in an extreme case, just as the Congress of the United States directed the President of the United States to employ special counsel in an extreme case.

We have done a great many things in extreme cases that we do not make a practice of doing. As I say, when the Congress of the United States passed an act practically instructing the President of the United States to take certain litigation out of the hands of the Attorney General of the United States, it did an extreme act, but it was justified. I do not believe this body should on little occasions or many occasions make a request of the Supreme Court of the United States that an amicus curiæ be heard. It should very rarely be done, and I should not vote for it unless it was an extreme matter. I do not, however, recognize at the present time any matter of greater importance before the whole country than the matter of interstate commerce. I do not know of any legislation on the statute books to-day that more vitally and directly affects every human being in this country than interstate-commerce legislation and particularly the transportation act.

I recognize this as a peculiar case. When one of our agents, the Interstate Commerce Commission, to whom was delegated our authority, is attempting to make this fight, and to make it, I believe, against the united power of all the great transportation companies of this country, I do not think we should stand back and say, "That agency has attorneys. No doubt it has good counsel." I would rather have additional counsel. If necessary, I would rather have several additional counsel. If there are other counsel abler to represent this great question that Senators know of, let them put in a resolution requesting that they be employed.

It is not a question as to whether this is the best man or not. I have confidence in this man. Others may not have. I have more confidence in him than I have in the general counsel of the Interstate Commerce Commission. To my mind, he has proven his ability, his knowledge of this subject, his capabilities; and I think this is a respectful request of the Supreme Court of the United States, the propriety of which they will readily see. They will not interpret it as coercion or interference. They will look on it as we look on it, as an effort of the Senate of the United States to have the matter ably presented to the Supreme Court.

Mr. BRATTON. Mr. President, I can not let the statements just made by the Senator from Nevada pass without question. As I understood him, he said that those of us who have confidence in Mr. Richberg will support this resolution and that those of us who lack confidence in him will oppose it.

Mr. PITTMAN. I did not mean to say that, if I did. I meant that those who did not have confidence in him would undoubtedly vote against him. They might vote against the resolution for other reasons.

Mr. BRATTON. Very well. I think I am in accord with the views Mr. Richberg has advocated in the litigation up to this time. Whether I agree with him or disagree from him is entirely aside from the question with which we are properly concerned. Whether we think he is maintaining a correct interpretation of the act involved in the litigation is foreign to the question we are considering here.

I can not concur in the view that anyone should be affected or persuaded to vote either way in regard to this resolution by whether his views are in accord or in discord with the views of Mr. Richberg. That question is entirely aside. The question with which we are concerned now is whether the Senate should go so far as to express itself in advance of the matter even being presented to the Supreme Court as to whether it should hear Mr. Richberg.

The Senator from Nevada says he is endeavoring to uphold the Interstate Commerce Commission. But we are asked to appear from an entirely different angle to the litigation; to inject ourselves into the situation and advise the Supreme Court what we think it should do respecting purely a matter of procedure in a given case.

I have no doubt that the Supreme Court will hear Mr. Richberg fully; I have not the slightest doubt that when it is made apparent to the court that this is an important case, one of unusual importance, in which the public is peculiarly interested, the court will give Mr. Richberg every opportunity to present his views in a written brief and by oral argument. I express the hope that that will be done. My observation has been that seldom in the judiciary is a reputable attorney denied the right to appear as amicus curiæ in regard to a case of public nature or concern.

I am unwilling, regardless of whether I agree or disagree with the views entertained by Mr. Richberg, to vote for a resolution that is purely advisory to the Supreme Court, advising

it that, in our opinion, it should extend an act of grace to a given attorney representing certain interests who are concerned in the subject matter of litigation pending in that tribunal.

I simply want to make clear that, regardless of the fact that I agree with Mr. Richberg, I can not give my consent to favor the resolution for the reasons indicated.

Mr. BRUCE. Mr. President, I simply desire to put myself on record in relation to this matter. I have no intention of making it the subject of anything but the briefest comment.

From the time of Montesquieu it has been considered a thing of supreme concern that the three great departments of government—the executive, the judicial, and the legislative—should be kept absolutely independent of each other. It seems to me that one of the most interesting trains of reflection that it is possible for the mind to pursue is that each of these departments performs its own functions on the whole with an extraordinary degree of success, and yet each one of them is a most inefficient instrument for the performance of the functions of the other. As I have had occasion to say more than once, I do not know a poorer executive or a poorer judge in the world than a legislative assembly, and yet, with all its infirmities and limitations, a legislative assembly is one of the most exquisite agencies, if I may use such an expression, for the preservation of human liberty; indeed, the most effective that the mind can conceive of.

This resolution is an attempt on the part of the Senate to influence the action of the Supreme Court in a manner that calls distinctly for disapproval. It is true that it is careful to say that it is not to be taken as expressing either approval or disapproval of the arguments of counsel in the case to which it relates, and does not intimate any opinion regarding the issues involved in that case; but, all the same, it does nothing less than request the Supreme Court to permit Donald R. Richberg, as counsel for the National Conference on Valuation, to intervene in the case.

The first thing that the Supreme Court has to consider is whether a proper foundation has been laid by Mr. Richberg for intervention at all. That is a judicial question; that is just as much a judicial question as is the question as to whether the valuation of the railroads of the country has been carried on in a proper manner. So, to that extent at any rate—that is, to the extent of expressing the unqualified hope that the Supreme Court will permit Mr. Richberg to intervene—this body undertakes to usurp—no other term is appropriate to the situation—one of the powers, one of the functions, of the Supreme Court of the United States.

Some years ago I stood upon this floor and insisted that the Senate had no constitutional right to ask the President to call for the resignation of Edwin Denby, or to remove him. Notwithstanding the lapse of time that has taken place since then, I have never in all my life felt more certain of the correctness of a conclusion than of that which I reached at that time. That was an unwarranted thing for the Senate to do, and what we are now considering would also be an unwarranted thing for it to do.

I have nothing but the highest degree of respect for Mr. Richberg. I know him, and have heard him quite often before the Senate Committee on Interstate Commerce since I have been a member of that committee. He is a truly able lawyer, highly qualified to look after a legal controversy of any kind, whatever its importance. But in this matter he should be allowed to rely upon the strength of his own application, and upon nothing else whatsoever, and that is just what he is not relying on.

If he is not soliciting the influence of this body in behalf of his application to the Supreme Court, if he is not seeking to affect, through the agency of this body, the decision of the Supreme Court in relation to his desire to intervene, pray what is he trying to do; pray what is his object in coming here?

If his petition is a meritorious one, there is no need for him to enlist our help. Meritorious or not, what he is seeking is to secure the very thing that it is the intent of our Constitution and laws that no man should seek, that is to say, the intervention of the legislative branch of the Government in a matter which appertains exclusively to the jurisdiction and authority of another and a distinct department of the Government.

Therefore I trust that this resolution will not receive the approval of the Senate. It is clearly an encroachment upon the domain of another independent branch of the Federal Government.

Mr. WHEELER. Mr. President, the Senator from Maryland seems to think that if we pass this resolution we will be usurping the power of the Supreme Court. I am entirely at a loss to understand how anyone can come to that conclusion with reference to this resolution.

Mr. BRUCE. Mr. President, I did not state my proposition just that way. What we are seeking to do is to bring to bear upon a conclusion of the Supreme Court, it seems to me, the force of our conclusion, whatever its force may be, that, in our judgment, whatever the Supreme Court may think, Richberg should be allowed to intervene.

Mr. WHEELER. If I understood the Senator correctly, he not only said once, but he repeated it several times, that we were attempting to usurp the power of the Supreme Court. I do not think there is anybody in the Senate who would deny the right of this body to employ counsel in this particular matter, and to ask to have counsel appear in the Supreme Court and argue and present our views to the Supreme Court of the United States.

As the Senator from Nevada [Mr. PITTMAN] pointed out a moment ago, this is a matter in which the Senate of the United States is particularly interested. It is a matter in which the Congress of the United States is interested, and it is a matter in which all the people are interested, because it has to do with the rate-making power of Congress which we have delegated to the Interstate Commerce Commission. The question involved here is the question that is constantly coming up before this body, and constantly coming up before the Committee on Interstate Commerce. We have had the question up before that committee when appointments to places on the Interstate Commerce Commission have come before us. Members of the commission and others who have been appointed have pointed out time and time again that they were not quite sure what the Supreme Court meant by some of their decisions.

In this particular case, the Interstate Commerce Commission has made a certain ruling. That went to the district court, and Mr. Richberg was permitted to intervene. My understanding of the matter is that there is a certain practice of the Supreme Court which does not permit him to appear and argue the case before the Supreme Court unless both the railroad and the Interstate Commerce Commission agree to it.

This resolution is merely a request of the Senate of the United States that Mr. Richberg be permitted to appear before the Supreme Court and argue certain phases of the case. We are doing what the Constitution prescribes we or any citizen may do; namely, petition any branch of the Government.

Mr. BRUCE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Montana yield to the Senator from Maryland?

Mr. WHEELER. I yield.

Mr. BRUCE. Is it not a little more than that? Is it not necessarily an expression of an opinion by the Senate?

Mr. WHEELER. No.

Mr. BRUCE. Does it not follow, as a matter of course, from the fact that it requests the Supreme Court of the United States to do something that it is the opinion of the Senate that the Supreme Court of the United States ought to do it? What is that but an attempt to influence the judicial action of the Supreme Court?

Mr. WHEELER. I do not think the Supreme Court will so take it, and I do not think that they should so take it.

The request from this body would not, in my judgment, have very much more effect than the request from any other body. But the resolution also says that—

> the Senate expresses its approval of the application of counsel for the National Conference on Valuation * * * without thereby expressing its approval or disapproval of the argument of counsel and without thereby intimating any opinion regarding the issues in the case.

In view of that statement I do not see how it can be contended by the Senator from Maryland or by anybody else that this is an interference or any attempt to interfere with the Supreme Court in their ruling.

Mr. BRATTON. Mr. President——

The PRESIDING OFFICER (Mr. ASHURST in the chair). Does the Senator from Montana yield to the Senator from Arizona?

Mr. WHEELER. I yield.

Mr. BRATTON. I have already said that I am in accord with the views Mr. Richberg has advocated and presented before, and I hope the court will hear him fully, because I think it will serve a useful purpose if it will. I want the Senate to understand that my opposition to the resolution does not grow out of any disagreement with Mr. Richberg or any belief that he should not be heard. I think he should be heard, and I think he will be. My opposition to the resolution is that I think it does constitute an interference to this extent, that it undertakes to advise another branch of the Government

what it should do with reference to procedure in a given case. To that extent, and to that extent only, I am not in accord with the resolution.

Mr. WHEELER. I think the interference is so slight, if it could be termed any interference at all, that we should not hesitate about it when the matter is so important, and when any citizen would have the same right. Everybody concedes that it is extremely important to everybody in this country that this case should be presented to the Supreme Court, and that all of the views of the different groups in the country should be presented.

Let me say further to the Senator from New Mexico that I know something of the history of the case. I know the railroads' argument and something of their briefs. I know some of the arguments that will be made on behalf of the Interstate Commerce Commission. I know that Mr. Richberg holds views that are not entirely in accord with the views of either of those two groups. It is the idea of the organization which Mr. Richberg represents that certain economic views ought to be presented to the Supreme Court. I am not saying that I would fully agree with all the arguments he may present, but at least I think that he should be heard.

Mr. BRATTON obtained the floor.

Mr. SMOOT. Mr. President, may I ask that the revenue bill be laid before the Senate at this time?

Mr. CURTIS. Mr. President, I wonder if we can not get a vote on the resolution? It has been debated now for two hours.

Mr. KING. There will probably be some more debate on it.

Mr. REED of Pennsylvania. Oh, no; we are ready to vote.

Mr. WHEELER. Yes; let us vote.

The PRESIDING OFFICER (Mr. ASHURST in the chair). The Senator from New Mexico has the floor.

Mr. BRATTON. Mr. President, in view of the statement just made by the junior Senator from Montana [Mr. WHEELER], I think it is perfectly obvious that this is a proper case in which Mr. Richberg should be heard by the court. I reaffirm what I have already said that I believe he will be heard. But I think that should be brought about through the orderly procedure of the Supreme Court without any outside expression on behalf of the Senate. Let Mr. Richberg present his outside and different views from those entertained by either party to the controversy. I believe that should be done. I do not think, however, that we would be justified in going to the extent of advising the Supreme Court to transgress one of their rules, as the Senator from Montana has indicated it would be necessary for them to do. Let the Supreme Court do it of their own volition. If the case is an unusual one, justifying that course, I expect that it will be done. I hope that it may be done. I do not want my position in opposition to the resolution misunderstood. It is upon the grounds previously expressed.

Mr. REED of Pennsylvania. Let us have the yeas and nays.

The PRESIDING OFFICER. The question is on the adoption of the resolution as modified, on which the yeas and nays have been demanded and sufficiently seconded. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. CURTIS (when his name was called). I have a general pair with the senior Senator from Arkansas [Mr. ROBINSON]. Not knowing how he would vote on this question, I withhold my vote. If I were permitted to vote, I would vote "yea."

Mr. REED of Pennsylvania (when his name was called). I have a pair with the Senator from Delaware [Mr. BAYARD]. I transfer that pair to the Senator from Massachusetts [Mr. GILLETT] and vote "nay."

The roll call was concluded.

Mr. JONES. I desire to announce that the Senator from Delaware [Mr. DU PONT] has a general pair with the Senator from Florida [Mr. TRAMMELL].

Mr. BRATTON (after having voted in the negative). I have a pair with the junior Senator from Indiana [Mr. ROBINSON]. Not knowing how he would vote, I withdraw my vote.

Mr. SMITH. I have a pair with the senior Senator from Indiana [Mr. WATSON]. I transfer that pair to the junior Senator from New York [Mr. WAGNER], and vote "yea."

Mr. WALSH of Montana. The senior Senator from Arkansas [Mr. ROBINSON] is unavoidably absent. If he were present, he would vote "yea."

Mr. CURTIS. In view of the announcement just made by the Senator from Montana with reference to the senior Senator from Arkansas [Mr. ROBINSON], with whom I have a general pair, I am at liberty to vote. I vote "yea."

Mr. ASHURST. Mr. President, has the junior Senator from Arizona [Mr. HAYDEN] voted?

The VICE PRESIDENT. That Senator has not voted.

Mr. ASHURST. The junior Senator from Arizona [Mr. HAYDEN] has been called from the Chamber by an important matter of official business. If he were present, he would vote "yea."

The result was announced—yeas 46, nays 31, as follows:

YEAS—46

Ashurst	Cutting	La Follette	Sheppard
Barkley	Dill	Locher	Shipstead
Black	Fletcher	McKellar	Simmons
Blaine	Frazier	McMaster	Smith
Blease	Gooding	McNary	Stephens
Borah	Harris	Mayfield	Swanson
Brookhart	Harrison	Neely	Thomas
Broussard	Heflin	Norbeck	Walsh, Mass.
Capper	Howell	Norris	Walsh, Mont.
Caraway	Johnson	Nye	Wheeler
Couzens	Jones	Pine	
Curtis	Kendrick	Pittman	

NAYS—31

Bingham	Glass	Metcalf	Shortridge
Bruce	Goff	Moses	Smoot
Copeland	Greene	Oddie	Steck
Dale	Hale	Overman	Steiwer
Deneen	Hawes	Phipps	Tydings
Edge	Keyes	Reed, Pa.	Warren
Edwards	King	Sackett	Waterman
Fess	McLean	Schall	

NOT VOTING—17

Bayard	Gillett	Robinson, Ark.	Wagner
Bratton	Gould	Robinson, Ind.	Watson
du Pont	Hayden	Trammell	
George	Ransdell	Tyson	
Gerry	Reed, Mo.	Vandenberg	

So Mr. NORRIS's resolution as amended was agreed to.

The VICE PRESIDENT. Without objection, the preamble as amended is agreed to.

PORTRAIT OF CHIEF JUSTICE MARSHALL

During the consideration of Mr. NORRIS's resolution—

Mr. BRUCE. Mr. President, as I was proceeding to say the other day when I was interrupted, or as perhaps I had already said when I was interrupted, on December 13, 1927, I introduced into the Senate a joint resolution authorizing the Joint Committee on the Library to purchase a portrait of Chief Justice John Marshall.

Mr. NORRIS. Mr. President, will not the Senator let us have a vote on my resolution?

Mr. BRUCE. I am just going to make an announcement. I shall occupy only a moment. I have been trying and trying to have an opportunity to say what I desire to say, and I assure the Senator I shall take but a moment.

That resolution was introduced as far back as December 13, 1927. I have made every effort in my power to have the subject matter of the resolution acted on and to have the resolution reported to this body either adversely or favorably. Now, I simply want to say that I hope the committee will report the resolution either favorably or adversely. I certainly am entitled to that, and it seems to me the Senate is entitled to that much. I wish now merely to say that if it does not do so within a week from this time I shall feel constrained to ask the Senate to discharge the committee from the further consideration of the resolution. I do not want to do that. That is never a very agreeable thing to do; I had almost said it is a painful thing to do; but it is a thing we have to do at times. I trust that the committee, for the members of which I have a very high degree of respect, as they well know, may certainly, within the next week anyhow, report the resolution either favorably or adversely.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its clerks, announced that the House had recommitted to the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3740) for the control of floods on the Mississippi River and its tributaries, and for other purposes, its report on that bill.

The message also announced that the House had adopted a concurrent resolution (H. Con. Res. 34) authorizing the conference committee on Senate bill 3740, the flood control bill, to include in its report a recommendation amending section 10 thereof, and providing that no point of order shall be made against the report by reason of such action, in which it requested the concurrence of the Senate.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

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

S. 3594. An act to extend the period of restriction in lands of certain members of the Five Civilized Tribes, and for other purposes;

H. R. 4357. An act for the relief of William Childers;

H. R. 6492. An act to authorize the Secretary of War to donate to the city of Charleston, S. C., a certain bronze cannon; and

H. J. Res. 177. Joint resolution authorizing the erection of a flagstaff at Fort Sumter, Charleston, S. C., and for other purposes.

FLOOD CONTROL

The VICE PRESIDENT laid before the Senate a concurrent resolution (H. Con. Res. 34) from the House of Representatives, which was read, as follows:

Resolved by the House of Representatives (the Senate concurring), That the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3740) entitled "An act for the control of floods on the Mississippi River and its tributaries, and for other purposes," be authorized to include in its report on said bill a recommendation amending the proviso to the first paragraph of section 10 by striking out the words in said paragraph "board created in section 1 of this act," and inserting in lieu thereof the words "Mississippi River Commission," and no point of order shall be made against the report by reason of such action.

Mr. JONES. Mr. President, I ask unanimous consent for permission to withdraw the conference report on the flood control bill which I filed and had laid on the table two or three days ago.

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

Mr. JONES. I now ask that the concurrent resolution of the House be adopted.

Mr. LA FOLLETTE. Mr. President, let the concurrent resolution be read.

The Chief Clerk again read the concurrent resolution.

Mr. JONES. I may say that the provision referred to here relates to the surveys of the tributaries. The main text of the bill provides that reports as to such surveys shall be submitted to the engineering board created in section 1, and then transmitted to the Secretary of War. This simply permits us to change the language so as to require that such reports shall be referred to the Mississippi River Commission and then that their report shall be sent by the Secretary of War to Congress.

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

Mr. JONES. Yes.

Mr. FESS. I do not understand the statement that "no point of order shall be made."

Mr. JONES. This part of the section was passed by both the House and the Senate and it is desired to change it; but the conferees could not do that without making their report subject to a point of order.

Mr. FESS. Because the matter was not in disagreement?

Mr. JONES. Yes; because it was not in disagreement.

Mr. KING. Mr. President, will the Senator from Washington yield to me?

Mr. JONES. Yes.

Mr. KING. This does not commit the Senate to the amendment that is included in the provision just read?

Mr. JONES. It does not commit the Senate to the adoption of the conference report.

Mr. KING. When will that be brought up for consideration?

Mr. JONES. It has first to be acted on by the House of Representatives, but it will be up for consideration in possibly two or three days.

Mr. LA FOLLETTE. Mr. President, has the Senator from Washington considered whether or not the mere adoption of the resolution will preclude the making of the point of order?

Mr. JONES. It would preclude the making of the point of order on this ground: The two Houses can make such an arrangement as that. Of course, if the conferees have incorporated other matters that are not germane and were not in conference, a point of order could be made. Such action as this, however, has been taken in several instances heretofore.

Mr. KING. Mr. President, may I again ask the Senator——

Mr. LA FOLLETTE. A parliamentary inquiry, Mr. President.

The VICE PRESIDENT. The Senator will state it.

Mr. LA FOLLETTE. Would the adoption of this resolution by the Senate preclude any Senator from making a point of order which will lie under the rules?

Mr. JONES. It would not; except as stated.

The VICE PRESIDENT. Without this provision, a point of order would lie against this particular item.

Mr. KING. Then the adoption of the resolution means that we can not raise a point of order against this particular provision?

Mr. JONES. The point of order can not be raised as to this particular provision; that is, a point of order can not be made against the conference report, because the conferees dealt with this particular matter.

Mr. KING. Why does not the Senator give us an opportunity to appreciate the significance of this proposed amendment?

Mr. JONES. This is the explanation of the proposed change: Under the bill as passed by the House and the Senate surveys are made on tributaries and the report of such surveys must be submitted to the engineering board created in the first section and then referred by the Secretary of War to Congress. Instead of referring these reports to the engineering board, we changed the provision so that they will be referred to the Mississippi River Commission. That is for the purpose of avoiding continuing the existence of the engineering board in effect indefinitely. It is not really necessary; the Mississippi River Commission is the proper body.

Mr. FLETCHER. May I say to the Senator from Utah that I think the conferees of both bodies, the House and the Senate, unanimously agreed to this change? The conferees, however, were unable to make the change because this particular provision was not in conference. Now we are asking unanimous consent to allow this change to be made without making the whole report subject to a point of order on that account.

Mr. KING. Mr. President, I desire to ask the chairman of the committee if this change does not remove one agency which was set up under the original bill for the protection of the Government and make it easier to get money out of the Treasury for carrying out the project contemplated by a good many people?

Mr. JONES. Not at all. The board to which the Senator refers is not affected at all as to the purposes for which it was really created.

Mr. KING. If this is to remove an agency designed to protect the Government, I should be very much opposed to it.

Mr. JONES. Not at all.

Mr. KING. Because the bill is too wide open, any way, and does not give sufficient protection to the Government. If there is any agency removed, thereby making it more easy to accomplish the objects of those who are the proponents of the bill, I should dislike very much to vote for it.

Mr. JONES. The reports referred to here all come to Congress.

Mr. SMOOT. Mr. President, there is a rumor around that the conferees on this bill met with the President to-day and have come to an understanding in relation to the bill. I wish to ask the Senator from Washington if the provision as to which he desires no point of order made is for the purpose of carrying out that understanding?

Mr. JONES. It is for the purpose of carrying out one of the desires of the President.

Mr. SMOOT. And that is why the Senator from Washington is asking it?

Mr. JONES. Yes.

The VICE PRESIDENT. The question is on agreeing to the concurrent resolution of the House.

The concurrent resolution was agreed to.

CONSTRUCTION OF POST ROADS ON PUBLIC LANDS

The VICE PRESIDENT laid before the Senate the amendment of the House of Representatives to the bill (S. 3674) to amend the act entitled "An act to provide that the United States shall aid the States in the construction of rural post roads, and for other purposes," approved July 11, 1916, as amended and supplemented, and for other purposes, which was to strike out all after the enacting clause and insert:

That for the purposes of carrying out the provisions of the act entitled "An act to provide that the United States shall aid the States in the construction of rural post roads, and for other purposes," approved July 11, 1916, and all acts amendatory thereof and supplementary thereto, there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated for the construction, by the Bureau of Public Roads, of the main roads through unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations—

The sum of $3,500,000 for the fiscal year ending June 30, 1929.

The sum of $3,500,000 for the fiscal year ending June 30, 1930.

The sum of $3,500,000 for the fiscal year ending June 30, 1931: *Provided*, That the sums hereby authorized shall be allocated to the States having more than 5 per cent of their area in lands hereinabove referred to, and said sums shall be apportioned among said States in the proportion that said lands in each of said States is to the total area of said lands in the States eligible under the provisions of this act.

SEC. 2. All acts or parts of acts in any way inconsistent with the provisions of this act are hereby repealed, and this act shall take effect on its passage.

Mr. ODDIE. I move that the Senate concur in the House amendment.

Mr. REED of Pennsylvania. Mr. President, may we know what the amendment is?

Mr. ODDIE. Mr. President, this is a bill providing an authorization for an appropriation for the construction of roads on the unappropriated public domain, on Indian reservations, and forest reserves. It is in addition to the regular Federal aid road appropriation bill, but the amount in addition is small. A similar bill passed the Senate this session. This bill now corresponds to the bill introduced by Representative COLTON, of Utah, in the House. The House struck out all after the enacting clause of the Senate bill and inserted the language of the so-called Colton bill. It is approved in effect by the Bureau of Public Roads, and is substantially in the form in which it passed the Senate.

Mr. BINGHAM. Let the amendment be read, Mr. President.

The VICE PRESIDENT. The amendment will be read.

The Chief Clerk read the amendment of the House of Representatives.

Mr. WARREN. Mr. President, I should like to ask the Senator what amount of money, if any, is immediately appropriated by this bill?

Mr. ODDIE. Three and a half million dollars.

Mr. WARREN. Is it an authorization or an appropriation?

Mr. ODDIE. It is an authorization for an appropriation.

Mr. WARREN. It is an authorization, but makes no appropriation?

Mr. ODDIE. That is correct.

Mr. DILL. Mr. President, I should like to ask the Senafor from Nevada whether or not it is necessary to have additional legislation authorizing appropriations for specific roads across reservations and across unappropriated public lands referred to in the bill, or whether it would be possible to have the Appropriations Committee make appropriations without further legislation?

Mr. ODDIE. It has been decided by the Bureau of Public Roads that this proposed legislation is necessary because of the enormous area of unappropriated public lands in the various Western States and the large areas of lands within forest reserves and Indian reservations. It will take care of some of the roads in those areas which can not be taken care of under present legislation and appropriations of the Federal-aid appropriation bills.

Mr. DILL. Does this become a part of the State highway programs?

Mr. ODDIE. Not necessarily. The construction of the roads is left to the Bureau of Public Roads.

Mr. DILL. The information I am trying to get from the Senator is this: I have a bill pending at the present time authorizing the appropriation of a certain amount of money for a certain road across an Indian reservation in which there are some allotments and in which there is land not taxed. Under this bill as passed will it be possible to obtain an appropriation for that road, or must I press that bill in order to secure such an appropriation?

Mr. ODDIE. I think that this bill covers the point the Senator from Washington has in mind.

Mr. DILL. That was my understanding, but I wanted to get the Senator's view of it.

Mr. ODDIE. I am not familiar with the wording of the bill to which the Senator refers, but from what I understand of it I think this bill will cover the subject.

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

Mr. ODDIE. Yes.

Mr. McKELLAR. In what way does the House bill differ from the Senate bill?

Mr. ODDIE. The Senate bill provided for maintenance, while the House bill eliminates the item of maintenance in connection with public roads on the public domain and other Government reservations. The Senate bill provided that the work on these roads on the unappropriated domain should be done by the State highway departments. That provision is eliminated in the House bill, and the work provided for in this bill on the unappropriated public-domain lands will be done by the Bureau of Public Roads.

Mr. BINGHAM. Mr. President, there was so much confusion in the Chamber that I could not quite hear what the Senator said. Did he say that under the original Senate bill the work would be done by the States, while in this bill none of it is to be done by the States?

Mr. ODDIE. The original bill which was passed by the Senate provided that the work to be done on the roads across the unappropriated public domain should be done by the State highway departments, as it is done to-day. This bill eliminates that provision, so that the work can be done by the Bureau of Public Roads on these Federal lands.

Mr. BINGHAM. Is it the Senator's desire, then, that the States should give up whatever jurisdiction they may have over the construction of roads within their own boundaries?

Mr. ODDIE. It was not my intention, Mr. President, because the bill that I introduced in the Senate and which was passed by the Senate provided that the work of construction of the main roads through unappropriated or unreserved public lands be done by the respective State highway departments, under agreement with the Secretary of Agriculture, if on any other part of the Federal-aid highway system. The House bill which has been substituted for the Senate bill eliminates that provision, and the Bureau of Public Roads can build these roads on the unappropriated public domain, in the forest reserves, and on Indian reservations.

Mr. BINGHAM. What States would this bill apply to chiefly?

Mr. ODDIE. It applies to the 11 public-land States of the West, including the States of Washington, Oregon, California, Nevada, Idaho, Montana, Colorado, Utah, Arizona, New Mexico, and Wyoming.

Mr. BINGHAM. My recollection is that the Senator at a previous session of Congress stated that in his State and a number of the adjoining States the larger percentage of the area within the boundaries of the States was unappropriated public land.

Mr. ODDIE. Yes; I said in Nevada nearly 90 per cent of the land is Federal land.

Mr. BINGHAM. Nearly 90 per cent?

Mr. ODDIE. Yes.

Mr. BINGHAM. This bill provides that in the construction of roads in 90 per cent of the Senator's State the State highway commission shall have nothing to say about it, but that it shall all be done by the department in Washington.

Mr. ODDIE. Mr. President, this bill is in addition to the regular Federal aid road appropriation bill. Under the regular Federal aid appropriation bill the States initiate the road projects, build the roads, and supervise them. It is the province of the Federal Government to see that the money is expended economically and that there is no waste, as far as they can see to it. This bill, however, provides for some additional necessary road building. The public-land States of the West are all very anxious for this legislation. The American Association of State Highway Officials, which comprises the road officials of practically all of these States, is in favor of this legislation.

Mr. BINGHAM. Is it a correct assumption, then, that these States are so anxious to get this money that they are quite willing to surrender any authority that they may have over where the roads are to go or what roads are to be built within their own boundaries?

Mr. ODDIE. I do not look at it in that way. I believe the States feel that it is an additional and necessary help. It is a small amount of money provided for building some additional necessary roads, and they are not surrendering any of their rights on the main system of highways.

Mr. HARRIS. Mr. President, do I understand that the Senator from Nevada asks unanimous consent to take up this bill?

The VICE PRESIDENT. The Senator from Nevada moves that the Senate concur in the amendment of the House.

Mr. McMASTER. Mr. President, will the Senator explain whether his amendment covers Indian lands?

Mr. ODDIE. Yes; roads on Indian reservations.

Mr. McMASTER. How does it happen, then, that the bill covers only the States enumerated?

Mr. ODDIE. I refer to the States which have Indian lands.

Mr. McMASTER. North and South Dakota have Indian lands.

Mr. ODDIE. Then it would refer to those States. I may have been in error in referring only to the 11 public-land States of the West. I mention those because they are what are known as the public-land States.

Mr. McMASTER. Will the Senator explain the 5 per cent clause?

Mr. ODDIE. The 5 per cent clause has been in existence for a number of years. It is called the graduated-scale provision of the Federal aid highway act. It was passed in 1921. It provides that the States having more than 5 per cent of their area in public lands——

Mr. SMOOT. Mr. President, is this going to take long?

Mr. ODDIE. No; it will take only a few minutes.

Mr. SMOOT. If it is, I should like to get back to the tax bill. There are two hours and a half of the day gone.

Mr. ODDIE. I want to read the provision of the law of 1921 regarding the graduated scale, as it is called. This is the provision, Mr. President:

> In States containing unappropriated public lands exceeding 5 per cent of the total area of all lands in the State, the share of the United

States payable under this act on account of such projects shall not exceed 50 per cent of the total estimated cost thereof, plus a percentage of such estimated cost equal to one-half the percentage which the area of the unappropriated public lands in such State bears to the total area of such State.

It is a provision relieving the Western States of small population, and containing large areas of public lands, from the burdens which other States do not have to carry.

The VICE PRESIDENT. The question is on the motion of the Senator from Nevada [Mr. ODDIE].

The motion was agreed to.

FLOOD CONTROL (S. DOC. NO. 96)

Mr. JONES submitted the following amended report, which was ordered to lie on the table and to be printed:

The committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3740) for the control of floods on the Mississippi River and its tributaries, and for other purposes, having met, after full and free conference have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its amendments numbered 13, 17, 18, 19, and 20.

That the Senate recede from its disagreements to the amendments of the House numbered 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, 21, 22, 24, 25, 26, 27, 28, 29, 30, 32, and 33, and agree to the same.

Amendment numbered 9: That the Senate recede from its disagreement to the amendment of the House numbered 9, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert the following: "but nothing herein shall prevent, postpone, delay, or in any wise interfere with the execution of that part of the project on the east side of the river, including raising, strengthening, and enlarging the levees on the east side of the river"; and the House agree to the same.

Amendment numbered 14: That the Senate recede from its disagreement to the amendment of the House numbered 14, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert the following:

"; (C) provide without cost to the United States, all rights of way for levee foundations and levees on the main stem of the Mississippi River between Cape Girardeau, Mo., and the Head of Passes.

"No liability of any kind shall attach to or rest upon the United States for any damage from or by floods or flood waters at any place: *Provided, however*, That if in carrying out the purposes of this act it shall be found that upon any stretch of the banks of the Mississippi River it is impracticable to construct levees, either because such construction is not economically justified or because such construction would unreasonably restrict the flood channel, and lands in such stretch of the river are subjected to overflow and damage which are not now overflowed or damaged by reason of the construction of levees on the opposite banks of the river it shall be the duty of the Secretary of War and the Chief of Engineers to institute proceedings on behalf of the United States Government to acquire either the absolute ownership of the lands so subjected to overflow and damage or floodage rights over such lands."

And the House agree to the same.

Amendment numbered 15: That the Senate recede from its disagreement to the amendment of the House numbered 15, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert the following:

"SEC. 4. The United States shall provide flowage rights for additional destructive flood waters that will pass by reason of diversions from the main channel of the Mississippi River: *Provided*, That in all cases where the execution of the flood-control plan herein adopted results in benefits to property such benefits shall be taken into consideration by way of reducing the amount of compensation to be paid."

And the House agree to the same.

Amendment numbered 16: That the Senate recede from its disagreement to the amendment of the House numbered 16, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert the following: "which, in the opinion of the Secretary of War and the Chief of Engineers, are"; and the House agree to the same.

Amendment numbered 23: That the Senate recede from its disagreement to the amendment of the House numbered 23, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert the following:

"Including levee work on the Mississippi River between Rock Island, Ill., and Cape Girardeau, Mo., and on the outlets and tributaries of the Mississippi River between Rock Island and Head of Passes in so far as such outlets or tributaries are affected by the backwaters of the Mississippi: *Provided*, That for such work on the Mississippi River between Rock Island, Ill., and Cape Girardeau, Mo., and on such tributaries the States or levee districts shall provide rights of way without cost to the United States, contribute 33⅓ per cent of the costs of the works, and maintain them after completion: *And provided further*, That not more than $10,000,000 of the sums authorized in section 1 of this act shall be expended under the provisions of this section.

"In an emergency, funds appropriated under authority of section 1 of this act may be expended for the maintenance of any levee when it is demonstrated to the satisfaction of the Secretary of War that the levee can not be adequately maintained by the State or levee district."

And the House agree to the same.

Amendment numbered 31: That the Senate recede from its disagreement to the amendment of the House numbered 31, and agree to the same with an amendment as follows: In lieu of the matter proposed to be inserted by said amendment insert the following: "The sum of $5,000,000 is hereby authorized to be used out of the appropriation herein authorized in section 1 of this act, in addition to amounts authorized in the river and harbor act of January 21, 1927, to be expended under the direction of the Secretary of War and the supervision of the Chief of Engineers for the preparation of the flood-control projects authorized to be submitted to Congress under this section: *Provided further*, That the flood surveys herein provided for shall be made simultaneously with the flood-control work on the Mississippi River provided for in this act: *And provided further*, That the President shall proceed to ascertain through the Secretary of Agriculture and such other agencies as he may deem proper, the extent to and manner in which the floods in the Mississippi Valley may be controlled by proper forestry practice"; and the House agree to the same.

Pursuant to House Concurrent Resolution 34, it is recommended that in the first proviso to section 10 the words "board created in section 1 of this act" be stricken out, and in lieu thereof the words "Mississippi River Commission" be inserted.

W. L. JONES,
DUNCAN U. FLETCHER,
CHAS. L. MCNARY,
JOS. E. RANSDELL,
HIRAM W. JOHNSON,
Managers on the part of the Senate.

FRANK R. REID,
C. F. CURRY,
ROY G. FITZGERALD,
RILEY J. WILSON,
W. J. DRIVER,
Managers on the part of the House.

GOLD STAR MOTHERS

Mr. COPELAND. Mr. President, may I have the attention of the chairman of the Military Affairs Committee?

Mr. SMOOT. Mr. President, is it not possible now to go along with the revenue bill?

Mr. COPELAND. If the Senator from Utah will be patient for a moment, I think we will go on with the revenue bill.

I desire to ask the chairman of the Military Affairs Committee what has become of the Gold Star Mothers' bill?

Mr. REED of Pennsylvania. That bill has been referred to a subcommittee of which the Senator from Connecticut [Mr. BINGHAM] is chairman.

Mr. COPELAND. Mr. President, the bill was passed in the House on the 20th of February. It came here on the 21st of February. It has been in the hands of the committee for about 11 weeks, about 70 or 80 days. I think it is only just and fair that we should have the bill on the calendar in order that it may be dealt with.

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

Mr. COPELAND. I yield to the Senator from Connecticut.

Mr. BINGHAM. Notice has been sent to those interested, members of the committee, to ask whether it will be convenient for them to have a hearing on Thursday morning at 10 o'clock. Notice was sent out some hours ago. No reply has been received; but I assume that there will be a hearing on Thursday morning at 10 o'clock.

Mr. COPELAND. Does the Senator from Connecticut mean Thursday morning of this week?

Mr. BINGHAM. Of this week.

Mr. COPELAND. I think it is time that we took some action, Mr. President. When we wanted the sons of these mothers there was no delay. The Government reached out and took them at that time; but now, when we have this matter before us, week after week, week after week, the matter is delayed.

I hope, and I appeal to the chairman of the committee and the chairman of the subcommittee, that there shall be no further delay, but that on Thursday of this week the matter may be taken up, and then brought to the attention of the Senate.

SENATOR BURTON K. WHEELER, OF MONTANA

Mr. ASHURST. Mr. President, I ask unanimous consent to have printed in the RECORD an article from the New York Evening World commenting upon the public services of the junior Senator from Montana [Mr. WHEELER].

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

The matter referred to is as follows:

[Copyright Press Publishing Co. (New York World), 1928]

DESPERATE TACTICS RESORTED TO BY "INTERESTS" TO BLOCK REELECTION OF SENATOR WHEELER, WHOSE "OHIO GANG" EXPOSURE DROVE DAUGHERTY FROM CABINET

WASHINGTON, MAY 5.—Few men in public life have had a tougher road to travel than Senator BURTON K. WHEELER of Montana. His troubles with powerful foes began long before he came to the Senate. His political antagonists have been unrelenting in their efforts to discredit him. Repeated failures seem to offer no discouragement to them.

BURTON WHEELER was a United States attorney out in Montana during the Wilson administration. Every possible influence was brought to bear against him at Washington.

He was the Democratic nominee for governor in 1920. He was catalogued with the "radicals" of the Dakotas and Minnesota among political pariahs with whom no decent Republican or Democrat could associate.

I recall that his presence on the Cox presidential train kicked up a lively row, especially after Governor Cox was cordial to the head of the State ticket.

After he had started his exposé of the "Ohio gang" iniquities of the Daugherty régime in the Department of Justice, every effort was made to discredit Senator WHEELER, and the method was of slight consequence. Political hirelings were engaged to frame him. The trumped-up charges resulted in an indictment against the Senator. He emerged with a clean bill of health after a disgraceful spectacle. There is no blacker mark on the record of the present Republican administration than the attempt to punish WHEELER for his having had the courage to bring the "Ohio gang" to an accounting before the American public for the political atrocities which they committed in the name of and behind the back of Warren G. Harding.

No one ever has explained how men of the personal decency of Herbert Hoover, Harry New, Hubert Work, and Charles E. Hughes countenanced such things without uttering public protest. The only thing Washington has before it is that they did not.

Moreover, George B. Lockwood, who had a lot to do with the indictment against Senator WHEELER, now is holding forth in grand style in an expensive Willard Hotel suite as head of a Hoover-for-President club.

The effort is being made to split the progressive forces in Montana so as to retire Senator WHEELER to private life. It has slight chance of succeeding. Washington is amazed that it can have any respectable standing among decent-minded persons.

As Washington gets the story, friends of Harry Daugherty are seeking revenge against WHEELER for his having driven from the Coolidge Cabinet a Harry Daugherty, whom Mr. Coolidge regarded as a "very much misunderstood man," a Harry Daugherty whose "Hello, Andy," charmed and captivated Secretary Mellon.

The copper companies are represented as leading Montana "big business" in the program to "get" Senator WHEELER, who is a candidate for reelection this year.

If the leaders of the financial cabal can defeat WHEELER, they will go after Senator THOMAS F. WALSH in 1930. They are determined to drive from public life the two great progressive Senators who have done so much to expose corruption in Washington, the Capital is told.

Sam V. Stewart, a former governor and now attorney for Standard Oil, is the man picked to beat WHEELER in the Democratic primary.

In a fight between WHEELER and Stewart the latter would not have a show. The copper crowd is endeavoring to split the Progressive vote which would go to WHEELER. Washington hears they are endeavoring to induce young George Bourquin, district judge of Butte, to enter the race. Bourquin always has been credited with progressive tendencies, and his father, a noted Federal judge, is respected by everyone.

* * * * * * *

Former Gov. Joseph M. Dixon was persuaded some time ago to become a candidate for the Republican nomination for Senator. Many of his friends had urged him to seek the gubernatorial nomination.

It is alleged Joe Dixon, a Bull Moose leader in 1912, decided to run for the Senate because the copper group, which has opposed him heretofore, gave him to understand that they would not fight him for that position.

Charles Williams, a wealthy sheepman, has been entered against Dixon, with the understanding that he will get the backing of "big business."

The hope is said to be that many Progressives will go into the Republican primary in an effort to save Dixon, and thus draw more votes from WHEELER.

MULTILATERAL PEACE TREATY

Mr. BORAH. Mr. President, I ask unanimous consent to have printed in the RECORD an article from the London Saturday Review of April 21, 1928, on the present negotiations with reference to what is known as the multilateral peace treaty.

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

The matter referred to is here printed, as follows:

AMERICA AND PEACE

The American note on a world peace pact enlarges a draft bilateral agreement between America and France into a multilateral agreement between all the great powers. The operative clauses of the draft treaty are two. By the first the contracting powers condemn recourse to war for the settlement of international controversies and renounce it as an instrument of policy in their relations one with the other. By the second the powers agree that the settlement of all and any disputes that may arise shall never be sought except by pacific means. Opinions will differ about the practical value of propositions in terms so general. The American view is that the moral effect of a general subscription to these principles will amount to what is called an outlawry of war. France, with whom America has been negotiating, is understood to make great reservations. She points out that the Locarno treaty makes it obligatory in certain circumstances to employ the sanction of war which is formally renounced by the new-draft treaty; how, it is asked, is it possible to reconcile loyalty to the new treaty, which outlaws war, with loyalty to the old treaty, which seeks to maintain peace by providing that in certain circumstances recourse shall be had to war in order to restrain an aggressor? The essence of all European plans for preserving the peace has been the creation of sanctions against its violation. The essence of the American plan is that there shall be none but the moral sanction. The European school of thought seeks to preserve the peace by forming holy alliances to punish the aggressor; the American school rejects the idea of warlike sanctions and relies purely on the moral sanction. The one school seeks to create in a new form the old system of alliances to restrain an international criminal; the other is content to pronounce the sentence of outlawry against war and to trust to the conscience of nations to make it operative. Clearly there is a difference of principle, and it has delayed the signature of an agreement between America and France.

But it is ridiculous to argue, as some are doing, that the conflict is irreconcilable or that the Geneva and the Washington schools of international peace are mutually exclusive, and that you can only adhere to the one by renouncing the other. For think of the history that is behind both. President Wilson, who was a Democrat, had definitely come to the conclusion that America could no more isolate herself from the quarrels of Europe than could England, and on the theory that America and Europe were members of the same family was built up the whole settlement after the war. Had President Wilson, when he came to Europe, brought a few Republican Senators with him and associated the Republican Party with his policy, it might have been accepted without question. But it was repudiated on party grounds, and when the Republican Party was returned to power America once more reverted to her old isolation and refused to join the League of Nations. If there had been no coupon election in England after the war and the left-wing Liberals, traditionally opposed to European entanglements, had come into power, we should have had an exact parallel, so far as our foreign policy was concerned, to what happened in America. We should never have signed the Covenant of the League, and certainly not the pact of Locarno. But that would not have meant that we had lost all interest in European peace. Nor, in fact, has America. American foreign policy is often most easily comprehended by reference to the ideas of the mid-Victorian Liberals in England. John Bright denounced the conception of the balance of power in Europe much as Senator BORAH has attacked the League of Nations; but the motive in both cases was a keen desire to see the peace preserved.

The American policy in the new proposals that it has just put forward is one that might well recommend itself to a Morleyite English Liberal. It holds that the moral sanctions of peace are the strongest and renounces war as an instrument of policy in international relations. But if war breaks out the proposals do not necessarily commit the signatory powers to mere passive isolation from the struggle. On the contrary, the powers who have signed the American treaty may proceed to do what America did in the late war and use their influence for justice and peace in the way they think best. The difference between the American

and the Geneva school of thought is that whereas under the American plan there is freedom of choice, when the crisis comes under the covenant and Locarno the powers are committed to definite lines of action which may lead to war. The greater includes the less, and, therefore, while America may sign her new treaty without becoming a member of the league or signing any binding contract like that of Locarno, every member of the league can quite honestly sign the American treaty. They are two arches of a bridge across a river of uncertain width and rate of flow. The American treaty is the first arch, and it may suffice. If it does not, those who are free to do so may turn back, whereas others will be committed to go further; but everyone may use the first span of the bridge. We hope, therefore, that no more will be heard of the argument that because a country may be committed to go further it may not promise with America to go halfway.

It is impossible to overestimate the loss to the world of America's abstention from the league or the consequent gain if she can be induced to make, from outside the league, the same contribution to peace that she would have made if she had been a member. We regret to notice from time to time among the advocates of the league a certain theological intolerance which denounces as heretics all who prefer alternative ways to the ideal of permanent peace. But the dissenter in these matters is not necessarily damned. It was too much to expect of the United States, with her tradition bred in the bone of isolation from European quarrels, that she should commit herself in advance to specific action in certain eventualities. The wonder, indeed, is that this country has been willing to go so far as it has done. Contrast the hesitation of 1914, only resolved by the invasion of Belgium and the solemn obligation which we undertook at Locarno to throw our whole weight on the side of France or Germany if one is attacked by the other, and the distance we have traveled seems almost incredible in the time. Even now one sometimes wonders whether the conversion is as complete as it seems, and whether the masses of the people would honor the contract as generously as they did in the late war, in which there was no specific contract to bind them. It is easy, if we search our own hearts, to understand and respect the form which American service to international peace proposes to take. It may, indeed, be the form which hundreds of thousands of Englishmen would have preferred for their own country.

But however that may be, it would be madness for any European power to reject America's cooperation, however limited, because it did not go to the full length of the covenant or of Locarno. Why even this country has definitely restricted its promise of armed intervention against the aggressor to western Europe, and the broad Atlantic may well commend a further limitation to America. It is not by the actual legal promises that the value of such assistance as America now offers is to be measured, but by the spirit of sympathy and cooperation which any promise implies. This country, at any rate, will hasten to welcome American cooperation, for friends who have once committed themselves to a great principle will not as a rule part company because its execution promises to exact more sacrifices than they would have been willing to promise each other at the outset.

TAX REDUCTION

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 1) to reduce and equalize taxation, provide revenue, and for other purposes.

Mr. SMOOT. Mr. President, the first amendment will be found on page 8. I will say that the amendment applies only to the retroactive feature of the corporation tax. The individual feature will be found on page 215, in section 509.

I will say to my colleague [Mr. KING] that the first section refers simply to the retroactive feature of the corporation tax. I do not know that there is any objection at all to it.

Mr. KING. I am not sure that I understood my colleague, because of the noise in the Chamber. I think his statement, if I interpret it correctly, is accurate; namely, that the amendment to which he invited attention deals primarily with corporations.

M. SMOOT. Entirely so.

Mr. KING. But incidentally it is related to section 509, on page 215.

Mr. SMOOT. Yes; but that refers only to the surtaxes of individuals.

Mr. KING. I understand. I am willing to have the amendment considered now; but perhaps it would save time to defer its consideration until we reach page 215, section 509.

Mr. SMOOT. As I understood, there was no objection to the first amendment, applying to corporations.

Mr. KING. No. It was passed over, though, upon the theory that perhaps it related indirectly to the surtax provision and to the retroactive application of the same.

Mr. SMOOT. I will say to my colleague that if that transpires, and he desires to return to this amendment, it will be done without question.

Mr. KING. I have no objection. In order that Senators who are not members of the committee may be advised as to the nature of the provisions referred to, I desire to submit a few observations.

This bill, as it comes from the Finance Committee, contains provisions which discriminate against corporations and in favor of individuals who pay surtaxes and who are found in the brackets or classifications above $21,000. The bill reduces the surtaxes approximately $25,000,000, and applies the reduction retroactively to the calendar year 1927, so that the taxpayers concerned secure a reduction of this amount for a year which has passed.

Mr. President, unless there are appealing reasons retroactive legislation is unwise and often dangerous. There is no substantial reason, in my opinion, why individuals who have been taxed, and all of whom have paid a portion of the same and some all of it, should receive a credit or a refund of $25,000,000. And this benefit does not extend to all individual taxpayers but only to those whose incomes are in excess of $21,000. During the calendar year of 1927 these individuals carried on their business, adjusting their expenditures and their incomes upon the basis of the present revenue laws. They knew what normal taxes and what surtaxes would be required. They made their tax returns under the provisions of existing statute. Those engaged in business passed onto consumers certain costs and burdens, or conformed their procedure to the obligations imposed upon them by the revenue laws then and now in force. It is now proposed to grant them a concession of $25,000,000 for the calendar year 1927. But to corporations no such benefaction or favor is granted. Indeed, the majority party proposes to add to their burdens.

Mr. WALSH of Massachusetts. Mr. President, will the Senator allow an interruption?

Mr. KING. Yes.

Mr. WALSH of Massachusetts. In other words, the bill provides for a reduction of the surtax payers to approximately 125,000 taxpayers, and gives no retroactive benefits to 4,000,000 taxpayers.

Mr. KING. I think that is substantially correct. If I understand the Senator, he means that there are 4,000,000 persons, many of them are stockholders in corporations who will receive no benefit from the retroactive provisions as applied to the surtaxes for the year 1927. It is true that there are a large number of persons who receive dividends from corporations who are not within the surtax brackets, and hence are not benefited by this retroactive proposal. They pay the corporate tax upon the dividends distributed; that is, the corporations are taxed and pay the 13½ per cent upon their incomes, and reduce the dividend paid to stockholders pro tanto. These individuals are discriminated against in favor of those who are in the surtax brackets and who are within the retroactive amendment.

Mr. WALSH of Massachusetts. In other words, we are giving to 125,000 taxpayers, whose worth is probably more than a quarter of a million dollars each, the benefits of the retroactive features of this bill, but no other taxpayer, no other corporation, is getting any benefit?

Mr. KING. I think the Senator's statement is correct.

Mr. WALSH of Massachusetts. And there are all together about 4,000,000 individuals who make tax returns. Therefore, 125,000 out of 4,000,000 are to have the benefit of the retroactive features of this bill.

Mr. SMOOT. The rest of the 4,000,000, however, all fall within the lower brackets, and pay hardly any tax at all to-day. There are only 207 taxpayers paying over a million dollars a year.

Mr. WALSH of Massachusetts. It is true, as the Senator says, that the rest of these 4,000,000 pay no surtax at all; but they are the people in this country whose property assets are less than a quarter of a million dollars each, while the 125,000 who get the benefits of this surtax reduction have property assets of more than a quarter of a million dollars each.

Mr. HARRISON. Mr. President, as I understand, the pending amendment is merely to prevent the retroactive features applying to the corporation tax.

Mr. SMOOT. The Senator is right.

Mr. HARRISON. And both this side of the Chamber and the other side are in accord that it should not apply retroactively?

Mr. SMOOT. That is as I understand.

Mr. HARRISON. Let us vote on it then.

Mr. SMOOT. That is this amendment. I am perfectly willing to vote on it.

Mr. COPELAND. Mr. President, why was the limitation placed at 1928? Why does it not say "1928 and thereafter"?

Mr. SMOOT. It will apply thereafter. This is the revenue act of 1928, and it will stay there until an amended bill is passed which changes the year.

Mr. COPELAND. If we were to change this, and, instead of saying "1928," if we should say "1928 and thereafter"——

Mr. SMOOT. Mr. President, if the Senator will look on page 5, he will see that it says "and succeeding taxable years." The Senator has the wrong page.

Mr. COPELAND. Page 115?

Mr. SMOOT. No; we are talking about page 8. It says specifically "and succeeding taxable years" in line 5.

Mr. COPELAND. I understand that now.

The PRESIDING OFFICER (Mr. SACKETT in the chair). The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. SMOOT. Mr. President, in this connection there are about eight other amendments applying to corporations exactly as this does. I ask unanimous consent that they be agreed to en bloc.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request asked for? The Chair hears none, and it is so ordered.

Mr. SMOOT. The next amendment passed over was, in section 12, surtax on individuals, on page 10, after line 17, to strike out all the items to line 3, page 13, and insert the items from line 4, page 13, to line 3, page 15. I understand the Senator from North Carolina has an amendment he desires to propose to that amendment.

Mr. SIMMONS. Mr. President, I had intended to offer this amendment on Saturday, but I did not get it ready in time and failed to do so. I am going to ask the chairman of the committee, after I have introduced this amendment, to agree that it shall go over at least until to-morrow so that when it is discussed the Senate will have before it the printed amendment.

Mr. SMOOT. That is a very proper request, and I want the Senator to have the amendment printed.

Mr. SIMMONS. I offer the amendment in the nature of a substitute for the surtax amendments provided in the majority report of the committee, and ask that it be printed.

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

Mr. SIMMONS. I would like to have it printed in the RECORD and also printed as a separate amendment.

Mr. WALSH of Massachusetts. Has the Senator any objection to the amendment being reported?

Mr. SIMMONS. None whatever, but it is a form of amendment that would not be understood unless it was printed and was before a Senator.

Mr. HARRISON. I suggest that this schedule be printed in the RECORD under the remarks of the Senator from North Carolina.

Mr. SIMMONS. I have just asked that the amendment be printed in the RECORD.

The PRESIDING OFFICER. It will be printed in the RECORD as if read.

The amendment is as follows:

(In lieu of the committee amendment)

Strike out page 13, beginning with line 4, all of page 14, and page 15, including line 3, and insert:

"(a) Rates of surtax: There shall be levied, collected, and paid, for each taxable year, upon the net income of every individual, a surtax as follows:

"Upon a net income of $12,000 there shall be no surtax; upon net income in excess of $12,000, and not in excess of $14,000, 1 per cent in addition of such excess.

"Twenty dollars upon a net income of $14,000, and upon net income in excess of $14,000 and not in excess of $18,000, 2 per cent in addition of such excess.

"One hundred dollars upon a net income of $18,000, and upon net income in excess of $18,000 and not in excess of $22,000, 3 per cent in addition of such excess.

"Two hundred and twenty dollars upon a net income of $22,000, and upon a net income in excess of $22,000 and not in excess of $26,000, 4 per cent in addition of such excess.

"Three hundred and eighty dollars upon a net income of $26,000, and upon net income in excess of $26,000 and not in excess of $30,000, 5 per cent in addition of such excess.

"Five hundred and eighty dollars upon a net income of $30,000, and upon net income in excess of $30,000 and not in excess of $34,000, 6 per cent in addition of such excess.

"Eight hundred and twenty dollars upon a net income of $34,000, and upon net income in excess of $34,000 and not in excess of $38,000, 7 per cent in addition of such excess.

"One thousand one hundred dollars upon a net income of $38,000, and upon net income in excess of $38,000 and not in excess of $42,000, 9 per cent in addition of such excess.

"One thousand four hundred and sixty dollars upon a net income of $42,000, and upon net income in excess of $42,000 and not in excess of $46,000, 12 per cent in addition of such excess.

"One thousand nine hundred and forty dollars upon net income of $46,000, and upon net income in excess of $46,000 and not in excess of $52,000, 16 per cent in addition of such excess.

"Two thousand nine hundred dollars upon net income of $52,000, and upon net income in excess of $52,000 and not in excess of $60,000, 17 per cent in addition of such excess.

"Four thousand two hundred and sixty dollars upon net income of $60,000, and upon net income in excess of $60,000 and not in excess of $80,000, 18 per cent in addition of such excess.

"Seven thousand eight hundred and sixty dollars upon net income of $80,000, and upon net income in excess of $80,000 and not in excess of $100,000, 19 per cent in addition of such excess.

"Eleven thousand six hundred and sixty dollars upon net income of $100,000, and upon net income in excess of $100,000, 20 per cent in addition of such excess."

Mr. SIMMONS. Before we leave that, I have several other amendments which I shall offer to this bill, and I might as well introduce them now and have them printed. I send to the desk five other amendments and ask that they all be printed.

The PRESIDING OFFICER. Does the Senator ask that they be printed in the RECORD as well?

Mr. SIMMONS. No; just printed as separate amendments.

Mr. WALSH of Massachusetts. Will the Senator briefly explain his amendments?

Mr. SIMMONS. They are amendments which the minority members of the committee have agreed upon. I will ask that the amendments be sent back to me, if the Senator desires to have them explained.

Mr. WALSH of Massachusetts. I wish the Senator would explain them.

Mr. SIMMONS. Does the Senator want me to explain the surtax amendment?

Mr. WALSH of Massachusetts. No; that is not necessary. I understand that amendment simply changes the brackets from the amendment offered by the majority of the committee.

Mr. SIMMONS. The amendment I now have in my hand relates to the repeal of the admissions tax. It provides for the complete repeal of all admission taxes except that upon prize fights. It retains that. It also retains the provision with reference to sales by brokers of tickets to the theater and similar places of amusement.

The PRESIDING OFFICER. Does the Senator ask that these amendments be printed in the RECORD?

Mr. SIMMONS. I do not. I stated a little while ago that I did not ask that any of these amendments, except the one relating to the surtax, be printed in the RECORD; but the Senator from Massachusetts has asked me to indicate, in brief terms, what these various other amendments I have proposed relate to.

The amendment which I now have in mind relates to the graduated tax proposed by the House.

Mr. WALSH of Massachusetts. The corporation tax?

Mr. SIMMONS. Yes; the tax upon the incomes of corporations. It is to preserve the provision as it passed the House.

Mr. WALSH of Massachusetts. Which the Finance Committee does not favor?

Mr. SIMMONS. Which it did not favor. The one I now have in my hand is to carry out the attitude of the minority with reference to what is known as club dues; that is, the minority propose to cut that tax in half and the majority insist that the tax should not be reduced. This is to accomplish the purpose of the minority.

Mr. WALSH of Massachusetts. The minority provision is in accord with the House provision?

Mr. SIMMONS. Yes. It means simply that we oppose the majority action. The amendment I now have in my hand is one that relates to original issues of bonds and stocks. It provides that the taxes provided in the present law with reference to these issues shall be cut in half. The Finance Committee opposed any cut, and this is to carry out the views of the minority with respect to that matter. The next amendment is also a part of the one I have just referred to. That is the scope of the several amendments I have proposed.

Mr. WALSH of Massachusetts. I thank the Senator for his explanation.

Mr. SMOOT. Noting that the Senator is just offering an amendment providing for a graduated income tax on corporations, I might say that the next amendment we have to take up is the amendment to the corporation-tax provision. Does he desire that that go over to-day, until he can have his amendment printed?

Mr. WALSH of Massachusetts. I should like to have that go over for to-day.

Mr. SMOOT. I want to ask the Senator from North Carolina another question. I understood the Senator to say that

his proposed amendment is exactly the same as the House provision on the graduated tax.

Mr. SIMMONS. Yes.

Mr. SMOOT. Then I will ask that this go over until to-morrow, when the Senator desires to speak upon all of these provisions.

Mr. SIMMONS. Mr. President, to-morrow I shall make a very brief statement.

The next amendment passed over was on page 15, line 19, to strike out "11½ per cent" and insert "12½ per cent."

Mr. FLETCHER. Mr. President, I ask that an article prepared by Mr. Arthur W. Machen, jr., of the Baltimore bar, entitled "The strange case of Florida against Mellon," which I regard as the ablest and clearest discussion of the Federal estate tax question that I have seen anywhere, be printed in the CONGRESSIONAL RECORD. It ought to be enlightening both to Congress and to the States and to the public generally. I can not see how anyone who feels any concern about the rights of the States should favor the Federal estate tax as it now stands.

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

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

THE STRANGE CASE OF FLORIDA V. MELLON[1]

Arthur W. Machen, jr.[2]

The Supreme Court of the United States throughout its history has set an example to other courts of last resort by resolutely refusing to express its opinion on questions not before it or not necessary for the decision of the case in hand. No small part of the respect in which that tribunal is held by the bar is due to its adherence to this rule, even in cases where laymen would be apt to think a settlement of some important question on the merits would be a more patriotic course than a decision on some technical point of jurisdiction or the like. In no class of cases has this self-imposed rule of judicial ethics been more scrupulously observed than in those involving the construction or application of the Constitution of the United States. For example, the court has repeatedly gone to great lengths to construe a statute in such a way as to avoid deciding a constitutional question. (U. S. *v.* Delaware & Hudson Co., 213 U. S. 366, 29 Sup. Ct. 527 (1909); U. S. *v.* Standard Brewery, 251 U. S. 210, 219, 40 Sup. Ct. 139 (1920); Missouri Pac. R. R. *v.* Boone, 270 U. S. 466, 471–472, 46 Sup. Ct. 341 (1926); Fox *v.* Washington, 236 U. S. 273, 277, 35 Sup. Ct. 383 (1915); U. S. *v.* Jin Fuey Moy, 241 U. S. 394, 401, 36 Sup. Ct. 658 (1915).) So far as the writer recalls, only once—prior to 1927—has the court after holding a case to be not properly before it either for lack of jurisdiction, defect of parties, or any similar cause, proceeded to announce its decision on a constitutional question sought to be raised on the merits; and the results in that single exceptional case—Dred Scott *v.* Sanford (19 How. 393, U. S. 1856)—were not such as to encourage a repetition of the experiment.

But in 1926 the State of Florida asked the Supreme Court for leave to file a bill against the Secretary of the Treasury to restrain him from enforcing in Florida the Federal estate tax law of that year, on the ground that the provision for "credit" of State inheritance taxes up to 80 per cent of what the Federal estate tax would otherwise be—a provision almost identical, except as to the amount of the allowable credit, with the corresponding section of the revenue act of 1924—rendered the act unconstitutional. The application was opposed on the ground that the State as such had no interest in the question and was therefore not entitled to file the bill. The interest of the State, according to the allegations of the bill as interpreted by the Supreme Court, was sought to be vindicated on two grounds:

"(a) That the State is directly injured because the imposition of the Federal tax, in the absence of a State tax which may be credited, will cause the withdrawal of property from the State, with the consequent loss to the State of subjects of taxation; and (b) that the citizens of the State are injured in such a way that the State may sue in their behalf as parens patriæ." (Florida *v.* Mellon, 273 U. S. 12, 16, 47 Sup. Ct. 265 (1927).)

It may be remarked in passing that this analysis of the grounds on which the jurisdiction was invoked is a misstatement, or at least an inadequate statement, of the position of the complainant. Even the Government's brief outlines the plaintiff's position in a fairer way. The court itself in its statement of facts admitted that the complainant alleged that "the provisions of said section constitute an invasion of the sovereign rights of the State and a direct effort on the part of Congress to coerce the State into imposing an inheritance tax to penalize it and its property and citizens for failure so to do" (ibid.)—an admission which might well have apprised the court of the insufficiency of its statement of the grounds on which Florida based her claim of an interest in the subject matter of the suit.

[1] Read before the Lawyers' Round Table of Baltimore, Nov. 5, 1927.

[2] Of the Baltimore bar.

The Solicitor General on behalf of the Government naturally assumed that the constitutionality of the credit provision was not at this stage before the court, the only question being whether the court had jurisdiction. Accordingly, his brief contains not one word in support of the constitutionality of the act. He contended merely (1) that the suit was forbidden by section 3224 of the Revised Statutes, providing that no suit to restrain the collection of a Federal tax shall be maintained in any court; (2) that the State of Florida had no direct pecuniary interest in the question of the constitutionality of the act; and (3) that the State as parens patriæ was not entitled to raise the question.

The Supreme Court, on January 3, 1927, in an opinion delivered by Mr. Justice Sutherland and concurred in by all the other members of the court, passing sub silentio the first of these three objections, sustained both the other two, and overruled both grounds on which the complainant, as its position was apprehended by the Supreme Court, sought to sustain the jurisdiction. (Supra, note 3.) "Neither ground," said the court, "is tenable."

But, mirabile dictu, having thus declared that the court had no jurisdiction to pass upon the constitutional question sought to be raised by the bill, the opinion proceeded to attempt to decide that question.

As to the contention that the tax was not geographically uniform throughout the United States, the opinion states (supra, note 3, at 17):

"The contention that the Federal tax is not uniform because other States impose inheritance taxes while Florida does not, is without merit. Congress can not accommodate its legislation to the conflicting or dissimilar laws of the several States nor control the diverse conditions to be found in the various States which necessarily work unlike results from the enforcement of the same tax. All that the Constitution (Art. I, sec. 8, cl. 1) requires is that the law shall be uniform in the sense that by its provisions the rule of liability shall be the same in all parts of the United States."

As to the contention that the credit provisions of the act are in effect not a tax upon a constitutional subject, but an effort to coerce the States into levying inheritance or estate taxes equal at least to 80 per cent of the Federal rates, the opinion declares (ibid.):

"The act is a law of the United States made in pursuance of the Constitution and, therefore, the supreme law of the land, the constitution or laws of the States to the contrary notwithstanding. Whenever the constitutional powers of the Federal Government and those of the State come into conflict, the latter must yield."

Of course, this is a manifest begging of the question. If the act is "a law of the United States made in pursuance of the Constitution," the fact that it is in conflict with State policy on purely local matters is no objection to its validity. But the very question at issue, if the court had jurisdiction, was whether the law was made in pursuance of the Constitution. With the merits of the ruling, there is, however, at this point, no quarrel. Amazement is concentrated upon the expression of any opinion on a constitutional question which the court declared it has no jurisdiction to decide. The criticism would have been the same if the court, instead of expressing approval of the controverted provisions of the revenue act of 1926, had declared it unconstitutional.

The judicial pronouncement is the more remarkable because not only did the Government's brief contain no argument in support of the constitutionality of the act, but also the briefs for the plaintiff contained little or no direct argument against its validity. The only real argument against the statute was found in briefs filed by amici curiæ, which set forth in a sketchy way some arguments against the constitutionality of the challenged provision of the revenue act of 1926, but only by way of inducement, as it were, and as a step in the process of showing that the State had an interest in the question. Moreover, only half an hour a side was allowed by the court for oral argument, on the express ground (as the writer is informed by one who was present in court at the time) that the constitutionality of the act would not be considered but only the question of jurisdiction.

At all events, it is clear that the opinion expressed by Mr. Justice Sutherland in favor of the constitutionality of the act of 1926 was quite unnecessary to the decision—which was that the Court had no jurisdiction to pass on the question, and therefore should not allow a bill to be filed to raise that question; and consequently the opinion expressed upon that question was obiter dictum, extrajudicial, and not binding either upon the Supreme Court itself or upon any inferior tribunal.

To the constitutional question upon which the Supreme Court, thus "with a light heart" expressed its obiter opinion, this article is directed.

The expedient of "crediting" taxes paid the several States against taxes due the Federal Government had its origin in section 301 of the revenue act of 1924, which after levying an excise tax upon the transfer of the net estate of every decedent subsequently dying, and after providing a graduated scale of rates up to a maximum of 40 per cent of the amount by which the net estate exceeds $5,000,000, declares that "the tax imposed by this section shall be credited with the amount of any estate, inheritance, legacy, or succession taxes actually paid to any State or Territory, or the District of Columbia, in respect of any

property included in the gross estate," subject, however, to the proviso that "the credit allowed by this subsection shall not exceed 25 per cent of the tax imposed by this section." The act of 1926 repeats the provision, almost verbatim, but increases the limit of the credit from 25 per cent to 80 per cent of what the tax would otherwise be.

The remarkable effects of this provision for "credit" are perhaps not at first apparent, and certainly have not always been recognized. A moment's thought will show, however, that one result is to produce as between the several States an inequality in rate of tax which is mitigated in degree, but not altered in kind, by the limitation of the "credit" to 25 per cent or 80 per cent of what the tax would otherwise be.

For instance, the State of Maryland, although one of the first of the States to adopt inheritance taxation, has never imposed any tax upon transmission of property to a lineal descendant of the decedent; and the State of Florida, which has never had an inheritance tax, has recently, by constitutional amendment, expressly prohibited estate, legacy, inheritance, or succession taxes. On the other hand, most of the other States impose a tax of varying amounts on both lineal and collateral descents. Now, if a resident of Maryland or a resident of Florida should die, leaving a "net estate" of $1,000,000 (computed according to sections 302 and 303 of the revenue act of 1926 after deduction of the exemption of $100,000) descending to his only son, as sole heir at law, no State inheritance or succession taxes would be payable. A Federal estate tax of $48,500 would be payable. On the other hand, if the same decedent had lived, or the property which he owned had been situated in, say, Connecticut, a tax of $40,262 would be payable to the State, and although the net amount received by the heir would be almost the same, the identical estate would have paid a Federal estate tax of only $9,700. In fact, in any State imposing on such an estate inheritance or estate taxes of an amount equal to or greater than $38,000, the Federal tax would be only $9,700.

Appended is a table showing in the case of eight States the amount of State and Federal taxes on a "net estate" of $1,000,000, and the ratio of the Federal tax (1) to the amount of the taxable "net estate" computed, under sections 301 and 302 of the Federal act, without deduction for any inheritance or estate taxes, (2) to the amount of the estate before deducting the Federal exemption of $100,000, (3) to the net amount passing to the enjoyment of the heir or legatee after payment of all taxes, both State and Federal, (4) to the amount of the estate after deducting the State inheritance or estate taxes but without deducting the Federal estate tax itself, and (5) to the amount of the estate after deducting the Federal estate tax, but without deducting the State inheritance or estate taxes.

Table in case of "net estate" of $1,000,000 (or $1,100,000 without deducting the Federal exemption of $100,000) descending to an only son
(Under revenue act of 1926)

Location of estate	State succession tax	Federal estate tax	Net taxable estate under secs. 302 and 303 of Federal act	Net amount passing to heir after deducting both State and Federal taxes	Amount after deducting State tax but without deducting Federal tax	Amount after deducting Federal tax but without deducting State tax	To net taxable estate under sec. 303 of Federal act	Ratio of Federal tax			
								To amount before deducting Federal exemption of $100,000 or any taxes	To net amount passing to heir after deducting both State and Federal taxes	To amount after deducting State tax but without deducting Federal taxes	To amount after deducting Federal tax but without deducting State tax
								Per cent	*Per cent*	*Per cent*	*Per cent*	*Per cent*
Maryland	None.	$48,500	$1,000,000	$1,051,500	$1,100,000	$1,051,500	4.85	4.41	4.61	4.41	4.61
New York	$40,750	9,700	1,000,000	1,049,550	1,059,250	1,090,300	.97	.88	.92	.88	.89
North Carolina	46,548	9,700	1,000,000	1,043,752	1,053,452	1,090,300	.97	.88	.94	.93	.89
Illinois	115,842	9,700	1,000,000	974,458	984,158	1,090,300	.97	88	1.00	.99	.89
Wisconsin	98,460	9,700	1,000,000	991,840	1,001,540	1,090,300	.97	.88	.98	.97	.89
Connecticut	40,262	9,700	1,000,000	1,050,038	1,059,738	1,090,300	.97	.88	.92	.92	.89
Idaho	29,585	18,915	1,000,000	1,051,500	1,070,415	1,081,085	1.89	1.72	1.80	1.77	1.75
Kansas	21,557	26,923	1,000,000	1,051,500	1,078,423	1,073,077	2.69	2.45	2.56	2.50	2.50

The inevitable result and, indeed, the avowed purpose, of such a system of Federal taxation, if it be valid and persisted in, is to force the States to impose in all cases inheritance or estate taxes at least equal to the "credit" allowed by the Federal law. By doing so, they add nothing to the burden borne by their own citizens, and secure to themselves a considerable revenue which would otherwise go to the Federal Government. The States, in the exercise of powers expressly reserved to them by the tenth amendment, are thus to be made mere instrumentalities for executing the policy of progressive inheritance taxation, approved by Congress for the purely State purpose of reducing "swollen fortunes."

Already the great and once sovereign State of New York—it is noteworthy that the Supreme Court in Florida *v.* Mellon, for almost the first time in its history, speaks of the States not as "sovereign," but as "quasi sovereign," (the only earlier instances recalled by the writer in which the Supreme Court has applied the term "quasi sovereign" to States of the American Union are: Georgia *v.* Tennessee Copper Co. (206 U. S. 230, 237, 27 Sup. Ct. 618 (1907), per Holmes, J.; Missouri *v.* Holland, 252 U. S. 416, 431, 40 Sup. Ct. 382 (1920), per Holmes, J.; Massachusetts *v.* Mellon, 262 U. S. 447, 482, 485, 43 Sup. Ct. 597 (1928), per Sutherland, J.)—the great and once sovereign State of New York, hearing its master's voice, has imposed an estate tax equal to the excess of four-fifths of the Federal rates over the preexisting State taxes, to continue in force only so long as the Federal law allows a "credit" for State estate taxes up to four-fifths of what the Federal tax would otherwise be. Georgia, the State of Alexander Stephens, has likewise meekly obeyed the Federal command. California, Colorado, Delaware, Maine, Massachusetts, Missouri, Montana, North Carolina, Pennsylvania, Ohio, and Vermont have done the same. Doubtless other States, if the law be continued in force, will be driven to follow their example.

It has even been proposed to raise the credit to 100 per cent of what the Federal tax would otherwise be, or, in other words, to repeal the Federal estate tax in these States imposing inheritance or estate taxes equal to or greater than the Federal rates, but to leave it in force, to a varying extent, in the remaining States.

Now, there are at least three restrictions upon, or limitations of, the power of Congress to levy an estate tax or other excise: (1) The tax must be "uniform throughout the United States"; (2) the tax must not be so laid as to obstruct the exercise by the States of the governmental powers inherent in the structure of the Union and reserved to them by the Constitution; and (3) the tax must be a real tax, and not appear on its face to be an attempt under the guise of a tax to legislate upon matters reserved by the Constitution exclusively to the States.

Since the very recent case of Nichols *v.* Coolidge (274 U. S. 531, 47 Sup. Ct. 710 (1927)), we are justified in adding a fourth restriction; namely, that the tax must not be arbitrary and whimsical in its operation. But this restriction, notable though it be, has perhaps little bearing on our present subject.

All three of the other restrictions or limitations above mentioned may, however, perhaps be claimed as invalidating the estate tax of 1924, with rates varying as we have seen in different parts of the country, and, still more, the estate tax of 1926, both of which are avowedly levied for the purpose of coercing the States into adopting higher rates of inheritance taxation than some of them have seen fit voluntarily to impose. It behooves us, therefore, to examine in all three of these aspects the system of "crediting" State taxes upon a Federal tax.

I

As every law student knows, the constitutional provision that "all duties, imposts, and excises shall be uniform throughout the United States" requires only "geographical" or "territorial" uniformity, and does not, like the equal-protection clause of the fourteenth amendment (which is applicable only to the States), require the taxes be laid according to any rule of reason either in the selection of the subjects of the tax or in fixing the rates of tax. (United States *v.* Singer, 15 Wall. 111, 121 U. S. (1872); Head Money Cases, 112 U. S. 580, 594, 5 Sup. Ct. 247 (1884); Knowlton *v.* Moore, 178 U. S. 41, 20 Sup. Ct. 747 (1900); Patton *v.* Brady, 184 U. S. 608, 622–623, 22 Sup. Ct. 493 (1902); Flint *v.* Stone Tracy Co., 220 U. S. 107, 158, 31 Sup. Ct. 342 (1911); Billings *v.* United States, 232 U. S. 261, 282, 34 Sup. Ct. 421 (1914); Brushaber *v.* Union Pacific Railroad, 240 U. S. 1, 24, 36 Sup. Ct. 236 (1916); La Belle Iron Works *v.* United States, 256 U. S. 377, 392, 41 Sup. Ct. 528 (1921).)

It is also settled that Congress in levying an excise tax is not obliged, by the requirement of geographical uniformity, to select subjects which are found, even with approximate uniformity, throughout the several States. For example, a tax on sleighs would produce considerable revenue in Maine, and none at all in Florida; but it would be none the less uniform "throughout the United States." So a tax on the production of oysters or tobacco would produce considerable

revenue in Maryland and none at all in Montana; but it would be none the less uniform in the constitutional sense. All that is necessary is that the law should say, with the White Knight in Through the Looking Glass when reproached with the unlikelihood of a mousetrap catching any mice on the back of a horse. "Not very likely, perhaps; but if they do come, I don't choose to have them running about" free of tax.

Not only is this true, but subjects of Federal excise taxation may be selected, even though their nonexistence in some States is due to the laws of those States. For instance, in the days of American liberty, an excise tax on the sale of liquor produced large revenues in the free States and none at all—if the State prohibition laws were enforced—in the prohibition States; but Federal liquor excises were nevertheless quite constitutional. As said by the Supreme Court (Flint *v.* Stone Tracy Co., supra note 11, at 174. See also License Cases, 5 Wall. 462 (U. S. 1866); Knowlton *v.* Moore, supra note 11, at 106):

"A liquor tax is not rendered unlawful as a revenue measure because it may yield nothing in those States which have prohibited the liquor traffic."

But, on the other hand, the very cases which establish this principle also outline what is meant by geographical uniformity. For example, in the leading case the Supreme Court said (Knowlton *v.* Moore, ibid. 84. Cf. Fairbank *v.* U. S., 181 U. S. 283, 298, 21 Sup. Ct. 648 (1901):

"Wherever a subject is taxed anywhere, the same must be taxed everywhere throughout the United States, and at the same rate."

And again:

"The tax is uniform when it operates with the same force and effect in every place where the subject of it is found." (Head Money cases, supra, note 11.)

And, still again, with reference to a tax on distillers levied in proportion to 80 per cent of the capacity of the distillery, whether produced or not:

"The tax is uniform in its operation; that is, it is assessed equally upon all distilleries wherever they are." (U. S. *v.* Singer, supra, note 11.)

Mr. Justice Miller, in his Lectures on the Constitution, gives a similar definition (Miller, the Constitution (1891), 240. Italics the writer's):

"They"—i. e., duties, imposts, and excises—"are not required to be uniform as between the different articles that are taxed, but uniform as between the different places and different States. Whisky, for instance, shall not be taxed any higher in the State of Illinois or Kentucky, where so much of that article is produced, than it is in New York or Pennsylvania. The tax must be uniform on the *particular article;* and it is uniform within the meaning of the constitutional requirement if it is made to bear *the same percentage* all over the United States."

How is it possible to reconcile with the principle that "if a subject is taxed anywhere, it must be taxed everywhere, and at the same rate," a law which taxes the transmission of a net estate of $1,000,000 in Maryland or Florida to a lineal descendant at 4.85 per cent, and the transmission of an estate of the same amount to a lineal descendant in New York at 0.97 per cent, and in Kansas at 2.69 per cent, as is done by the estate tax law of 1926?

Congress in taxing net income may, indeed, allow deduction of taxes paid to the State pursuant to the laws thereof in calculating the taxable subject, as has been done not only in the corporation excise tax of 1909 but also in the various revenue acts, beginning with that of 1913, passed pursuant to the sixteenth amendment. The amount of the taxable net income is thus affected by State laws, but the same tax is levied upon the same net income in one State as in another. For instance, A, residing in one State, may have an income of $100,000 over and above all exemptions and deductions other than State taxes. If his State taxes amount of $10,000, he is taxed upon a net income of $90,000, and his Federal income tax under the act of 1924 would amount to $18,600. On the other hand, B, residing in some more fortunate or more parsimonious State, may have exactly the same amount of property and the same income; but if his State taxes amount to only $2,000, his net taxable income is $98,000, and his Federal income tax under the act of 1924 is $21,940. But this is no unconstitutional discrimination against B, for both A and B are subject to the same tax on the same net income. Or, again, C, residing in the second State, may have an income of $91,836 over and above all deductions other than State taxes, and may pay State taxes of $1,836, so that his net taxable income is $90,000, upon which, like A in the first State, a Federal tax of $18,600 will be payable. He and A are treated exactly alike on the same net income, so that there is no violation of the constitutional requirement of territorial uniformity.

But suppose Congress, in order to make up to A the disadvantage of living in some State which, by reason of unfortunate circumstances or bad government, is obliged to levy comparatively high taxes, should enact that A on his net income of $90,000 should pay a tax of $12,680, or 12.68 per cent, while B on his net income of $98,000 should pay a tax of $19,940, or 20.35 per cent, and C on his net income of $90,000 should pay a tax of $16,600, or 18.44 per cent—what then? Would anybody deny that such a law would not be "uniform throughout the United States"? Yet that is what would be done by laying the tax on the income without deducting State taxes while "crediting" the State taxes in reduction of the Federal tax.

To come still closer to the subject in hand, Congress, in levying an estate tax, might impose the tax on the net estate after deducting all State estate or "inheritance" taxes levied upon the estate before distribution as distinguished from taxes levied upon the distributee and payable by him, as was in fact done by the act of 1916. Such a tax was uniform throughout the United States, although the burden was more heavily felt in those States which levied, instead of a tax on the estate in respect of the right to transmit the property to the various legatees or distributees, a tax on the several legatees or distributees after distribution in respect of their rights to receive the property from the decedent's estate. The difference between those two classes of State taxes may be almost as fine in substance—though not in theory—as that between tweedledum and tweedledee; but at any rate it is not a "geographical" or "territorial" distinction. The same taxable subject paid the same Federal tax in one State as in another.

So, too, Congress might have levied its tax on the net estate passing to the ultimate beneficiaries, after deduction of all taxes levied by State law, whether levied, technically, in respect to the right to transmit or of the right to receive; and such taxes, too, would have been "uniform throughout the United States," because, although the taxable subject, and therefore the amount of the tax, would to some extent depend on State law, yet the same subject would be taxed everywhere in the United States and at the same rate.

Yet, again, Congress might levy a tax upon the "net estate" but without permitting, in calculating the taxable estate, the deduction of any State inheritance or estate taxes, whether the latter be levied, technically, upon the estate before distribution, or on the respective distributees. This was, in fact, done by the revenue acts of 1918 and 1921, and, of course, such taxes were uniform throughout the United States.

But in the act of 1924 for the first time Congress undertook to depart from these constitutional paths and, while nominally selecting as the taxable subject the decedent's estate without deduction for State inheritance or estate taxes, yet to vary the rate of tax in different parts of the country.

Defenders of this system of State coercion insist that the method of allowing "credits" upon Federal taxes is not new but has its antetype in several provisions of the income tax laws. It is, indeed, true that the income tax laws contain several provisions for regulating the amount of Federal tax collectible by allowing certain "credits"; but none of these provisions is such as in any way to affect the geographical or territorial uniformity required by the Constitution. Thus, the revenue act of 1918 provided that the income tax as computed under other provisions of the act should in certain cases be credited with the amount of income tax paid during the taxable year to foreign countries or to any possession of the United States. (Revenue act of 1918, secs. 224(a), 238.) But as the requirement of uniformity does not extend to foreign countries or to possessions of the United States, and as the citizens or residents of all the States have precisely the same privilege with respect to crediting foreign taxes, the tax levied by Congress is none the less "uniform through the United States." Congress has power to levy certain extraterritorial taxes, such as taxes upon income from foreign real estate owned by an American citizen, or upon income earned in a foreign country by a citizen of the United States residing therein; and in levying such taxes there can be no violation of the requirement of geographical uniformity throughout the United States, provided citizens or residents of all the States are treated alike. Excises levied by Congress upon, or in respect of, property in one State—say, New York—are not required to be uniform with those levied by Congress in Porto Rico or the Philippines, in Canada, or any other foreign country; but they are required to be uniform—that is, levied at the same rate upon the same property—with taxes levied by Congress in Pennsylvania or any other State.

But, some objector may say, the discrimination in the act of 1924 and in the act of 1926 is not against certain States or parts of States "geographically" or "territorially," but is against the residents of certain places or against the estates of persons owning property in those places, because of the laws thereof. According to this view, Congress can not discriminate by name against Maryland or Florida, but it can discriminate against all residents of places where such laws prevail as those in force in Maryland or Florida, as distinguished from those in force in New York or other States.

Now, the Supreme Court has never had occasion to define the constitutional requirements of uniformity of excise taxation throughout the United States—if we except the extraordinary dictum in Florida *v.* Mellon—except to say that it contemplates nothing more than "geographical" or "territorial" uniformity and that it means that "whenever a subject is taxed anywhere" in the United States "it must be taxed everywhere" in the United States "and at the same rate." No case exists in which the Supreme Court has held an excise tax invalid because not "uniform throughout the United States." We

are, therefore, compelled to resort to a consideration of the question on principle.

Surely, however, the constitutional requirement of uniformity can not be evaded by designating the favored States by description rather than by name. For instance, an excise tax applicable only in the States where the laws prohibited slavery would, prior to the Civil War, have been clearly unconstitutional. So, too, prior to the eighteenth amendment, an excise applicable only in the free or license States would equally clearly have been invalid. Even to-day if Congress should pass an excise law applicable only, or at an increased rate, in those States whose laws permit child labor would anyone be so bold as to maintain its constitutionality?

The truth is, of course, that law—at least Anglo-American law—is local or territorial, and any discrimination based on the law prevailing in any State is necessarily a geographical or territorial discrimination, and as such prohibited by the Constitution.

Of course, Federal taxation must be superimposed upon the background of a system of rights of property and contract created and regulated by State laws, and therefore must take cognizance of and may properly be to some extent affected by variation in those State laws. For instance, in determining whether money lost in betting on a horse race can be deducted in calculating the net income subject to the Federal tax the Commissioner of Internal Revenue rules that the question depends upon whether betting be legal or illegal according to State law. Therefore, in Maryland, where betting on horse races, under certain regulations, is permitted, money lost at the races may be deducted in calculating the taxable income; but money lost in precisely the same way at precisely similar races in States where all betting is illegal may not be deducted. At first sight this may seem to be a discrimination against the latter class of States because of their laws, very similar to the discrimination against States levying low inheritance taxes, which characterizes the estate tax law of 1924. But a moment's thought and analysis will show the wide difference. Gambling losses in transactions illegal under State law can not be deducted because they are really not losses at all. It is a case where the "subject of the tax" does not exist or exists to a lesser extent in States having certain laws. Gambling losses, where gambling is illegal, are merely voluntary payments.

Another case of the fitting of the system of Federal taxation upon a system of diverse State laws, with a consequent variation in the amount of tax according to the laws of the State, is found in the provision that insurance companies in calculating their taxable income may deduct "the net addition required by law to be made within the year to reserve funds." At first blush this provision may seem to bear unequally in those States having lax insurance laws, for an addition to a reserve fund required to be made by conservative business methods can not be deducted unless it be required by the law of the State. Consequently an insurance company operating in one State may deduct an addition to a certain reserve fund made within the taxable year, while a rival company operating in another State can not deduct a precisely similar addition to a precisely similar reserve fund—and all on account of the diversity in the laws of the two States. But in all this there is no inequality within the United States, because the same income, deducting only compulsory additions to reserve funds, is taxed. The law everywhere taxes the same subject, namely, the income after deduction of compulsory additions to reserve funds.

Numerous other illustrations might be given. For example, take the case of a stamp tax on contracts. A paper which is not a contract according to the laws of one State may be a binding contract according to the laws of another. Such a paper under such a law would be taxable in the latter State but not in the former. In all this there is no violation of the constitutional requirement of uniformity throughout the United States, for the same subject—namely, an enforceable contract—is taxed everywhere and at the same rate throughout the United States.

But it may be claimed that the estate-tax provisions of the acts of 1924 and 1926 can be justified on the same principles. If it be permissible to tax only such contracts as are legally binding by the laws of the several States, why is it not permissible to tax only such inheritances as pass free of tax under the laws of the several States? To this question several answers may be given. In the first place, this is not what the acts of 1924 and 1926 do. They expressly levy the tax on the estate without deduction for any State inheritance taxes. A Federal tax on inheritances which pass free of State tax would be less objectionable than a tax on estates without deduction for State taxes, with a provision that the amount of the State tax may be "credited" on the Federal levy. A Federal tax on inheritances passing free of State tax would indeed tend to induce the States to impose some State inheritance tax; but it would have no such coercive force as the acts of 1924 and 1926, which not merely induce the States to pass inheritance taxes, but actually fix the rates of the taxes which they are required to impose. In the second place, it is one thing to lay a tax on legally binding contracts and quite a different thing to levy a tax on inheritances which the States do not tax. In the one case the thing taxed is something which State laws contributed to produce and which can not exist without the concurrence of State laws; in the other case the thing taxed exists quite independently of State laws—at least of the State tax laws—and the State laws the existence or nonexistence of which determine the imposition of the Federal tax are purely collateral. It is one thing to select for taxation objects which must have various characteristics, among which is conformity or lack of conformity to State laws, and a very different thing to select the taxable objects without reference to State laws, and then to say that they shall be taxed or not or that the rates of tax shall be fixed according to State laws on some collateral subject.

This distinction deserves to be emphasized. For example, a tax on contracts is, of course, "uniform throughout the United States," although what constitutes a contract depends upon State laws and although what would be a contract in one State may not be a contract in another. But on the other hand, a tax on contracts collectible only in States which refuse to prohibit child labor, pass State Volstead Acts, or otherwise to comply with the demands of Congress would be, it is submitted, clearly in conflict with geographical uniformity, and therefore unconstitutional.

It is one thing to select for Federal taxation objects which have certain characteristics among which is conformity or nonconformity with State laws; and quite a different thing after you have selected the objects of Federal taxation to gauge the amount or rate of Federal tax by State legislation on some collateral subject—whether such State legislation relates to taxation or any other subject.

It is claimed, however, that the effect of the provision for crediting State inheritance taxes on the Federal estate tax is to promote and not to destroy uniformity of taxation throughout the United States. Indeed, the evil against which the advocates of such measures are clamoring is the present lack of uniformity in inheritance taxation in the different States. What they consider the unsisterly action of Florida in bidding for immigration of multimillionaires by prohibiting all inheritance taxes has made them see red. They apparently fear that all the rich men of other States will leave them for the torrid—or shall we say salubrious?—climate of Florida, and that it will be necessary for other States to meet the competition of Florida by reducing their rates of inheritance taxation. How far this fear is justified or how far the present lack of uniformity in State inheritance taxation is an unmixed evil we need not pause to inquire, for, however great that evil may be, it can not be remedied by imposing an unconstitutional Federal tax. What the Constitution requires is not uniformity of all excise taxation, State and Federal, but only of Federal excise taxation. It is not permissible, in order to counteract a diversity in rates of State taxation in different parts of the country—a diversity which the Constitution permits—to create a countervailing diversity of rates in Federal taxation in different parts of the United States, a diversity which the Constitution prohibits. In order to bring about a kind of uniformity which the Constitution does not require, it can not be right to destroy the kind of uniformity which the Constitution commands.

As said by the Supreme Court in another case in which an attempt was made to justify unconstitutional legislation by the desirability of promoting uniform State laws: "There is no power vested in Congress to require the States to exercise their police power so as to prevent possible unfair competition. * * * It may be desirable that such laws be uniform, but our Federal Government is one of enumerated powers." (Hammer *v.* Dagenhart, 247 U. S. 251, 273, 275, 38 Sup. Ct. 529 (1918). Cf. Nichols *v.* Coolidge, 274 U. S. 531, 540 ("The mere desire to equalize taxation can not justify a burden on something not within congressional power").)

The question has been asked whether, if all the States imposed inheritance or State taxes to an extent equal to or greater than the Federal rates, the Federal tax would not be "uniform" even though it allowed a credit for State taxes; and, upon the assumption that this question would be answered in the affirmative, it is argued that the only valid objection to the constitutionality of the credit provision is that the purpose of the portion of the rates of taxation against which the tax credit is allowed is not the collection of revenue but coercion of the States. But even if all the States imposed taxes up to the amount of the Federal credit, it would seem that the allowance of the credit would destroy uniformity in the constitutional sense. A Federal excise is uniform if on its face it applies throughout the United States, although in fact the subjects of the tax are not found at all in some of the States; and, conversely, a tax is not uniform if it is so laid that it may not always apply uniformly throughout the country, even though for the time being, through extraneous circumstances, it operates uniformly. But even if the Federal law would be uniform and valid, if all the States had uniform State inheritance tax laws, it would cease to be uniform, and therefore become unconstitutional, as soon as one State should change its tax law. A statute which is valid when passed may by change of circumstances become unconstitutional, or vice versa. (Smyth *v.* Ames, 169 U. S. 466, 549–550, 18 Sup. Ct. 418 (1898).)

Some light may perhaps be thrown upon the meaning of geographical uniformity by decisions relating to the power to pass "uniform laws on the subject of bankruptcies throughout the United States." These

"uniform laws" must be engrafted upon a system of diverse State laws as to contracts and property. The Federal law could not give creditors in all parts of the country precisely the same rights without recasting the laws of the States on the subjects of contracts and property in one uniform mold. That, of course, is not required, and possibly would not even be permitted by the constitutional power to establish uniform laws on the subject of bankruptcies. The validity of the various claims against the bankrupt estate must be determined according to diverse State laws, and what would be a valid claim in one State might not be in another. So the extent of the bankrupt's property rights must be judged by diverse State laws, and what would be in one State a fee simple might be an estate for life in another, and wholly void in a third. In recognizing such diversities of State laws a Federal bankrupt law does not cease to be uniform.

Similarly, a Federal bankrupt act may recognize and enforce homestead and other exemptions existing by the laws of the several States without any infringement of the requirement of uniformity. (Hanover Nat. Bank v. Moyses, 186 U. S. 181, 22 Sup. Ct. 857 (1902).) Moreover, a bankrupt act may properly recognize and enforce the laws of the State respecting dower, validity of mortgages, priorities of payment, conveyances in fraud of creditors, and the like. (Stellwagen v. Clum, 245 U. S. 605, 614–5, 38 Sup. Ct. 215 (1918); Thomas v. Woods, 173 Fed. 585, (C. C. A. 8th 1909).) All these cases related to the bankruptcy act of 1898, which recognizes, in the particulars above referred to, the State law existing at the time of the bankruptcy.

A more debatable question arose under some of the earlier bankrupt acts. For example, the bankrupt act of 1867 undertook to adopt the exemptions prevailing in the several States, not at the time of the bankruptcy, but at a fixed date in the past. This provision was sustained by the circuit court for Missouri in an opinion concurred in by Mr. Justice Miller, of the supreme court. (In re Beckerford, Fed. Cas. No. 1, 209 (1870).) In 1873, by an amendatory act, Congress went still further and—as the amendment was generally, though not universally, construed—attempted to adopt the exemption laws as they existed on the statute books of the several States on a given date in the year 1871, even though some of those statutes were unconstitutional, null, and void. The validity of this amendment was sustained by a number of decisions. (In re Everitt, Fed. Cas. No. 4579 (S. D. Ga. 1873); In re Kean. Fed. Cas. No. 7630 (W. D. Va. 1873); In re Smith, Fed. Cas. No. 12986 (N. D. Ga. 1873); In re Jordan, Fed. Cas. No. 7514 (W. D. N. C. 1873); In re Jordan, Fed. Cas. No. 7515 (N. D. Ga. 1874); In re Smith, Fed. Cas. No. 12996 (N. D. Ga. 1876); Darling v. Berry, 13 Fed. 649 (C. C. Iowa, 1882).) On the other hand, the amendment was held unconstitutional in cases which, though somewhat fewer in number, are yet perhaps greater in weight by reason of the fact that in one of them the opinion was delivered by Chief Justice Waite. (In re Dillard, 7 Fed. Cas. No. 3912 (E. D. Va. 1873); In re Deckert, 7 Fed. Cas. No. 3728 (E. D. Va. 1874) (opinion by Waite, C. J.); In re Shipman, 21 Fed. Cas. No. 12791 (W. D. N. C. 1875); In re Duerson, 7 Fed. Cas. No. 4117 (D. C. Ky. 1876).)

Our present subject justifies an elaborate attempt to make a choice between these two opposing lines of authorities. Both admit that while in some cases Congress may, in enacting a bankrupt law, fail to correct a diversity due to divergent State laws, yet whenever it undertakes to legislate for itself, the regulations it prescribes must be uniform throughout the whole country. It is not very material to our present inquiry whether the State laws which Congress may suffer to continue in force must be the valid and constitutional laws of the States or whether they may be whatever for the time being is recognized and de facto enforced as law in the States. Our present inquiry does not involve the question how far Congress in enacting bankrupt laws or tax laws may allow diverse State laws to continue to operate, without impairing the constitutionally required uniformity, but rather the question whether Congress in fixing its own tax rates may allow them to be gauged according to laws of the States upon what is and must be a collateral subject. Congress may, of course, in matters of taxation, as in matters of bankruptcy, recognize State laws, and levy its taxes only on so much as remains after State laws have had their operation; but the present question is whether the tax upon whatever Congress selects for the subject of its taxation must be uniform in all the States, or whether it may vary according to the varying laws of the States upon a collateral subject.

It is also noteworthy that the Supreme Court has held that while Congress in regulating interstate commerce may prescribe different rules for different parts of the country (Clark Distillery Co. v. Western Md. Ry., 242 U. S. 311, 326–7, 37 Sup. Ct. 180 (1917)), yet when it undertakes to regulate matters of admiralty or maritime law, its regulations must be uniform throughout the States, and therefore can not give a remedy to maritime employees under the diverse workmen's compensation acts of the several States. (Knickerbocker Ice Co. v. Stewart, 253 U. S. 149, 40 Sup. Ct. 438 (1920). Accord: Washington v. Dawson, 264 U. S. 219, 44 Sup. Ct. 302 (1924).) In such a case Congress is not, as in the bankruptcy cases above referred to, merely allowing State laws to continue to operate upon matters with which the States are competent to deal in the absence of Federal legislation on the subject, but is by force of its own act attempting to extend the operation of diverse State laws to matters confided by the Constitution to the exclusive and uniform legislative jurisdiction of the United States.

This decision has a real bearing upon our present subject, because Congress in attempting to allow State taxes to be credited upon Federal taxes is not merely permitting the State laws to continue to operate—as in the bankruptcy cases—but is attempting to extend the operation of the State laws to matters confided to the exclusive control of Congress. Of course, nothing is more exclusively within the power of Congress, and more completely beyond the power of the States, than to fix the amount of Federal tax collected from a given subject; and when Congress attempts to declare that State taxes may be credited in reduction of the Federal tax collectible from a given subject, it is giving those State laws an operation and effect which proprio vigore they could never have.

Mr. Justice Sutherland's dictum in Florida v. Mellon strangely misapprehends both the effects of the acts of 1924 and 1926 and the basis of the objection thereto. In answer to the contention of lack of geographical uniformity in the Federal tax, he says (273 U. S. 12, 17):

"Congress can not accommodate its legislation to the conflicting or dissimilar laws of the several States nor control the divers conditions to be found in the various States which necessarily work unlike results from the enforcement of the same tax."

Of course, it can not; and nobody ever contended that it should. But it can, and, it is submitted, must refrain from allowing the several States to fix by their changing laws the rate of a Federal tax on any given subjeect which has been selected without reference to State laws.

The learned justice proceeds:

"All that the Constitution (Art. I, sec. 8, C. 1) requires is that the law shall be uniform in the sense that by its provisions the rule of liability shall be the same in all parts of the United States."

In this the learned judge has departed from the rule laid down by earlier cases. That "the rule of liability" shall be the same in all parts of the United States is not all that the Constitution requires. In addition, it requires that the rate of tax upon the same subject shall be the same in all parts of the United States; and it is in that particular, among others, that the acts of 1924 and 1926 depart from the constitutional standard.

Congress has fixed as the subject of the tax the net estate passing without deduction for State inheritance or estate taxes. Having done so, the constitutional mandate is that the tax must be levied at the same rate everywhere in the Union upon that subject. The State tax laws do not relate to the subject of the tax, but are purely collateral. You might as well allow a credit of fines collected by the States for violations of the prohibition laws, or the amount paid the governor of the State as a salary.

Let us recur to the definition of geographical uniformity given by the Supreme Court in Knowlton v. Moore (Supra note 11, at 84), or by Mr. Justice Miller in his Lectures on the Constitution—in order that a tax may be uniform, the "same subject," if taxed anywhere in the United States, "must be taxed everywhere, and at the same rate," or, in the words of Mr. Justice Miller, must "bear the same percentage all over the United States"—and let us try to apply it to the subject in hand. First, then, what is the "subject" of the tax, or "article taxed"? It is, according to the terms of the act itself, "the transfer of the net estate"—which by force of the definition clauses in section 300 means "the net estate as determined under the provisions of section 303"—"of every decedent dying after the passage of this act" (Sec. 301 (a)) and section 303 expressly provides that in calculating the net estate no "estate, succession, legacy, or inheritance taxes" shall be deducted. If that be the "subject" of the tax, or "article taxed," the tax is certainly not imposed everywhere in the United States "at the same rate" or "at the same percentage"; for upon a "net estate" of $1,000,000, calculated without deducting any estate, succession, legacy, or inheritance taxes and passing to a lineal descendant, the "rate" or "percentage" of Federal tax is 4.85 per cent in Maryland or Florida, and only 0.97 per cent in New York, North Carolina, Illinois, or Wisconsin.

But it may be said this is a mere matter of words. In substance, the tax is levied, not upon the net estate computed according to section 303, but upon the estate free of State inheritance, legacy, succession, or estate taxes, but before deducting the Federal tax. For the sake of argument, so be it; and what is the result? The "rate" or "percentage" of the Federal tax to the estate remaining after deduction of the State inheritance, legacy, succession, or estate taxes is 4.41 per cent in Maryland or Florida, 0.99 per cent in Illinois, 2.50 per cent in Kansas, and only 0.88 per cent in New York.

The same inequality of rate or percentage will be found to exist if we assume that the "subject" of the tax or "article taxed" is the transfer of the net estate after deduction of all taxes, State and Federal, or the net estate after deduction of the Federal estate tax, but without deduction of State inheritance, succession, legacy, or estate taxes. On the former hypothesis, the rate varies upon a "net estate" of $1,000,000 from 4.61 per cent in Maryland or Florida to 0.91 per cent in New York; and on the latter hypothesis the rate varies from

4.61 per cent in Maryland or Florida to 0.89 per cent in North Carolina, New York, Illinois, or Wisconsin.

The truth is that the tax computed according to the system of "credits" established by section 301 of the revenue acts of 1924 and 1926 is levied throughout the country at "the same rate" or "same percentage" with respect to no conceivable "subject" or "article" under the sun, and is therefore not "uniform throughout the United States."

The object of the constitutional requirement of geographical uniformity was, of course, to prevent discrimination against or in favor of any State or section, and particularly any discrimination against or in favor of any State because of its laws or institutions. The States took the risk of Congress selecting as objects of the tax commodities which are found in some only of the States, even though their nonexistence should be due not to natural circumstances but to State laws. But the States were jealous, and properly so, lest the power of Federal taxation should be so exercised as to penalize one State for failing in respect of its reserved powers to do what Congress might deem wise; hence the uniformity clause was inserted.

If such a provision as the credit clause of the estate tax law can be sustained, then the whole object of the requirement of uniformity might be frustrated.

Suppose, for example, Congress should conclude that the salaries paid the judges in some of the States are inadequate—as they undoubtedly are—and suppose Congress, in order to remedy the inequality of judicial salaries in different States, should exact that there should be credited on the amount of estate taxes collected from the estates of decedents a sum equal to the lowest salary paid a judge of a court of record in the State of the taxpayer's residence up to what Congress may fix as the minimum respectable salary, would anybody doubt that the tax levied by such a law would not be "uniform throughout the United States"? Yet how would it be possible to distinguish such a case from the "credit" provision of the estate tax law?

Suppose Congress should determine that the caliber of the probate judges—for example, in Maryland, where such judges are not required to be lawyers—does not come up to the standard, and in order to improve the quality of these courts should allow as a credit on estate taxes collected from deceased residents of the several States an amount equal to the annual salary paid the judges of the court in which the estate is administered? Justice Sutherland's reasoning would sustain such a provision. Yet who would hold it valid?

Suppose, for example, Congress should determine that the State ought to be "encouraged" to expend additional amounts on the public schools and should exact that income taxes due from residents of any State should be "credited" with their respective pro rata share of amounts expended by the State upon education. Would it be possible to sustain such a provision? Yet if it be invalid, how can the "credit" allowed by the estate tax of 1924 or 1926 be distinguished?

Yet, again, suppose that Congress should conclude, as many tax theorists now do, that the States ought to substitute income taxes for the property taxes now in force, and under the influence of that theory should enact that State income taxes paid by any taxpayer should be credited upon the Federal tax to the extent of 25, 50, or 80 per cent thereof. The States would be forced in defense of their citizens to adopt a scheme of income taxation as a substitute for the existing property taxes. Yet if the estate tax of 1924 or 1926 be valid there could be no possible constitutional objection to such a law.

Unless the uniformity clause is to become a dead letter, shorn of all vitality and efficacy, the Federal estate tax of 1924, and still more clearly the estate tax of 1926, can not be reconciled with the Constitution.

II

The second restriction upon the congressional power of excise taxation is that the tax must not be so laid as to burden the exercise by the States of governmental functions reserved to them by the Constitution.

Unlike the requirement of uniformity, this is not express but implied. It is not found in the letter of the Constitution, but is a deduction from its general spirit, purpose, and scope. It is purely judge made, and is therefore both more elastic and more uncertain in its application than the literal restriction as to uniformity.

The instances to which it has been applied include, (1) a tax on the salary of a State officer (Collector *v.* Day, 11 Wall. 113, U. S. 1870), (2) a tax on the dividends or interest paid to a municipal corporation on its investments in railway securities acquired in order to aid in construction of railways serving its people (U. S. *v.* The R. R., 17 Wall. 322, U. S. 1872; Stockdale *v.* The Ins. Co., 20 Wall. 323, 330, U. S. 1873), (3) a tax on the interest or profit received by persons contracting with a State or a municipal corporation by lending it money (Mercantile Bank *v.* N. Y., 121 U. S. 138, 162, 7 Sup. Ct. 826 (1887); Pollock *v.* Farmers' L. & T. Co., 157 U. S. 429, 583–586, 601–604, 652; 15 Sup. Ct. 673 (1895), and (4) a tax on the bond required of a State officer as a condition precedent to qualifying (Bettman *v.* Warwick, 108 Fed. 46, C. C. A. 6th, 1901, composed of Lurton, Day, and Severens, J. J.).

There is no reason to suppose, however, that such instances by any means exhaust the list of taxes prohibited by this principle. As the prohibition is implied from the objects and purposes of the Constitution, and from the dual nature of the sovereignty which it sets up or recognizes, certainly the prohibition must be coextensive with the reason for its existence.

Now, the Federal tax which we are here considering does not burden the operation of the State governments in the same way as a tax on the salaries of State officers or a tax on the income or profits derived from contracts made by the State in its governmental capacity. But, on the other hand, such a tax as the estate tax of 1924, and still more so the tax of 1926, does in fact much more seriously burden and obstruct the operation and independency of the States than an income tax levied at the same rate upon the salaries of State officers or interest on State or municipal bonds, and upon all other income "from whatever source derived." As then the latter is held to violate the general purpose and scope of the Constitution in providing for a Union of States, each independent within its proper sphere, should not the former, a fortiori, be held subject to the same constitutional objection?

The effect of such a Federal statute as the estate tax law of 1924 is to force the hands of the States, and make them in the exercise of their reserved rights mere puppets, not autonomously acting upon their own will and initiative but moving according to the congressional beck and nod. In effect, the tax is levied upon the action of the States in refraining from the passage of inheritance tax laws of sufficiently onerous character to meet the congressional approval. In Veazie Bank *v.* Fenno (8 Wall. 533, 547 (U. S. 1869)) Chief Justice Chase, speaking for the Supreme Court, said:

"It may be admitted that the reserved rights of the States, such as the right to pass laws, to give effect to laws through executive action, to administer justice through the courts, and to employ all necessary agencies for legitimate purposes of State government, are not proper subjects of the taxing power of Congress."

And again on the first hearing of the Income Tax case, the Supreme Court said, the court being unanimous on this point:

"The Constitution contemplates the *independent exercise* by the Nation and the States severally of their constitutional powers." (Pollock *v.* Farmers' L. & T. Co., supra, note 32, at 583–584. Italics the writer's.)

The same principle, if regard be had to actual results rather to names, would invalidate the credit provisions of the estate tax law of 1924 or 1926, even without regard to the lack of uniformity which it produces.

If this objection to the "credit" provision of section 301 of the acts of 1924 and 1926 be sound, it might be thought that the State of Florida should have been allowed to file its bill to enjoin the enforcement of those acts—unless, indeed, the maintenance of the suit was barred by the Revised Statutes, section 3224, prohibiting any suit to enjoin the collection of a Federal tax—and that therefore Florida *v.* Mellon is on this particular point an actual decision and not a mere dictum. But although the State of Florida did undoubtedly assign this invasion of her sovereign—or, according to Mr. Justice Sutherland, quasi-sovereign—prerogative as a ground for invoking the original jurisdiction of the Supreme Court, yet that tribunal did not so understand her contention. As already stated, Mr. Justice Sutherland seems to have grasped as the only two grounds on which jurisdiction was invoked—(1) the fear that wealthy men would be induced by the operation of the Federal tax to remove from Florida and thus reduce the State's revenues, and (2) the status of the State as parens patriae toward her citizens. The far more arguable position that the State had a right to complain of the Federal tax because it amounts in effect to an ill-disguised effort to coerce the State into legislating in a particular way on matters expressly reserved to her uncontrolled discretion by the tenth amendment, was overlooked or purposely ignored by the court. It is very provoking to counsel to have his position misrepresented by a court; but at least such misrepresentation has the advantage that the decision is a precedent, even by way of dictum, only upon the case as stated by the court and not upon the case as made by the record or as the court ought to have stated it.

Moreover, strange as it may seem, it is very doubtful whether the fact that the act in question thus operates in terrorem upon the States in the exercise of their reserved rights is sufficient to give the States as such any locus standi to challenge its validity. Before Florida *v.* Mellon, the case of Massachusetts *v.* Mellon (supra, note 9) was an authority against the right of the State to interfere on such a ground; and if the State of Florida had had the right to question the constitutionality of the credit provision on this ground, the proper course would have been to allow the bill to be filed and then decide against her on the merits. The question, therefore, would be still open, notwithstanding Florida *v.* Mellon at the suit of an individual interested.

III

A third restriction upon the Federal power of levying excise taxes is that the so-called tax must be levied, at least in part, for the purpose of raising revenues for the Federal Government, and must not appear on its face to be a mere attempt under the guise of taxation to legislate upon matters reserved exclusively to the States.

Upon this ground the act of Congress levying a tax of 10 per cent on the earnings of persons employing child labor was held unconstitutional (Child Labor Tax case, 259 U. S. 20, 42 Sup. Ct. 449 (1922), and on the same principle the act imposing a tax of 20 cents a bushel on contracts for the sale of grain for future delivery except sales on boards of trade complying with certain conditions and regulations, was held invalid. (Hill *v.* Wallace, 259 U. S. 44, 42 Sup. Ct. 453 (1922). See also Trusler *v.* Crooks, 269 U. S. 475, 46 Sup. Ct. 175 (1926).)

No critic can justly charge the Supreme Court with excess of zeal for State rights in the application of this principle, as witness the decision upholding the clearly prohibitive tax on oleomargarine artificially colored so as to resemble butter (McCray *v.* United States, 195 U. S. 27, 24 Sup. Ct. 769 (1904)), and the decision sustaining, with a blindness worthy of Justitia herself, the obvious constitutional fraud of the Harrison Drug Act. (United States *v.* Doremus, 249 U. S. 86, 39 Sup. Ct. 214 (1919).

That the estate tax laws of 1924 and 1926 are intended to effect some other purpose as well as the raising of revenue is not, under these decisions, sufficient to bring them as a whole within the ban. As said by the Supreme Court in sustaining the Harrison Drug Act:

"The act may not be declared unconstitutional because its effect may be to accomplish another purpose as well as the raising of revenue." (Ibid., 94.)

And, again, in the same case:

"* * * From an early day the court has held that the fact that other motives may impel the exercise of Federal taxing power does not authorize the courts to inquire into that subject. If the legislation has some reasonable relation to the exercise of the taxing authority conferred by the Constitution, it can not be invalidated because of the supposed motives which induced it." (Ibid., 93.)

So long as the "credit" for State taxes is limited to 25 per cent or even 80 per cent of the Federal levy, it may be difficult to maintain that the sole motive or purpose of the estate tax law as a whole appears on its face to be something other than the raising of revenue. If, indeed, the credit should be raised to 100 per cent, as some enthusiasts have proposed, then the law would seem to pass beyond the pale of the constitutionally permissible. But so long as the "credit" is appreciably less than 100 per cent, so that the act will produce some revenue, even after accomplishing its purpose of compelling the States to impose inheritance or estate taxes with rates at least as high as the Federal rates, the constitutional objection to the act as a whole must be, not the fact that it is intended to produce some other result as well as the raising of revenue, but the fact that the other purpose is to influence the legislative action of the States in the exercise of their reserved powers.

In a word, the objection to the Federal estate tax of 1924 or 1926, as a whole, is not that its purpose is something other than the raising of revenue for the United States, but that this something is the influencing of State legislation. Decisions of the Supreme Court establish that a Federal excise may be laid in part, though not exclusively, with a view to influencing the action of individuals—for example, to discourage them from selling oleomargarine colored so as to imitate butter; but no case has yet held—if Florida *v.* Mellon be excepted—that a Federal excise tax is valid which shows on its face that even one of its purposes is to influence the action of the States in the exercise of powers reserved to them as independent sovereignties by the Constitution.

Unquestionably, the estate tax law of 1924, and still more clearly the act of 1926, shows on its face that one of its purposes, in addition to the raising of revenue, is to induce the States to levy higher inheritance or estate taxes; and unless the Supreme Court is willing to hold, not merely that a Federal tax law may have as one of its professed objects something other than the raising of Federal revenue, but that this nonfiscal object may be to induce, and virtually to compel, the State legislatures to exercise one of their reserved powers according to the wishes of Congress rather than according to the wishes of their own people, then it must hold the credit provision of the estate tax law of 1924, and a fortiori the credit provision of the act of 1926, to be unconstitutional, even apart from the lack of uniformity.

This argument, however, is merely a reinforcing of the contention set forth in the former part of this article.

But while the estate tax as a whole can not be said to be invalid because its object is in part something other than the raising of revenue, yet it is certainly true that the estate tax consists of two clearly separable parts, one of which is intended to raise revenue and the other of which is intended for the sole purpose of coercing the States into levying progressive inheritance taxes. One-fourth of the estate tax of 1924 and four-fifths of the estate tax of 1926 have no revenue object whatsoever. Their sole object—and that, too, an object apparent on the face of the act—is to force, or, if you choose, to tempt, the States, to levy at least equivalent inheritance or estate taxes in every case.

This object is apparent enough on the face of the acts. It becomes if possible clearer on inspecting the committee reports on the bill which finally became the revenue act of 1926. The chairman of the Ways and Means Committee of the House reporting the revenue bill of 1926 naively admitted that the object of 80 per cent of the Federal estate tax was not to produce revenue but to induce the States to pass inheritance or estate tax laws in accordance with the congressional will:

"The loss during the calendar year 1927 will probably be from ten to twenty million dollars. Thereafter the annual loss will continue to increase, as advantage is taken of the 80 per cent credit, and in a few more years it is probable that the annual return to the Government under the estate tax will not exceed $50,000,000. The returns may even be less than this amount."

The hearings before the Ways and Means Committee which preceded the introduction of the bill of 1926 set forth its purpose with equal or greater clearness. Even if such evidence is not directly material upon the question of constitutionality, at least it is useful in illustrating the danger of abuse of any such power in Congress. Take, for example, the following colloquy between members of the committee and Governor McLeod, of South Carolina, appearing as spokesman for the State on whose behalf Calhoun once thundered and Wade Hampton fought:

"Mr. RAINEY. If something can be done which would compel the States to occupy this field and occupy it by imposing taxes, would you not favor some arrangement of that kind, if it can be done?

"Governor MCLEOD. I think I would, if it was fair in its distribution of this inheritance tax.

"Mr. RAINEY. If we compelled every State to levy the same minimum?

"Governor MCLEOD. If it was fair and equitable in its distribution to the States.

"Mr. RAINEY. And let the States occupy the field entirely and apply the revenue entirely to the liquidation of their own expenses, provided we devised some means of compelling the States to do it; would you not favor it?

"Governor MCLEOD. I think so.

"Mr. GARNER. If there was an arrangement by the Federal Government under which, when a citizen of the United States died, there could be deducted the amount due the State of South Carolina of taxes he had to pay in the State, sending the balance to the Federal Government, it would not injure your exchequer?

"Governor MCLEOD. No, sir; except that I would——

"Mr. GARNER (interposing). He would have no occasion to flee from your State to Florida, or even to a warmer climate to avoid the inheritance tax due your State?

"Governor MCLEOD. That is true, but speaking——

"Mr. GARNER (interposing). You will agree that the plan suggested that the Federal Government devise some scheme whereby we could have the inheritance taxes uniform as far as possible throughout the Republic is desirable, will you not?

"Governor MCLEOD. In that case the Federal Government would be established as a disbursing agency for the State governments.

"Mr. GARNER. Not at all. Your citizens would have deductions allowed under certain conditions. Now, there are deductions both for the estate and income taxes, and a great many deductions are made. But he would simply deduct from the amount that he would owe the Federal Government whatever he would pay your State.

"Governor MCLEOD. How would you justify the Federal Government levying taxes merely for that purpose unless those taxes are needed for the expenses of the Government?

"Mr. HULL. But there would be uniformity.

"Mr. CAREW. We are going to use this power to effect a great reform." (Hearings on revenue revision before the Committee on Ways and Means, October 19 to November 3, 1925, 370, 371.)

Dr. Thomas S. Adams, of Yale, perhaps the most influential of the expert advisers of the committee, with the assurance of the expert who would regulate the orbits of the planets and the courses of the stars, was not content with compelling the States to impose some sort of taxes, but wished to go further and dictate the particular kind of taxes they should impose:

"I would do this: I would reduce the maximum rate of the Federal tax to 15 or 20 per cent, and I would give an 80 per cent or 100 per cent credit. I would put the credit in that case on the basis of estate taxation rather than inheritance taxation by the States; putting the operation of that limitation into effect two years after, so that the States might take advantage of it.

"I believe that the State tax would be much better if it were in the form of an estate tax rather than an inheritance tax." (Hearings on revenue revision before the Committee on Ways and Means, October 19 to November 3, 1925, 463.)

The tax imposed by the act of 1926 consists of two separable parts, (1) a tax equal to 20 per cent of the rates mentioned in section 301 (a), which is imposed ostensibly for the purpose of raising revenue, and (2) a tax equal to 80 per cent of those rates which is on its face imposed not for any such purpose but solely for the purpose of inducing the States to impose estate or inheritance taxes of at least an equal amount. This portion of the so-called tax will from the outset raise no revenue at all in States whose laws conform to the congressional will, and if it becomes permanently a part of our system of Federal jurisprudence will ultimately raise no revenue anywhere.

May it not, therefore, be contended that the estate tax of 1926 consists of two clearly separable parts—20 per cent for the purpose of raising revenue and 80 per cent for the purpose, not at all of raising revenue but of inducing the States to impose inheritance or estate

taxes at least equivalent in amount, and that this latter portion is not properly a tax at all, any more than the tax on articles produced by child labor, and is therefore null and void?

The wide difference between a tax which is laid in such a way as while producing revenue yet also to accomplish some other purpose—a tax laid "with a political view," to borrow a phrase from our Maryland declaration of rights—and a so-called tax which is not imposed in any degree for the raising of revenue but solely for some other purpose, and is therefore void, may be emphasized by an illustration. The estate tax laws from the beginning, and the income tax laws since 1916, have allowed charitable or religious bequests or gifts, with certain qualifications, to be deducted in determining the taxable estate or income, as the case may be. Now, this practice undoubtedly tends to encourage charitable or religious contributions. The taxpayer knows that every dollar he gives to charity goes net, and that he does not have to pay anything to the Government by way of tax on the money so given. But, on the other hand, he does not save anything in tax on his other estate or other income and therefore is under no pressure or inducement to make a gift unless his inclinations prompt him to do so. But suppose Congress instead of declaring that charitable or religious contributions shall be deducted in ascertaining the taxable estate or the taxable income, should enact that they should be credited on the tax. As a result, everybody would be virtually forced to contribute to charity. He would have the option between giving the money to the Federal Government and giving it to God; and most persons, for the good of their souls, would choose the latter alternative.

Indeed, if this system of "credits" be once firmly established, there is absolutely no limit to the powers of Congress.

For instance, suppose Congress should determine that fathers should be prevented from disinheriting their children. The purpose could be accomplished by the simple expedient of providing that a certain proportion of every estate bequeathed or descending to a child shall be credited on the estate tax.

Or, again, suppose Congress decides that wages paid day laborers should be increased. All it need do is to provide that the income tax of every corporation or other employer of labor shall be credited with amounts paid laborers up to, say, $10 per day apiece.

Is it not clear that the only alternative to allowing virtually unlimited powers to be concentrated in Congress is to hold that wherever Congress attempts to allow as a credit against a Federal tax any payment that depends upon the volition of the taxpayer or of the State, the statute, at least to the extent that the credit is allowed, ceases to be a revenue measure and becomes an unconstitutional attempt on the part of Congress to legislate on matters which are beyond its powers?

IV

After Florida *v.* Mellon it would, perhaps, require some legal boldness to ask a reexamination—or more properly, in view of the casual nature of the opinion of Mr. Justice Sutherland—an examination of the constitutionality of the credit provision of the estate tax laws of 1924 and 1926. Nevertheless, to acquiesce in the validity of those provisions is fraught with such momentous consequences, and would be a precedent of so pernicious a character, that this paper can not be concluded without briefly considering what would be the effect of holding the provisions unconstitutional, and what methods may be available for contesting their constitutionality.

If the credit provisions of the acts of 1924 and 1926 are invalid, one of three consequences must follow. Either—

(1) Section 301(b), which contains the provision for a credit should be eliminated from the act, leaving the rates based by section 301(a) in force without any provision for credit, or—

(2) The tax must be severed and held valid to the extent of 75 per cent in the case of the act of 1924 and 20 per cent in the case of the act of 1926 and invalid only as to so much thereof as the credit can apply to.

(3) The whole of the estate-tax provisions of the acts of 1924 and 1926 must fall.

The first of these three possible views is absolutely untenable. The legislative history of the enactments, the reports of congressional committees, and the like, as well as the text of the acts themselves, show beyond peradventure that Congress never intended to impose the high rates of section 301(a) unless the credit provided for by subsection (b) should be allowed. It is superfluous further to elaborate this point. Any competent lawyer can readily convince himself, if the text of the acts leaves him in any doubt, by examining the CONGRESSIONAL RECORD and the committee reports.

The second of the three possible views—namely, that 75 per cent of the tax imposed by the act of 1924 and 20 per cent of that imposed by the act of 1926 should be held valid, and only the portion against which the credit is provided stricken down—has more to be said in its favor.

If it be tenable, the constitutionality of the credit provisions can be raised easily and in a very satisfactory way. All that is necessary is in any case where there is no State inheritance tax—for example, in any case in Maryland where the entire estate passes to lineal descendants—to pay the Federal tax and, after filing a claim for refund, sue the collector to recover back 80 per cent of the amount paid.

Thus to split up what was intended as one entire tax would certainly seem a novel exercise of judicial power. Yet the result would be equitable and probably in accord with what Congress would have wished. It is certainly possible to segregate in this way the clearly constitutional portion of the tax from the portion which, if the views above expressed be sound, is unconstitutional. It would carry out, too, the spirit of the following section of each act:

"If any provision of this act or the application thereof to any person or *circumstance*, is held invalid, the remainder of the act and the application of such provision to other persons *or circumstances* shall not be affected thereby." (Act of 1924, 43 Stat. 231, sec. 1103 (1924); act of 1926, 44 Stat. 130, sec. 1213 (1926). Italics the writer's.)

The remaining view—namely, that if the credit provisions of section 301 (b) are invalid, the whole of the estate tax must fall with it—may seem to many lawyers easiest of the three to sustain. On this hypothesis, either (a) there has been no constitutional Federal estate tax in force since 1924, and all such taxes collected on estates of decedents dying since that time should be refunded, or else (b) the estate tax of 1921 continues in effect.

Section 1200 of the act of 1924 (a) repeals the estate-tax provisions of the act of 1921; but subsection (b) provides that those provisions shall nevertheless continue in force "until the corresponding tax takes effect under the provisions of this act." If this means the date which under the terms of the act of 1924 its estate-tax provisions were to take effect—i. e. [under section 1100(a)] "upon the enactment of this act," or in other words, on June 2, 1924—then the act of 1921, in so far as it levied an estate tax, expired on that date, whether or not it was replaced by another valid tax.

If, on the other hand, section 1200(b) means that the act of 1921 shall continue in force until its place is taken by another valid estate tax, then the estate-tax provisions of the act of 1921 have never been repealed.

The act of 1924, as originally passed, in section 300(a) levied rates which were approximately 25 per cent higher than those imposed by the act of 1921, and while the law was in this state it would have been a simple matter, on the hypothesis we are now considering, to raise the question of the constitutionality of the act of 1924. Where the tax under the act of 1924 would be higher than the tax under the act of 1921—and in Maryland whenever the whole estate passed to a widow or children, this was bound to be the case—the excess could be paid under protest; and a suit brought to recover it back would raise the question of the constitutionality of the act of 1924.

But the act of 1926 retroactively reduced the tax imposed by section 301(a) of the act of 1924 to the level of the rates imposed by the act of 1921. After this was done, few cases could arise in which it would be more beneficial to an estate to be taxed under the act of 1921 than under the act of 1924 as retroactively amended. The ordinary taxpayer, therefore, had no longer any interest in contending that he should be taxed under the act of 1921 instead of under the act of 1924.

The act of 1926 for the future increases the exemption and, in some cases, still further reduces the rates, while increasing the credit from 25 per cent to 80 per cent. If the whole of the estate-tax sections of the act of 1924 are invalid, a fortiori the same thing is true of the corresponding provisions of the act of 1926; but the taxpayer would, in most cases, be out of the frying pan into the fire. There may indeed be some exceptional case in which it would be less burdensome to an estate to be subject to the act of 1921 than to that of 1926. For instance, the prima facie presumption raised by the act of 1921 that any transfer of a material part of a decedent's estate, without fair consideration, within two years prior to his death, shall be taken to have been made in contemplation of death, is made conclusive by the act of 1926. Now, if we suppose a case in which a gratuitous transfer of a large part of the estate was made within two years before the decedent's death, but in which the motive of the transfer can be proved to have been something other than contemplation of death, then (if it be constitutional to create in such a case a conclusive presumption—which, after Schlesinger *v.* Wisconsin (270 U. S. 230, 46 Sup. Ct. 260 (1926)) and Nichols *v.* Coolidge (supra note 10), must be regarded as very doubtful) it might be better to be subject to the act of 1921 than to that of 1926. But, save in some such very exceptional circumstance, any estate would be better off under the act of 1926 than under the act of 1921, and nobody would have any standing to contend that the act of 1921 continues in force.

Even upon this hypothesis there is one way in which the constitutionality of the credit provision can be raised. As already mentioned, a number of States—such as New York—have passed laws levying estates taxes equal to 80 per cent of the Federal levy to continue in force only so long as the Federal law allows a credit of at least 80 per cent for State taxes. Now, if this provision in the Federal statute purporting to allow the credit is unconstitutional, null and void, there is no Federal law in force allowing the credit, and the State tax is un-

collectible. In any such case, any estate can by contesting the imposition of the State tax, raise the question of the constitutionality of the credit provisions of the Federal act. From a decision of the highest court in the State, the question could be carried to the Supreme Court of the United States. But it would take a very patriotic taxpayer to raise the question in this way; for even if successful, any money he might save in State taxes would, if the act of 1921 is still in force, have to be paid to the Federal Government in increased Federal tax; and he might even be worse off than if he had accepted the Federal statute as valid to its full extent.

Therefore unless the estate tax provisions of the acts of 1924 and 1926 are wholly void, and unless the act of 1921 is not thereby continued in force, it would seem that the most practicable way of attacking the validity of the credit provision of the Federal law is to contend that the effect is to invalidate the Federal tax of 1924 to the extent of 25 per cent, and that of 1926 to the extent of 80 per cent, confining the Federal tax legally collectible to 75 per cent and 20 per cent, respectively, of the nominal rates. Any careful lawyer would hesitate to assert that the chances of success in any such contest would be worth to any estate of ordinary size the expense of the litigation. And yet as a matter of patriotic duty the dictum in Florida *v.* Mellon surely ought not to be accepted as the final word. The power of the purse is throughout Anglo-American history the only means by which liberty and independence have been achieved or preserved. In an attempt to snatch it from the people Charles I lost his head; and, rather than surrender it, the American Colonies reluctantly severed connection with a mother country which they loved. If our States have yielded it up, in respect to their internal affairs—if Congress can by a cunning device dictate to them what taxes they shall levy for local purposes—then they are no longer States but satrapies. The Supreme Court has not hesitated more than once to overrule prior decisions if convinced of their error. Is it too much to expect of the patriotism and fair-mindedness of a great court to disregard the hasty dictum of Florida *v.* mellon?

Mr. SIMMONS. Mr. President, I will say to the Senator from Utah that there are two additional amendments which I have not yet had prepared which I will have prepared to-day. I will state to the Senator from Massachusetts that these additional amendments relate to transfers of stock on exchanges.

Mr. SMOOT. Produce and stock?

Mr. SIMMONS. Yes.

Mr. SMOOT. I ask unanimous consent now that when the Senator introduces his amendments, even though the Senate shall have adjourned, they may be printed and lie on the table.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. SIMMONS. The amendments were not prepared, because it may be that upon further reflection it will be decided that it is not necessary to offer them, but merely to oppose the committee amendments.

Mr. SMOOT. There is no need of offering them, but I was not going to say that to the Senator.

Mr. SIMMONS. I would rather have my statement in the RECORD, because there has been some misconception in the country as to the attitude of the minority with reference to the tax upon transfers of stock, and I would like to have it known that my attitude is the same with reference to that as it is with reference to original issues of stock; that is, that it should be, for business reasons, reduced one-half.

Mr. SMOOT. In other words, the minority agree with the House provisions in both cases?

Mr. SIMMONS. Yes.

Mr. SMOOT. The next amendment is on page 31, line 1.

The next amendment passed over was, at the top of page 31, to insert:

(r) Expenses of tax adjustment: All expenses paid or incurred in contesting any liability for any tax, including fees and compensation for personal services, but exclusive of expenses allowable under subsection (a).

Mr. KING. Mr. President, when this amendment was up for consideration, I asked that it go over, and noted at that time my objection to the amendment. I want very briefly to state now that I am opposed to this proposed amendment. The object of it is to allow a deduction to taxpayers of all the expenses incurred by them in contesting any tax, whether it be a Federal, State, or municipal tax. I understand that the contention has been made that the object of it is merely to allow a deduction for expenses incurred in contesting the validity of a Federal tax, but the report of the committee goes further than that declaration.

Mr. WALSH of Massachusetts. Mr. President, will the Senator yield?

Mr. KING. I yield.

Mr. WALSH of Massachusetts. Do I understand that these large fees that are paid to corporations which have disputes with the Treasury Department about adjusting their taxes would be allowed and deducted under the provisions of this amendment?

Mr. KING. Not only large fees paid by corporations but by individuals, and also all expenses incident to litigation. For instance, if the Senator had an assessment levied against him by the State of Massachusetts, or the city of Boston, or by the Federal Government, and he employed lawyers, paying them a contingent fee or a direct fee, he would be permitted to deduct that fee as an item in determining the amount of the tax, and also all expenses incurred in connection with the litigation.

Mr. WALSH of Massachusetts. Would it not invite collusion in the matter of fees and expenses?

Mr. KING. I think so.

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

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

Mr. KING. I yield.

Mr. HARRISON. As I understand it—and I want to ask the Senator if this is his understanding—under the law a corporation which is forced to employ an attorney and go to expense with the Government in a case is allowed to deduct those expenses; but an individual who might be put upon the same footing with that corporation and have the same kind of a case would not be permitted to deduct his attorney's fees and expenses. Is not that the Senator's understanding?

Mr. KING. I am inclined to think that under existing law if an attorney were regularly employed by a corporation the fees which he received for his employment would be included in the corporate expenses for which deductions would be allowed. I am not sure that if the corporation employs an attorney outside of its regular legal staff to contest the validity of a tax levied by the Federal Government or a State or municipal government that that would be allowed as a deduction and a credit; but——

Mr. HARRISON. My impression is that in the hearings before the Finance Committee it was stated that the fees and expenses would be deductible if it were a corporation, even though they had gone outside of their regular retinue of attorneys and had employed accountants, and so forth. It seems to me, if that is true with reference to a corporation, and it ought to be true—they ought to be permitted to get an attorney to defend their cause if the Government files suit against them—it certainly ought to apply also to the individual.

Mr. SMOOT. That is exactly what the provision does.

Mr. HARRISON. That is the way I understood it.

Mr. SMOOT. As my colleague has said, it not only applies to Federal cases in which there is a dispute but to State cases and municipal cases or any division of Government. The amendment is as broad as that.

Mr. KING. The report of the chairman of the committee reads as follows, relating to this amendment:

This is an entirely new deduction. It embraces all expenses paid or incurred in contesting liability for any tax, whether Federal, State, municipal, or otherwise, which are not deductible under section 23 (a) as a business expense. The purpose of the new deduction is to place individuals on a parity with corporations so far as this item of expense is concerned. Though payment of taxes is not, strictly speaking, a business expense to individuals in all cases, the committee believes it is more like a business expense than a living or personal expense and that it should be so treated.

Mr. President, it does seem to me, as suggested by the Senator from Massachusetts [Mr. WALSH] that this invites collusion. I do not see why the expenses incurred by an individual in the State of Massachusetts or in the State of Texas, in contesting the validity of some local assessment, irrigation assessment, or municipal assessment of some State or city tax, should be allowed as a deduction in determining the amount due as a Federal tax.

We know with respect to Federal taxes that there are hundreds of lawyers and experts and accountants, and many who are neither, who are profiting to the extent of enormous amounts each year—and I am not criticizing—in contesting the validity of tax levies by the Federal Government. I am told that in most of the tax cases the attorneys or agents representing the taxpayers have contingent-fee contracts. The contingent fee in some instances is 50 per cent. Under this provision of the bill that amount, plus all expenses incurred, including expenses of the individual himself, expenses incurred in hiring accountants and what not, would be allowable as a deduction.

It seems to me that is going entirely too far. Certainly if we are to allow deductions at all they ought to relate only to Federal taxes, and not to contests related to State of munici-

pal taxes. In the committee there was a good deal of dubiety expressed in regard to the wisdom of the amendment. It was there stated that in many of these cases 20 or 30, 40 or 50 per cent was allowed. The first suggestion was made that where it was a contingent fee it should not be allowed as a deduction, but that finally was abandoned because of various objections which were urged.

Mr. WALSH of Massachusetts. And difficulties.

Mr. KING. And difficulties were urged, too. As it was conceded that in most of these cases the legal expenses were contingent—that is to say, attorneys and agents and those who had the cases had them upon a contingent basis of from 10 to 50 per cent. It seems to me it is an improper deduction. If we allow credit for attorneys' fees in contested cases, I do not know where the end might be. Of course, there should be no discrimination and if attorney fees and other expenses connected with the contesting of a tax are to be allowed corporations, they should be allowed to individuals.

Mr. WALSH of Montana. Mr. President——

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

Mr. KING. I yield.

Mr. WALSH of Montana. In the case of a corporation conducting any ordinary business such as the mercantile business, the expenses of litigation go in as a part of the expenses of the conduct of the business, do they not?

Mr. KING. Yes.

Mr. WALSH of Montana. And the net income becomes a basis for the assessment of the income tax. Does not the ordinary business man now, in figuring the profits of his business as the basis for the assessment of taxes, take credit for attorneys' fees and other expenses?

Mr. KING. I am told that in many cases that has not been done, particularly the large contingent fees.

Mr. WALSH of Montana. Take such a firm as Woodward & Lothrop, who are conducting a large department store here in Washington. Someone sues them for injury, because of being run over by one of their trucks. The cost of that suit goes into the ordinary expenses of the business. Someone sues them for failure to carry out a contract of sale that they made, and secures judgment for damages against them, and, of course, that comes out, as well as the attorneys' fees and other expenses of the litigation.

Mr. REED of Pennsylvania. Mr. President, will the Senator permit me to explain the situation?

Mr. KING. Certainly.

Mr. REED of Pennsylvania. Under the first paragraph of this section the expenses deductible by any taxpayer are those necessarily incurred in any trade or business. Therefore the bureau has held, and I think unfairly, that when a corporation engages counsel to fight a tax case, that expense is necessarily incurred in carrying on its trade or business; but when an individual does the same thing he can not make the same deduction, because it is a tax on his personal income and is not a part of his business of making a livelihood.

Mr. WALSH of Montana. The amendment is intended to correct that?

Mr. REED of Pennsylvania. The amendment is intended to put the individual on the same basis as is the corporation to-day.

Mr. KING. I am in favor of that, but my contention is that neither should be permitted the deduction, or at least that there should be some limitation upon the credit to be given the taxpayer as a deduction.

Mr. WALSH of Montana. How would the Senator differentiate? Here is a corporation doing business and they have absolutely no profit at all by reason of the fact that they have been compelled during the current year to carry on a very expensive litigation possibly involving the title to all their property, and they have paid out that money.

Mr. KING. That would be a permissible deduction because it is in their business.

Mr. WALSH of Montana. Yes; of course. That would include, of course, all expenses they incurred in the conduct of the business in protecting themselves, as they think, against an unlawful tax exaction or some other unlawful exaction, as they claim, and that all comes out of the profits of the business. The balance becomes the basis for the assessment. How could we tax that corporation without taking out expenses of that kind incurred in the conduct of the business?

Mr. KING. Because of the opportunities for abuse I felt that to allow either to a corporation or an individual the expenses incurred in contesting the validity of a tax would be improper, or at least that there should be some reasonable restrictions imposed upon the credits allowed. If the amendment is rejected, then at the appropriate place in the bill I intend to offer an amendment denying to the corporation a deduction for the expenses incurred by it in contesting the validity of a tax.

Mr. HARRISON. I agree with the Senator that if the individual is deprived of that right, certainly the corporation ought to be deprived of the right, but I think both the corporation and the individual should have the right. For instance, may I call the Senator's attention to the fact with which we are familiar that the other day the Board of Tax Appeals rendered a very important decision, a decision in which the Ford Motor Co. or one of its corporations could put in as a deduction the attorneys' fees and expenses incurred in contesting with the Government that particular piece of litigation, while one of the individuals, one of our colleagues, not being a corporation but having gone to enormous expense of the same nature, would not be permitted to deduct it in his income-tax return. It seems to me that shows the fallacy of the proposition.

Mr. SMOOT. I could call attention to a number of cases of which my colleague is well aware. The Grand Central Mining Co., for instance, was engaged in a law suit which covered about five years. I think about four years out of the five the attorney's fees alone were more than was actually made. Without the provision here proposed the company would have to pay taxes upon money that was earned and paid out immediately, and so far as the company is concerned it never made anything at all. There was no profit, but really a loss.

Mr. KING. I was not referring to the fees which are paid in the ordinary business of the individual or corporation. I was only referring to fees which are paid in contesting the validity of a tax. I am sure Senators will take cognizance of the fact, because it is a matter of common knowledge that there are tens of thousands of dollars paid out annually to attorneys in contingent fees which they are receiving and for which, under the proposed amendment, the taxpayers will be allowed deductions.

Mr. WALSH of Montana. Let me inquire of the Senator whether the attorney is not compelled to pay a tax upon his fees?

Mr. KING. He does in his income tax if he is within the taxable brackets.

Mr. WALSH of Montana. Then we get it just the same. We are simply transferring the tax from the client to the attorney.

Mr. KING. Of course, it would be in a different bracket, probably.

Mr. HARRISON. Of course a gentleman in a contest with the Government would not pay 25 per cent to an attorney in order to pay the other 75 per cent to the Government.

Mr. KING. The Senator knows that many of the fees are paid on a contingent basis and amount to as much as I have indicated.

Mr. WALSH of Montana. I dislike to place any obstacle in the transfer to the law practice of a small amount of profits made from industrial operations.

Mr. KING. I presume the Senator and I, of course, being lawyers, are rather interested in attorneys, and yet in this matter I have a greater interest in the Government and in having it protected.

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

Mr. KING. I yield.

Mr. SIMMONS. I think, probably, the majority and the minority members of the Finance Committee agreed to this provision; but I am interested in the discussion by the Senator from Utah. There is only one phase of the question that gives me any trouble at all. It has occurred to me since our action. There was not much discussion about it in the committee. I think it was rather hurriedly agreed to, but I am not recanting at all. But I should like to have the views of both Senators from Utah upon the question of whether it is wise public policy to allow deductions for the entire expense when the contesting taxpayer loses, when he fails to make good his contention in any respect whatever.

Mr. SMOOT. Such a taxpayer is more unfortunate than the one who wins his case.

Mr. SIMMONS. I understand; but is that a misfortune which should cause the United States Government to lose a part of its income tax?

Mr. SMOOT. The taxpayer is allowed to deduct whatever expense there may be, no matter whether he loses or wins his case.

Mr. SIMMONS. I am afraid that will encourage persons who have very slim and feeble cases to contest the payment of their taxes.

Mr. SMOOT. The Government gets the tax anyway. If it does not get it from the corporation it will get it from the

individual. The individual may not fall in a bracket that would bring 12½ per cent under the surtax, but he would fall under whatever bracket his income would reach. The Government may lose a little if he falls under a bracket lower than the 12½ per cent bracket.

Mr. SIMMONS. Whatever bracket the income falls under, the Government does lose the entire expense of the litigation instituted by the particular taxpayer which the court may say was without justification.

Mr. SMOOT. I think if the Government starts suit against a taxpayer and there is no basis for the suit, the Government ought to lose it.

Mr. SIMMONS. Take the ordinary case in court. If the plaintiff prevails in some jurisdictions he is entitled to have his expenses reimbursed by the defendant; but if the defendant succeeds then a different rule might obtain. I do not know of any municipal jurisdiction where a litigant who fails has the tax levied against the defendant who wins; but in this particular case, where the Government is the complainant and the taxpayer is the contestant or defendant, if the taxpayer loses the Government has to pay the expenses of the suit.

Mr. SMOOT. That is, it loses the tax on the expenses.

Mr. SIMMONS. It loses that much of the tax, which is just the same thing.

Mr. SIMMONS. Mr. President, I desire to say that I am not doing more than calling the attention of the junior Senator from Utah [Mr. KING] to this point as the one thing about which I have a question. If the junior Senator from Utah wishes to offer an amendment to the provision, he may do so; otherwise I shall support the action of the committee, because I feel bound to pursue that course.

Mr. KING. Mr. President, I do not know that I care to offer an amendment in respect to this matter, but I did intend to offer an amendment, as I indicated a moment ago, so as to make the rule uniform as between corporations and individuals. I certainly feel that such expenses ought not to be allowed as a deduction for litigating controversies between individuals and the States or between individuals and municipalities, whether cities or school districts or other political subdivisions within a State.

I believe, Mr. President, that if this amendment shall be adopted it will mean a considerable loss of revenue; that it will lead to an increase in the number of contingent agreements which will be entered into by taxpayers who are contesting the validity of taxes. I am told that in many cases where corporations are involved and have their own attorneys the attorneys do not get a contingent fee; that they are paid under their usual retainers and the fees which are paid them annually; but there are many cases where the fees of the attorneys are provided for upon a contingent basis. This will induce contingent agreements and, of course, will multiply the amounts which will be paid to the attorneys and increase the aggregate amount to be allowed as deductions. I feel sure that it will considerably reduce the amount of taxes which are paid. Whether or not the Government will recoup in part from the income tax of the attorneys, is a question to be determined. I feel quite sure that the recoupment will not be equal to the amount which the Government will lose by reason of permitting deductions of this kind.

Mr. SIMMONS. The Senator will realize that in such a case I put a little while ago there would be no such thing as recoupment.

Mr. KING. I think the Senator is right.

Mr. SIMMONS. The Government would simply lose the tax upon the entire expense of an unsuccessful litigation.

Mr. KING. Yes; there is no doubt about that.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

Mr. SMOOT. Mr. President, the next committee amendment passed over is on page 63, sections 104 and 105. I perhaps should briefly state what those two amendments propose. Section 104 has relation to the accumulation of surpluses to evade taxes for 1928 or subsequent taxable years.

Mr. GERRY. Mr. President, may I interrupt the Senator from Utah to inquire to what amendment he is referring?

Mr. SMOOT. I am referring to the amendment striking out section 104, on page 63, and to section 105, on page 68. Section 104 was adopted by the House for the purpose of providing against accumulation of surpluses in order to evade taxes for 1928 or subsequent taxable years. Section 105 is the old section 220 of the present law, with some modifications, which had in view the same purpose. I have had a number of House Members tell me that section 104 was put in there without very serious consideration. The Finance Committee decided to strike out section 104, and then make section 105 correspond to section 220 as it is in the law to-day. That is all there is to the amendment on striking out section 104, on page 63, and the amendment to section 105, on page 68.

Mr. SIMMONS. That means, as I understand the Senator, that we revert to the present law?

Mr. SMOOT. Word for word we incorporate section 220 of the present law.

Mr. SIMMONS. Very well.

The PRESIDING OFFICER. The question is on agreeing to the amendment striking out section 104.

The amendment was agreed to.

Mr. SMOOT. Mr. President, I think there is an amendment on page 68 which was passed over.

Mr. SIMMONS. Before we leave the amendment just agreed to, let me say that I think the feeling of the committee was that that particular section had never been very vigorously enforced, if enforced at all.

Mr. SMOOT. That was true up until about two years ago.

Mr. SIMMONS. I was going to say that it had never been enforced until very recently, when probably there have been 1 or 2 or 3 cases brought under it; at any rate, but a very few cases.

Mr. SMOOT. There are 252 cases under it now pending.

Mr. SIMMONS. Under the old law?

Mr. SMOOT. Yes; under the old law; but they have been brought forward and begun perhaps within the last two years.

Mr. SIMMONS. Only recently the department has begun to give any consideration to that section. I think the committee was persuaded to adhere to the present law very largely from consideration of the fact that taxes have been very much reduced and the incentive to accumulate surpluses for the purpose of evading taxation has grown very materially less.

Mr. SMOOT. That is correct.

Mr. SIMMONS. As they have grown less, the department seems to have become more active, and as they grow still less the department probably will become more active. However, while the temptation was very great, and while the practice was very general, I think it may be said without contradiction that the administration did not make much of an effort, if any, to enforce this section of the law.

Mr. SMOOT. I wish to say to the Senator, however, that the section has been enforced, so that there are now 252 cases pending applying to back years. The Senator I presume is about correct, however, in what he says.

Mr. KING. Mr. President, I think the provision adopted by the House had a meritorious object. Senators will recall that the late Senator from New Mexico, Mr. Jones, contended that many corporations were accumulating inordinately large reserves and surpluses, and, for the purpose of evading taxation, were not distributing them as dividends. It is true that as taxes have been reduced, excess profits tax abolished, and surtaxes materially diminished, the reasons for their existence are not so powerful. Nevertheless, some corporations still persist in the policy of accumulating very large reserves—larger than are warranted by sound business procedure. Stock dividends are not infrequently declared—based upon their unnecessarily large reserves.

I am not certain that the limitations found in section 105, pages 68 and 69, of the pending bill are a sufficient curb or guide to the Secretary of the Treasury in exercising the great discretion allowed him in dealing with this question of reserves. The Secretary alone is to determine, if I interrupt the section correctly, what would be a proper reserve or accumulation, before the penalty of 50 per cent is applied. One Secretary of the Treasury or one Federal official connected with the revenue branch of the Government might regard a certain amount of reserve or surplus as proper. A different rule might be prescribed by his successor. In dealing with questions of this character, as well as many others in revenue measures, the legislative branch of the Government has difficulty in steering between Charybdis and Scylla. If there are too many limitations in statutes, difficulties arise. It is impossible to foresee all the complications and conditions that will arise. I have sometimes thought we have too many revenue laws, too many provisions attempting to deal with every conceivable situation that may arise, and a burdensome lot of Treasury regulations which bewilder and mystify officials, courts, and taxpayers. It may be that we shall be driven to enact a new revenue law which will be simple and short, and which will confer greater authority upon the administrative branch. Great Britain has certainly achieved results which we might profitably strive to attain. Great Britain writes her revenue law in a few pages, and allows a wide discretion to be exercised by those who administer the law. We take scores of pages to write our law. Great Britain

collects substantially $4,000,000,000 of revenue, largely death dues, corporation taxes, and income taxes, with but a limited number of employees.

We have more than 10,000 employees engaged in collecting approximately $2,000,000,000 of revenue. In this amount I do not include customs collections. In that division of the Treasury Department there is an army of Federal employees.

Great Britain's revenue laws are less complicated than those enacted by Congress. They announce, so to speak, fundamental principles. The administrative features are simple and, as I have indicated, confer more latitude and authority upon those who execute the law. The discretion granted the officials is wisely exercised. The personnel, generally speaking, are men of ability and character familiar with the law and with procedural matters. It is said that the British taxpayer does not seek to evade the payment of taxes, though they are onerous and oppressive. An examination of the revenue laws enacted by Congress during and since the war will reveal how far short of clarity and certainty we have fallen in our revenue legislation. Our revenue laws have been complicated, oftentimes filled with contradictions and uncertainties. Those charged with their enforcement differ in their interpretations of statutory provisions. Decisions rendered by officials in the department to-day are changed upon the morrow. Not infrequently taxpayers have followed certain interpreted regulations of the revenue laws, only to find several years later contrary rulings to their disadvantage. Not only the officials of the Treasury Department fail to agree upon the meaning of various provisions of the statutes but eminent lawyers differ, as well as the Board of Tax Appeals and the courts.

I am told that a volume has recently been published by the Treasury Department containing 10,000 pages of recent rulings and regulations. The charge has often been made that our revenue laws and the regulations of the Treasury Department, based upon the same, can not be understood and seem to be designed to encourage litigation. Certain it is that controversies in regard to taxes are not diminishing. Cases are being daily brought to the Board of Tax Appeals for adjudication and its decisions are insufficient to keep pace with the multiplied appeals. Tens of thousands of cases are now pending for settlement, and there seems to be nothing in sight indicating that the mountain of tax controversies and lawsuits will be removed. I sometimes wish that we could burn our tax laws and all our regulations and start afresh. We might be able to write a simplified bill, one that could be understood by those who enacted it and those who administer it, and by the taxpayers who are more interested in simple, just, and equitable revenue laws than are Congress and the officials of the Treasury Department. Recurring to the provision now before us: How much shall be allowed as a surplus before the penalty shall be applied? I do not know. Should we attempt to circumscribe those engaged in business and limit the amount of reserves and accumulations before the penalty of 50 per cent is applied, or should the entire matter be committed to the discretion of those administering the law?

I am not satisfied with this section, and yet I am not in position to offer an amendment to supersede it. The Finance Committee considered the House amendment, which was intended to clarify the situation; and I think that after due consideration the committee reached the conclusion that instead of clarification it would add to the uncertainty and dubiety if attempts were made to prescribe the limitation upon the amount allowed as reserves and the circumstances under which such reserves should be set up.

Mr. SIMMONS. Mr. President, I think Senators on this side agree with the general propositions laid down by the Senator from Utah. We have criticised this provision in the present law ever since it was enacted. We have recognized the fact that it lodged almost unlimited discretion in the Secretary of the Treasury; and we have complained bitterly that for many years after its original enactment the Secretary of the Treasury did not exercise that discretion at all, but permitted these surpluses to be accumulated in gigantic sums, without taking any action to force their distribution.

In all of our discussions about this question, however, we have all realized the fact that sound economy in the conduct of a business by a corporation made it necessary that they should set aside a certain part of their annual earnings for purposes of enlargement, for purposes of improvement of their methods and their equipment, and that the requirements of one class of corporations in this respect were different from those of another class of corporations; that it was almost impossible to lay down any fixed rule to regulate the distribution of these accumulated surpluses which would not be to the disadvantage of some and to the advantage of other corporations. In that state of inability to adjust what the several corporations of the country might legitimately and reasonably require in order to be upon a safe footing in the conduct of their business, and to enlarge and develop their business and improve their methods, we felt that we were hopeless unless the Secretary of the Treasury would enforce this provision of the law.

I know that both sides of the Finance Committee have sought to devise some method that might place safeguards around an unwise exercise of discretion on the part of the Secretary of the Treasury, or might coerce him to enforce the law; but I confess that neither side of the committee up to this time has been able to suggest any satisfactory solution of that problem. To my mind, the House provision is not a satisfactory solution of it; and the exigencies created in the present condition of things with respect to this matter are nothing like so urgent, nothing like so great and important, as they were when taxes were higher than they are now.

The PRESIDING OFFICER. The Secretary will state the next amendment passed over.

The next amendment passed over was, on page 68, line 13, after the word "for," to strike out "the taxable year 1927" and insert "each taxable year," so as to read:

(a) If any corporation, however created or organized, is formed or availed of for the purpose of preventing the imposition of the surtax upon its shareholders through the medium of permitting its gains and profits to accumulate instead of being divided or distributed, there shall be levied, collected, and paid for each taxable year upon the net income of such corporation a tax equal to 50 per cent of the amount thereof, which shall be in addition to the tax imposed by section 13, and shall be computed, collected, and paid upon the same basis and in the same manner and subject to the same provisions of law, including penalties, as that tax.

Mr. SIMMONS. What is that amendment?

Mr. SMOOT. That is just a verbal amendment.

The amendment was agreed to.

The next amendment passed over was, on page 79, line 19, after the word "made," to strike out the period and "The provisions of this paragraph and of paragraph (2) shall not apply to the acquisition of such property interests as are specified in section (402) (c) or (e) of the revenue act of 1921, or in section 302 (c) or (f) of the revenue act of 1924 or the revenue act of 1926 (relating to transfers in contemplation of or intended to take effect at or after death, and to property passing under power of appointment)," so as to read:

(3) Transfer in trust after December 31, 1920: If the property was acquired after December 31, 1920, by a transfer in trust (other than by a transfer in trust by a bequest or devise) the basis shall be the same as it would be in the hands of the grantor, increased in the amount of gain or decreased in the amount of loss recognized to the grantor upon such transfer under the law applicable to the year in which the transfer was made.

The amendment was agreed to.

The next amendment passed over was, on page 89, line 7, after the word "such," to strike out "acquisition;" and insert "acquisition. The provisions of this paragraph shall apply to the acquisition of such property interests as are specified in section 402(e) of the revenue act of 1921 or in section 302(f) of the revenue act of 1924 or the revenue act of 1926 (relating to property passing under power of appointment) regardless of the time of acquisition," so as to read:

(4) Gift or transfer in trust before January 1, 1921: If the property was acquired by gift or transfer in trust on or before December 31, 1920, the basis shall be the fair market value of such property at the time of such acquisition. The provisions of this paragraph shall apply to the acquisition of such property interests as are specified in section 402(e) of the revenue act of 1921, or in section 302(f) of the revenue act of 1924 or the revenue act of 1926 (relating to property passing under power of appointment) regardless of the time of acquisition.

The amendment was agreed to.

The next amendment passed over was, on page 80, line 14, after the word "death," to strike out "If the property was acquired by bequest, devise, or inheritance, or by a decedent's estate from the decedent, the basis shall be the fair market value of such property at the time of the death of the decedent. The provisions of this paragraph shall apply to the acquisition of such property interests as are specified in section 402 (c) or (e) of the revenue act of 1921, or in section 302 (c) or (f) of the revenue act of 1924 or the revenue act of 1926 (relating to transfers in contemplation of or intended to take effect at or after death, and to property passing under power of appointment)" and insert "If personal property was acquired by specific bequest, or if real property was acquired by general or specific devise or by intestacy, the basis shall be the fair market value of the property at the time of the death of the decedent.

If the property was acquired by the decedent's estate from the decedent, the basis in the hands of the estate shall be the fair market value of the property at the time of the death of the decedent. In all other cases if the property was acquired either by will or by intestacy, the basis shall be the fair market value of the property at the time of the distribution to the taxpayer," so as to read:

(5) Property transmitted at death: If personal property was acquired by specific bequest, or if real property was acquired by general or specific devise or by intestacy, the basis shall be the fair market value of the property at the time of the death of the decedent. If the property was acquired by the decedent's estate from the decedent, the basis in the hands of the estate shall be the fair market value of the property at the time of the death of the decedent. In all other cases if the property was acquired either by will or intestacy, the basis shall be the fair market value of the property at the time of the distribution to the taxpayer.

Mr. KING. Mr. President, I should like to inquire whether this amendment will apply retroactively to meet some of those decisions of the court, one of which was contrary to the decision of another court?

Mr. SMOOT. This just covers this year; and this is one of three amendments, the Senator will remember, upon this subject. This is the second one. They all fit in as one, and we agreed to the whole amendment as a unit. They are in different places, but this is the second one.

Mr. REED of Pennsylvania. This has nothing to do with the gift tax?

Mr. SMOOT. Not at all.

Mr. REED of Pennsylvania. It merely has to do with capital gains resulting from the sale of property acquired from the estate of a decedent, and will apply to transactions in the current calendar year 1928 and subsequently, but is not retroactive before the first of this year.

Mr. KING. That is what I was inquiring—whether by any construction it could be applied retroactively.

Mr. BINGHAM. Mr. President, I desire to make a parliamentary inquiry. I should like the attention of the Senator from Pennsylvania. Will the adoption of this amendment at this time affect in any way the possibility of voting later on the amendment which the Senator knows I presented for the repeal of the estate tax?

Mr. REED of Pennsylvania. It has nothing to do with the estate tax. This deals only with capital gains of living taxpayers. I might say to the Senator from Utah, further, that later on in the bill there is a retroactive amendment that affects this same question to some extent, but this is not retroactive.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment passed over was, on page 97, line 18, after the word "for," to strike out "1925 or 1926" and insert "1926 or 1927"; and in line 19, after the word "year," to strike out "1925 or 1926" and insert "1926 or 1927," so as to read:

(e) Net loss for 1926 or 1927: If for the taxable year 1926 or 1927 a taxpayer sustained a net loss within the provisions of the revenue act of 1926, the amount of such net loss shall be allowed as a deduction in computing net income for the two succeeding taxable years to the same extent and in the same manner as a net loss sustained for one taxable year is, under this act, allowed as a deduction for the two succeeding taxable years.

Mr. SMOOT. That is just changing the years in accordance with the amendments we have already adopted.

The PRESIDING OFFICER. Is that included in the Senator's unanimous-consent agreement of some time ago?

Mr. SMOOT. It is just to carry out the year that we changed in the first amendment.

The PRESIDING OFFICER. That is included in the previous unanimous-consent agreement, then?

Mr. SMOOT. It is.

The amendment was agreed to.

The next amendment passed over was, on page 111, line 4, after the words "beginning in," to strike out "1926" and insert "1927"; and in the same line, after the words "ending in," to strike out "1927" and insert "1928," so as to read:

SEC. 132. PAYMENTS UNDER 1926 ACT.

Any amount paid before or after the enactment of this act on account of the tax imposed for a fiscal year beginning in 1927 and ending in 1928 by Title II of the revenue act of 1926 shall be credited toward the payment of the tax imposed for such fiscal year by this act, and if the amount so paid exceeds the amount of such tax imposed by this act, the excess shall be credited or refunded in accordance with the provisions of section 322.

Mr. SMOOT. That is the same thing. It merely refers to the years.

The PRESIDING OFFICER. That has already been adopted.

The next amendment passed over was, on page 119, line 18, after "(B)," to strike out "11½ per cent" and insert "12½ per cent," so as to read:

SEC. 144. WITHHOLDING OF TAX AT SOURCE.

(a) Tax-free covenant bonds: (1) Requirement of withholding: In any case where bonds, mortgages, or deeds of trust, or other similar obligations of a corporation contain a contract or provision by which the obligor agrees to pay any portion of the tax imposed by this title upon the obligee, or to reimburse the obligee for any portion of the tax, or to pay the interest without deduction for any tax which the obligor may be required or permitted to pay thereon, or to retain therefrom under any law of the United States, the obligor shall deduct and withhold a tax equal to 2 per cent of the interest upon such bonds, mortgages, deeds of trust, or other obligations, whether such interest is payable annually or at shorter or longer periods, if payable to an individual, a partnership, or a foreign corporation not engaged in trade or business within the United States and not having any office or place of business therein: *Provided*, That if the liability assumed by the obligor does not exceed 2 per cent of the interest, then the deduction and withholding shall, after the date of the enactment of this act, be at the following rates: (A) 5 per cent in the case of a nonresident alien individual, or of any partnership not engaged in trade or business within the United States and not having any office or place of business therein and composed in whole or in part of nonresident aliens, (B) 12½ per cent in the case of such a foreign corporation, and (C) 2 per cent in the case of other individuals and partnerships:

Mr. HARRISON. That goes over.

Mr. SMOOT. Let that go over, because it is a rate.

Mr. COPELAND. What about the amendment on page 115?

The PRESIDING OFFICER. That was agreed to.

Mr. COPELAND. With regard to that, among other letters I have is one from the president of the Delaware & Hudson Railroad, in which he says:

Section 141 of the pending revenue measure provides for consolidated returns in respect of the taxable years 1927 and 1928, but, at the end of that period, without further legislation, the privilege of rendering such returns would expire.

I wish earnestly to urge upon you the desirability of modifying this section to the extent of omitting the proposed limitation, leaving the provisions for consolidated returns in the bill and in such form that it will continue in effect as long as other provisions of the revised measure.

Mr. SMOOT. That is exactly what the amended provision does, just what the letter says.

Mr. COPELAND. So that is taken care of?

Mr. SMOOT. That is taken care of in the amendment agreed to.

Mr. COPELAND. This amendment meets the objection raised by Mr. Loree?

Mr. SMOOT. I do not know who the writer is, but the objection has been met.

Mr. COPELAND. Very well.

Mr. KING. Mr. President, I would like to inquire whether the amendment in subdivision (b), page 112, was agreed to?

Mr. SMOOT. That was agreed to the other day.

The PRESIDING OFFICER. The clerk will state the next amendment passed over.

The next amendment passed over was, on page 123, line 10, to strike out "11½ per cent" and insert "12½ per cent."

Mr. SMOOT. That involves a rate.

The PRESIDING OFFICER. That will go over, under the agreement.

The next amendment passed over was, on page 140, line 23, after the word "company," to strike out "11½ per cent" and insert "12½ per cent"; and in line 25, after the word "company," to strike out "11½ per cent" and insert "12½ per cent."

Mr. SMOOT. That involves a rate.

The PRESIDING OFFICER. That goes over, under the agreement.

The next amendment passed over was, on page 146, line 2, after the word "company," to strike out "11½ per cent" and insert "12½ per cent"; and in line 5, after the word "company," to strike out "11½ per cent" and insert "12½ per cent."

Mr. SMOOT. That goes over, being in relation to a rate.

The PRESIDING OFFICER. The amendment will go over, under the agreement.

Mr. SMOOT. The next amendment passed over, outside of those involving rates, is on page 215. There are some of the

rate amendments that we can take up later, and I will call attention to them after we get through with the administrative features.

The next amendment passed over was, on page 215, after line 3, to insert:

SEC. 508. CLAIMS FOR REFUND FOD 1917–1921.

Section 284 of the revenue act of 1926 is amended by adding at the end thereof a new subdivision to read as follows:

"(i) If the taxpayer has prior to January 1, 1928, filed a valid and enforceable waiver of his right to have the income, war-profits, or excess-profits taxes for the taxable years 1917, 1918, 1919, or 1920 determined and assessed within five years after the return was filed, or filed a valid and enforceable waiver of his right to have such taxes for the taxable year 1921 determined and assessed within four years after the return was filed, then such credit or refund relating to the taxes for the year in respect of which the waiver was filed shall be allowed or made if claim therefor is filed at any time prior to 90 days before the expiration of such waiver, or at any time before the expiration of one year after the waiver was filed, whichever date is earlier."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment passed over was, on page 215, after line 20, to insert:

SEC. 509. SURTAX RATES FOR 1927.

(a) Section 211 of the revenue act of 1926 is amended, to take effect as of January 1, 1927, by adding at the end thereof a new subdivision to read as follows:

"(c) Notwithstanding the rates provided in subdivision (a) the rate of surtax for the calendar year 1927 shall be the same as the rates of surtax specified in section 12 of the revenue act of 1928."

(b) Any refund or credit to which a taxpayer may be entitled by reason of this section shall be made or allowed without interest.

Mr. KING. Mr. President, this amendment was briefly called to the attention of the Senate when we began the discussion of the bill this afternoon. I stated then that the object of the amendment was to give to a limited number of individuals who were paying surtaxes the benefit of a reduction upon their 1927 taxes of $25,000,000. Instead of the bill applying in future in its entirety, so far as this provision is concerned it has a retroactive effect, and gives to individuals who are within certain surtax brackets a credit or refund of $25,000,000 for the year 1927.

This means a loss to the Government of this large amount. It seems to me that there is no justification for denying to the millions of small taxpayers who are not within those brackets the benefit of this retroactive provision. I have not heard any reasons, either in the committee or outside, to justify the application of this retroactive provision.

Mr. SMOOT. May I call the attention of my colleague to one of the bases for taking this action? The House did not change any of the rates whatever. It left the inconsistencies in rates on individuals as they were in the 1926 law. The chart on the wall shows how inconsistent and how unfair certain taxpayers were treated, particularly as the incomes run from $18,000 up to $90,000. In other words, some of them are paying a higher rate to-day than they were paying back in 1917. The income-tax rates as we provided them by an amendment to the House provision take care of those intermediate-bracket taxpayers, and we reduced those rates.

Those taxpayers have been the ones who have suffered in the past. They have not been taken care of, and therefore we provide here that they shall have a retroactive provision, trying to equalize what they have been forced to pay in the past under the taxes that were imposed unequally, at least. That is the reason we want the provision in the bill. That is one of the principal reasons.

Another thing is this, whatever tax was imposed was put in as an expense of the corporation paying it. But the individual is yet to receive the relief that he ought to have. He never ought to have paid it in the first place, and therefore we provide this bill shall be retroactive for the year 1927. So, if an individual has paid his first quarter tax for 1927 the next quarter, which will end on June 15, he will take whatever credit is due him under this provision out of that payment. If he has paid his taxes in full, then he makes a claim, and the Treasury Department will know immediately what it is and remit him the amount provided for in this provision.

That, substantially, is why the action was taken; and I think that the action of the committee was really a wise provision to right a wrong as far as we could by law.

Mr. KING. Mr. President, the report of the majority submits persuasive arguments for reducing the taxes upon corporations. I do not think the argument submitted by my colleague just now is sufficiently persuasive to justify us in favoring the individuals of large incomes and in so doing dealing unjustly with corporations and a large number of taxpayers. The corporations and their stockholders are the ones who have suffered most by failing to secure equitable and nondiscriminating tax reductions. The last revenue law increased the corporate tax to 13½ per cent. I felt then that there was no justification for the increase, and voted against it. We made substantial reductions in the income taxes that were imposed upon individuals, but increased the corporate taxes. It is apparent that we acted unwisely and unfairly. The fact that a large surplus has resulted justifies the position taken by Senators at that time when they insisted upon greater reductions in the tax bill, and opposed the increase of corporate taxes.

It is now proposed to reduce the income taxes of certain taxpayers, but to grant no relief to corporations. I am in favor of giving the corporations the reduction of $25,000,000 proposed to be applied retroactively to certain groups of individuals who pay surtaxes, and at the same time reducing the present tax laid upon corporations.

Mr. COPELAND. Mr. President, did the committee give any consideration to the question raised by the junior Senator from Utah?

Mr. SMOOT. As far as the committee was concerned, yes; and I think the committee was nearly unanimous.

Mr. KING. If the Senator will pardon me——

Mr. SMOOT. Nearly so, I say.

Mr. KING. If the Senator from New York means to ask whether the committee gave consideration to the question of reducing taxes upon corporations, yes; but it was not unanimous, because the minority were in favor of materially reducing the taxes upon corporations, whereas the majority are demanding a 13½ per cent corporate tax.

Mr. SMOOT. I understood the Senator to refer to reductions to individuals.

Mr. COPELAND. What I had in mind was this: The Senator has raised a question about the return in certain brackets to individuals. Was consideration given to the return to corporations under this new rate?

Mr. SMOOT. Certainly it was given consideration.

Mr. COPELAND. I mean with a retroactive provision in mind?

Mr. SMOOT. The House provided that it should be retroactive, but the Senate committee decided not to allow it as to corporations, but to allow it to individuals, for this reason: The individual can not pass the tax on, but has to pay it, whereas it is contended by a great many that the corporations knew what the facts were and therefore provided for the tax and passed it on. That was the position taken by the majority of the members of the committee.

Mr. KING. I have stated that I regard retroactive legislation, generally speaking, as unwise. I opposed in the committee applying retroactively any reductions carried in the measures which we were to report, either to individuals or to corporations. I favored reducing the surtax within certain brackets and also favored a material reduction in the corporate taxes. Though I believed that the tax upon corporations was too high and should be reduced, I was unwilling to apply it retroactively. The corporations have adjusted their business activities in the calendar year 1927 to the tax rates provided in existing law. Many corporations have passed on to the consumer the taxes which they knew would have to be paid. Manifestly, it would be unfair to remit a part of the tax for 1927 in view of the fact that many of the corporations collected the same from those with whom they were doing business.

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

Mr. KING. I yield.

Mr. GERRY. Is not the reason for this the fact that the Finance Committee in the last revenue bill underestimated the revenues?

Mr. KING. Undoubtedly.

Mr. GERRY. They increased the corporation tax to 13½ per cent. They have this surplus and now they want to make the law retroactive, but I should like to ask the chairman of the committee how we can very well come to a vote on this section until we know what the surtax rate is going to be? I understand there is an amendment to be introduced by the Senator from North Carolina [Mr. SIMMONS], or perhaps it has been introduced and passed over.

Mr. SMOOT. That would make no difference.

Mr. GERRY. But until that is voted on how can we tell what we are voting to pay back, except on the very general principle that we are going to vote whatever the amendment calls for?

Mr. SMOOT. Whatever retroactive provision may be made in the bill, the money has already been collected and is in the Treasury now.

Mr. GERRY. I understand that perfectly.

Mr. SMOOT. So even if it were more than this it would not come out of the revenues for the coming year. The retroactive feature covers what has already been collected. The Treasury is perfectly willing to have the retroactive feature applied to corporations as well, which would make $82,000,000 more; that is, it would mean a 1 per cent reduction. Therefore the committee decided that the retroactive feature was proper for the individual, but would not agree to the retroactive feature as applied to corporations.

Mr. GERRY. Admitting that the Treasury say, "We made a mistake and now we want to pay this money back," nevertheless what we are doing now is to ask the Senate to vote to make a retroactive provision in the surtax rates when we have not yet decided what those surtax rates shall be.

Mr. SMOOT. Every member of the committee knows that it will make no difference, as a matter of principle, whether we take the minority rate or the majority rate.

Mr. GERRY. That is a matter of theory, but we can not tell what the surtax rate is going to be until after we vote on it, certainly. The minority amendment might be amended on the floor of the Senate.

Mr. SMOOT. It would make just a few dollars difference, no matter which rate is taken.

Mr. GERRY. But suppose another amendment is introduced on the floor of the Senate and is agreed to?

Mr. SMOOT. Then we have ample money to take care of it in the Treasury of the United States, already collected.

Mr. GERRY. It seems to me a very queer procedure.

Mr. SIMMONS. Mr. President——

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

Mr. KING. I yield.

Mr. SIMMONS. I think the situation is about this: We have not up to this time passed a single tax reduction bill in which we have not given the individual taxpayers the benefit of retroactivity as to the previous year. The House did not reduce surtaxes at all, and therefore the House bill had in it no provision similar to this one. But the House bill did provide for a retroactive provision in the case of corporation income taxes. The Senate Committee on Finance did not agree to the House provision with respect to corporations, and therefore the matter will be thrown into conference. But I think both sides of the committee did agree—I think the junior Senator from Utah probably objected, but I am not sure about it—that the deductions made in behalf of individuals should be retroactive.

Mr. KING. No; I agreed to what might be denominated the minority reductions in the surtaxes of individuals, but I was opposed to making them retroactive.

Mr. SIMMONS. That is what I said. I thought the Senator took that position.

Mr. KING. My position was that if we were to make any reductions, as we call them, we should take them off of the corporations. We should take the $25,000,000 that was to be given back to individuals by reason of the retroactive provision, and give that benefit to the corporations by reducing the amount that we would impose upon them from 13½ per cent, which our Republican friends insisted upon, to 13 per cent or 12½ per cent. At any rate, we would give the corporations the benefit of a reduction of $25,000,000.

Mr. SIMMONS. I think the Senator did take that position with reference to corporate taxes.

Mr. SMOOT. The junior Senator from Utah made the broad statement, and has made it on the floor to-day consistent with the statement he made before the committee, that he was opposed to any of the retroactive features of the bill.

Mr. KING. I was opposed to making the tax retroactive, whether benefits or disadvantages.

Mr. SIMMONS. That is what I said. I said I thought the junior Senator from Utah disagreed to the provisions with reference to the retroactivity of the surtaxes upon individuals.

Mr. KING. I apologize. I did not understand the Senator's statement.

Mr. SIMMONS. I simply stated that in every bill we had passed up to this time reducing taxes we had always given the individual taxpayer the benefit of the reduction upon his surtaxes. As to the retroactivity of the bill with reference to corporations, the Senate Committee on Finance did not approve. The House, however, had approved it, and therefore that matter goes into conference. That is about the situation as I understand it. But in that situation, whether the amendment proposed by the majority to the House bill with reference to surtaxes is agreed to or whether that proposed by the minority through myself is agreed to, I think the vote was unanimous in the committee, with the exception of the junior Senator from Utah [Mr. KING], that it should be retroactive.

Mr. KING. I am inclined to think that is correct.

Mr. SMOOT. Yes; that is correct.

Mr. SIMMONS. Now, the Senator from Connecticut [Mr. BINGHAM] made a very pertinent point, which I think will be disposed later, but I think probably it is not pertinent at this time, and that is as to the difference in the effect of the retroactive provision as to surtaxes in the amendment which I propose for the minority as compared with the amendment proposed by the Senator from Utah [Mr. SMOOT] for the majority. The amendment of the Senator from Utah proposes a reduction of surtaxes all along the line up to millions of dollars, while the amendment which I offer only proposes a reduction within certain brackets. That is the only difference between the two propositions.

Mr. SMOOT. I would like to qualify that in this way, that the majority proposition is to have the reduction all along the line down to the $80,000 point, or up, as the case may be.

Mr. SIMMONS. Both up and down. In the Senator's amendment it is both down and up. In my amendment it is only down.

Mr. SMOOT. No; it is not down and up. It is all down from the very beginning where there is a decrease. The only difference between the minority proposition and the majority proposition is this: The minority have arranged their schedule so that when the taxpayer reaches $100,000 he does not get any reduction whatever, whereas the majority amendment gives him whatever the deductions in the brackets down to $100,000 amount to. In other words, under the majority amendment a taxpayer whose income is $100,000 receives a reduction of $440. The taxpayer whose income is $1,000,000 receives only $440. But the minority amendment does not allow him anything from his present tax if he gets above $100,000.

Mr. SIMMONS. I think the Senator has pretty nearly accurately stated it.

Mr. SMOOT. I have accurately stated it.

Mr. SIMMONS. The amendment which I have offered confines the reduction to incomes between $10,000 and $70,000. It does not give the taxpayer above that the benefit of any reduction at all.

Mr. SMOOT. That is exactly what I said.

Mr. SIMMONS. The amendment which the Senator from Utah has offered gives everybody from $20,000 up as high as the income of the taxpayer may go the benefit of the reduction.

Mr. SMOOT. Yes; but over $100,000 he pays straight 20 per cent. The man who pays on $90,000 gets a reduction of $440. The man who pays $5,000,000, if there were any such, would only get a credit of $440; whereas the Senator's amendment provides that he should not get a cent of credit.

Mr. REED of Pennsylvania. Mr. President, will the Senator from North Carolina permit me to ask a question?

Mr. SIMMONS. I have not started to discuss the amendment. I had hoped we would postpone the discussion of the amendment until to-morrow. I was simply referring to a certain statement made by the junior Senator from Utah [Mr. KING] in an attempt to clarify the situation. I do not desire now to enter into a discussion of the amendment itself.

Mr. REED of Pennsylvania. We will let it go over until to-morrow then.

Mr. SIMMONS. I do not think there is any reason why we should not act upon the matter now before the Senate, but as to the proposition as presented by the majority members of the Finance Committee and the minority members of the Finance Committee, I desire to postpone action until the amendment is printed. But the question of whatever surtax scheme of reduction may be provided, whether it should be retroactive or not, I think is an entirely different question and may be acted upon now.

Mr. GERRY. Mr. President, I hope the chairman of the committee will let this matter go over.

Mr. SMOOT. Certainly, if the Senator requests it. I have done that whenever a Senator made such a request.

Mr. GERRY. There are some other Senators who desire to consider it and possibly to discuss it.

The PRESIDING OFFICER. The amendment will go over. The clerk will state the next amendment passed over.

The CHIEF CLERK. The next amendment of the Committee on Finance passed over is on page 219, line 25, where the committee proposes to strike out the words "Such rules of practice and procedure shall have the same force and effect as Federal equity rules" and to insert in lieu thereof the following:

In any proceeding involving the issue whether the petitioner has been guilty of fraud with intent to evade tax, where no hearing has been held before the enactment of the revenue act of 1928, the burden of proof in respect of such issue shall be upon the commissioner.

Mr. SMOOT. I think that was agreed to. However, to be perfectly secure, let us now vote upon it again.

The PRESIDING OFFICER. The question is upon agreeing to the amendment.

The amendment was agreed to.

The next amendment of the Committee on Finance passed over was on page 223, line 17, where the committee proposes to strike out the following provision:

Proceedings instituted after the enactment of this act under section 311 of this act or under section 280 or 316 of the revenue act of 1926 for the enforcement of the liability of a transferee or fiduciary, shall be in addition to and not in substitution for proceedings in court, at law or in equity, for the enforcement of such liability; and the commissioner may cause proceedings for the enforcement of such liability to be instituted either under such sections or in court, in his discretion.

The amendment was agreed to.

The next amendment passed over was on page 227, lines 9 and 10, where the committee proposes to strike out the words "unless within such period suit was begun by the taxpayer," and insert in lieu thereof the following:

unless—(1) within such period suit was begun by the taxpayer, or

(2) within such period the taxpayer and the commissioner agreed in writing to suspend the running of the statute of limitations for filing suit from the date of the agreement to the date of final decision in one or more named cases then pending before the United States Board of Tax Appeals or the courts.

So as to make the paragraph read:

(b) in the case of a claim filed within the proper time and disallowed by the commissioner after the enactment of this act, if the refund was made after the expiration of the period of limitation for filing suit, unless—

(1) within such period suit was begun by the taxpayer, or

(2) within such period the taxpayer and the commissioner agreed in writing to suspend the running of the statute of limitations for filing suit from the date of the agreement to the date of final decision in one or more named cases then pending before the United States Board of Tax Appeals or the courts.

The amendment was agreed to.

The next amendment passed over was, on page 242, after line 17, to insert:

(b) For the purpose of the revenue act of 1926 and prior revenue acts, a trust shall, at the option of the trustee exercised within one year after the enactment of this act, be considered as a trust the income of which is taxable to the beneficiaries, and not as an association, if such trust (1) had a single trustee, and (2) was created and operated for the sole purpose of liquidating real property as a single venture (with such powers of administration as are incidental thereto, including the acquisition, improvement, conservation, division, and sale of such property), distributing the proceeds therefrom in due course to or for the benefit of the beneficiaries, and discharging indebtedness secured by the trust property, and (3) has not made a return for the taxable year as an association.

The PRESIDING OFFICER. The question is on the adoption of the amendment.

Mr. KING. Mr. President, I ask the chairman of the Committee on Finance, or any other Senator, if this provision is not too broad? I call attention to the provision under subdivision 2 of paragraph (b), and particularly on page 243. I shall have to read back in order to get the context. If an individual is selected for the purpose of acquiring, improving, conserving, dividing, and selling a property, and distributing the proceeds thereof "in due course to or for the benefit of the beneficiaries, and discharging indebtedness secured by the trust property," then such individual would be regarded as a trustee?

Mr. SMOOT. I think the Senator would be perfectly correct in the statement he has just made if this applied other than retroactively. Let me read the report of the committee to the Senator, and I think he will understand the matter in a minute.

Mr. KING. This is not intended to be prospective, but merely retroactive?

Mr. SMOOT. It is intended to be retroactive.

Mr. KING. Whether it deals with the future or only with the past there is danger of its being so construed as to cover transactions not contemplated by the Senate. There are many real-estate transactions not yet completed where I am inclined to believe the language of the bill may be so construed as to render immune from taxation enterprises or trusts from which large profits will be received. That the bill will relieve associations or trusts there can be no doubt. How it will operate as to trusts or associations not yet completed it is difficult to predict.

Take a case of a tract of land purchased several years ago for division and sale, the title being in a trustee authorized to handle and subdivide into lots and sell and pay off a mortgage to secure the purchase price. It may require several years yet before he sells a sufficient number of lots to discharge the mortgage. When this is done, then further sales will yield large profits. Is it intended to relieve the beneficiaries of the enterprise from all taxation upon such profits? It will be observed that in this supposed case—and there are hundreds of a similar character—the transaction or scheme covers several years and is projected into the future. How is the matter to be dealt with? What taxes will be paid? Where is the dividing line between the retroactive and prospective features of the business?

Mr. SMOOT. This is a retroactive provision, and if the Senator will notice, he will see that such a situation as he has referred to is taken care of later in this bill so far as that is concerned; and I think there will be no question from now on as to what is going to happen in all such cases.

Mr. KING. I want to be perfectly sure that the trustee who dates the source and limitation of his power to an anterior period shall come within the provisions of this bill for future taxation; that is, will be taxed upon profits made after the bill becomes law.

Mr. REED of Pennsylvania. He will in the future.

Mr. KING. Mr. President, let me ask my colleague and the tax experts on this subject whether in the case which I shall present the profits in the enterprise would be immune from taxation. Suppose that five years ago a tract of land was purchased for a million dollars and conveyed to A to hold in trust, to divide and to sell and pay off an incumbrance placed upon the property, and prior to the passage of this bill he is able to dispose of sufficient land to discharge the incumbrance, and there is still a large amount of property available from which profits will be derived, would that trust, which was created five years ago, be subject to taxation in the future upon the profits hereafter realized?

Mr. SMOOT. Such a property would not be subject to taxation in the past but it would be subject to taxation in the future, I will say to my colleague.

Mr. KING. The question is where are we going to draw the line? Is that a trust in the future, or is it a trust in the past?

Mr. SMOOT. The bill refers to "the taxable year as an association"; in other words, from now on its profits would be taxable as an association or as a corporation.

Mr. KING. I am not sure, Mr. President. I have no objection to giving some retroactive benefits in cases of certain trusts, because of the uncertainty and dubiety which heretofore has existed; but in the case which I have just put, if the profits are in futuro, and will be realized by those who formed the trust, I think they ought to be subject to taxation.

Mr. REED of Pennsylvania. Mr. President, under the bill as it now stands they will be. This language refers only to taxes which were due under the 1926 law and its predecessors. Under this proposed law taxes will be assessed against the trustee as if the individual were a corporation, so that there will be no doubt for the future.

Mr. COUZENS. Mr. President, I should like to suggest to the junior Senator from Utah that if the corporation which he has described was organized five years ago the trustee will have a year during which time he may exercise the option of having the income taxed to the beneficiaries of the trust or as an association. Having once exercised the option, he remains under that classification until the property shall have been liquidated.

Mr. REED of Pennsylvania. No, Mr. President; he has a year to exercise his option as to which method of taxation shall be adopted for the earnings during the year 1927 and prior years, but he has no option for any length of time as to the method of accounting to be adopted for 1928 and subsequent years.

Mr. COUZENS. Even though the corporation had been organized five years ago?

Mr. REED of Pennsylvania. No matter when the corporation was organized.

Mr. KING. I should want to be certain that the costs and expenses in the preceding years would not be a charge against the profits which would be made in the future. I would want the trustee to stand in the same situation as if an association or trust were formed after the passage of the act, and pay the same tax on the profits of the enterprise as if the organization to take over a scheme of this kind were formed after the passage of the act.

Mr. REED of Pennsylvania. There can be no doubt about that, Mr. President.

Mr. KING. If there can be no question I shall be satisfied.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The next amendment passed over was, on page 243, after line 21, to strike out:

SEC. 707. BUREAU OF INTERNAL REVENUE—PERSONNEL.

(a) The Secretary of the Treasury is authorized to fix the compensation, without regard to the provisions of the classification act of 1923, of the following officers and employees of the Bureau of Internal Revenue appointed (whether before or after the enactment of this act) in accordance with the civil service laws: Twenty-three assistants to the general counsel at a compensation not in excess of $7,500 a year each; 26 administrative or technical employees at a compensation not in excess of $7,500 a year each; and 50 administrative or technical employees at a compensation not in excess of $6,000 a year each.

(b) Section 1201 (b) (1) of the revenue act of 1926 is repealed.

Mr. SMOOT. Mr. President, I understand the Senator from Mississippi [Mr. HARRISON] desires that amendment as well as the amendment covering section 707 relating to the salaries of collectors of internal revenue to go over. I will ask the Senator from Mississippi if I am correctly informed?

Mr. HARRISON. Yes; for the present I think it would probably be better to have them go over. Is the Senator going to insist on the amendment striking out the House provision?

Mr. SMOOT. I think that I can explain it to the Senator, so that he will be perfectly satisfied with the action of the committee.

Mr. HARRISON. I think it had better go over.

Mr. SMOOT. I can explain it at this time or I can do so to-morrow; I do not care which.

Mr. COUZENS. Mr. President, I think before we strike out that section we ought to have some action on the bill which the Senator described to the committee under which the personnel is to be taken care of. I should not feel disposed to vote to strike out that provision and then have fail the bill which the Senator has introduced and which has not as yet been acted on.

Mr. SMOOT. The House is going to act on that bill.

Mr. COUZENS. We do not know what the House may do or what the Senate may do. I have no assurance that this body is going to take action on the bill, because of the late hour we have reached in the session.

Mr. SMOOT. I do not think there is any question in the world about action being taken on the bill to which I have referred. If I did, I would not stand here and say that the provision in this bill should be stricken out.

Mr. COUZENS. I am not questioning the Senator's sincerity; but I should like to see some action on the bill to which he has referred, and the committee has not acted on it as yet.

Mr. SMOOT. The reason the committee has not acted on it I will state frankly is this: The chairman of the committee came to me day before yesterday, on Saturday, and asked me whether the committee should report the bill out. I said to the chairman, "I do not think the committee had better do so because the House has before it a bill which is identical, word for word, with three additional provisions, and it would be better for us to allow the House bill to come here and not report my bill, but report the House bill." That is why the committee has not acted, as I understand.

Mr. COUZENS. May I ask the Senator when, in his judgment, that bill will come before the Senate?

Mr. SMOOT. Within the next couple of days, I assume.

Mr. COUZENS. I should like to suggest, before the Senate agrees to the elimination of this provision, that we see what the House does with that bill. We have time enough to consider the matter after the Senate shall have passed on the question of rates.

Mr. SMOOT. I know what the House is going to do, because they have a rule for the consideration of that bill, but I do not know just what day it is coming up. If the Senator desires, however, I will give him a copy of the bill that the House is going to pass.

Mr. COUZENS. I see no necessity of haste in agreeing to the elimination of this section of the pending bill until after we shall have fixed the rates.

Mr. SMOOT. The bill referred to is satisfactory to the President, it is satisfactory to the Secretary of the Treasury, and I might add that it is satisfactory to the representatives of the employees of the Government. I do not know of any objection to it.

Mr. COUZENS. It will be satisfactory to me when it is an accomplished fact.

Mr. SMOOT. It will be an accomplished fact.

Mr. HARRISON. Does the bill to which the Senator refers provide for taking care of the employees named here?

Mr. SMOOT. It provides for 80 of them out of the 99, and the Treasury Department says that they can get along with that number.

Mr. HARRISON. The bill referred to then merely provides for those in the classified service?

Mr. SMOOT. That is all.

Mr. HARRISON. Then the unfortunates working with the Court of Claims, who are getting $5,000 a year, can not be taken care of in that bill?

Mr. SMOOT. That is true.

Mr. HARRISON. Then I shall insist that they be taken care of in this bill.

Mr. SMOOT. That is all right. Such an amendment can be offered to-morrow.

Mr. HARRISON. I know the Senator is in entire sympathy with me.

Mr. SMOOT. Absolutely; there is not any question about that; but they are not in the classified service.

Mr. GEORGE. I should like to have section 707 considered and acted on this afternoon.

Mr. SMOOT. If the Senator from Mississippi [Mr. HARRISON] wishes that done, I have no objection.

Mr. GEORGE. I understand the position of the Senator from Mississippi is that certain officials of the Court of Claims are not taken care of. This has nothing to do with them.

Mr. SMOOT. Nothing whatever.

Mr. GEORGE. The position of the Senator from Michigan is that the preceding section ought not to be stricken out unless the bill which the Senator from Utah has introduced or the amendment he has suggested to the Welsh bill shall be finally enacted. Section 707 relates entirely to the salaries of collectors of internal revenue.

Mr. SMOOT. I have no objection to the provisions of section 707.

Mr. GEORGE. That section has no bearing upon the contention made by the Senator from Mississippi.

Mr. SMOOT. I understood the Senator from Mississippi asked that that amendment go over.

Mr. COUZENS. The Senator from Mississippi, I think, does not object to section 707 being adopted because his amendment would not apply to that section.

Mr. GEORGE. It would have no application to it.

Mr. SMOOT. I should be glad to have it taken up if there is no objection.

Mr. KING. I am opposed to that amendment.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 244, after line 18, it is proposed to insert:

SEC. 707. SALARIES OF COLLECTORS OF INTERNAL REVENUE.

Section 1301 (b) of the revenue act of 1918 is amended to read as follows:

"(b) The salaries of collectors may be readjusted and increased under such regulations as may be prescribed by the commissioner, subject to the approval of the Secretary, but no collector shall receive a salary in excess of $7,500 a year."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. GEORGE. Mr. President, section 707, which has just been read by the clerk, simply authorizes the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, to readjust and to increase the salaries of the internal-revenue collectors in the several districts throughout the United States, but to a sum not exceeding $7,500 per year.

These collectors now are limited in salary to a sum not exceeding $6,000 per year. Many of them, of course, have whole States, large territory. In most instances they render a very valuable service to the taxpayers of the States, and a salary of $6,000 is not adequate for the man who collects the internal revenue of a whole internal-revenue district in the country. He ought at least to be entitled to have, if the Commissioner of Internal Revenue and the Secretary of the Treasury approve, a salary equal to the highest salary paid under the classified service, which is $7,500 per year.

This section merely authorizes a readjustment and an increase of salary for these field internal-revenue agents up to $7,500, and not in excess thereof. At the present time they are limited to a salary not exceeding $6,000. The section does not mean that the internal-revenue collector's salary in every instance would be increased to $7,500, but the maximum salary

may be fixed at $7,500, in the discretion of both the Commissioner of Internal Revenue and the Secretary of the Treasury.

Mr. KING. Mr. President, I know it is an ungracious task to oppose increases in salaries. The other day the Senate considered the so-called retirement bill. It has frequently been claimed that under the retirement system now in force the Government would not be called upon to pay any part of the annuities.

The Government has already paid millions of dollars into the retirement fund, and figures submitted by actuaries indicate that at the end of 30 years the Government will be called upon to pay hundreds of millions of dollars into the retirement fund and, of course, will be required to pay several millions of dollars annually during that period. My colleague just stated that a bill will be reported in a day or two increasing the salaries of Federal employees. The pay roll of the employees covered by the retirement act amounted on July 1, 1927, to $798,000,000. That huge sum did not meet all the salaries and the compensations of all persons employed by the Government. There are many individuals receiving compensation from the Government who are not within the provisions of the retirement act. It is safe to say that the Government will pay during the next fiscal year considerably more than eight hundred millions of dollars in salaries and compensations to its employees.

The estimated receipts for the Government for the next fiscal year—1929—are $3,854,700,000. It will be perceived that a very large part of the entire revenue from all sources will be consumed in paying the employees of the Government. It has been said that the cost of running the Federal Government is greater than that of any government in the world. We are constantly increasing the number of bureaus and Federal agencies and multiplying personnel. Appeals are constantly made for increases in salaries, and these appeals are not denied. Only a few years ago the reclassification act was passed, increasing very largely the salaries of Federal employees. But with each demand responded to, other demands quickly follow. Scarcely any opposition is encountered and we spend much of the time of Congress in dealing with the compensation of Federal employees.

The Senator from South Dakota [Mr. NORBECK], when the retirement bill was under consideration a few days ago, suggested that before fixing the amount of retirement to be paid employees there should be some relation between the amount of the earnings of the farmers of the country. It is known that the wages of the farmers, the clerks in the stores throughout the country and in the banks, and the millions of wage earners are much less than many of the Federal employees. I am not challenging attention to these matters for the purpose of expressing disapproval of the retirement bill or opposing reasonable compensation to employees of the Government, but I do feel that Congress in providing revenue should take into account the enormous demands which are made upon the Public Treasury. I believe that this is not the time for a general increase in salaries in all branches of the Government. In my opinion there are many salaries which are too high and in various grades the compensation is too low.

But, Mr. President, we are attempting by this bill to provide revenue for the future. We must consider what demands are made upon the Government and provide revenue adequately to meet the same. During the past few weeks I have had some doubts as to the wisdom of passing any tax bill because of the increasing demands for appropriations, some of these demands aggregating hundreds of millions of dollars. Before Congress met in December I believed that taxes could be reduced to the amount of $400,000,000. If Congress had acted prudently and economically, instead of a tax bill calling for $200,000,000 reduction, we could have safely enacted a revenue law reducing the tax burdens at least $400,000,000. However, there are now before the Congress a number of bills which, if enacted into law, will justify Congress in pausing before passing any tax bill. We may, however, perceive the impropriety of acceding to these enormous demands and adjourn Congress without stripping the Treasury or producing a situation precluding a tax reduction bill which will prove of some advantage to the country.

The Senator from Georgia [Mr. GEORGE] desires to increase the salaries of the collectors. Mr. President, I venture the assertion that for every collector appointed the Senators or Congressmen from their respective districts had many applicants for the same position. If every collector should resign tomorrow, Senators and Congressmen would be flooded with petitions and telegrams from hundreds of applicants for the vacated positions. It is not necessary to increase Federal salaries to secure competent men.

The Federal employees in the main are getting larger compensation than individuals in the private activities of life throughout the country. I think that the salaries now paid to collectors are ample. There is no reason for increasing the salaries at this time. If we continue increasing the salaries, next year we shall be paying in salaries to Federal employees $1,000,000,000, and in a few years the amount will be, of course, very much greater. That means increased taxes.

If Congress continues its present policy of creating new Federal agencies with their necessary personnel and extending the activities of the General Government into various fields of business and into the domain which belongs to the States, there will be no hope of future tax reductions. Indeed, the taxes for the fiscal year 1930 will be increased.

And where will the revenue come from? Shall we impose a sales tax? That is desired by some. They would tax consumption instead of wealth. To me that is reprehensible. I do not believe in consumption taxes if it is possible to avoid them. In case of war they are justifiable. Our future revenues will be derived largely from income taxes upon individuals, corporate taxes, and death dues or estate taxes.

There is a determination to abolish death dues and inheritance taxes and estate taxes; and if we abolish the Federal inheritance tax, and the great propaganda in favor of so doing may be successful, there will be an insistent demand for the abolition of any form of death dues in the States. Florida imposes no estate taxes, nor does Alabama or the District of Columbia or Nevada. There is tremendous propaganda in favor of an abolition of all Federal inheritance taxes or estate taxes; and, as I state, when that is accomplished there will be tremendous pressure to abolish all forms of State inheritance taxes. The Federal Government will have to rely principally upon the income taxes and taxes upon corporations.

If we investigate the matter, the figures will demonstrate that more and more there is a diffusion of corporate stock. In many of the great corporations from 30 to 40 or 60 per cent of the stock is held by persons having small holdings. Many employees of corporations are the owners of no small portion of the aggregate corporate stock of their employing company. An examination of the record shows the dividends paid by corporations will prove surprising, as it will reveal a large number of persons of small incomes who are paying taxes out of dividends which they have received from corporations. When we increase corporate taxes we are imposing taxes not upon persons of great wealth, but upon hundreds of thousands of people of limited means.

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

Mr. KING. I yield.

Mr. COPELAND. Does the Senator think that we would be justified this year in reducing the tax on corporations to about 10 per cent?

Mr. KING. Mr. President, in October, when I came to Washington, I prepared a bill reducing the tax upon corporations to 10 per cent, and in interviews which I gave at that time I stated that we ought to reduce the corporate tax to 10 per cent; but the situation has changed, and I fear that it would be unsafe to make so great a reduction. The enormous appropriation bills which we are passing, the demands which are being made upon the Federal Treasury, seem to forbid a reduction of corporate taxes to 10 per cent, much as many of us would like to see done. No one—and I say it with the utmost good will—seems disposed to challenge any of the appropriation bills. They come here, carrying hundreds of millions of dollars, and pass with scarcely a word of debate and with but slight opposition.

Mr. COPELAND. I hope the Senator will not follow the Senators on the other side and propose a rate as high as 12½ per cent.

Mr. KING. Indeed I shall not.

Mr. COPELAND. Because I fully agree with the Senator that nothing can do the country more good than to reduce the corporation tax.

Mr. KING. I agree with my friend.

Mr. COPELAND. I should like to see it brought down to 10 per cent.

Mr. KING. I share the Senator's views; and if we had practiced economy we could have reduced the corporation tax to 10 per cent and then would have had something in the Treasury at the end of the year and would have had no deficit.

Mr. COPELAND. If the Senator will bear with me again.

Mr. KING. Yes.

Mr. COPELAND. Many of the expenditures that we are talking about or proposing are not immediate. Does not the Senator feel that with the bad guessing on the part of the Treasury we might be justified in reducing the corporation tax to 10 per cent and still be within the bounds of reason?

Mr. KING. Mr. President, when we come to deal with the question of revenue I feel that there should be no partisanship,

and no attempt to play politics. We must face the situation, unpleasant as it may be. Congress is, in my opinion, too generous in its appropriations, and is now acting unwisely in its expenditures. But if appropriations are made—no matter how improper and profligate they may be—provision must be made to meet them. There should be no deficit. In view of the extravagance and unwise appropriations made and to be made before we adjourn, I confess that I look with some apprehension upon any proposition calling for a great reduction in taxes for the coming year.

Mr. COPELAND. Mr. President, will the Senator bear with me a moment?

Mr. KING. Certainly.

Mr. COPELAND. Let us for just a moment review the situation. I remember when the colleague of the Senator said we could not have a bonus and have tax reduction, and various estimates were made. There was a gloomy prediction by the senior Senator from Utah, and at various times since then the Treasury has made estimates about what the surplus would be, or what the deficit would be, as the case might be but, as a matter of fact, the guesses of the Treasury have invariably been so far wrong that the aggregate of them is in the billions. I believe the country demands lower taxes. When you think that practically one-ninth of all the earnings of our people are spent for taxes in this country, there is no question but that the country demands lower taxes, and there must be found a way to bring that about.

Mr. KING. Let me say to my friend from New York that for the next year the Federal expenditures will be between four and five billions, and county, State, and municipal expenditures will be between seven and eight billion dollars. There will be expenditures aggregating approximately $12,000,000,000. So that more than one-ninth of the earnings of all the people of the United States will be consumed in taxes—Federal, State, and municipal.

Mr. COPELAND. I think last year, if the Senator will bear with me, the Federal taxes amounted to about $4,000,000,000, the State taxes to one billion, and the local taxes to five billions, making in all $10,000,000,000, against an earning production on the part of our people of ninety billions. So that it was one-ninth last year, and now the Senator anticipates that a still larger sum will be spent in taxes in the aggregate.

Mr. KING. Mr. President, I have detained the Senate longer than I had intended. I rose to briefly reply to the Senator from Georgia.

I regret that this amendment is before us. I do not like to oppose measures increasing salaries, but have felt constrained to do so upon several occasions. I wish higher wages could be paid to those who toil and that labor generally could receive higher rewards. Yet when we are paying more than $800,000,000 of our taxes this year for Federal salaries—and we will add to that list before we adjourn at least $30,000,000 more—and when I examine the measures calling in the aggregate for billions of dollars from the Federal Treasury, I confess that I look with some degree of apprehension upon our future fiscal policies and the general course of our country in its dealing with national problems.

If we continue the present policies we will soon be compelled to increase taxes. It will be inevitable. And where will the increase begin? Obviously on corporations and incomes. There will be no general sales tax, and excise taxes will not be tolerated. So there will be but a limited number of springs from which to draw. The tax on tobacco in its various forms is enormous. Perhaps four or five hundred million dollars will be collected next year from this source. The receipts from our customs duties will be between five and six hundred million dollars. Then we must rely upon income and corporate taxes for the residue of our demands.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. SMOOT. Mr. President, that concludes all of the amendments except those that were passed over to-day, and nearly all of those involve rates. Therefore I now ask that the bill be temporarily laid aside.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

DIVERSION OF COMMERCE FROM UNITED STATES PORTS

Mr. WALSH of Massachusetts. Mr. President, I ask unanimous consent to call up Senate Resolution 220, relating to the diversion of commerce from United States to Canadian ports.

Mr. CURTIS. Mr. President, this is a resolution which has come over from a previous day, and I would like to have it disposed of. I understand there is no opposition to it.

Mr. KING. Let it be read.

The PRESIDING OFFICER. The resolution will be read.

The Chief Clerk read the resolution (S. Res. 220) submitted by Mr. WALSH of Massachusetts on the 3d instant, as follows:

Whereas during the past 10 years there has been diversion of commerce from United States ports to Canadian ports, particularly in grain and other farm products, so great as to threaten the foundation of the future commerce and prosperity of the ports of the United States and to affect seriously the agricultural and transportation interests of this country, including the development of its merchant marine;

Whereas this diversion of commerce is the result of (1) more favorable railroad rates between points in the United States and Canadian ports than between the same points and United States ports, (2) more stringent regulations as to grading and inspection of grain at ports of the United States than at Canadian ports, especially the higher grain standards and the dockage rules of the United States, (3) the preferential customs regulations of Canada, giving lower tariffs on products imported into Canada directly through Canadian ports than on those routed through ports of the United States, and (4) the preferential schedules of other parts of the British Empire, imposing lower duties or more favorable regulations on products of the United States routed through Canadian ports than on those shipped from United States ports; and

Whereas the adoption by Congress of constructive legislation to meet these conditions is imperative and depends on the solution of problems within the respective provinces of the Department of State, the Department of Agriculture, the United States Shipping Board, and the Interstate Commerce Commission: Therefore be it

Resolved, That the Secretary of State, the Secretary of Agriculture, the United States Shipping Board, and the Interstate Commerce Commission are requested (1) to investigate, in cooperation with each other, the factors which are contributing to the diversion of commerce from ports of the United States to Canadian ports and practicable remedies for preventing such diversion, and (2) to report thereon to the Senate at the beginning of the next regular session of the Seventieth Congress.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

Mr. WALSH of Massachusetts. Mr. President, for some weeks Senators from the States of Maryland, Pennsylvania, Virginia, New York, Maine, and Massachusetts have been in conference in reference to the decline in exports from the Atlantic seaports, particularly in grain and other farm products. It is a condition which threatens seriously our future commerce. The result of these conferences, which were participated in by representatives of maritime organizations, has led to the presentation of the resolution which is now before the Senate.

The country should be brought to a full realization of the conditions and Congress should undertake to apply a remedy. The conditions are beyond dispute. The factors which are contributing to them are manifest. The remedies are available. I propose briefly to consider these three aspects of the problem.

First, as to the facts of the diversion of our own export trade to Canadian ports. The figures are fairly startling.

Grain shipments from the port of Montreal for the 12 months ending March 31, 1927, aggregated 122,000,000 bushels. Of this, 75,000,000 bushels was Canadian grain and 47,000,000 bushels United States grain. In other words, practically 40 per cent of all the grain exported through the port of Montreal for that year was of United States origin.

Taking the different grain commodities separately, nearly 35,000,000 bushels of United States wheat were shipped through the port of Montreal during the year ending March 31, 1927, as compared with 25,000,000 bushels of our wheat shipped through Montreal during the year ending March 31, 1922.

In 1922 Montreal handled less than a million bushels of Canadian rye and not quite 6,000,000 bushels of United States rye. In 1927 shipments of Canadian rye through Montreal have substantially declined to half a million bushels, and shipments of United States rye have increased to seven and a half million bushels.

In 1922, 7,000 bushels of United States barley passed through the port of Montreal. In 1927 a million and eight hundred thousand bushels of United States barley passed through that port.

Now, let us see what has been happening to grain shipments through United States ports in recent years.

In 1906 there were exported through the port of Boston 18,000,000 bushels of United States grain. In 1916, 33,000,000 bushels of United States grain passed through the port of Boston. And in 1926 less than 4,000,000 bushels of United States grain were exported from Boston.

In 1923 the export tonnage from Portland, Me., approximated 625,000 tons. In 1926 it was only 266,000 tons.

In 1913, 111,000,000 pounds of pork products and lard were exported through Boston, but now this business has practically

disappeared, and the export business which Portland and Boston and other north Atlantic ports have lost is now moving through Montreal and other Canadian ports.

Three factors have contributed materially in the transfer of this export business from United States ports to Canadian ports.

First and foremost is the matter of railroad rates. Montreal enjoys a 2-cent rail differential under the New York rates. Differentials also apply in favor of the ports of St. Johns and Halifax.

That Canada's intention is to further increase her own export business at our expense is well indicated by the recent request for a rate reduction ordered by the Railway Commission of Canada in the rail haul from Buffalo, N. Y., to St. Johns, a distance of 1,185 miles. Grain may then be hauled for the same money that is paid to move it from Buffalo to New York, a distance of only 425 miles.

A second factor in promoting the diversion of export shipments of United States grain through Canadian ports is the difference between the Canadian regulations and United States regulations relative to the grading and inspection of grain. The United States regulations are promulgated by the Secretary of Agriculture, in accordance with the United States grain standards act, and Canadian regulations are imposed in accordance with the Canada grain act of 1912. I do not intend at this time to go into the details of the differences in the two sets of regulations. Suffice it to say that our own regulations set up exacting standards which are rigidly enforced, and the Canadian regulations, so far as they apply to United States grain shipments, are very liberal indeed. A detailed examination of the Canadian regulations discloses that while they are rigid enough with respect to their own grain shipments, they offer to the shipper of United States grain much greater latitude in the matter of inspection.

At the present time, under our own Federal regulations governing grading and inspection of grain, 2 per cent is deducted for dockage on all United States grain exported through the north Atlantic ports. In the case of United States grain handled through Canadian ports for export, no such deduction is made. This deduction approximates a loss of 3 cents per bushel on United States grain shipped through our own seaports. The term "dockage" as applied in the grain trade means foreign material which is intermingled with the grain itself.

The third factor which has contributed to the upbuilding of Canadian ports has been the preferential customs and regulations of Canada, Great Britain, and Australia. The constant vigilance and alertness of our neighbors to the north has resulted in the enactment of legislation highly beneficial to their own port developments and very detrimental to our own ports. Canada allows preferential duties on all merchandise destined for Canada which is routed directly through Canadian ports.

Great Britain has a regulation which provides in substance that cattle shipped from a Canadian port are admitted to the United Kingdom for feeding purposes, while cattle from the United States must be slaughtered in quarantine within 10 days after arrival at a port in the United Kingdom.

In 1912, prior to the enactment of this legislation, 26,730 cattle were exported through the port of Boston. Last year not a single head of cattle was shipped through that port. Statistics of other ports show similar declines.

Since January 1, 1927, products from the British Empire destined for Canada, but routed through the United States, are not entitled to the rates of the British preferential schedule of the Canadian tariff.

Only recently a shipment of canned meat from the Argentine to Canada was diverted from one of our north Atlantic seaports, even though the shippers were willing to patronize the United States Shipping Board's American Republic Line, but because of the 10 per cent discount in customs duty if forwarded to Great Britain and then transshipped to Canada the Shipping Board's vessels did not carry the goods.

Australia is putting into effect a similar series of regulations which is affecting the business of our Pacific coast ports.

The Maritime Association of the Port of New York, the Ocean Traffic Bureau of the Port of Philadelphia, and other organizations have protested these various regulations.

Prior to the establishment of the Canadian aggressive policy of protection there was maintained in Portland, Me., a water service to Liverpool, Glasgow, London, Leith, Newcastle, and Havre. Now they have only the Newcastle service.

Congress ought to take cognizance of this situation and do what it can to enable our own ports to recover the trade which is being taken away from them. It is a subject which is part and parcel of our whole merchant-marine policy. It is axiomatic that adequate cargoes are quite as necessary as the ships themselves in the development of a merchant marine under the American flag. The economic health of our seaports is being undermined and our commercial independence is jeopardized. It involves the question of rail and water rates and raises questions of foreign policy.

What are the remedies? Some readjustment of our own freight rates will undoubtedly be necessary. Such readjustments can be made and ought to be made without further legislation. Our own regulations in the matter of grain inspections and grain standards ought to be so modified that there shall be no handicap imposed on the shipments of our own grain passing through our own ports. If the United States shipper can escape the dockage charge by shipping by Montreal, we can not expect him to submit to that deduction at the port of New York.

Perhaps we ought to enact a preferential customs regulation favoring our own ports for our protection similar in character to the preferential treatment which Canada gives to her imports. There is no question that a very large volume of business is now moving into the United States via Canadian ports. We have the means at hand to bring these imports to us direct through our own ports, and we ought to do this in the interest of the prosperity and welfare of our own country.

Nothing more need be said to indicate that the problem is of vital importance to our agricultural as well as our transportation interests both by land and sea. Measures have been proposed in both Houses which should be studied and, if possible, a constructive legislative program presented for enactment. To this end I have presented this resolution calling for a study of this whole subject by the four departments of the Government whose functions are interrelated with this problem, and ask for its immediate favorable consideration.

Mr. REED of Pennsylvania. Mr. President, I hope the Senator's resolution will be adopted. It suggests the necessity of information upon a condition of affairs which is increasingly difficult, not only for the ports on our eastern seacoast but for the farmers of most of the United States. At the present time—and I mean to speak but a sentence—the trade in grain normally belonging to American ports is being deflected to Canadian ports, to the joint injury of American shippers, American port exporters, and American farmers. I hope the resolution will be adopted.

Mr. COPELAND. Mr. President, I think the Senator from Massachusetts is to be commended for bringing this matter so forcibly to the attention of the Senate. It is a serious matter when we find 93,000,000 bushels of American grain diverted from American ports and sent to Canada, and the purpose the Senator has in mind, I have no doubt, is that these various administrative heads of departments will confer and bring about a solution. I think the Senator is to be thanked in the name of every American for his energetic action.

Mr. HALE. Mr. President, I want to say a word about the resolution of the Senator from Massachusetts. My home city of Portland, Me., used to be one of the great grain-shipping ports of the country. That business is practically gone now, and we ship very little grain now out of the port of Portland. It has gone to Canada. The matter certainly requires investigation, and I very much hope the Senator's resolution will be agreed to. I will not say more lest I delay the Senate in taking action before it adjourns to-night.

The PRESIDING OFFICER. The question is on agreeing to the resolution of the Senator from Massachusetts.

The resolution was agreed to.

The PRESIDING OFFICER. Without objection, the preamble is agreed to.

MEMBERS OF SAME FAMILY IN GOVERNMENT SERVICE

Mr. BLEASE. Mr. President, I desire to call up a resolution coming over from a previous day.

Mr. CURTIS. Mr. President, I hope the resolution may be considered to-night.

The PRESIDING OFFICER. The resolution will be read.

The Chief Clerk read the resolution (S. Res. 226) submitted by Mr. BLEASE on the 5th instant, as follows:

Resolved, That the heads and chiefs of any and all the various departments, bureaus, commissions, and other establishments of the United States Government be, and the same are hereby, directed and required to forward, on or before the 3d day of December, 1928, a report to the Senate, setting forth with particularity the names and addresses of any and all husbands, wives, and other members of the same immediate family employed in the Government service, together with the place of such employment, the salary received by each therefrom, the date of appointment to the said service, and by whom made.

Resolved further, That any person or persons failing or refusing to make the said report as hereinabove directed, or making a false state-

ment in reference to any item or items thereof, shall forthwith be adjudged in contempt of the Senate, and shall suffer therefor such penalty or penalties as may be prescribed.

Mr. CURTIS. Mr. President, I desire to ask the Senator about the last clause in his resolution. I doubt if we have the right to include such a penalty in the resolution. I would suggest to the Senator that he eliminate the last clause.

Mr. BLEASE. Very well; I have no objection to striking out the clause referred to.

Mr. REED of Pennsylvania. Mr. President, was the resolution introduced to-day?

The PRESIDING OFFICER. No; it is a resolution coming over from a preceding day. The last resolve is stricken out.

Mr. CURTIS. Let the resolution as modified be read.

The PRESIDING OFFICER. The resolution as modified will be read.

The Chief Clerk read the modified resolution.

Mr. REED of Pennsylvania. Mr. President, let us stop for just a moment to consider what that means. As the resolution now reads, it would require the Secretary of War to find out from every one of the 120,000 enlisted men and 12,000 officers whether they had any wives or sons or daughters in the service of the Federal Government anywhere.

Mr. BLEASE. Not at all.

Mr. REED of Pennsylvania. That is just what it would mean.

Mr. CURTIS. I do not believe that is the intention. I think the resolution refers only to clerks employed in the various departments.

Mr. REED of Pennsylvania. Then the resolution ought to say so. It requires the head of every department to furnish such a list, and that includes the head of the War Department.

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

Mr. REED of Pennsylvania. I ask that it may go over so that we may consider its wording. I am sure the Senator does not mean to require any such thing as I have suggested.

Mr. BLEASE. I am willing that it should go over to enable the Senator from Pennsylvania to give it consideration.

The PRESIDING OFFICER. The resolution will go over.

PUBLIC HEALTH SERVICE

Mr. JONES. I send to the desk a conference report and ask for its immediate consideration.

The report was read, as follows:

The committee of conference on the disagreeing votes of the House on the amendments of the Senate to the bill (H. R. 11026) to provide for the coordination of the public-health activities of the Government, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 14.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 16, 17, 18, 19, 20, and 21, and agree to the same.

Amendment numbered 15: That the House recede from its disagreement to the amendment of the Senate numbered 15, and agree to the same with an amendment, as follows: In lieu of the matter proposed to be inserted by said amendment insert the following: "*Provided*, That the term of service of the Surgeon General of the Public Health Service shall be for four years: *And provided further*, That no person who has served for a period of eight years either before or after the passage of this act shall be eligible for reappointment as Surgeon General"; and the Senate agree to the same.

W. L. JONES,
CHARLES L. MCNARY,
DUNCAN U. FLETCHER,
Managers on the part of the Senate.
JAMES S. PARKER,
CARL E. MAPES,
CLARENCE F. LEA,
Managers on the part of the House.

Mr. KING. Mr. President, I would like to ask the Senator to explain the recessions of the Senate conferees.

Mr. JONES. The Senate recedes from the amendment on page 5, striking out the words "if selected from commissioned officers of the regular corps." That indicated that selections must be made from the regular corps. The Senate receded because we thought that it ought to be open for the President to select outside if he desires.

The modification of the House provision is where it reads that "The term of the Surgeon General shall be for four years unless sooner relieved and returned to the grade and number of the regular corps that he occupied previous to his appointment as Surgeon General." The committee left out the words "unless sooner relieved and returned to the grade and number of the regular corps that he occupied previous to his appointment as Surgeon General." We leave in the provision that no one shall serve more than eight years.

Mr. KING. It does not attempt to fix his status after he is relieved from service?

Mr. JONES. No; it does not.

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

The report was agreed to.

SALE OF PRISON-MADE GOODS

Mr. METCALF. Mr. President, I ask unanimous consent to have printed in the RECORD an editorial appearing in the New York World entitled "A bad plan for a good cause."

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

A BAD PLAN FOR A GOOD CAUSE

A measure pending before Congress, known as the Hawes-Cooper bill, furnishes another example of the tendency to extend the powers of the Federal Government over the States in the administration of their local affairs. This measure aims at the exclusion of prison-made goods from interstate commerce. It would deprive such goods of their interstate character when shipped from one State to another by making them subject to the regulations of the States into which they are sent.

A number of States have attempted in the past to impose severe restrictions on the sale of prison-made goods, but such laws have been held to be unconstitutional in so far as they affected commerce between the States. The Hawes-Cooper bill proposes to meet the constitutional objections by having the Federal Government delegate to the States the right to regulate this kind of commerce.

As we are in full sympathy with most of the efforts to prevent competition between the products of convict labor and free labor, we find it difficult to oppose a measure conceived with this purpose. Yet the States face many difficult and diverse problems in dealing with their prison populations, and we should be loath to see their troubles multiplied by this invocation of the Federal power. If there were grave abuses the situation might be different, but the amount of prison-made goods entering into interstate commerce is relatively small and their exclusion would have little effect on general trade. Whatever advantage might accrue from the exclusion of prison goods from competition with others would probably be more than counterbalanced by this further encouragement of Federal interference in the domestic affairs of the States.

COTTON-PRICE PREDICTIONS

Mr. HEFLIN. Mr. President, I ask unanimous consent for the present consideration of Calendar 866, the bill (S. 3845) to prohibit predictions with respect to cotton prices, in any report, bulletin, or other publication issued by any department or other establishment in the executive branch of the Government.

Mr. CURTIS. Let the bill be read.

The PRESIDING OFFICER. The bill will be read.

The Chief Clerk read the bill.

Mr. HEFLIN. The word "grain" has been stricken out and it only applies to cotton. The Senator from Rhode Island [Mr. METCALF] wanted to have an opportunity to look into it. He has done so and I do not think he has any objection to its consideration now.

Mr. SHORTRIDGE. Mr. President, the Senator from California is somewhat interested in the matter.

Mr. HEFLIN. The Senator from California, I am sure, when he understands it, will agree with me. It provides a penalty for the prediction of prices of cotton. I am sure nobody wants to give the power to any department to predict prices either up or down. It is a dangerous power. We have provided in the Agricultural Department appropriation bill that this must not be done, but there is no penalty. In every other such instance there is a penalty. The bill for which I am asking consideration provides a penalty for the violation of the law prohibiting the making of predictions as to prices of cotton up or down. That is all it does. The Senator is interested in the cotton question?

Mr. SHORTRIDGE. I am, indeed.

Mr. HEFLIN. I am anxious to get it through so the House may give it consideration.

Mr. SHORTRIDGE. I shall have to object for the moment.

The PRESIDING OFFICER. Objection is made.

Mr. HEFLIN. Mr. President, I give notice that on to-morrow I shall discuss this question, the flag question, and the candidacy of Governor Smith for the Presidency. I shall consume some time in discussing those questions. I do not propose to have this cotton bill objected to first by one Senator

and then another. It looks like a concerted effort to defeat it. I want everything that is against it to be brought out in the open. I am going to insist on doing that.

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 five 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 noon.

The motion was agreed to; and the Senate (at 5 o'clock and 15 minutes p. m.) took a recess until to-morrow, Tuesday, May 8, 1928, at 12 o'clock meridian.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 7 (legislative day of May 3), 1928

POSTMASTERS

IDAHO

Peter W. McRoberts, Twin Falls.

MAINE

Roy A. Evans, Kennebunk.
Lyman E. Stinson, Stonington.

NEBRASKA

William I. Tripp, Belvidere.
Hannah Price, Bennet.
Harold L. Mackey, Eustis.
Charles C. Cramer, Hardy.
Arthur H. Logan, Ponca.
Albert E. Pratt, Tobias.

SOUTH CAROLINA

Clarence L. Knight, Ellenton.
Jesse J. Glass, Trough.

HOUSE OF REPRESENTATIVES

MONDAY, *May 7, 1928*

The House met at 12 o'clock noon.

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

Again, our dear Heavenly Father, our eyes are open to the wide reaches of the impartial love of Thy providence. We thank Thee for the outlook of the day and week. Help us to bring buoyant hearts and minds to our tasks. Impress us that it is always best to seek the best and do the best. Faithfulness to principle is essential to Thy favor and to the esteem of our fellows. Direct us by Thy wisdom, give us courage to conquer every temptation and strength to rise above every failure. Keep us this day in the folds of Thy benediction, which is truth, righteousness, and peace. Amen.

The Journals of Saturday, May 5, 1928, and Sunday, May 6, 1928, were read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Craven, its principal clerk, announced that the Senate had passed bills of the following titles, in which the concurrence of the House of Representatives was requested:

S. 444. An act for the relief of H. C. Magoon;

S. 1857. An act authorizing the Delaware & New Jersey Bridge Corporation, a corporation of the State of Delaware, domiciled at Wilmington, Del., its successors and assigns, George A. Casey, of Wilmington, Del.; Clifford R. Powell, of Mount Holly, N. J.; and Anthony J. Siracusa, of Atlantic City, N. J., their heirs, executors, administrators, or assigns, to construct, maintain, and operate a bridge across the Delaware River at or near Wilmington, Del.; and

S. 3171. An act providing for a Presidents' plaza and memorial in the city of Nashville, State of Tennessee, to Andrew Jackson, James K. Polk, and Andrew Johnson, former Presidents of the United States.

The message also announced that the Senate had passed the following resolution:

Senate Resolution 227

Resolved, That the Senate has heard with profound sorrow of the death of Hon. WOODBRIDGE N. FERRIS, late a Senator from the State of Michigan.

Resolved, That as a mark of respect to the memory of the deceased the business of the Senate be now suspended to enable his associates to pay tribute to his high character and distinguished public service.

Resolved, That as a further mark of respect to his memory the Senate, at the conclusion of these exercises, shall stand in recess.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

EXTENSION OF REMARKS

Mr. WHITE of Maine. Mr. Speaker, I ask unanimous consent that all Members of the House may have three legislative days within which to extend their remarks on the merchant marine bill which was passed on Saturday last.

The SPEAKER. Is there objection?

There was no objection.

THE PINK BOLLWORM

Mr. EDWARDS. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by printing a telegram from the State entomologist of Georgia upon the question of the pink bollworm.

The SPEAKER. Is there objection?

There was no objection.

Mr. EDWARDS. Mr. Speaker, the pink bollworm is a great menace and will work greater damage than the boll weevil has. It came into this country, as did the boll weevil, from Mexico. It seems our country should stay in touch with Mexico with respect to cotton pests, and since we are such close neighbors and our interest with respect to fighting cotton pests are much the same, there should be cooperation in keeping out foreign pests that might be brought in.

The pink bollworm is at the stage in this country where it can be exterminated. It will cost much less to exterminate it by establishing noncotton zones in Texas, where it has been found, than it will later cost in trying to control it.

I want to incorporate a telegram in the RECORD from our State entomologist, which is as follows:

ATLANTA, GA., *May 1, 1928.*

Hon. CHARLES G. EDWARDS, M. C.,
Washington, D. C.:

The agricultural workers in all Southern States believe that Buchanan resolution appropriating $5,000,000 for eradication pink bollworm should pass. You can render great service to the South and the Nation by putting your efforts behind this resolution. If it should fail of passage this session ten to fifteen million will be required one year hence.

E. LEE WORSHAM,
State Entomologist.

This resolution should be speedily enacted and the pink bollworm exterminated.

VOCATIONAL EDUCATION

Mr. REED of New York. Mr. Speaker, I ask unanimous consent to extend my remarks upon the subject of vocational education.

The SPEAKER. Is there objection?

There was no objection.

Mr. REED of New York. Mr. Speaker, I wish to call the attention of my colleagues who are interested in farm relief to the bill introduced in the House by Mr. MENGES, of Pennsylvania. This bill is now in the Rules Committee. The real aim and purpose of this measure is to provide rural educational facilities that will tend to retain a larger percentage of energetic children on the farm.

Much has been done to improve rural education, but even so only about a quarter of the possible field has been touched. Rural education has been neglected until even the successful farmer has moved to the city to give his children the benefit of an education. The removal of the successful farmer from the country to the city has left either an abandoned farm behind or tenants who have little or no interest in the community and its problems. The result is to leave unprogressive mediocrity to run the farm and conduct the social and civic activities of rural society.

The city school and the rural school has each failed in its adaptability to rural needs. Moreover, the influence of both the city and rural school has been away from the farm. The school is the only agency that can turn the current of the child's interest toward rural life.

In the all too few communities where the experiment of agricultural vocational training has been tried it has been found that more than 60 per cent of the boys have engaged in agriculture as their life work.

The purpose of the Menges bill, as I have stated, is to bring this type of education into more schools throughout the country.

I want to see the boy and girl on the farm have the same educational advantages in the country to prepare them for farm life that the city boy or girl has in the city to prepare them for business or professional life. When we cheat the farm boy and girl out of the opportunity for farm vocational education we are robbing the country of its chief asset. We are injuring the basic industry of our country.

The call for boys and girls of personality, energy, capacity, convictions, and aspirations to continue this basic industry by the application of scientific knowledge and practical training is a call that is long and loud.

POSTAL RATES

Mr. GRIEST. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H. R. 12030) to amend Title II of an act approved February 28, 1925 (43 Stat. 1066, U. S. C., title 39), regulating the postal rates, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and ask for a conference.

The SPEAKER. The gentleman from Pennsylvania asks unanimous consent to take from the Speaker's table the bill H. R. 12030, with Senate amendments thereto, disagree to the Senate amendments, and ask for a conference.

The Clerk will report the bill.

The Clerk read the title of the bill.

The SPEAKER. Is there objection?

Mr. GARNER of Texas. Mr. Speaker, reserving the right to object, as I understand it the Senate makes just one amendment, substituting the 1920 rate for the 1921 rate?

Mr. GRIEST. Oh, the Senate made several amendments. They made the amendment to the second-class rate to which the gentleman refers, and an amendment to the third-class rate and to the fourth-class rate, and also made two or three other immaterial amendments.

The SPEAKER. Is there objection?

There was no objection.

The Chair appointed the following conferees: Mr. GRIEST, Mr. RAMSEYER, and Mr. BELL.

NIGHT DIFFERENTIAL IN POSTAL SERVICE

Mr. KELLY. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD upon the night differential in the Postal Service bill passed by the House, including certain excerpts from a brief prepared by the postal employees' organization.

The SPEAKER. Is there objection?

There was no objection.

Mr. KELLY. Mr. Speaker, the Sproul night differential bill (H. R. 5681), which will give deserved consideration to postal employees who are compelled to work at night, has been unanimously passed by the House. It should be enacted into law before the end of this session.

This measure is sound and salutary legislation.

It will lighten the load of night work, the greatest hardship in the Postal Service. It will automatically terminate trivial and unnecessary night work by imposing a 10 per cent additional pay factor for such work.

It will emancipate 20,000 postal employees from dreary labor in dingy quarters during the hours when recreation and rest are both natural and essential.

It will cost must less than the estimates of the department which are figured on the basis that all present night work will be continued. Its benefits will enormously outbalance even the estimates given. Its passage will be proof that no arguments can not prevail against human values.

It will add to postal efficiency, not lower it, for much of the work now performed is on circular and other mail where a few hours delay will do no harm, even though it be necessary. It will mean more output and fewer mistakes for it will put many workers on the daylight tours which are most conducive to well-being and efficiency.

It will result in a tremendous gain in health values and a lessening of the ills which accompany abnormal, unwholesome night work.

It will mean more workers enabled to live normal lives, enjoy family companionship and have opportunities for social and fraternal activities and fewer workers deprived of these advantages. It will bring joy to many wives and many little children.

It will be the accomplishment of a purpose expressed by committees of the House and Senate in three different Congresses and recommended by three Postmasters General. It will mean the attainment of a goal sought for many years by those most concerned.

It will be like a burst of sunshine to a great host of faithful employees who have been starting on their work at the time most workers have finished their labors. It will brighten many lives which have been gray, monotonous, and depressing because of continuous night tours of duty. It will transform their dejection and discouragement into energy and enthusiasm for daytime tasks.

It will give extra pay to every worker compelled by the needs of the service to work at night, and thus enable him to make up for his low condition of employment by a slightly higher standard of living. It will permit him to buy a little better food and have a little better medical treatment.

It will put all postal workers on the same plan now used for the night work of employees of the mail-bag repair shop, who are also paid from postal revenues.

It will lead later to the adoption of the principle that all night workers shall have shorter hours than those who work during the day. It will reduce night work to the minimum, and then those who perform the necessary night tasks will be given such a time differential as will conserve their health and lives. It will relieve a great many employees and will open the door for action which will relieve all from hours which, no matter what the pay, produces strained, worn, and haggard workers.

Because of what this bill is, because of its aims and purpose, because of what it will surely lead to in the future, it should be enacted into law without further delay.

Mr. Speaker, I wish to insert in the RECORD as a part of my remarks excerpts from a brief prepared by Thomas F. Flaherty, secretary-treasurer National Federation of Post Office Clerks, and William M. Collins, president Railway Mail Association, on this question of postal night work.

This brief is unquestionably the most thorough and comprehensive statement ever compiled on this subject. In it mention is made of numerous sources of additional information for those who may want to follow up certain phases of the night-work question.

The matter referred to is as follows:

THE PROBLEM OF NIGHT WORK IN THE POSTAL SERVICE

1. THE EXTENT OF NIGHT WORK IN THE POSTAL SERVICE

When most of the world's work is finished for another day; when the great majority of busy men and women have dropped their pens and their tools; when rest and recreation is the order of the day—then the activity within the post offices is just reaching its height. Post-office clerks and railway mail clerks are just beginning to make a dent in the mass of mail which stands between them and their homes. Every piece must be sorted according to its destination (6, p. 67) (the authorities referred to by number are listed at the end) and on its way to start the world's work afresh next morning.

POST-OFFICE CLERKS

In 1922 the Postmaster General reported that over 25,000 post-office clerks were working part or all of their "tours" at night, between 6 p. m. and 6 a. m. (8, pp. 3–4.) There were 56,029 post-office clerks and supervisors in first and second class post offices at that time. (25, p. 108.) So nearly every other clerk was working at night. (5, p. 8.)

Forty-two per cent of the clerks in the Chicago post office in 1922 began work at 5 p. m. or later. On top of that, 34 per cent worked from one-half to six and one-half hours at night. Only 24 per cent were on purely day tours, between 6 a. m. and 6 p. m. (6, p. 41.) In the Philadelphia post office, over 75 per cent of the clerks had to work at night.

In the Boston post office in 1922, 61 per cent of the clerks worked at night (6, p. 18):

Worked 8 hours at night	141
Were in the post office 6 hours at night	59
Were in the post office 5 hours at night	317
Worked 1 to 4 hours at night	334
Worked 1 hour or less at night	174
Night workers	1,025
Day workers	664
Total number of post-office clerks	1,689

At the Varick Street terminal station in New York City in the same year, 84 per cent of the 1,300 clerks worked at night (6, p. 51). In the New York City central post office there are still (1926) about 75 per cent of the clerks who put in their tours between 4 p. m. and 9 a. m.

Night work has not abated since these facts were brought out at hearings before the Senate Committee on Post Offices in 1922 (6; 5, p. 8) for nothing effective has been done to check it. The Post Office Department testifies that its peak load is between 6 and 7 in the evening (6, p. 4) and that three-quarters of the mail comes in between 5 and 10 in the evening (5, p. 8; or 140, p. 3). During the rest of the 24 hours the equipment lies almost idle. This evening peak is heaviest in the big cities (6, p. 7).

RAILWAY MAIL SERVICE

Night work in the Railway Mail Service as shown by the figures of the Post Office Department in 1924 (the last available) was as follows:

Clerks assigned to offices of superintendents and chief clerks, 786; all day work.

Clerks assigned to transfer offices, 874; 50 per cent night work.

Clerks assigned to terminal railway post offices, 3,470; 50 per cent night work.

Clerks assigned to Class A lines, 1,631; practically all day work.

Clerks assigned to Class B lines, 12,142; 60 per cent night work.

Thus it will be noted that 9,427 clerks, or slightly more than 57 per cent of the 17,243 employees of the Railway Mail Service engaged in the distribution of mail, work at night, in whole or in part. The clerks assigned to the offices of superintendents and chief clerks perform office duties in which no night work is involved, and the work of the clerks on the Class A lines (branch lines) is largely in daylight hours, though a part of such clerks do not finish their runs until 7, 8, or 9 o'clock in the evening. But in all other branches of the Railway Mail Service the percentage of night work is heavy. It will be seen that 50 per cent of transfer clerks, who supervise the dispatching and loading of mails at important railroad centers, are engaged in night work. Terminal clerks, who distribute mails at the more important railroad stations in order to save space in trains, are also engaged to the extent of 50 per cent in night work, while 60 per cent of the clerks on Class B lines are engaged in night work.

This is not only the largest and most important group in the Railway Mail Service, but their duties are the most arduous, owing to the fact that these clerks man the mail cars on the heavy trunk lines and night fast-mail trains.

"Mail early" campaigns by the post office have not cut down night work. "The results were insignificant," said the Joint Commission on the Postal Service of the Sixty-seventh Congress (9). The "distributors," who sort the mail, bear the brunt of late mailing. To help the campaign, the National Federation of Post Office Clerks, paid for "mail early" advertisements (5, pp. 8, 12). But the habits of the business public are fixed. The post-office clerks and railway-mail clerks can expect no relief from that quarter. They are dependent on Congress.

2. THE NATURE OF THE WORK

"Distributing" is grinding work to do either day or night. Mail postmarked before a certain time must be quickly sorted to catch a train leaving at a certain time. Then another batch must be made ready for another train. Then another. Mail must be "thrown" into compartments, row on row, that look just alike. The clerk's mind must not waiver. His eyes can get no rest. He is on his feet all the time. For a moment he can lean against a rest-bar and "throw" letters. Then he has to move on to other compartments (27, p. 6).

The pile of parcel-post packages has to be cleaned up the same evening. This is heavier work, but less nerve straining (27, pp. 8, 46). By midnight there is little but circulars left for the midnight shift to sort. The Post Office Department is officially of the opinion that this less important mail ought to be put off and sorted in day hours. If there were a penalty on night work, this would be done.

Many of the most important mail trains are those operating at night to handle the "peak load" of evening first-class mail and the first editions of morning daily newspapers from all large cities. From the standpoint of satisfactory postal service, the ideal mail train is one operating on a fast schedule at night, so that the mail may be distributed en route after the close of the business day and be ready for early morning delivery at the beginning of the next business day.

The work on these fast night-mail trains is extremely arduous. Added to the heavy volume of mails to be distributed under artificial light are the handicaps of unnatural hours of labor, the swaying floor of a swiftly moving car upon which the railway mail clerk must stand for long hours in distributing mail. Working under such conditions, it frequently happens that clerks on these trains suffer from train sickness, which is similar to seasickness. It is recognized that the night fast-mail train is an absolutely essential part of our postal system, but under existing departmental rules the employees who must work on such trains are required to work as many trips per annum as the workers on day trains. If a time differential for night work were established, railway-mail clerks on night-mail trains would be relieved to a certain extent by having their number of trips per annum reduced.

Eye trouble and fallen arches afflict the post-office clerks and railway-mail clerks, for they must stand up continually and continually glance from address to the rack and from the rack back to another address. The workers did not themselves realize how widespread eye strain and fallen arches were among them until the United States Public Health Service examined a thousand postal employees in New York City and Chicago. Many were told that their eyes needed glasses. Flat feet were found to be 34 per cent more frequent than in the general population, although distributers were not the only employees examined (29; 92).

What makes it worse is that night work is most common in the post offices of big cities, where life at best is a strain. City workers have less resistance. For instance, their death rate from tuberculosis for men over 35 is "enormously greater" than in the country districts (98, p. 346).

3. HOW NIGHT WORK IS ALLOCATED

Quite a large percentage of post-office clerks and railway-mail clerks perform service at night. In 1922 a census of 137 representative post offices showed that—

Eighty-two, or 60 per cent, had straight shifts.

Twenty-two, or 16 per cent, had rotating shifts.

Thirty-three, or 24 per cent, had both kinds (6, p. 68).

In the post offices and terminal railway post offices straight shifts mean that many clerks are assigned steadily at night work. The newest, youngest men are at night work or evening work. When their seniority brings them a chance at a day "tour" they seize it eagerly, but in many instances a clerk is well along in years before attaining sufficient seniority to give him a day assignment.

Where the clerks rotate from night work to day work, even the younger men now and then get a chance to work in the day and play with their fellows in the evening. But night work bulks so large that they can not hope for a straight day tour as often as every other week or every other month. In Philadelphia, in 1922, there were 4 day tours to 13 tours substantially at night (6, p. 15). In the New York City central post office in 1922 half of the clerks had four months of day work and eight months of work substantially at night (6, p. 17). They changed every two months from a day tour to an evening tour, and from there to a tour after midnight. Since then night work has abated so little that in 1926 a clerk in the New York City central post office in four shifts works twice in the evening, once after midnight and once during the day. A "day" tour, however, sometimes begins as early as 5 a. m. or lasts as late as 9.30 p. m.

4. NIGHT WORK SHOULD GO

"Night work is in all respects undesirable," decided the joint commission on Postal Service of the Sixty-seventh Congress (9). John H. Bartlett, First Assistant Postmaster General, says that of "the hardships of the service * * * perhaps the main one is the night service" (6, p. 31).

"I am not in favor of night work for anybody," says Doctor Hayhurst, consultant of the Ohio State Board of Health (104). The British Government's health of munitions workers committee engaged Doctor Vernon to study British women making munitions. He concluded that their working at night "should not be allowed in peace times" (144, p. 95). Professor Lee goes further and says night work is not "justifiable even in the emergency of war" (126, p. 70).

To be sure, the post office can not function efficiently without some night work. But if post-office clerks and railway-mail clerks who work at night are given a time allowance, if their tours are shortened a little, then this load of night work will be a little more easy to carry. And, what is more, it will not come around to them as often as it does now, or to so many of them. Night work can be cut down if there is an inducement to cut it down. The Post Office Department once thought it could not get along without overtime work. In 1913 Congress decided that the post office should pay for overtime. Since then overtime has nearly disappeared. The postmasters think now that they can not reduce night work any further. If it is penalized by a time allowance they will undoubtedly find a way to reduce it; for example, by more strictly postponing the handling of circulars and other less important mail till the morning after it is received.

A time allowance is a system under which 45 or 50 minutes' work done after 6 p. m. counts for an hour toward the established eight-hour shift.

The time allowance does not mean that every hour is shortened, but only those worked between 6 p. m. and 6 a. m. A typical case would be that of a clerk who might work four ordinary hours before 6 p. m. and four shortened hours in the evening. A time allowance affects only that part of a shift which comes within the hours defined as night hours. It is a flexible system. No matter what fraction of a "tour" falls after 6 p. m., it is a simple matter to make the proper allowance for the burdensome night hours.

5. WHO IS AGAINST NIGHT WORK?

Medical experts, efficiency experts, industries, governments all over the world, congressional committees, postmasters, post-office clerks, railway-mail clerks—they are all called as witnesses against night work in the pages that follow.

II

THE HARM NIGHT WORK DOES TO THE CLERKS

1. POST-OFFICE WORK STRAINS THE EYES

When men become postal clerks 92.7 per cent of them have normal vision in one eye or both eyes. When they have been at work six months only 79 per cent of them still have it. When they have been at work three years only 71 per cent still have it. In those two and a half years the number with normal vision drops off 10 per cent. If they are employed in intensive eye work, as letter separators are, the number with normal vision drops off still more sharply—13 per cent. Persons with defective sight are not usually eligible for the Postal Service (10), and persons entering the service average 92.7 per cent

normal vision. But after they take up postal work their eyesight falls off so much that only 62.4 per cent of the indoor postal employees are normal in one eye or both eyes. The only occupations that are harder on the eyes than indoor postal work are the garment and chemical industries. Normal vision is 42 per cent more frequent among cement workers than among postal clerks.

These facts were reported in 1923 by the United States Public Health Service (27, pp. 49–63). They examined the eyes of two-thirds of the indoor workers at the City Hall Station and at the general post office in New York City. They made 2,449 examinations. Four-fifths of the workers examined were white males, so figures are given here only for white males. After the age of 45 a man's vision drops off anyway, irrespective of occupation. So to be safe we disregard employees over 45, who are about one-fifth of the workers examined. Normal vision is defined as twenty-twentieths or better.

The eyes of night workers deteriorate more than the eyes of day workers. The letter separators, who are used for night work more than the average indoor postal employee, suffer most heavily. Of the 2,449 employees examined, 45 per cent were letter separators, or else newspaper separators, whose eye work is nearly as intensive as that of the letter separators. The report says:

"A letter separator reads on the average between 30 and 40 addresses a minute. His work may require adjustment of both the external and the internal muscles of his eyes 80 times a minute. If the intensity of light on the letter is different from the intensity of light on the case, he has to adjust his eyes not only for distance but also for difference in illumination." (27, p. 45.)

2. POST-OFFICE WORK IS UNHEALTHY

Congress can not disregard the health of Government workers. They are its wards. It should not ask them to continue year in and year out at night work which undermines their health, unless it is ready to ease the load by a time allowance for hours put in at night. The post-office clerks and railway-mail clerks who work nights have an elemental human right to health. At the same time the Postal Service can not afford to allow the health of its personnel, who keep the mail moving, to deteriorate.

Post-office employees are not up to the physical standard of the average man in other respects besides eye troubles. They are not as healthy after a period of service despite the fact that they must pass a medical examination to get their jobs. An applicant is rejected if he has a fallen or misplaced arch in his foot, a rupture, hardening of the arteries, or an uncompensated organic disease of the heart (10). Nevertheless, the effect of postal work, much of which is night work, is to make these and other impairments more frequent among postal employees than among the general population. The United States Public Health Service determined this when they examined 985 postal employees a few years ago. (29, 9.) The workers who volunteered for examination were actively employed and apparently in good health. Nevertheless, the Public Health Service found the following physical defects per 1,000 men:

Defects	General population	Postal employees	Excess in post office
			Per cent
Heart disturbances	97	187	93
Rupture (hernia)	51	80	57
Dilation of serotal veins (varicocele)	81	110	36
Flat feet	164	220	34
Hardening of the arteries	195	250	28

Compared with garment workers, postal employees have three to nine times as many cases of—

Diseases of the circulatory system.

Hardening of the arteries (arteriosclerosis).

Aortic diseases.

Mitral diseases.

Tricuspid diseases.

Myocarditis.

They have a much higher rate than garment workers for—

Dilation of the sciotal veins (varicocele).

Varicose veins (29).

There is a "high ratio of impairment" among postal employees, says Doctor Fisk, medical director of the Life Extension Institute (96). He bases this on the impairments which the Public Health Service found. Of 1,000 postal workers—

One hundred and forty-two had serious physical defects requiring immediate medical or surgical attention.

Two hundred and thirty-four had advanced physical impairments requiring systematic medical or surgical attention.

Three hundred and forty-one had moderate defects requiring medical supervision as well as hygienic correction.

Two hundred and sixty-one had moderate defects requiring hygienic correction or minor medical, surgical, or dental attention.

Twelve had minor defects requiring observation or attention.

Five had no physical defects.

3. ALL NIGHT WORK IS UNWHOLESOME

The low health record of postal employees is only to be expected for a group laboring under unrelieved night work (84, pp. 75–113; pp. 3, 8, 10–13). City letter carriers who rarely work at night were included in the examination (except eye examinations). If they had not been included the health record would have been much blacker for the remaining workers—the post-office clerks—for they do the work at night.

There is a consensus of opinion that night work is unhealthy, and this is "supported by incontestable evidence," says Professor Lee. He adds that only "exceptional circumstances" will justify men's working at night, for "it is unnatural, unphysiological, and abnormal, and must ever remain so" (126, pp. 68, 72). The next pages give the medical case against night work.

4. THE NORMAL CONDITIONS WHICH THE NIGHT WORKER'S BODY NEEDS

While a man works his nerves and muscles are wearing down. Fatigue wastes are the result. They pile up in his body. This process begins even before he feels tired (14, p. 34). There is fatigue or breaking down even when a person rests. But when he works the amount of poisonous wastes rises. He breathes out twice as much carbon dioxide as before (103, p. 265).

The work of post-office clerks and railway-mail clerks causes heavy accumulations of fatigue wastes. The effort of the muscles in standing up and in continually "throwing" mail is part of this. But the work is especially a great strain on the nerves. And fatigue is chiefly fatigue of the nervous system (14, p. 36). The work is monotonous, and the monotony of doing the same thing over and over and over "is a true factor in inducing fatigue," says Miss Goldmark. It wears down the nerves. She adds that even "the monotony of so-called light and easy work may thus be more damaging to the organism than heavier work which gives some chance for variety" (103, pp. 67, 68).

This wearing-down process in the body must be balanced by building up. Under ordinary conditions the body will rebuild itself silently (103, p. 13). But if there is too much breaking down or too little building up the result is a physical deficit. If the deficit comes regularly, work night after work night, the outcome is physical bankruptcy. Then the body begins to protest loudly in tiredness and disease. The facts about the health of postal employees which have been presented indicate roughly how near many post-office clerks and railway-mail clerks are to physical bankruptcy. The figures do not, however, show the amount of piled-up fatigue that is still hidden and has not yet come out openly in disease (14, p. 129). And the Public Health Service could not include in its study the employees who had dropped out because the night work was too wearing.

Sleep is the most important thing needed to build up again the nerves that fatigue has worn down (84, pp. 26–46). There is no substitute for sleep (103, p. 281). Doctor Kraft, the Swiss physiologist, says:

"Men as well as animals die sooner of lack of sleep than they do of hunger. * * * We may consider that we have experimental proof, corroborated by much general experience, of the fact that the deprivation of * * * sleep is sure to bring on severe and lasting injuries" (123).

There is much similar testimony; for instance, from Doctor Carozzi, in Italy (88, p. 80); Doctor Sterling, in England (139), and Hough and Sedgwick, in the United States (110).

Sunlight is the second most important thing in the continuous rebuilding of the body (84, pp. 47–59; 62; 104). Professor Lee says: "Man's body needs the stimulus of sunlight and is adapted to the atmospheric conditions of the day" (126, p. 61).

Collis and Greenwood say that daylight "stimulates a healthy skin reaction and exerts a beneficial effect."

They add that sunlight tends to kill most germs:

"The more daylight, therefore, there is in the rooms where workers are congregated together, the less is the chance of the spread of infectious diseases and the better will be their general health" (89, pp. 314–315).

Daylight is just what night workers do not get.

5. THE NIGHT WORKER WORKS UNDER ABNORMAL CONDITIONS

The strain of industrial work is heaviest for the night worker. He especially is likely to run up a physical deficit and not be able to rebuild what has worn down in his body. The evidence for this lies in the results of night work. At night output is less, and spoiled work, lost time, and accidents are more frequent.

The first reason for the night worker's bodily deficit is the "medical commonplace" (144, p. 97), that night work is more tiring than daywork. In France, for example, Professor Proust concurs in this (135), and in Germany Doctor Herkner (107).

The high accident rate at night shows that night work creates abnormal fatigue.

When a post office has rotating shifts, as in New York City, the night workers very often do not get the full benefit of their occasional day shift because even in the daytime much of the work is done by artificial light, and so even their daywork is abnormally fatiguing, though night work is much more so. Examples of post offices that have to use artificial light are given in the report which the Public Health Service put

out in 1923 (27, pp. 31–43). On the first floor of the general post office in New York City 19 locations at which post-office clerks work had no natural lighting even in the daytime. In 13 other locations there was part natural and part artificial lighting. In no place was natural light alone enough. In the basement only five places had part natural lighting. The other 21 had only artificial light. At the City Hall postal station in New York City the amount of natural light was insignificant.

Foot-candles of light in city-hall post office

Floor	Artificial	Natural
Basement	4.2	0.0
First floor	3.8	.7
Mezzanine	2.6	.1

A very small number of the post-office clerks and laborers at the two stations worked solely under natural light, even during the daytime:

Daytime lighting	City hall	General
	Per cent	*Per cent*
Artificial light all the time	87.3	27.4
Part artificial and part natural	9.4	42.8
Natural light all the time	3.3	29.7
Total clerks and laborers:		
In per cent	100	99.9
In numbers	883	2,276

The use of artificial light during the day and the fatigue it brings can not easily be escaped, for most post offices will not wear out for a long time. Even when they do, natural light will still be hard to get in a crowded city. The burden of this unfortunate condition should not be shifted to the post-office clerks and railway-mail clerks.

Bad lighting for night work (and day work) increases the fatigue of the clerks (89, p. 317; 14, p. 98). Either too little light or too much glare means many eye adjustments and greater eye fatigue (27, pp. 45–46). The lighting of post offices has been much bettered in recent years. But to the extent that it falls short of good natural lighting it entitles the workers to special consideration. As recently as 1923, the Public Health Service reported that of 127 post offices to New York City, Brooklyn, Philadelphia, Boston, Detroit, and Chicago only—

Sixty-three per cent had adequate natural lighting, 57 per cent had adequate artificial lighting, 34 per cent had both sorts adequate, and 15.7 per cent used gas for their artificial lighting (27, pp. 2–3).

They added that the lighting in the City Hall Station and the general post office in New York City "is generally below that of the requirements of the State codes of lighting and is generally lower than the mean illumination furnished employees doing similar work in private industries" (27, p. 103).

Night work is more tiring not only because artificial light is used, but also because "it imposes on a physiological organism attuned to one sequence of events a different and abnormal sequence" (126, pp. 70–72). The body varies its heat so as to allow for greater activity during the day. Under night work its habits can be "modified, but not reversed" (61, p. 27).

8. THE NIGHT WORKER IS CUT OFF FROM NORMAL SOCIAL CONTACTS

When men work at night they do not get a chance to live. The British health of munitions workers committee warned that "social intercourse, recreation, and amusement may be seriously interfered with. Suitable opportunities for attendance at instruction are impossible, unless special facilities are allowed" (14, p. 98).

The post-office clerks and the railway-mail clerks have a right to recreation (104). Amusement facilities center in the evening. This is just when most of these men are at work or perhaps returning hungry from work. They have a right to education. Workers' education projects are all arranged for day workers (84, pp. 263, 275). They have a right to home life (84, pp. 255–256). "The night work very largely interferes with family life," the Joint Commission on the Postal Service reported to the Sixty-seventh Congress (9). As early as 1887 the Swiss factory inspector reported that with night work, "the number of meals necessary in the family budget is increased, extra cooking must be done, and the family order and system are disjointed. Night product is inferior * * *. Switzerland does not hesitate to condemn night work, and she has put a stop to it even in many industries where other countries regard it as indispensable (137; or 84, p. 260).

Night work interferes with the clerks' right to adequate and well-timed leisure in which they can associate with their fellow man (104).

The clerks need leisure so that they shall not fall behind physically, and so that they may have life more abundantly. But in the large cities "the postal employees are either obliged to travel to distant suburbs to secure the advantages of desirable dwellings, or else dwell in crowded tenements. * * * When they have to travel to distant suburbs they find the means of transportation infrequent at the very time they would utilize them, and they thus lose much of their leisure time, and make the journey at considerable inconvenience." (Joint Commission on the Postal Service, 67th Cong., 9; 103, p. 143.)

Leisure hours are also eaten into, because "the great majority of post-office clerks are under the constant necessity of studying so-called 'schemes' of mail distribution. These 'schemes' consist of the names of thousands of post offices in every State in the country. These 'schemes' indicate the railway train that will carry the mail to these thousands of post offices.

"The average post-office clerk is compelled to memorize and carry in his head anywhere from 3,000 to 10,000 names of different post offices." (House Post Office Committee, unanimous report in the 64th Cong. (2; or 5, p. 3).)

The post-office clerk or railway-mail clerk may not be immediately concerned over the gradual deterioration of his health. But he is keenly aware that he is cut off from social contacts. The new clerks are assigned to night jobs most often. They are young and the lack of social opportunities irks them especially. Their morale suffers as a result. Output depends on morale. Doctor Fisk says that output is hindered by "mental poison such as home worries, suppressed or thwarted emotions or aspirations. * * *" (91, pp. 442–443, 359–360; 61, p. 27; or 84, p. 4.)

In his annual report to the first session of the Sixty-ninth Congress Postmaster General New said of the undesirability of night work:

"Naturally night duty is regarded as more irksome and undesirable than day work, as it deprives employees of social life in the evenings and keeps them from their families at night. It is believed, therefore, that this matter should have serious consideration and some compensation provided for it." (25, p. 17.)

5. NIGHT WORK MAKES IT HARD TO GET GOOD MEN

The Postal Service needs a steady supply of capable young men. Else the mails are held up. The pay and the work of post-office clerks and railway-mail clerks are not so attractive that men will shut their eyes to the discomforts and dangers of the night work which the service demands of them. And with the night work in mind the decision is too often against the service (141, pp. 4–5; 6, p. 7).

Also resignations result from night work. Often clerks quit before they have learned enough to earn their pay. Or if they have acquired skill in sorting letters and have learned the "schemes" of distribution, all this skill is lost to the service when they quit because of the night work. In any case the service has to find a new man to replace the old one whom the attractions of day work have taken away. The service, then, has to pay the cost of breaking in the new man (6, p. 7).

Responsibility for resignations can be laid largely to night work. The United States Public Health Service studied two large plants during the war. In one plant the departments which involved night work had a labor turnover 23 per cent greater than the average. In the other it was 6 per cent greater (26, or 98, pp. 164–165).

An English study of the women working in a biscuit factory showed that the largest labor turnover was among the night workers (113, or 98, p. 162):

Reasons for quitting	Yearly per cent of turnover		Night exceeds day
	Day shift	Night shift	
Single women:			*Per cent*
All reasons	88.7	153.6	73
Ill health and physical disability	20.6	43.8	113
Dissatisfaction	36.9	62.7	70
Married women:			
All reasons	142.3	204.3	44
Ill health and physical disability	44.4	62.3	40
Dissatisfaction	33.0	58.0	76

So it is not surprising to find that night work increases the resignations in the Postal Service. The city mail carriers do little night work. Their resignation rate is low. The city post-office clerks who do night work have a resignation rate of 183 per cent higher than the carriers (25; pp. 16, 39, 108), as shown by the table below:

Comparative resignation rates of postal employees

Division of service	Employees, June 30, 1925	Resignations, fiscal year, 1925	Per cent of resignations	Relative to carriers' rate
City carriers	46,251	667	1.44	100
City post office clerks	65,071	2,658	4.08	283

6. NIGHT WORK MAKES IT HARD TO GET GOOD WILL

The Postal Service needs the good will of the clerks. If they are disgruntled their work suffers. The night work is "in ill favor with the employees," reported the Joint Commission on the Postal Service to

the Sixty-seventh Congress (9). This remains true because there is no time allowance to offset the evils of working at night. To the postmasters it presents a very hard problem. They feel that the morale of the post-office clerks and railway mail clerks is sapped by night work as it stands. In 1922 the Post Office Department took a census of the postmasters' opinions on night work (6, pp. 22–30):

Ninety-two postmasters from among the 100 largest post offices answered.

Forty-four, or 48 per cent, stressed the fact that night work lowers morale and output.

Seventy-six, or 83 per cent, said that the solution was special conditions for night work.

Forty-seven, or 51 per cent, said that the solution was a time allowance for night work.

Some of them were also disturbed by the ill effects of night work on health, social life, and labor turnover.

INDUSTRIES THAT HAVE GIVEN NIGHT WORKERS THEIR RIGHTS

1. NIGHT WORK IS INFREQUENT BECAUSE IT IS NOT ECONOMICAL

Night work is not popular in the United States, nor anywhere else. It is true that a factory cuts down its overhead cost if its plant and machinery are not idle at night. But this has not made night work popular even with employers. Its counterbalancing costs to the company and to the workers are too great. It is true that methods of artificial lighting have been enormously improved. But this has not made night work prevalent, as Doctor Frankel, of the post-office welfare division, points out. (5, p. 12.) It prevails only in continuous process industries and in seasonal industries. Collis and Greenwood say that it is so infrequent because leaders of industry are fast coming to see that "optimum output is obtained not by allowing fatigue to exceed physiological limits; that the goal of economists—output—can be best attained through the same agencies as allow the medical man to obtain his objective—health." (89, p. 79.)

As long ago as 1907 a South Carolina State bulletin reported that none of the big cotton mills ran at night any more since "it seems to be generally regarded as a losing proposition to undertake night work." (36; or 84, p. 309.)

The book and job printing industry, at its center in New York City, has an agreement with its electrotypers that they shall not be asked to work at night.

The German wood-working industry signed a national collective agreement in 1921 which forbade work between 5 p. m. and 7 a. m. for 430,000 workers. In 1922 the German building industry also signed an agreement forbidding night work for 350,000 workers. (38, pp. 25–26.) The Dutch printing industry allows night work only for morning newspapers. (43, p. 28.)

In the 1890's many countries in Europe supplemented the laws against night work for women by laws against night work for men. (84, pp. 316–323.) To know how to proceed, Belgium in 1898 made a study of how existing night work laws had functioned. The investigators discovered that employers felt the laws had made great improvement. England reported that no one wished to repeal the law. France reported that the opposition of the manufacturers was gradually disappearing. Switzerland reported unanimous approval for the law of 1877, one section of which prohibited night work. The Swiss leaders of industry had found that "night production is very inferior both in quality and in quantity to daytime production; and it is much more costly."

Austria reported sentiment among the employers in favor of extending the rules to forbid night work for men. (72, pp. 43, 69, 85, 120, 169; or 84, pp. 277–280, 316–317.)

2. ALLOWANCES FOR NIGHT WORKERS ARE USUAL

It is customary for night workers to receive special consideration in return for the special hazards and discomforts of night work, particularly when there is just as much work to be done at night as there is on the day shift. In such cases the undesirability of night work is allowed for in the scale of wages or hours or both. The Postal Service and the Railway Mail Service are in startling contrast to private industries, for in these services the evening work is more intense than the day work, and yet there are no special conditions allowed the workers.

The British postal service at one time allowed any 7 hours worked between 10 p. m. and 6 a. m. to count as 8 hours. This system of time allowance worked so well that the period was made to begin at 8 p. m. (6, p. 83.)

The New York City book-and-job printing industry works only 44 hours a week on daywork, but for night work the hours are only 40, and in addition the night pay is $3 a week more. On the third shift, after midnight, typographers work only 35 hours and get $6 more a week. Pressmen, feeders, sheet straighteners, and paper handlers work only 32½ hours on the third shift. The foreign-language typographers work very short hours at night. Their largest group, the Bohemian-Slavonic, works only 36 hours at night and gets $3 a week more pay at night in both newspaper and book-and-job printing (118; or 21, p. 840.)

The entire newspaper-printing industry of the United States averages shorter hours at night than in the day. On top of that, the pay for an hour worked at night more than makes up for the fact that fewer hours are worked, so that night workers in addition to shorter hours get more pay per week than day workers do. The average union scales for 1925, computed by the United States Bureau of Labor Statistics (22, p. 985), show the following percentage allowances in favor of night workers:

United States newspapers crafts	Night allowances	
	Hours per week	Pay per hour
	Per cent	*Per cent*
Web pressmen	10	17
Stereotypers	10	17
Photo-engravers	5	18
Hand compositors	2	10
Machinists	1	12
Machine operators (time-work)	1	9

In the Australian printing industry (22, p. 1256) the daywork calls for only 44 hours a week, but the prevailing week for night work is only 42 hours. Besides weekly pay is higher for night work than it is for daywork:

Craft	Melbourne	Sydney
	Per cent	*Per cent*
Proof readers	20	13
Machinists	15	9
Compositors	10	9
Stereotypers	9	5

In South Africa, too, the typesetting-machine operators work only 43 hours a week on day work, but only 40 hours on night work. In addition, they get 10 per cent more pay a week (79, p. 254).

In London the printers work 48 hours a week on day work, but only 42 on night work (40, p. 22). In South Africa the prevailing hours in printing and bookbinding are 46 on day work (43 for machine typesetters) and 40 on night work (79, p. 254). In Switzerland the hours in newspaper printing are 8 a day, but if as many as 4 of the hours fall between 7 p. m. and 6 a. m. the shift is only 7 hours (42, p. 21). In Italy the machine typesetters in Bergamo who work three shifts have an 8-hour day shift, but only 7 hours on the night shifts (41, p. 33). In Great Britain the cloth bleaching, dyeing, and printing trade works 48 hours on daywork and only 43¾ on nightwork (47, p. 79). The prevailing hours in Mexico are 8 in the day and 7½ at night (19, p. 889).

When night workers are not given a time allowance, the hazards and discomforts of night work are recognized in another way—by extra pay for the night shift. The Federal Government is now paying workers at the Government Printing Office an allowance of 20 per cent extra for work done between 5 p. m. and 8 a. m. It is paying workers at the arsenals and the mail-bag repair shop an allowance of 10 per cent more for night work, and at the navy yards 5 per cent (5, p. 4). But as yet there is no allowance for post-office clerks and railway mail clerks.

The Federal War Labor Board recognized the hardships of night work and regularly awarded night workers an allowance of 5 per cent more than the day rate (5, p. 9). The telephone companies of the United States have a policy of giving night workers a pay allowance. The Morse telegraph operators have an agreement that provides for night rates more than 20 per cent higher than the day rates (20, pp. 73–74).

The typographical workers of the United States regularly get a higher scale for night work than for daywork (118). For instance:

Weekly night-pay allowances for hand compositors in the 10 largest cities in the United States

City	Number of union members	Night differential	
		Book and job printing	Newspaper printing
New York City	9,684	$3.00	$3.00
Chicago	5,346	4.00	5.00
Philadelphia	1,187	4.55	3.00
Detroit	830	2.20	2.94–3.36
Cleveland	837	4.00	5.20
St. Louis	1,272	2.20	5.00
Boston	1,849	5.72	1.76
Baltimore	732	3.00	3.00
Pittsburgh	726	3.00	3.00
Los Angeles	929	3.00	3.00

The machine typesetters' allowances are the same or nearly the same as these handwork allowances. The average union scale in the United

States for machine typesetters on piece work is 7 per cent higher for night work than for day (22, p. 985). The third shift, after midnight, often has still further allowances. The book and job typographers in New York City work only 35 hours on the third shift, instead of 44, and get $6 more a week. In Detroit they get a pay allowance of $7.80–$9.80 a week. The newspaper typographers in Philadelphia work 42 hours on the third shift instead of 48 and get $66 instead of $42 a week. In Detroit they get a pay allowance of $10.08–$11.52 a week. In Cleveland they work 42 hours instead of 45 and get $6.75 allowance. In Boston they get $3.52 allowance (118).

In Belgium the printing and bookbinding industry has special rates for work between 7 p. m. and 7 a. m. Up to 9 p. m. there is a pay allowance of 20 per cent extra and after that 50 per cent (39, p. 24). In Dutch breweries any work done after 6 p. m. is paid 50 per cent extra, or where there is a regular night shift it is paid 25 per cent extra after 10 p. m. (43, p. 28). The Government Railways of Japan give pay allowances for night work (77, pp. 1–2).

It is a common practice in Europe to recognize the hazards of night work by paying higher rates for overtime work done at night than for overtime during the day. The rate often rises as high as 100 per cent extra for late night work. The International Labor Office has published rates of this sort for Italy, Switzerland, Holland, and Czechoslovakia (41, pp. 18, 26, 28, 33–34; 42, p. 21; 43; 44, pp. 26–32, 37–38, 44).

3. THE CLERKS SHOULD HAVE THE CUSTOMARY ALLOWANCE

It appears from this mass of evidence that it is well recognized that when there has to be night work the night workers should have special conditions of labor. The most prominent example is the printing industry all over the world. The work of post-office clerks and railway-mail clerks is much like the work of typographers. It is just as hard on the eyes and on health in general, and there is the additional strain of constantly standing. The printers have won relief through their collective action. The clerks, however, are in Government service. The charters of the National Federation of Post Office Clerks and of the Railway Mail Association stipulate that there shall be no strikes. The clerks depend on action by Congress. So far they have had no relief from the hardships of their work at night, with the result that the standards of life of two large groups of employees of the United States remain below the standards of life of employees of privately owned industries.

V

GOVERNMENTS THAT GIVE NIGHT WORKERS THEIR RIGHTS

All civilized nations recognize that night work is undesirable (61 or 84, p. 291). Many have forbidden it by law. In 1919 Holland, Switzerland, and Czechoslovakia passed laws which prohibited night work for both men and women (43, pp. 9–10; 117 v. 14, p. 207; 44, p. 9). Belgium followed in 1921 and Portugal in 1925 (47, p. 405; 22, p. 1260). Great Britain forbids stores to stay open at night, and in 1925 the Argentine and Dominican Republics did so, too (53, p. 173; 23, pp. 120–121). In 1923 Belgium restricted the ordinary working day in brickmaking to the hours between 5 a. m. and 7 p. m. (54, p. 383).

Baking has always furnished an outstanding case of night work and its ill effects on the workers. Night work was abolished for baking in—

1906 in Norway.
1908 in Switzerland (Tessin), Italy, and Finland.
1912 in Denmark and Greece.
1918 in Uruguay.
1919 in Germany, Czechoslovakia, France, Austria, Spain, Holland, Sweden, and Poland.
1921 in Belgium.
1923 in Hungary (57).

At the 1924 conference of the International Labor Organization, which has 57 governments as members, the vote was 73 to 15 in favor of an international convention against night work for bakers. On June 8, 1925, a second vote made the convention official (20, pp. 177, 181; 52, p. 119). Each of the 57 governments has passed a law against night work to conform with the convention or is about to do it.

Although laws against night work for men have reached a tremendous proportion, most night-work legislation has confined itself to forbidding night work for women. The reason for this has been that the dangers of night work are more apparent in the case of women. The pitiable effects of night work on women who were bearing children were more obvious than the slow deterioration of men under night work. The wife seemed more urgently needed at home to keep the family together and to rear the children. (90 or 31, p. 68; 74 or 103, p. 266.) Men could win for themselves relief from night work or better conditions during the night shift. Women, it seemed, could not protect themselves as well, and so they needed laws to protect them.

When the legislature of a civilized country became convinced of the evils of night work it usually undertook to remedy first that situation which seemed to need remedying most. The result was "women and children first." The man power of the country, also important, had to take its chances.

The men were often able to meet the situation and win some freedom from night work by organizing. If it is impossible to fight bad working conditions in this way, says Professor Freund of police power fame:

"If for any reason such organization is impossible or ineffective, the right of the State to exert its power can not in reason be disputed. (100; or 91, p. 828.)

The State has exerted it for women, where organization is ineffective. The State has forbidden them to work at night almost everywhere.

But the State has not yet exerted this right on behalf of the post-office clerks and railway-mail clerks, whose organizations forbid them to win relief from night work for themselves, since they are public servants. The duty of Congress to protect them from suffering for this devotion to the public service "can not in reason be disputed."

The history of the gradual legal recognition by civilized countries of the hazards of night work covers nearly a century. In 1833 England forbade night work for children, and in 1844 it forbade it for women between 5.30 p. m. and 5.30 a. m. Others followed:

NIGHT WORK LAWS BEFORE 1906

1844. England.
1864. Switzerland (Glaris), men and women.
1877. Switzerland (federal law), men and women.
1881. New Zealand.
1885. Austria.
1889. Netherlands.
1890. Massachusetts.
1891. Germany.
1892. France.
1902. Italy. (83, pp. viii, 344.)

The International Congress of Hygiene and Demography, which met in Vienna in 1887, resolved that "the limitation of working hours, and above all the prohibition of night work, must be demanded on grounds both of health and of morals." (83, p. ix.)

An international conference on night work which met in Berlin in 1890 was officially attended by 14 European powers. It voted in favor of prohibiting night work for women. (120; or 83, p. ix.)

In 1906 a conference of 14 European powers met at Berne, Switzerland, and agreed upon the Berne convention. It provided for 11 consecutive hours' rest at night in all industrial undertakings of more than 10 workers. These hours were to include the seven hours between 10 p. m. and 5 a. m. Many of the powers already had laws more stringent than this. The others proceeded to bring their laws up to this standard, and on January 14, 1914, the convention was completely in force. Some of the powers made their laws more stringent than the convention required. (83; 87; 117; vol. 2, pp. 38, 389; vol. 3, p. 335; vol. 5, p. 236; vol. 6, p. 156; vol. 7, pp. 26, 47, 265; vol. 10, p. 14.) The convention took in "colonies, possessions, or protectorates" (art. 6). So Great Britain extended its rule to Ceylon, the Fiji Islands, Gibraltar, the Gold Coast, the Leeward Islands, New Zealand, Northern Nigeria, Trinidad, and the Uganda Protectorate. France extended them to Martinique, Guadaloupe, and Reunion. (117, vol. 11, p. 74.)

Many powers which had not signed the convention passed laws while the signers were doing it. (117.) Serbia, Greece, Liechtenstein, and Bosnia and Herzegovina passed laws that went beyond the standards of the Berne convention. Legislation against night work was also put through in Bulgaria, Greece, Russia (textiles), India, Japan, Canadian Provinces, the Australian States, and the Argentine (Buenos Aires).

The restrictions on night work for women had become widespread when the World War began. The warring countries often relaxed these restrictions in order to get more output. But the "economic, physical, and moral disabilities" of night work were still there (14, p. 56), and the British war cabinet committee on women in industry said that "much of this relaxation was found to be uneconomical and baneful" (64).

Even before the end of the war many of the restrictions were put back. Where they were not restored it was because the governments felt it necessary to take "a short and not a long view of the subject" (61, p. 26).

In 1919, 30 powers met in the International Labor Conference at Washington and adopted the terms of the Berne convention against night work, but applied them to all public and private undertakings, however small. The Washington convention came into force on June 21, 1921 (37, p. 102). By October, 1925, appropriate laws had been passed and the convention had been ratified by 16 powers (58): Austria, Belgium, Bulgaria, Czechoslovakia, Estonia, France, Great Britain, Greece, Hungary, India, Irish Free State, Italy, Netherlands, Rumania, South Africa, and Switzerland.

The administrations in seven countries had recommended the convention to the legislatures: Argentina, Brazil, Denmark, Germany, Latvia, Lithuania, and Spain.

Three powers had passed appropriate laws, but had not yet ratified: Japan, Poland, and Serb-Croat-Slovene Kingdom.

Four other powers had legislation in progress or in preparation: Bolivia, Norway, Portugal, and Uruguay.

The Berne convention still governs: Sweden, Luxemburg, and Danzig.

The world is almost unanimous in condemning night work. All Europe, except Finland, Monaco, Albania, and Turkey forbids it for

women, and many of the laws include men. In Asia, India and Japan forbid night work for women; in Africa, Tunis, Algeria, the Union of South Africa, Uganda, Northern Nigeria, and the Gold Coast; in the Pacific, the Australian States and New Zealand; in North America, 16 of the United States, Mexico, and the Canadian Provinces (except the Yukon and Prince Edward Island, which are not industrial); in Central America, a separate international convention between Costa Rica, Guatemala, Honduras, Nicaragua, and Salvador; in South America, the Argentine and Brazil (partial), and Bolivia and Chile have undertaken legislation which will forbid all night work for women.

In the United States there are in 1926 laws forbidding night work for women in various occupations in 16 States and 1 Territory: California, Connecticut, Delaware, Indiana, Kansas, Massachusetts, Nebraska, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, South Carolina, Washington, Wisconsin, and Port Rico (24).

State laws, however, can never affect the situation of the Federal post-office clerks and railway-mail clerks, even though they work within State limits. The responsibility remains with Congress, and Congress should not disregard the fact that the votes of almost all the other lawmaking bodies in the world condemn night work.

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Mr. Speaker, I also desire to incorporate in my remarks a speech on the night work subject made by Thomas J. Mitchell, post-office clerk, Kansas City, Mo., who is president of Local No. 67, National Federation of Post Office Clerks. Mr. Mitchell has made an intensive study of the problem of night work and his views are the result of many years practical experience in post-office employment. It is as follows:

NIGHT WORK

After all that has been orated or pictured by graphic pen, not half has been written that comes from the experience of men and women who actually perform work during these unnatural hours.

Men are deprived of social intercourse, family association, evenings at home, talking with wife, and romping with children.

Home, a consecrated hearthstone, an institution that welds the ribs of State, launches all government functions worth while, gives life and power to effectually sail the turbulent sea of life, no matter how fierce

the outward elements rage. Home is the haven of all havens where weary hearts or buoyant hearts can with one accord commune together.

Impair this institution, lift one arrow and thrust it into this sacred institution, and you have belamed all. Yea, the poisoned instrument, "night work," aims at the hallowed place of thousands of postal workers.

In my city—industrial center that it is—stores, stock exchange, board of trade, what conditions do you find? Men and women arise when the life of the day lays aside his night robe, peeks up from the Eastern horizon and with one sweep of his rays gilds the world with glory and life, and the men of the soil with one common assent say, "His morning rays give greatest strength to man and vegetation."

We see this waking people busy in their daily toil and at 5 or 6 o'clock return to their homes. Father with rustic face, children playing around his knees and mother singing lullabys to the baby at her breast.

Ah, then, I want to go to Washington, D. C. Go into that silent cemetery with spade in hand, resurrect that body, speak life to that mortal remains, place him on sacred ground, call for the loveliest maiden in all the world, bid her clasp him to her breast and plant the everlasting kiss of affection upon the brow of John Howard Payne, and call him blessed; then with one accord let the choir assembled peal out that matchless melody, "Home, Sweet Home."

But we have to return to these places of daily activity. After 6 p. m. what do we find? A silent watchman blowing the smoke from his cob pipe with a snarling bulldog or a bob-tailed Airedale following behind him as he makes his round? No; there is one man left in the building. He rushed out at 6.30 p. m., and the watchman, after hushing the growl of his faithful dog, asks: "What makes you so late?" The man replies, "I was assembling some invoices I wanted to go on the 9 a. m. train to-morrow. The goods were shipped by freight."

I then go to the post office, linger from 10.30 p. m. till 2 a. m., a place of impaired activity, its wheels turning slowly. On wandering around I spy a man clad in Stars and Stripes, with a tobacco-bestained goatee, leaning up against a post. Ask him what's the matter with his machine, sparks don't seem to hit, has a flat tire. He says: "Machine is all right, but we just can't get the speed out of it at night; but just come around in the morning at 7 a. m. and watch her start. You'll see her leap like a fawn eluding the chase of a hound on a western plain."

In the mailing division, where I work, the "ghost" walks not to disseminate the shining shekels of brightest day. Not when noonday sun is scattering his rays of life and happiness. Ah, when does he come? He does not come. Yes; he comes, changes his habits, changes his coat, changes his nature, changes his life, enters into the silent hushes of night beneath the canopy of a starless Heaven. A tiger with hideous stripes, snarling, growling, springs, and with one bound fastens his ferocious teeth in the very vitals of all good moral happiness and contentment and leaves his prey lifeless, to be consumed by the vultures of seeming eternal despair, and the boy with dark eyes bright or the little girl with golden hair, on Mission Hills or Kansas plains, waits in vain for a happy, contented papa. The buoyant lad, in anticipation of the company of the blushing maiden, slinks away in despair.

What shall we do? Basest crime is committed at night; wild animals roam forth in scent of prey; the hoot owl sits on limbs of leafless trees watching for innocent victims and pours out his doleful note on the crags and rocks of the sleeping hills; the cunning coyote goes forth from his lair and with hideous cries that awakens the boy with terrifying imaginations in his prairie home, to prey upon the young of the innocent cows and bring desolation to their breasts; the basest needs of men. The basest deeds of animals are disseminated when the veil of night obscures the light of day.

Day is the time for man; then you get what there is in him. What shall be done for night workers? Shall we meet in convention, drop a few iced tears, repose in lethargic robes of warmth? No; no tears shall be shed, no lethargic robes shall be worn. No, verily! But as bold men with steeled determination arise and under the very Dome of our Nation's Capitol, grab the arms of our "Flaherty," lift them high, for it may be they are tired holding the burning torch that is directing us to a noble victory on time differential.

FLOOD CONTROL

Mr. REID of Illinois. Mr. Speaker, I ask unanimous consent that the conference report upon the bill (S. 3740) for the control of floods on the Mississippi River, and for other purposes, be recommitted to the conference committee.

The SPEAKER. The gentleman from Illinois asks unanimous consent that the conference report upon the bill referred to be recommitted to the conference committee. Is there objection?

There was no objection.

Mr. REID of Illinois. Mr. Speaker, I ask unanimous consent for the present consideration of the following resolution, which I send to the desk and ask to have read.

The Clerk read as follows:

House Concurrent Resolution 34

Resolved by the House of Representatives (the Senate concurring), That the committee on conference on Senate bill No. 3740, "An act for the control of floods on the Mississippi River and its tributaries, and for other purposes," be authorized to include in its report on said bill a recommendation amending the proviso to the first paragraph of section 10 by striking out the words in said paragraph "board created in section 1 of this act," and inserting in lieu thereof the words "Mississippi River Commission," and no point of order shall be made against the report by reason of such action.

The SPEAKER. Is there objection?

There was no objection.

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

The resolution was agreed to.

INFORMATION FOR PROHIBITION ADMINISTRATORS

Mr. LAGUARDIA. Mr. Speaker, under rule 22 I call up House Resolution 179, and move to discharge the Committee on the Post Office and Post Roads from further consideration of the same and agree to the same.

The SPEAKER. The gentleman from New York moves to discharge the Committee on the Post Office and Post Roads from further consideration of House Resolution 179, and to agree to the same.

The Clerk will report the resolution.

The Clerk read as follows:

House Resolution 179

Resolved, That the Postmaster General be, and he is hereby, directed to inform the House of Representatives, if not incompatible with the public interest, as follows:

1. Have the postmasters and postal employees been authorized, directed, or ordered by the Postmaster General or any official in authority in the Post Office Department to obtain information for prohibition administrators or for other prohibition officials?

2. If such authorization, direction, or orders have been given, submit date and contents of same.

3. Have the postmasters, superintendents of stations, or other postal employees in the counties of Allegheny, Armstrong, Beaver, Bedford, Blair, Butler, Cambria, Clarion, Clearfield, Crawford, Elk, Erie, Fayette, Forest, Greene, Indiana, Jefferson, Lawrence, McKean, Mercer, Somerset, Venango, Warren, Washington, and Westmoreland, in the State of Pennsylvania, been authorized, directed, or ordered by the Postmaster General or any authorized official in the Post Office Department to obtain confidential information concerning citizens and particularly certain private, business, political, religious, family, and other information concerning prospective jurors in the Federal Court of the Western District of Pennsylvania?

4. Have postmasters or other employees in the counties in Pennsylvania above mentioned requested authority or made inquiries of the Post Office Department concerning the propriety and the legality of their complying with instructions contained in a letter from the prohibition administrator of Pittsburgh, Pa., dated April 23, 1928, inclosing a questionnaire with the names and addresses of prospective petit jurors in the Federal Court in the Western District of Pennsylvania and seeking information concerning the business, wealth, lodge and political affiliations, religion, and family of said jurors?

5. If such requests for authority as described in paragraph 4 hereof have been made, what instructions, orders, or directions were given to said postmasters and postal employees?

6. How many employees and how many postmasters were employed in obtaining the information requested by the prohibition administrator of Pittsburgh, Pa., and how was this information collected and submitted to the said prohibition administrator?

7. Have postmasters and postal employees been instructed, ordered, or directed to scrutinize mail received by prospective jurors in the Federal courts in order to ascertain and obtain information requested in the questionnaire described in paragraph 4 hereof?

8. Have prohibition administrators located in other parts of the United States sought the assistance of postmasters and postal employees in obtaining information concerning jurors serving in the Federal courts?

9. What instructions, orders, or directions have been issued by the Postmaster General or other organized officials in the Post Office Department concerning such duties to postmasters and employees located outside of the counties in Pennsylvania above mentioned?

Mr. KELLY. Mr. Speaker, I make the point of order on the ground that the Committee on the Post Offices and Post Roads has not had opportunity to consider this resolution.

Mr. LAGUARDIA. Mr. Speaker, I do not believe I need to reply to that point of order.

Mr. CRAMTON. Mr. Speaker, I make the further point of order that the resolution contains a request for matters of opinion, and not solely a request for information.

Mr. LAGUARDIA. Mr. Speaker, in reply to that, the resolution will speak for itself. Unfortunately the gentleman from Michigan [Mr. CRAMTON] has no copy of the resolution before him.

Mr. SNELL. Will the gentleman withhold that until we can get some copies of the resolution? It was difficult to follow the reading.

The SPEAKER. The Chair has read the resolution with a good deal of care, and does not think that it is anything but a straight resolution of inquiry. It does not call for any opinion or conclusion, and is therefore not subject to a point of order.

Mr. CRAMTON. Mr. Speaker, I could not hear the resolution read.

Mr. LAGUARDIA. How can the gentleman make a point of order when he says he has not been able to get the purport of the resolution to which he wishes to make a point of order?

Mr. SNELL. Mr. Speaker, I suggest that the gentleman withhold until we can get some copies of the resolution. It is rather unfair to consider this matter without copies of the resolution before us. The gentleman will not lose any of his rights by withholding for a few moments.

Mr. LAGUARDIA. I think I can explain that resolution in five minutes and have it adopted. I ask to proceed.

The SPEAKER. The gentleman from New York is recognized.

Mr. LAGUARDIA. Mr. Speaker and gentlemen of the House, I will take very little time if I can get the attention of my colleagues, because I realize that the Consent Calendar will soon be on, and I know there are very many important matters on that calendar in which Members are interested.

I took occasion to call the attention of the House some 10 days ago to a circular letter, of which I have here one of the originals, which was sent to the postmasters located in the western judicial district of the State of Pennsylvania. Immediately after my remarks several of my colleagues asked me what I am going to do about it, which is a natural inquiry to make when a Member protests against an apparent violation of the law. I thereupon introduced three resolutions of inquiry in order to bring before the House all the facts officially coming from the three departments involved.

One resolution was directed to the Secretary of the Treasury and referred to the Committee on the Judiciary, and the reply from the department fully answered the inquiry. It is now contained in the report of the committee. In that reply the Secretary of the Treasury categorically answered every question contained in the resolution. The second resolution was directed to the Attorney General. The reply to the Committee on the Judiciary stated that the resolution did not require an investigation, and that the giving of the information would not be incompatible with the public interest. Notwithstanding that report the Committee on the Judiciary refused to report the resolution favorably, and reported it unfavorably.

My third inquiry was directed to the Post Office Department to ascertain whether or not the postmasters and postal employees were directed by the Post Office Department to obtain this information called for by the district attorney for the western district of Pennsylvania. The letter which was sent out by Mr. Pennington reads:

(Office of prohibition administrator western judicial district of Pennsylvania and State of West Virginia)

TREASURY DEPARTMENT,
UNITED STATES PROHIBITION SERVICE,
Pittsburgh, Pa., April 23, 1928.

DEAR SIR: This office is very anxious to know something about the caliber of men who have been drawn for petit jury service for the May term of United States district court beginning Monday, May 21, 1928, at Pittsburgh.

Inclosed are forms to be filled out regarding the jurors belonging to your post-office district. Would you be good enough to furnish the information desired and return the forms to us at the earliest date possible?

We will greatly appreciate your favor.

Yours very truly,

JOHN D. PENNINGTON,
Federal Prohibition Administrator.

Now, there is attached to the circular letter to the postmasters and postal employees a form in which the postmasters and postal employees are called upon to ascertain the following information and to forward it to the prohibition administrator in Pittsburgh. It contains these directions:

1. Name.
2. Address.
3. Education.
4. Age.
5. Approximate wealth.
6. Occupation.
7. If in business for himself, what business?
8. If employed by others, by whom?
9. If employed by a firm or corporation, who is his immediate superior or boss?
10. To what lodge does he belong?
11. To what church does he belong or attend?
12. Has this man ever been involved in any litigation?
13. Has this man ever been reported to have been in any crooked or shady transactions?
14. Is he a drinking man?
15. What friends, if any, does this man have among lawyers?
16. To what political party does he belong?
17. Who are the political friends of this man?
18. Do you know if any particular person controls or influences his vote, and if so, whom?
19. What attitude does he have toward railroad corporations?
20. As to liquor questions:
    1. Is he dry?
    2. Is he wet?
21. How many children has he?
22. How many daughters and what are their ages?
23. In your opinion, would he make a good juror?

Now, there is only one inference to draw, and that is this, that the Post Office Department, the postmasters, and the postal employees were called upon to provide this information about the individual political and religious and family history of the man by virtue of the fact that in the performance of their duty they naturally came in contact with the man's mail and can obtain this information.

Mr. SNELL. Mr. Speaker, will the gentleman yield there for a question?

Mr. LAGUARDIA. In a moment I will.

After I made my remarks the Commissioner of Prohibition sent this statement to the press, and his justification is this, that he did not seek this information concerning one juror but all of the jurors. He stated this, that he did so at the order of the district attorney for the western district of Pennsylvania. The Secretary of the Treasury says he has no knowledge and that he did not authorize any information.

Now, gentlemen, all that I ask in my resolution is this: Have the postmasters been authorized by the Post Office Department to furnish such information? That can be answered yes or no. If such information is authorized to be given, I ask them to submit a copy of the same.

Mr. RAMSEYER. Mr. Speaker, will the gentleman yield there?

Mr. LAGUARDIA. Not now.

Then I asked specifically concerning the postmasters in the various counties comprising the western district of Pennsylvania; I asked if postmasters had made inquiry of the Postmaster General whether they should do this or not, and that requires a yes or no answer. If they have made inquiries, I ask what instructions are given. That is a matter of record, and they may submit the instructions given.

I ask how many employees were used in this work, and that they can answer. Then I continue the inquiry to ascertain whether or not this has been going on in any of the districts other than the western district of Pennsylvania.

Mr. CHINDBLOM. Mr. Speaker, I will say that I have no objection to the gentleman's resolution generally, but I think this last inquiry, No. 8, may be difficult for the Postmaster General to answer.

All of the other inquiries go directly to information in the hands of the Postmaster General, but this question, I think, goes further than that. It reads:

Have prohibition administrators located in other parts of the United States sought the assistance of the postmasters and postal employees in obtaining information concerning jurors serving in the Federal courts?

That is information which must be obtained from all of the many thousands of postmasters and postal employees in the United States, and the Postmaster General personally can not have that information nor can it be in the department.

Mr. LAGUARDIA. I only ask for information that they have in the department. If he has not the information the answer is, "I do not know."

Mr. CHINDBLOM. It might start an investigation among all the postmasters of the United States and it should not do that.

Mr. LAGUARDIA. If the gentleman can find any parliamentary method by which I can strike out the eighth section of the resolution without losing my rights in the situation I will be willing to have that section stricken out.

Mr. CHINDBLOM. Why not limit the inquiry to information now in the department?

Mr. LAGUARDIA. All right.

Mr. CRAMTON. If the gentleman will yield, under the rules the gentleman's resolution is not privileged because of several matters it calls for which are not in the department. Under the rules a resolution loses its privilege if it requires an investigation. Now, the matter which the gentleman asks for under subdivisions 6 and 8 would require an investigation.

Mr. LAGUARDIA. No; an inquiry.

Mr. CRAMTON. It is information which would not be available in the department.

Mr. LAGUARDIA. No; it is only an inquiry.

Mr. CRAMTON. And the gentleman's resolution is subject to a point of order. I may have lost my rights but I did not have the resolution before me.

Mr. LAGUARDIA. I have introduced many of these resolutions and I have been licked on a good many of them, so I think I know how to draw them now. This simply asks for information. If they do not have the information then all they have to reply is that the information is not available without an investigation.

Mr. CHINDBLOM. The gentleman is satisfied to get the information now in the hands of the Postmaster General?

Mr. LAGUARDIA. Absolutely.

Mr. CHINDBLOM. And in the department in Washington?

Mr. LAGUARDIA. Yes; there would be no objection to that.

Mr. KELLY. Will the gentleman yield?

Mr. LAGUARDIA. Yes.

Mr. KELLY. I am very much in favor of having the truth about this entire situation and letting the sunlight into it, but I think the reply from the Postmaster General, without any doubt, will be that no regulations and no orders have been issued by the Postmaster General regarding this matter.

Mr. LAGUARDIA. Fine. Then I can go right to Pittsburgh.

Mr. KELLY. This is also true—that in the case of a soldier asking for a discharge from the Army the commanding officer sends to the postmaster and asks for information concerning facts as to family income, and so forth. That is not a matter which comes under regulations of the Post Office Department but is simply the desire of the officer, as an official representative, to get such information.

Mr. LAGUARDIA. I am sure the gentleman does not want the Post Office Department to become an annex of the snooping bureau of the prohibition office.

Mr. KELLY. Not at all.

Mr. LAGUARDIA. We ought not to contaminate the Post Office Department, but when you ask the Post Office Department to inquire in the State of Pennsylvania about what a man's attitude toward railroads is, let me tell the gentleman from Pennsylvania, who believes in law enforcement, that the purpose of such information is not to enforce the law but to evade the law.

Mr. ADKINS. Will the gentleman yield?

Mr. LAGUARDIA. Yes.

Mr. ADKINS. When a man is a new candidate for public office, an elective office, an appointive office, or whatever it may be, has it not been the custom for at least 20 years for interested parties to send questionnaires to citizens, just such questionnaires as the gentleman has brought to our attention? Has not that been the situation?

Mr. LAGUARDIA. But this is to the Post Office Department.

Mr. ADKINS. Well, is not that the situation?

Mr. LAGUARDIA. No. You do not ask for intimate family matters.

Mr. ADKINS. As a matter of fact, I know that such a line of questions has customarily been sent out by interested parties. Now, the question I want to ask is this: Would not a man, whether he is employed in the post office, in a bank, or wherever he may be employed, have the right to answer such questions, whether he happened to be a postal employee, a bank clerk, a farmer, or whoever he might be?

Mr. LAGUARDIA. The gentleman does not understand the inquiry. This is a questionnaire concerning citizens, and it is a questionnaire sent to the Post Office Department for the purpose of having an investigation or an inquiry made concerning citizens through the mail they get. That is the only reason for it.

Mr. RAMSEYER. Will the gentleman yield?

Mr. LAGUARDIA. Yes.

Mr. RAMSEYER. Under the section which the gentleman read a while ago who, is it claimed, sent out that order?

Mr. LAGUARDIA. It was sent out by the prohibition administrator at Pittsburgh at the direction of the district attorney for that district.

Mr. RAMSEYER. He sent it to postmasters and postal employees.

Mr. LAGUARDIA. Yes.

Mr. RAMSEYER. Has the gentleman any information that this prohibition inspector first got consent or authority from the Postmaster General?

Mr. LAGUARDIA. That is what my resolution asks.

Mr. RAMSEYER. Has the gentleman any information about that?

Mr. LAGUARDIA. If I had I would not put in a resolution to find out.

Mr. RAMSEYER. The gentleman would not?

Mr. LAGUARDIA. No.

Mr. RAMSEYER. Because an inspector sent out a questionnaire to postmasters and postal employees, the gentleman jumps at the conclusion that he first consulted the Postmaster General for the right to do this or else he is suspicious that he would not have done it unless he had first had the consent of the Postmaster General.

Mr. LAGUARDIA. What would the gentleman from Iowa do, as a legislator, if he wanted official information? Would not the gentleman ask the proper department for the information?

Mr. DENISON. Will the gentleman yield?

Mr. LAGUARDIA. Yes.

Mr. DENISON. I am sure the gentleman does not want to do any injustice, but I think the gentleman does an injustice when he says this information is sought in order to authorize the postmaster or postal employees to get the information from the mails. There is not anything in the letter that would justify that conclusion.

Mr. LAGUARDIA. Why, I will say to the gentleman from Illinois one can not escape that inference.

Mr. DENISON. What is there in the letter that would justify such an inference?

Mr. LAGUARDIA. For this simple reason: The district attorney has marshals and deputy marshals, the prohibition office has inspectors and agents, the Department of Justice has investigators, and the Treasury Department has an intelligence unit; yet all these agencies are not used, but the information is sought from the post office. You ask concerning a man's lodge and his church and who his political friends are; considering the fact they already have these various fact-gathering agencies at their disposal, what other inference is the gentleman going to draw except they want this intimate private information which the post office gets?

Mr. DENISON. If the gentleman will yield further, the gentleman knows that postmasters and postal employees by virtue of the performance of their various duties come in contact with the people of the community and they get information from their knowledge of or acquaintance with the people and not through the mail they receive. That is where the gentleman is mistaken. The gentleman ought to be fair.

Mr. LAGUARDIA. I say this is my inference, and, of course, the gentleman is entitled to draw a different inference. Would the gentleman say that when this questionnaire goes to the postmaster and he passes it on to the man on the route, he says to this man, "You forget all about the mail of this man, you forget all about his lodge notices, and just go out and get this information"? Is the gentleman in favor of using the post office for this purpose? That is the whole thing involved.

Mr. DENISON. If I want information which is not of a confidential nature and I can get it from a postmaster, I have as much right to get it from him as from anybody else; but, of course, this does not mean that he should get it from the mail, but from his acquaintanceship in the community.

Mr. KELLY. Will the gentleman yield?

Mr. LAGUARDIA. Yes.

Mr. KELLY. I want to say to the gentleman I should not oppose the passage of the resolution if it would give any information, but it is a perfectly futile proposition. The crux of the gentleman's resolution is whether it is proper for the Department of Justice to get certain information regarding prospective jurors before they appear in court.

Mr. LAGUARDIA. Oh, no.

Mr. KELLY. And the gentleman is addressing his resolution to the Postmaster General, who has nothing whatever to do with the matter.

Mr. LAGUARDIA. The gentleman misses the point of my resolution entirely.

Mr. KELLY. Then what is the point?

Mr. LAGUARDIA. I want to get just what part the Post Office Department has taken in this matter and I want to establish, if necessary, by legislation that the Post Office Department must not be used for such purposes.

Mr. GILBERT. Will the gentleman yield?

Mr. LAGUARDIA. Yes.

Mr. GILBERT. If I remember correctly, when the gentleman first introduced this matter, a week or two ago, he stated that bootlegging in Pittsburgh has political protection. Am I correct about that statement?

Mr. LAGUARDIA. I do not think I stated it in that way. I said that bootlegging was a matter of political patronage in Pittsburgh.

Mr. GILBERT. The Secretary of the Treasury is the political boss of Pittsburgh, and I believe the gentleman inquired whether he had any information about this matter, and he said he had not.

Mr. LAGUARDIA. Yes; that he had not.

Mr. GILBERT. I wonder if he has any more information about bootlegging in Pittsburgh and its being a matter of patronage than he has about Sinclair oil campaign contributions.

Mr. LAGUARDIA. I will say if the Secretary of the Treasury, who is a resident of Pittsburgh, does not know that bootlegging is going on there under wholesale methods and that it is political patronage, he is the only man in Pittsburgh that does not know it.

Mr. GILBERT. He knows it.

Mr. CRAMTON, Mr. RAMSEYER, and Mr. GREEN rose.

Mr. LAGUARDIA. Mr. Speaker, I reserve the balance of my time.

Mr. RAMSEYER. Mr. Speaker, I would like to have five minutes.

Mr. CRAMTON. Mr. Speaker, a parliamentary inquiry.

The SPEAKER. Does the gentleman yield for a parliamentary inquiry?

Mr. LAGUARDIA. I yield for that purpose.

Mr. CRAMTON. Mr. Speaker, is it too late for me to make a point of order against the privilege of the resolution on the ground that it calls for an investigation or calls for matters not within the knowledge of the Postmaster General—information that he can only secure by an investigation?

The SPEAKER. The Chair thinks that point of order comes too late, in view of the fact that debate has been had. The Chair examined the resolution pretty carefully.

Mr. CRAMTON. I did not have the resolution at hand at the time and could not direct the attention of the Chair to the resolution specifically, but subdivision 6, for instance, asks how many employees and how many postmasters were employed in obtaining the information requested by the Prohibition Administrator of Pittsburgh.

Now, if any were so employed the Postmaster General has no knowledge of it and can only make inquiry by sending out and making an investigation, but possibly I am too late in making the point. I did not have the resolution at hand at the time.

Mr. LAGUARDIA. The resolution is so framed that there is no question about it. The House can take judicial notice that there is the time kept of every employee in the service and is available.

Mr. Speaker, I yield five minutes to the gentleman from Iowa [Mr. RAMSEYER].

Mr. RAMSEYER. Mr. Speaker, this resolution was introduced several days ago, and technically, under the rule, it can be called up. What is the common practice of a Member in this House who introduces a resolution and really wants information? He goes to the chairman of the committee and asks that the committee consider it and report it out. If the chairman of the committee and the committee refuse to act within a week or seven legislative days, then, of course, the rule provides that the introducer of the resolution can call it up.

What are the facts? Neither the chairman of the Committee on the Post Office and Post Roads nor any other member of the committee had heard of this resolution before the gentleman from New York called it up. The Post Office Committee has not had a meeting since the resolution was introduced. The Post Office Committee will meet to-morrow morning, and if the House votes down this resolution they will take it up for consideration and the House will get in an orderly way all the information that the gentleman from New York seeks.

If the gentleman was desirous of information he would have proceeded in the manner I have indicated. As a matter of fact, the gentleman from New York has sought another opportunity to make a wet speech on the floor of this House, and that is all there is to it. He has had the opportunity and ought to be satisfied, and the House ought to vote down the resolution and let the Post Office Committee proceed on it in the usual way. I, as a member of the Post Office Committee—and I think I have the consent of the chairman of that committee to make this statement—say that this House will get all the information within the possession of the Postmaster General in a very reasonable time, and get it in an orderly way, and it will be presented to the House.

Mr. LAGUARDIA. Will the gentleman yield?

Mr. RAMSEYER. Yes.

Mr. LAGUARDIA. The gentleman is a member of the Post Office Committee?

Mr. RAMSEYER. I happen to be.

Mr. LAGUARDIA. This resolution was introduced 10 days ago. I am calling it up now, and the gentleman says that the members of the committee are taken by surprise. Is that the attitude of the gentleman?

Mr. RAMSEYER. I state that as a fact.

Mr. LAGUARDIA Did not the gentleman know that the resolution was referred to his committee?

Mr. RAMSEYER. I did not know it until this morning.

Mr. LAGUARDIA. Then the gentleman is not on his job. [Laughter.]

Mr. RAMSEYER. Has the gentleman from New York called on the chairman of the committee and asked for a hearing?

Mr. LAGUARDIA. No. I am looking after bills referred to my committee.

Mr. RAMSEYER. Why did not the gentleman ask the chairman of the committee for a hearing?

Mr. LAGUARDIA. If the gentleman is sincere in his statement about getting information he can get it now by voting for the resolution.

Mr. RAMSEYER. I want to get it in an orderly way and therefore I ask the House to vote down this resolution. Mr. Speaker, how much time have I left?

The SPEAKER. The gentleman has one minute.

Mr. RAMSEYER. I yield that to the gentleman from Pennsylvania, the chairman of the committee.

Mr. GRIEST. Mr. Speaker, I want to confirm what the gentleman from Iowa has just said, and in addition I want to say that to-morrow morning will be the first meeting of the Post Office Committee that we have had any opportunity to consider the gentleman's resolution. The reason we did not have a meeting a week ago was on account of members being absent at a funeral, and, further, because the chairman of the committee was ill. I want to assure the gentleman from New York that there is no disposition to avoid an investigation or giving consideration to his resolution. We will consider it if we have the opportunity to-morrow morning.

Mr. LAGUARDIA. Mr. Speaker, I yield two minutes to the gentleman from Kentucky [Mr. GILBERT].

Mr. GILBERT. Mr. Speaker, I hope this resolution will pass. I never cast a wet vote in Congress or out, but I am getting disgusted with a lot of the methods now being employed by the Government and certain quasi-governmental agencies which are bringing into disrepute the cause that I love so dearly.

Mr. LAGUARDIA. Mr. Speaker, I move the previous question.

The previous question was ordered.

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

The question was taken; and on a division (demanded by Mr. LAGUARDIA) there were 72 ayes and 81 noes.

Mr. LAGUARDIA. Mr. Speaker, I object to the vote on the ground that there is no quorum present.

The SPEAKER. The Chair will count.

Mr. LAGUARDIA. Mr. Speaker, I withdraw the objection.

Mr. SCHAFER. I renew it.

The SPEAKER (after counting). Two hundred and twenty-six Members are present, a quorum.

So the resolution was rejected.

CONSENT CALENDAR

The SPEAKER. The Clerk will call the first bill on the Consent Calendar.

GRANTING CERTAIN LANDS TO NEW MEXICO

The first business on the Consent Calendar was the bill (H. R. 9207) granting to the State of New Mexico certain lands, for reimbursement of the counties of Grant, Luna, Hidalgo, and Sante Fe, for interest paid on railroad-aid bonds, and for the payment of the principal of railroad-aid bonds issued by the town of Silver City, and to reimburse said town for interest paid on said bonds, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. MORROW. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection?

There was no objection.

MONTEZUMA NATIONAL FOREST, COLO.

The next business on the Consent Calendar was the bill (H. R. 6854) to add certain lands to the Montezuma National Forest, Colo., and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. LAGUARDIA. Mr. Speaker, reserving the right to object, this is a bill which I objected to on the last consent day in order that I might obtain some information. Since that time I have taken the matter up with the Department of Agriculture, and they have given me the information I sought at the time. Seemingly there is no opposition to the bill now. I understand that the Department of the Interior has written a supplementary report.

Mr. TAYLOR of Colorado. Yes. I have their supplementary report favoring the bill.

Mr. LAGUARDIA. I suggest that the gentleman extend his remarks in the RECORD by inserting that report.

Mr. TAYLOR of Colorado. Very well. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD on this measure, including therein the report referred to and two or three other items, and the three reports of the departments on this bill.

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

There was no objection.

Mr. TAYLOR of Colorado. Mr. Speaker, in pursuance of the request of the gentleman from New York [Mr. LAGUARDIA], I insert herewith a resolution from the board of county commissioners of Dolores County, Colo., as follows:

Resolution

Whereas it appears that there are many thousand acres of land belonging to the United States Government which is adjacent to the Montezuma National Forest and at this time is not included in said forest reserve; and

Whereas it appears the Government and the counties are deriving no revenue from said lands: It is therefore

Resolved, That it is the opinion of the board of county commissioners of Dolores County, Colo., that for the best interests of all concerned that Congress should consider this matter and include the land described in the bill within the Montezuma National Forest Reserve, that the Government and counties interested may receive a revenue therefrom; it is further

Resolved, That a copy of this resolution be sent to all the United States Senators and Congressmen of the State of Colorado, and that they be hereby requested to give this matter attention and by proper action in Congress have the lands as hereinabove described included within the Montezuma National Forest that the interests of all concerned may be best protected.

Passed and approved this 20th day of October, A. D. 1927.

Respectfully submitted.

W. E. QUINE, *Chairman*,
EDWARD BAER,
S. M. CONN,
County Commissioners, Dolores County, State of Colorado.

Also, a resolution from the board of county commissioners of San Miguel County, Colo., as follows:

STATE OF COLORADO,
County of San Miguel, ss:

At a regular meeting of the board of county commissioners for San Miguel County, Colo., held at the courthouse in Telluride on Monday the 3d day of October, A. D. 1927, there were present: Howard Davis, chairman; J. P. Whiteley, commissioner; John J. Tracy, commissioner; J. M. Woy, county attorney; and Harold T. Hogan, clerk, when the following proceedings, among others, were had and done, to wit:

"Whereas there is a very good stand of timber in township 42 north, ranges 17 and 18 west, which adjoins the Montezuma Forest, which said land is more valuable for timber-production purposes than for any other use; and

"Whereas said land is now part of the public domain and that the local residents will not suffer any material damage in any way if the said premises be added to the Montezuma Forest: Therefore be it

"*Resolved*, That the board of county commissioners of San Miguel County, Colo., are in favor that said tract of land shall be added to and included in the Montezuma National Forest, and that Congress be respectfully petitioned to pass the necessary act; and be it further

"*Resolved*, That a copy of this resolution be sent to each of the United States Senators and each of the Congressmen of the State of Colorado, and that they be respectfully urged to give favorable support to an act to include the above premises to the Montezuma Forest."

STATE OF COLORADO,
County of San Miguel, ss:

I, Harold T. Hogan, county clerk and ex officio clerk of the board of county commissioners in and for the county and State aforesaid, do hereby certify that the annexed and foregoing order is truly copied from the records of the proceedings of the board of county commissioners for said San Miguel County now in my office.

In witness whereof I have hereunto set my hand and affixed the seal of said county at Telluride, Colo., this 7th day of October, A. D. 1927.

[SEAL.] HAROLD T. HOGAN, *County Clerk.*

I also insert the report of the Acting Secretary of Agriculture on the bill, as follows:

DEPARTMENT OF AGRICULTURE,
January 23, 1928.

Hon. N. J. SINNOTT,
Chairman Committee on the Public Lands,
House of Representatives.

DEAR MR. SINNOTT: Reference is made to your letter of December 15 inclosing copy of (H. R. 6854) a bill to add certain lands to the Montezuma National Forest, Colo., and for other purposes, with a request that your committee be advised of the views of the department on the proposed legislation.

The measure would add to the Montezuma National Forest, Colo., and thereby place under national forest administration a tract of approximately 21,500 acres of which approximately 17,500 acres are owned by the United States. The lands lie adjacent to the Montezuma National Forest and because of climatic and topographic conditions are unsuited to cultivation. They, for the most part, are timbered, containing a stand of western yellow pine estimated at approximately 54,500,000 board feet.

This area is adapted to the growing of timber and without doubt this is its highest economic use. It is logically a part of the adjoining Montezuma National Forest. The protection of the timber cover from fire and the removal of the timber under proper regulation would undoubtedly be in the public interest. If added to the national forest the timber would be available for sale. There is now a large lumber company cutting national forest and private stumpage in the region and its operations will reach this timber within 8 to 10 years. The stumpage available should yield in receipts not less than $100,000, or $5.65 per acre. The life of the operation which involves over $1,000,000 investment will be prolonged two years and the area will be left after cutting in a productive condition insuring another crop of timber if added to the national forest. Your committee, of course, appreciates that 25 per cent of these receipts now go to the State of Coorado, and 10 per cent are obligated for the improvement of roads and trails under the direction of the Forest Service.

These lands lie within an area which was formerly a part of the Ute Indian Reservation, but was ceded to the United States, and under the provisions of an act approved June 15, 1880 (21 Stat. 199), the Indians were to receive compensation therefor at the rate of $1.25 per acre when the lands were entered under the public land laws. Manifestly, if the lands are placed within a national forest and therefore not subject to disposal otherwise, the Indians should be compensated therefor to the extent contemplated by the above-mentioned act. Sections 2 and 3 of the bill under consideration would take care of this situation by providing that payment for the lands shall be taken from the unobligated portion of the receipts from the Montezuma National Forest.

If these lands are placed under national forest administration, they can be handled as a part of the Montezuma National Forest without any material increase in the cost of administration of that forest. The department recommends that favorable consideration be given to the proposed legislation.

Sincerely yours,

R. W. DUNLAP, *Acting Secretary.*

Also the first report of the Secretary of the Interior, made last January, as follows:

DEPARTMENT OF THE INTERIOR,
Washington, January 24, 1928.

Hon. N. J. SINNOTT,
Chairman Committee on the Public Lands,
House of Representatives.

MY DEAR MR. SINNOTT: I have your request for report on H. R. 6854, proposing to add the therein described area in Colorado to the Montezuma National Forest and provide for payment to the Ute Indian fund for the public lands therein at the rate of $1.25 an acre from the unpledged portion of the net receipts from such national forest.

The area adjoins the forest on the west and contains approximately 21,560 acres. The records of the General Land Office of this department show that there are outstanding permits to prospect for oil and gas under the mineral leasing law of February 25, 1920 (41 Stat. 437), covering all but 120 acres of the public lands involved, that 16,597 acres are surveyed, and that 680 acres thereof have been disposed of under the public land laws and 1,080 acres are embraced in unperfected entries under the stock-raising homestead laws.

The area is practically all within that portion of the former Ute Indian Reservation which has been opened to entry under the acts of June 15, 1880 (21 Stat. 199), July 28, 1882 (22 Stat. 178), June 13, 1902 (32 Stat. 384), and February 24, 1909 (35 Stat. 644), with provision for payment to the Indians of the proceeds of the lands when dis-

posed of at a price of not less than $1.25 per acre. In this portion of the former reservation the Indians are also credited with receipts from bonuses, rentals, and royalties under the mineral leasing laws.

Certain of the ceded Indian lands, not, however, including the area under consideration, have heretofore been added to national forests, and the claim of the Ute Indians to payment at $1.25 an acre for the public lands therein was examined by the Court of Claims in 1910 and 1911 under authority of the act of March 3, 1909 (35 Stat. 788), and the Indians were awarded judgment of over $3,500,000 for such lands and the Ute fund credited with the net amount of such judgment under the act of March 4, 1913 (37 Stat. 912, 934).

The general policy of Congress as to additions of public lands to national forests appears to be set forth in section 8 of the act of June 7, 1924 (43 Stat. 653), which only contemplates addition of lands chiefly valuable for timber production and stream flow protection.

Data on file in the Geological Survey of this department indicate that the area described in the bill is prospectively valuable for its oil and gas content; that there is little or no merchantable timber on the lands, and that they are used as cattle and sheep range for seven or eight months a year. The department therefore declined to recommend withdrawal of this identical area in 1925 when the Department of Agriculture requested its withdrawal with a view to recommending addition of the land to the forest under the above-mentioned act of June 7, 1924. That department has recently requested reconsideration of the matter and an early field examination by employees of this department has been directed for the purpose of securing further information regarding the character of the lands.

In view, however, of the data now before the department, I recommend that the bill be not enacted.

The Director of the Bureau of the Budget advises that this report is not in conflict with the financial program of the President.

Very truly yours,

HUBERT WORK.

I also insert the supplementary favorable report of the Secretary of the Interior, made May 4, 1928, as follows:

THE SECRETARY OF THE INTERIOR,
Washington, May 4, 1928.

Hon. N. J. SINNOTT,
Chairman Committee on Public Lands,
House of Representatives.

MY DEAR MR. SINNOTT: On January 24, 1928, I submitted report upon H. R. 6854, proposing to add certain lands to the Montezuma National Forest, Colo. In that report I stated that further field investigation would be made by this department.

In view of the fact that field examination is said to be impracticable at this season of the year, a telegraphic report, based upon familiarity of one of the departmental inspectors with the area, was submitted. In view of this report and of information furnished by the Department of Agriculture, which states that the lands are for the most part timbered, containing approximately 54,500,000 board feet of yellow pine, and that the land in question is adapted to the growing of timber, I now have to advise you that this department has no objection to the enactment of the bill, if Congress shall deem such action advisable.

Very truly yours,

HUBERT WORK.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That the following-described lands be, and the same are hereby, included in and made a part of the Montezuma National Forest, subject to all prior valid, adverse rights, and that said land shall hereafter be subject to all the laws affecting national forests:

Southwest quarter section 16, southeast quarter section 17, sections 19, 20, 21, 22, southwest quarter section 25, sections 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, township 42 north, range 17 west; east half section 8, sections 9, 10, 15, east half and northwest quarter section 16, northeast quarter section 17, east half section 21, sections 22, 23, 24, 25, 26, 27, east half section 28, east half section 33, sections 34, 35, 36, township 42 north, range 18 west; and sections 1, 2, and 3 of township 41 north, range 18 west, all from the New Mexico principal meridian.

SEC. 2. The Secretary of the Interior is hereby directed to determine, from the official records of the General Land Office, the number of acres of public land in the tracts described in section 1 of this act, and to compute the value thereof at the rate of $1.25 per acre, and he shall certify the computed value of said lands to the Secretary of the Treasury.

SEC. 3. The Secretary of the Treasury is hereby directed to place to the credit of the confederated bands of Ute Indians for their benefit, as provided in the act of Congress approved June 15, 1880 (21 Stat. L. 199), the amount certified to him by the Secretary of the Interior under section 2 hereof, which amount shall be taken from the unobligated portion of the net receipts from the Montezuma National Forest, beginning with the fiscal year in which this act is approved.

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

A motion to reconsider the vote by which the bill was passed was laid on the table.

SUIT ON BEHALF OF INDIANS OF CALIFORNIA

The next business on the Consent Calendar was the bill (H. R. 491) authorizing the attorney general of the State of California to bring suit in the Court of Claims on behalf of the Indians of California.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. CRAMTON. Mr. Speaker, reserving the right to object, this is the bill which the gentleman from California [Mr. LEA] has had passed over once or twice in order that I might have an opportunity to make some study of it. I have completed that study and have suggested some amendments that are agreeable to the gentleman from California. I shall not take the time now to go into those amendments unless some Member desires me to. I shall offer the amendments when the bill comes up for consideration. I do not object, though I want it understood that I have the right to offer these amendments.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read as follows:

Be it enacted, etc., That for the purposes of this act the Indians of California shall be defined to be all Indians who were residing in the State of California on June 1, 1852, and their descendants now living in said State.

SEC. 2. All claims of whatsoever nature the Indians of California as defined in section 1 of this act may have against the United States by reason of lands taken from them in the State of California by the United States without compensation, or for the failure or refusal of the United States to compensate them for their interest in lands in said State which the United States appropriated to its own purposes without the consent of said Indians, may be submitted to the Court of Claims by the attorney general of the State of California acting for and on behalf of said Indians for determination of the equitable amount due said Indians from the United States; and jurisdiction is hereby conferred upon the Court of Claims of the United States, with the right of either party to appeal to the Supreme Court of the United States, to hear and determine all such equitable claims of said Indians against the United States and to render final decree thereon.

It is hereby declared to be the judgment of the Congress that the loss to the said Indians on account of their failure to secure the lands and compensation provided for in the 18 unratified treaties is sufficient ground for equitable relief.

With the following committee amendments:

Page 2, line 18, strike out "to be the judgment of the Congress."

The committee amendment was agreed to.

The Clerk read as follows:

SEC. 3. If any claim or claims be submitted to said courts, they shall settle the equitable rights therein, notwithstanding lapse of time or statutes of limitation or the fact that the said claim or claims have not been presented to any other tribunal, including the commission created by the act of March 3, 1851 (9 Stat. L. 631): *Provided*, That any decree for said Indians shall be for an amount equal to the just value of the compensation provided or proposed for the Indians in those certain 18 unratified treaties executed by the chiefs and head men of the several tribes and bands of Indians of California and submitted to the Senate of the United States by the President of the United States for ratification on the 1st day of June, 1852, including the lands described therein at $1.25 per acre. Any payment which may have been made by the United States or moneys heretofore or hereafter expended for the benefit of the Indians of California shall not be pleaded as an estoppel, but expenditures under specific appropriations for the support and civilization of Indians in California made prior to July 1, 1928, may be pleaded by way of set-off.

With the following committee amendments:

Page 3, beginning in line 12, strike out the remainder of the section and insert:

"Any payment which may have been made by the United States or moneys heretofore or hereafter expended to date of award for the benefit of the Indians of California, made under specific appropriations for the support and civilization of Indians in California, shall not be pleaded as an estoppel but may be pleaded by way of set-off."

Mr. CRAMTON. Mr. Speaker, I offer the following amendment to the committee amendment, which I send to the desk.

The Clerk read as follows:

Mr. CRAMTON offers an amendment to the committee amendment on page 3: "Amend the committee amendment by inserting in line 21, after the word 'support,' the words 'education, health,' and in line 22, after the word 'California,' insert 'including purchases of land.'"

The SPEAKER. The question is on agreeing to the amendment to the committee amendment offered by the gentleman from Michigan.

The amendment to the committee amendment was agreed to.

The committee amendment as amended was agreed to.

The Clerk read as follows:

SEC. 4. The claims of the Indians of California under the provisions of this act shall be presented by petition, which shall be filed within three years after the passage of this act. Said petition shall be subject to amendment. The petition shall be signed and verified by the attorney general of the State of California. Verification may be upon information and belief as to the facts alleged. Official letters, papers, documents, and public records, or certified copies thereof, may be used in evidence, and the departments of the Government shall give the said attorney access to such papers, correspondence, or furnish such certified copies of records as may be necessary in the premises free of cost.

SEC. 5. In the event that the court renders judgment against the United States under the provisions of this act, it shall decree such amount as it finds reasonable to be paid to the State of California to reimburse the State for moneys expended by the State in the employment of attorneys to prosecute the claims of the Indians and for all necessary costs and expenses incurred by said State: *Provided*, That no reimbursement shall be made to the State of California for the services rendered by its attorney general.

Mr. CRAMTON. Mr. Speaker, I ask unanimous consent that the following two amendments, which I send to the desk, be considered together.

The SPEAKER. The Clerk will report the amendments.

The Clerk read as follows:

Page 4, lines 14, 15, and 16, strike out the words "for moneys expended by the State in the employment of attorneys to prosecute the claims of the Indians and"; and in line 17, after the word "State," insert a comma and the words "other than attorneys' fees."

Mr. CRAMTON. Mr. Speaker, I offer this explanation. The State of California has adopted legislation authorizing the attorney general to begin this suit. That is a commendable interest on the part of the State of California. However, while it is an important suit it will not be unduly complicated, and the action that the Federal Government takes in this bill is very generous, and California may well be likewise generous to its own citizens. The amendments I offer to this section mean that the State of California will be reimbursed by the Indians for the expenses of the suit other than attorneys' fees. Inasmuch as the attorney general's office can supply the legal talent necessary, it will save the Indians a number of thousands of dollars and be a generous action on the part of the State, which, it seems to me, it may very well take, and I hope it will.

The SPEAKER. Without objection, the amendments will be considered together.

There was no objection.

The SPEAKER. The question is on agreeing to the amendments.

The amendments were agreed to.

The Clerk read as follows:

SEC. 6. The proceeds of any judgment when appropriated shall be placed in the Treasury of the United States to the credit of the Indians of California and shall draw interest at the rate of 4 per cent per annum and shall be disposed of as Congress shall hereafter direct: *Provided*, That the Secretary of the Treasury is authorized and directed to pay to the State of California, out of the proceeds of the judgment when appropriated, the amount decreed by the court to be due said State, as provided in section 5 of this act.

With the following committee amendments:

Page 4, line 20, strike out the word "proceeds" and insert the word "amount," and in the same line strike out the words "when appropriated."

The committee amendments were agreed to.

Mr. CRAMTON. Mr. Speaker, I offer amendment No. 4 on the sheet I have sent to the Clerk's desk.

The SPEAKER. The gentleman from Michigan offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. CRAMTON: Page 4, line 24, strike out the words "disposed of as Congress shall hereafter direct" and insert in lieu thereof the following: "Thereafter subject to appropriation by Congress for educational, health, industrial, and other purposes for the benefit of said Indians, including the purchase of land and building of homes, and no part of said judgment shall be paid out in per capita payment to said Indians."

Mr. CRAMTON. Mr. Speaker, the purpose of that amendment is to provide that no per capita cash payments be made to the Indians that would be of little benefit to them, but it insures to them the benefit of this money through expenditures for the purposes set forth in the amendment.

In this connection permit me to say that this is a most important bill, providing for adjustment of long-standing claims of the California Indians. From my study of the hearings on this bill and a somewhat similar bill in the Sixty-sixth Congress, and from information furnished me by the Bureau of Indian Affairs, I am satisfied these Indians have claims which should be examined and finally adjudicated.

The principal claims of the California Indians are based upon the failure of the United States Senate to ratify 18 treaties entered into with them in the years 1851 and 1852, which treaties appear in the hearings before the Committee on Indian Affairs, House of Representatives, March 23, 1920 (Sixty-sixth Congress), beginning on page 13 and ending on page 55.

These proposed treaties were considered by the Senate but were returned to the President without favorable action thereon. (See Senate resolution appearing on pages 66, 67, 68, and 69 of the hearings referred to above.)

It is claimed that the reason for the failure to ratify the treaties at that time was because of the discovery of gold in California. Under the terms of these treaties the Indians of California gave up a large amount of land but they failed to receive the benefits that were to accrue to them under the terms of said treaties.

It is estimated that the California Indians, under the terms of these unratified treaties, were to receive approximately 7,500,000 acres of land. Under the terms of the jurisdictional bill they are to be compensated at the rate of $1.25 per acre for these lands, which would amount to $9,375,000.

These Indians were to receive other miscellaneous benefits under the terms of the treaties, which will be included in their claims to be presented to the Court of Claims in the event of the passage of the jurisdictional act. The principal claim, however, is for the loss of land.

The Indians will never have a more loyal friend or Congress a more reliable source of information as to the Indian problem than the Assistant Commissioner of Indian Affairs, Mr. Meritt. He has said to me about this bill:

There are probably no Indians in any State of the Union who have been more unjustly treated than have the California Indians. The failure of the Federal Government to ratify the treaties with these Indians and at the same time to accept the benefits of those treaties was a gross injustice. These Indians should have their day in court.

I am glad that it appears that their day in court is near at hand.

Two matters in the bill have given me especial concern. First, the jurisdictional bill is so worded that only the specific appropriations that have been made for the benefit of the California Indians will be included as set-offs. This does not include the amounts that have been expended for the benefit of the California Indians from general appropriations. The expenditures from specific appropriations up to July 1, 1927, amount to approximately $4,199,793.93. Expenditures for the California Indians from the general appropriations to July 1, 1927, amount to approximately $8,062,815.97, and from reimbursable appropriations to the same period approximately $1,480,000.46, or a total expenditure from 1852 to July 1, 1927, from Government funds for the benefit of the California Indians approximately $13,742,610.36.

One will not have dreamed, who has heard the constant denunciation of the United States for neglect of the California Indians, that actually over $13,000,000 has been spent in their behalf. And the end is not yet.

As a matter of law and equity, there is as much reason for setting up expenditures of Federal funds for the benefit of these Indians under a general appropriation as under a special appropriation. In either case the money is spent, and the purpose served is the same. To exclude consideration of the general appropriations therefore is as lacking in logic as it is unusual. Certainly such a provision can not be conceived of as a precedent.

But to insist on a full statement of Federal appropriations for benefit of these Indians, as I was at first inclined to do, would make it useless for them to go into court. And I think it desirable the California Indian situation be finally determined and on a generous basis.

If the Government were permitted to plead as set-off all appropriations, both specific and general, for the California Indians,

by the time the judgment was entered by the Court of Claims, and with the additional amounts that will be expended for the benefit of the California Indians in the meantime, they would receive nothing, but would be indebted to the Government in an amount approximating $5,000,000.

At the same time I was reluctant to see the suit result in a large verdict for the Indians, soon to be dissipated in per capita distribution of cash among them, and have them soon destitute and objects of gratuity appropriations from the Federal Treasury. I have felt their fund should be safeguarded from dissipation and used in a wise and constructive program for their development and upbuilding. In the desire to work this out I have greatly appreciated the cooperation of the gentleman from California [Mr. LEA], whose broad and far-seeing views on this have made possible passage of this legislation at this time.

The bill we are passing to-day safeguards in an unusual degree the future welfare of these Indians. By reason of the amendment just offered on page 4, the money due them will be conserved and be available for expenditure in a constructive program of health, education, home building, and industrial development, and the generosity of the Federal Government in the statement of the account will not be wasted. I am happy to support the bill under these circumstances.

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

The SPEAKER. The Clerk will read.

The Clerk read as follows:

SEC. 7. For the purpose of determining who are entitled to be enrolled as Indians of California, as provided in section 1 hereof, the Secretary of the Interior, under such rules and regulations as he may prescribe, shall cause a roll to be made of persons entitled to enrollment. Any person claiming to be entitled to enrollment may within two years after the approval of this act make an application in writing to the Secretary of the Interior for enrollment. At any time within three years of the approval of this act the Secretary shall have the right to alter and revise the roll, at the expiration of which time said roll shall be final and conclusive as to the rights of the persons entitled to be enrolled: *Provided*, That the Secretary of the Interior, under such rules and regulations as he may prescribe, shall also cause to be made, within the time specified herein, a roll of all Indians in California other than Indians that come within the provisions of section 1 of this act.

With committee amendments, as follows:

On page 5, line 10, strike out the word "two" and insert in lieu thereof the word "three"; and on line 13, strike out the word "three" and insert the word "five."

Mr. CRAMTON. Mr. Speaker, as to those two amendments, which may be acted on together, the gentleman from California and I have agreed that those amendments should be disagreed to, in order that the time may be nearer in which the Indians may realize the benefits of this legislation.

The SPEAKER. The question is on agreeing to the two amendments just read.

The question was taken, and the two amendments were rejected.

The SPEAKER. The Clerk will read the other amendment.

The Clerk read as follows:

Page 5, line 15, strike out the words "final and conclusive as to the rights of the persons entitled to be enrolled" and insert in lieu thereof "closed for all purposes and thereafter no additional name shall be added thereto."

The SPEAKER. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. HASTINGS. Mr. Speaker, I wish to ask the gentleman from Michigan and the gentleman from California what provision is made in the bill as amended for the expenses of the attorneys' fees.

Mr. CRAMTON. They will be advanced by the State of California and reimbursed by the Indians.

Mr. HASTINGS. I wanted to know if there was some provision to that effect.

The SPEAKER. The question is on the engrossment and third reading of the bill as amended.

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

A motion to reconsider the last vote was laid on the table.

BRIDGE ACROSS THE OHIO RIVER AT EVANSVILLE, IND.

The next business on the Consent Calendar was the bill (H. R. 11357) authorizing the State of Indiana to construct, maintain, and operate a toll bridge across the Ohio River at or near Evansville, Ind.

The title of the bill was read.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. SCHAFER. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

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

There was no objection.

The SPEAKER. The Clerk will report the next bill.

DESCHUTES RECLAMATION PROJECT IN OREGON

The next business on the Consent Calendar was the bill S. 1186) to provide for the construction of the Deschutes project in Oregon, and for other purposes.

The title of the bill was read.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. CRAMTON. Reserving the right to object, Mr. Speaker, would the gentleman from Oregon want to press that to-day? I shall feel obliged to object to-day.

Mr. SINNOTT. Mr. Speaker, I ask unanimous consent to have it passed over without prejudice.

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

There was no objection.

The SPEAKER. The Clerk will report the next bill.

COWLITZ TRIBE OF INDIANS

The next business on the Consent Calendar was the bill (H. R. 167) to amend the act of February 12, 1925 (Public, No. 402, 68th Cong.), so as to permit the Cowlitz Tribe of Indians to file suit in the Court of Claims under said act.

The title of the bill was read.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the act approved February 12, 1925, entitled "An act authorizing certain Indian tribes, or any of them, residing in the State of Washington to submit to the Court of Claims certain claims growing out of treaties or otherwise," be, and the same is hereby, amended so as to permit the Cowlitz Tribe of Indians to file suit or suits in the Court of Claims in like manner as the other tribes mentioned therein, and jurisdiction is hereby conferred upon the Court of Claims to hear and determine any and all suits brought hereunder and to render final judgment therein the same as if the said Cowlitz Tribe of Indians had been included within the terms and provisions of the act of which this is an amendment.

The SPEAKER. The question is on the engrossment and third reading of the bill.

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

A motion to reconsider the last vote was laid on the table.

PHILIPPINE CONSTABULARY AND REGULAR ARMY OFFICERS

The next business on the Consent Calendar was the bill (H. R. 9496) to recognize commissioned service in the Philippine Constabulary in determining rights of officers of the Regular Army.

The title of the bill was read.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. BLACK of Texas. Mr. Speaker, I object.

Mr. CRAMTON. I object.

Mr. LAGUARDIA. Mr. Speaker, I object.

The SPEAKER. Three objections are noted. The Clerk will report the next bill.

SETTLEMENT ON FEDERAL RECLAMATION PROJECTS

The next business on the Consent Calendar was the bill (H. R. 9956) to provide for aided and directed settlement on Federal reclamation projects.

The title of the bill was read.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. BLACK of Texas. I object.

The SPEAKER. Objection is heard. The Clerk will report the next bill.

MEMORIAL HIGHWAY IN VIRGINIA

The next business on the Consent Calendar was the bill (H. R. 4625) to authorize and direct the survey, construction, and maintenance of a memorial highway to connect Mount Vernon, in the State of Virginia, with the Arlington Memorial Bridge across the Potomac River at Washington.

The title of the bill was read.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. CRAMTON. Mr. Speaker, I object.

The SPEAKER. Objection is heard. The Clerk will report the next bill.

BRIDGE ACROSS THE MISSISSIPPI RIVER AT BATON ROUGE

The next business on the Consent Calendar was the bill (S. 2449) to authorize the construction of a bridge across the Mississippi River at or near the city of Baton Rouge, in the parish of East Baton Rouge, and a point opposite thereto in the parish of West Baton Rouge, State of Louisiana.

The title of the bill was read.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. BLACK of Texas. Mr. Speaker, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER. Is there objection to the gentleman's request?

There was no objection.

The SPEAKER. The Clerk will report the next bill.

CONTRACTS CONNECTED WITH THE PROSECUTION OF THE WAR

The next business on the Consent Calendar was the bill (S. 1347) to amend an act entitled "An act to provide relief in cases of contracts connected with the prosecution of the war, and for other purposes," approved March 2, 1919, as amended.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. LAGUARDIA and Mr. SPROUL of Kansas objected.

The next business on the Consent Calendar was the bill (H. R. 11411) to amend an act entitled "An act to provide relief in cases of contracts connected with the prosecution of the war, and for other purposes," approved March 2, 1919, as amended.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. LAGUARDIA and Mr. SPROUL of Kansas objected.

ACQUISITION OF PROPERTY FOR THE LIBRARY OF CONGRESS

The next business on the Consent Calendar was the bill (H. R. 9355) to provide for the acquisition of certain property in the District of Columbia for the Library of Congress, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. BLACK of Texas. Mr. Speaker, reserving the right to object, can the chairman of the committee give us any information as to the assessed value of this particular land? Has any inquiry been made as to that matter?

Mr. LUCE. Mr. Speaker, detailed inquiry was made. The gentleman's question prompts me in saying a word on that phase of the situation.

Mr. BLACK of Texas. I would be glad if the gentleman would give the House any information he has available and the reason I ask for it is this: It is well known by everyone that there has been a real and substantial decline in real estate values in the city of Washington. If you go out and undertake to sell a piece of property in the ordinary real-estate market you will find that out, and yet the Government continues to purchase, apparently, without taking into consideration the fact that there has been a real and substantial decline in real-estate values in the city of Washington, and I have wondered whether, in the purchase of this real estate, the Government is to be protected against that situation.

Mr. LUCE. Mr. Speaker, gentlemen of the Committee on Appropriations, finding that the system of assessment in the District was unsatisfactory, came to the conclusion that in order to improve it, if possible, bills authorizing the appropriation of money to buy land in the District might well contain a stipulation that not more than 25 per cent above the assessed price should be paid. That stipulation was put into the bill relating to the purchase of land for the arboretum, but in that case, as in the case of the purchase of land for the new Botanic Garden, great difficulty has been found in securing the sale of the land within the limits prescribed. The chief cause for the situation, I think, is to be found in the imperfect condemnation law of the District. Certain gentlemen greatly interested have given much thought to the perfecting of this law and recently have presented their views to the Committee on the District of Columbia. I welcome this opportunity to express to any members of that committee who may be here the great importance of speedy action upon the matter. If it can be secured before the end of this session the public improvements now in progress will be greatly expedited.

When it came to the drafting of this bill I was greatly perplexed by the situation. I found that in the opinion of the assessors the land in question could not be bought or secured by condemnation at a price 25 per cent above its assessed value. Indeed, the assessors indicated their expectation that under condemnation proceedings it would be necessary to pay 80 per cent above the assessed value.

I must take a personal responsibility, for the committee saw fit to follow my advice to take an arbitrary limit of 40 per cent, and this bill is figured out on that basis. I have grave doubts whether we can get that land under condemnation for 40 per cent above assessed valuation; I am quite sure we can not get it all by trade, because the attempt to bargain in the matter of the Botanic Garden land has resulted in no offer being submitted at less than 100 per cent above valuation. One offer is for more than 200 per cent and one offer is for more than 500 per cent.

Mr. BLACK of Texas. That was just the complaint I wanted to make. It is well known to every Member of the House that there has been a very substantial decline in real-estate values in the city of Washington. I do not think any well-posted man would dispute that for a moment; and yet when the Government goes to buy an effort is made to get the price that prevailed three or four years ago.

I shall not object to this bill, in view of the statement the chairman has made, to wit, that the committee has reduced the original figure from $780,000 to $600,000, and I assume the committee amendment will be adopted. However, I hope no hurry will be made in the purchase of this land until the condemnation law can be amended so that the Government will have better protection than now exists. We should be as economical as possible in the purchase of any needed real estate.

Mr. LUCE. I may say to the gentleman that I am extremely doubtful whether the land can be purchased for the figure set forth in the bill before we get a proper, just, and fair condemnation law.

Mr. BLACK of Texas. Then it might be well to wait a while if it can not be purchased within that figure.

Mr. CRAMTON. Mr. Speaker, reserving the right to object, I have been very glad to hear the suggestion of the gentleman from Massachusetts, after his study of this question, as to the need of a new condemnation law, and his suggestion with reference to this situation simply emphasizes the fact that the development of the District and the development of Government projects here are being handicapped and held back because of the lack of a proper condemnation law. The 25 per cent provision is a very crude way to get at it, and is ineffective, and until we can have a condemnation law in which Congress can have confidence many such desirable projects as this are going to lag. I believe there is nothing more important before the District of Columbia Committee than the framing and reporting of the law to which the gentleman has referred.

Mr. GILBERT. If the gentleman will permit, we are holding hearings on that bill now and hope to report it in such form as to be satisfactory to the Congress. There are some provisions in the pending legislation which undoubtedly go too far. It provides for the taking of property before paying for it and retaining it without setting out any definite bounds.

Mr. CRAMTON. I hope the gentleman from Kentucky will feel that the House is in earnest about having an effective condemnation law, something that has some teeth in it that will protect the interests of the Government, and that even if a provision is a little different from what the gentleman is accustomed to I hope he will not be in opposition to it.

Mr. GILBERT. I will say to the gentleman that not only in condemnation matters but in many other ways enforcement of law in the District of Columbia has largely broken down.

Mr. CRAMTON. I would like to ask a question of the gentleman from Massachusetts [Mr. LUCE]. I wonder if the gentleman would object to an amendment—which I will not insist on, of course—to include the ranking minority member of the Committee on the Library as a member of this commission. I think it customary to give the minority representation, and I am glad to have the minority share part of the responsibility. I hope to offer the amendment when the bill is taken up, and I now withdraw my reservation of objection.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That there is hereby created a joint commission to be composed of the chairman of the Committee on the Library of the Senate, the chairman of the Committee on the Library of the House of Representatives, and the Architect of the Capitol. The chairman of the Committee on the Library of the Senate shall act as chairman of the commission. The commission is authorized to sit and act at such times and places within the District of Columbia as it deems advisable. The chairman of the Committee on the Library of the House of Repre-

sentatives shall continue to serve upon the commission if he has been reelected to the House of Representatives, notwithstanding the expiration of the Congress. The members of the commission shall receive no additional compensation for their services as such members, but they shall be reimbursed for necessary expenses incurred by them in the performance of the duties vested in the commission. The commission shall cease to exist six months after the date of final acquisition of the property under the provisions of section 2 of this act.

SEC. 2. For the purpose of providing a site for additional buildings for the Library of Congress the commission is authorized and directed to acquire on behalf of the United States, by purchase, condemnation, or otherwise, at a cost not to exceed $780,000, all the privately owned land, including buildings and other structures, in squares Nos. 760 and 761, in the District of Columbia, as such squares appear on the records in the office of the surveyor of the District of Columbia as of the date of the enactment of this act. Any condemnation proceedings necessary to be instituted under the authority of this act shall be in accordance with the provisions of section 3 of the act entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June 30, 1891, and for other purposes," approved August 30, 1890, as amended.

SEC. 3. All such land, buildings, and structures, when acquired, shall be under the jurisdiction and control of the Architect of the Capitol, who is authorized, pending the demolition of such buildings and structures and the use of the land for Library purposes, (a) to lease any or all of such property for such periods and under such terms and conditions as he may deem most advantageous to the United States, (b) out of such appropriations as may be made therefor, to provide for the maintenance, repair, and protection of such property and to incur such other expenses as may be necessarily incident to such jurisdiction and control, and (c) to render available for the use of the Library, upon the request of the librarian, such portions thereof as may be suitable temporarily for storage or other purposes.

The proceeds of any leases hereunder shall be covered into the Treasury as miscellaneous receipts, and the Architect of the Capitol shall include in his annual report a detailed statement of his action under this section during the period covered by such report.

SEC. 4. The Architect of the Capitol is authorized to remove or to provide for the removal of such buildings and structures or such part thereof as may be necessary, upon request of the Joint Committee on the Library, when it shall become apparent to such committee that such land or any part thereof is needed for the purpose of commencing the construction of any additional building or buildings for the Library of Congress.

SEC. 5. After the demolition of the buildings and structures acquired hereunder, the Commissioners of the District of Columbia, upon request of the Joint Committee on the Library, are authorized and directed to close and vacate that part of A Street SE. lying between the east side of Second Street and the west side of Third Street SE., and the portion of such street so closed and vacated, together with the land acquired under this act, shall thereupon become a part of the grounds of the Library of Congress.

SEC. 6. Appropriations made for carrying out the provisions of this act shall be disbursed by the disbursing officer of the Interior Department.

With the following committee amendments:

Page 2, line 17, strike out "$780,000" and insert in lieu thereof "$600,000."

Page 2, line 18, strike out the language "in squares Nos. 760 and 761" and insert "in square No. 761, and so much thereof in square No. 760 as is south of the north side of the alley, being lots Nos. 15 to 30, inclusive, and including any easements or rights of reversion."

Page 4, line 15, strike out the words "and the portion of such street" and insert "and also the alley intersecting square No. 760 as described above in section 2, and the portion of such street and the whole of said alley."

The committee amendments were agreed to.

Mr. CRAMTON. Mr. Speaker, I offer several amendments, which I would be pleased to have considered together.

On page 1, in line 4, after the word "chairman," insert the words "and ranking minority member"; and in line 5, after the word "chairman," insert the same language; and on page 2, line 2, after the word "chairman," insert the same language.

Mr. ALLGOOD. Does that include the ranking minority member of the Senate Committee?

Mr. CRAMTON. That would include the ranking minority members of the Senate and of the House.

Mr. LUCE. Mr. Chairman, I have not the slightest objection to the amendments, but I would take the opportunity they give to say that the minority members of the Committee on the Library have cooperated with the majority members in such a whole-hearted way that I shall be pleased to have public record here made of their keen interest in the Library and their constant and active share in the promotion of its welfare.

Mr. CRAMTON. I felt it was more oversight than otherwise.

There should be one more amendment coupled with these amendments, page 2, line 4, strike out the words "he has" and insert "they have."

The SPEAKER. The gentleman from Michigan offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 1, in line 4, after the word "chairman," insert the words "and ranking minority member"; in line 5, after the word "chairman," insert the words "and ranking minority member"; on page 2, line 2, after the word "chairman," insert the words "and ranking minority member"; and at page 2, line 4, strike out the words "he has" and insert in lieu thereof the words "they have."

The amendments were agreed to.

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

A motion to reconsider was laid on the table.

THE NATIONAL ARCHIVES

The next business on the Consent Calendar was the bill (H. R. 10545) to create an establishment to be known as the national archives, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. LAGUARDIA. Mr. Speaker, reserving the right to object——

Mr. LANHAM, Mr. EDWARDS, and Mr. BLACK of Texas objected.

INVESTIGATION OF WATERS OF GILA RIVER, N. MEX. AND ARIZ.

The next business on the Consent Calendar was the bill (H. R. 10786) authorizing surveys and investigations to determine the best methods and means of utilizing the waters of the Gila River and its tributaries above the San Carlos Reservoir in New Mexico and Arizona.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. LAGUARDIA. Mr. Speaker, reserving the right to object, has the gentleman from New Mexico got the consent of the State of Arizona with respect to this matter of water?

Mr. MORROW. Yes; this is an agreement between Arizona and New Mexico, if we can get the survey under which they will apportion these waters.

Mr. LAGUARDIA. I understood Arizona was resisting the attempt of any other State in any way to deprive it of the full and complete enjoyment of all its waters.

Mr. MORROW. The gentleman from Arizona is right here.

Mr. ARENTZ. In view of the manner in which the other State has recognized the equities of the matter, we are sure nothing will be done that would be harmful to Arizona.

Mr. LAGUARDIA. Does the gentleman from Nevada expect that by this Christian conduct on his part and others we can get Arizona to see the evil of its ways?

Mr. ARENTZ. In this case we are not going to smite the other cheek, but we are going to return good for evil.

Mr. LAGUARDIA. Wait until Boulder Dam legislation comes in and we will see about it.

Mr. MORROW. This is a case where Arizona is perfectly willing to agree.

Mr. LAGUARDIA. That is good for Arizona.

Mr. CRAMTON. Mr. Speaker, reserving the right to object, this bill provides for an expenditure from the Treasury. As I understand, it is agreeable to the gentleman from Arizona and the gentleman from New Mexico to have the expenditure made from the reclamation fund, and the gentlemen intend to provide for a local contribution. I therefore withdraw any objection, Mr. Speaker.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior is hereby authorized and empowered to make all necessary surveys and investigations to ascertain the best methods and means of utilizing the waters of the Gila River and its tributaries above the San Carlos Reservoir for irrigation and other purposes in the States of New Mexico and Arizona. The Secretary of the Interior is further authorized and empowered to prepare plans and make estimates of the cost of constructing dams, canals, and other works necessary for the utilization of such waters.

SEC. 2. That there is hereby authorized to be appropriated for this purpose $25,000 from any money in the Treasury not otherwise appropriated.

Mr. MORROW. Mr. Speaker, I offer the following amendment.

The Clerk read as follows:

Page 2, strike all of section 2 and insert in lieu thereof the following:

"SEC. 2. That there is hereby authorized to be appropriated for this purpose a sum not to exceed $12,500 from any money in the reclamation fund: *Provided further,* That the appropriation herein authorized shall not be available unless or until contributions of an equal amount shall have been provided from local sources."

The SPEAKER. The question is on the amendment.

The amendment was agreed to.

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

On motion of Mr. MORROW, a motion to reconsider was laid on the table.

GRATUITY TO DEPENDENT RELATIVES OF OFFICERS, ENLISTED MEN OR NURSES

The next business on the Consent Calendar was the bill (H. R. 5548) to authorize payment of six months' death gratuity to dependent relatives of officers, enlisted men, or nurses whose death results from wounds or disease not resulting from their own misconduct.

The Clerk read the title of the bill.

The SPEAKER. Is there objection?

Mr. LAGUARDIA. Mr. Speaker, reserving the right to object, I have no objection to the bill, but it is improperly drawn. It is inartistic to amend the law by referring to certain lines in the original bill. That is the proper way to amend a bill on the floor of the House, but not to amend existing law. I have prepared an amendment which recites the entire paragraph as it would read when amended. I think that is the way it ought to be done. Otherwise you have the necessity of referring to the original bill, and unless you get the right edition, the right print—and you may have a copy in pamphlet form—and there would be uncertainty. Here it is proposed to "amend by inserting after the 'colon in line 16' of said provision the following additional proviso," and so forth. In my amendment I refer to the act of June 4, 1920, Forty-first Statutes at Large, page 822, section 943, title 34, United States Code, and so forth, and amend "to read as follows." And then I put the amendment in the paragraph where it belongs.

The SPEAKER. The Clerk will report the bill.

Mr. LAGUARDIA. Mr. Speaker, I ask unanimous consent that my amendment which I have sent to the desk may be read in lieu of the bill, as it strikes out all after the enacting clause.

The SPEAKER. Is there objection?

There was no objection.

The Clerk read as follows:

Amendment offered by Mr. LAGUARDIA: Strike out everything after the enacting clause and insert in lieu thereof the following:

"That the provision contained in the act approved June 4, 1920 (41 Stat. L. p. 824; sec. 943, title 34, U. S. C.), is hereby amended to read as follows:

"'943. Allowance on death of officer or enlisted man or nurse, to widow, child, or dependent relative. Immediately upon official notification of the death from wounds or disease, not the result of his or her own misconduct, of any officer, enlisted man, or nurse on the active list of the regular Navy or regular Marine Corps, or on the retired list when on active duty, the Paymaster General of the Navy shall cause to be paid to the widow, and if there be no widow to the child or children, and if there be no widow or child to any other dependent relative of such officer, enlisted man, or nurse previously designated by him or her an amount equal to six months' pay at the rate received by such officer, enlisted man, or nurse at the date of his or her death. The Secretary of the Navy shall establish regulations requiring each officer and enlisted man or nurse having no wife or child to designate the proper dependent relative to whom this amount shall be paid in case of his or her death. Said amount shall be paid from funds appropriated for the pay of the Navy and pay of the Marine Corps, respectively: *Provided,* That if there be no widow, child, or previously designated dependent relative the Secretary of the Navy shall cause the amount herein provided to be paid to any grandparent, parent, sister, or brother shown to have been actually dependent upon such officer, enlisted man, or nurse prior to his or her death, and the determination of such fact by the Secretary of the Navy shall be final and conclusive upon the accounting officers of the Government: *Provided,* That nothing in this section or in other existing legislation shall be construed as making the provisions of this section applicable to officers, enlisted men, or nurses of any forces of the Navy of the United States other than those of the regular Navy and Marine Corps, and nothing in this section shall be construed to apply in commissioned grades to any officers except those holding permanent or probationary appointments in the regular Navy or Marine Corps: *Provided,* That the provisions of this section shall apply to the officers and enlisted men of the Coast Guard, and the Secretary of the Treasury will cause payment to be made accordingly.'"

The SPEAKER. The question is on the amendment.

The amendment was agreed to.

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

A motion to reconsider was laid on the table.

READJUSTING THE PAY AND ALLOWANCE OF COMMISSIONED AND ENLISTED PERSONNEL OF THE ARMY, NAVY, MARINE CORPS, COAST GUARD, COAST AND GEODETIC SURVEY, AND PUBLIC HEALTH SERVICE

The next business on the Consent Calendar was the bill (H. R. 5718) to amend the act entitled "An act to readjust the pay and allowances of the commissioned and enlisted personnel of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service."

The Clerk read the title of the bill.

The SPEAKER. Is there objection?

Mr. LAGUARDIA. Reserving the right to object, this bill is similar to the other and seeks to amend by changing the last five lines of said paragraph 5 after the word "grade" and semicolon immediately following, and so forth.

Mr. BLACK of Texas. Further reserving the right to object, I will say that the bill carries a provision that will render it retroactive to July 1, 1926, and that retroactive clause will cost the Government $15,000. There really is no justification for that. I have consulted with some members of the Naval Affairs Committee, and they seem to be agreeable that that clause shall be stricken out. I shall offer an amendment to strike out this retroactive clause and thus save the Government about $15,000.

Mr. LAGUARDIA. Mr. Speaker, I have no objection, providing I offer an amendment.

The SPEAKER. Is there objection?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That paragraph 5, section 1, of the act approved June 10, 1922 (vol. 42, Stat. L., chap. 212, p. 626), entitled "An act to readjust the pay and allowances of the commissioned and enlisted personnel of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service," be, and the same is hereby, amended by changing the last five lines of said paragraph 5, after the word "grade" and semicolon immediately following, to read as follows: "and to lieutenant commanders and lieutenants of the Staff Corps of the Navy, and lieutenant commanders, lieutenants, and lieutenants (junior grade) of the line and engineer corps of the Coast Guard whose total commissioned service equals that of lieutenant commanders of the line of the Navy, drawing the pay of this period": *Provided,* That this amendment shall be effective from July 1, 1926.

Mr. LAGUARDIA. Mr. Speaker, I offer the following amendment, which I send to the desk.

The Clerk read as follows:

Amendment offered by Mr. LAGUARDIA: Page 1, strike all of line 9 and strike out all of page 2 and insert in lieu thereof the following, so that it will read as follows:

"The pay of the fourth period shall be paid to lieutenant colonels of the Army, commanders of the Navy, and officers of corresponding grades who are not entitled to the pay of the fifth or sixth periods; to majors of the Army, lieutenant commanders of the Navy, and officers of corresponding grades who have completed 14 years' service, or whose first appointment in the permanent service was in a grade above that corresponding to second lieutenant in the Army, or who are appointed to the Regular Army to fill vacancies created by the increase of the commissioned personnel thereof in 1920; to captains of the Army, lieutenants of the Navy, and officers of corresponding grades who have completed 17 years' service, except those whose promotion is limited by law to this grade and who are not entitled under existing law to the pay and allowances of the higher grade, and to lieutenant commanders and lieutenants of the Staff Corps of the Navy and lieutenant commanders, lieutenants and lieutenants (junior grade) of the line, and engineer corps of the Coast Guard, whose total commissioned service equals that of lieutenant commanders of the line of the Navy during the pay of this period: *Provided,* That this statement shall be effective from July 1, 1926."

Mr. BLACK of Texas. Mr. Speaker, I reserve the point of order on the amendment. This bill we now have before us is

designed to affect only 11 officers of the Navy. It seems to me that the gentleman is offering an amendment that will cover a wide field.

Mr. LaGUARDIA. Exactly. I have not offered anything new. The amendment changes only the last five lines of the act referred to, and I did not put anything new in it.

Mr. BLACK of Texas. Has the gentleman examined the language in his amendment very carefully to see that it does not go beyond the scope of the present bill?

Mr. LaGUARDIA. Of course I have. All I have done is to rewrite paragraph 5 as it is amended by the present bill. I would not think of doing anything else. Does the gentleman intend to offer an amendment striking out the retroactive feature?

Mr. BLACK of Texas. I have sent an amendment to the desk to do that. I ask that the reading of my amendment be changed so as to amend the LaGuardia amendment by striking out the proviso in the LaGuardia amendment and inserting the proviso which I have sent to the desk.

The Clerk read as follows:

Amendment by Mr. BLACK of Texas to the amendment offered by Mr. LaGUARDIA: Strike out from the LaGuardia amendment the following: "*Provided*, That this amendment shall be effective from July 1, 1926," and insert in lieu of the matter stricken out the following language: "that no back pay or allowance shall accrue by reason of the passage of this act."

The SPEAKER pro tempore (Mr. SNELL). The question is on agreeing to the amendment to the amendment.

The amendment to the amendment was agreed to.

The amendment was agreed to.

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

A motion to reconsider the vote by which the bill was passed was laid on the table.

MECHANICS' HELPERS, POST OFFICE DEPARTMENT

The next business on the Consent Calendar was the bill (H. R. 7354) to allow the Postmaster General to promote mechanics' helpers to the first grade of special mechanics.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That the third paragraph of section 6 of the act entitled "An act reclassifying the salaries of postmasters and employees of the Postal Service, readjusting their salaries and compensation on an equitable basis, increasing postal rates to provide for such readjustment, and for other purposes," approved February 28, 1925 (43 Stat. L. 1060), is amended to read as follows:

"Mechanics' helpers employed in the motor-vehicle service shall receive a salary of $1,600 per annum: *Provided*, That on and after the passage of the salary reclassification act of February 28, 1925, and upon the presentation of satisfactory evidence of their qualifications after one year's service, mechanics' helpers may be promoted to the first grade of general mechanics or special mechanics, as vacancies occur."

With the following committee amendment:

Page 1, line 9, after the figures "1060" insert "United States Code, title 39, section 116, paragraph 2."

The committee amendment was agreed to and the bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

MOTOR-VEHICLE SERVICE EMPLOYEES, POST OFFICE DEPARTMENT

The next business on the Consent Calendar was the bill (H. R. 8728) to authorize the Postmaster General to give motor-vehicle service employees credit for actual time served on a basis of one year for each 306 days of 8 hours served as substitute.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. LaGUARDIA. Mr. Speaker, I have no objection to the merits of the bill, but the gentleman from Iowa [Mr. RAMSEYER], who is a very careful legislator, I think has forgotten to put in a cross reference to the United States Code. He referred to the Forty-third Statutes, page 1064, but that does not give us the proper cross reference to the United States Code.

Mr. RAMSEYER. It is there right after the figures "1064," in line 8, page 1, continuing on line 1 of page 2.

Mr. LaGUARDIA. Then I have not that print.

Mr. RAMSEYER. The gentleman has not the copy of the bill that was reported out.

Mr. LaGUARDIA. What section have you of the code?

Mr. RAMSEYER. Section 104, title 39.

Mr. LaGUARDIA. Because the Forty-third Statute, page 1064, is carried on in about 14 sections of the United States Code.

Mr. RAMSEYER. The gentleman has a copy of the bill before it was amended.

Mr. LaGUARDIA. That answers the question. I knew the gentleman was too careful a legislator to let anything like that get by.

Mr. RAMSEYER. I try to keep up with the pace set by the distinguished gentleman from New York.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That section 11 of the act entitled "An act reclassifying the salaries of postmasters and employees of the Postal Service, readjusting their salaries and compensation on an equitable basis, increasing postal rates to provide for such readjustment, and for other purposes," approved February 28, 1925 (43 Stat. L. 1064), is amended by adding thereto the following:

"Substitute clerks, substitute garage-men drivers, substitute driver-mechanics, substitute general mechanics, and substitute special mechanics, when appointed regular clerks, garage-men drivers, driver-mechanics, general mechanics, or special mechanics in the motor-vehicle service, shall be given credit for the actual time served as a substitute on the basis of one year for each 306 days of eight hours, and shall be appointed to the grade to which such clerk, garage-man driver, driver-mechanic, general mechanic, or special mechanic would have progressed had his original appointment as a substitute been made to grade 1. Substitute service shall be computed from the date of original appointment as a regular classified substitute, and the salaries of the employees shall be fixed accordingly upon the date of their advancement to a regular position under the act of February 28, 1925, and thereafter."

With the following committee amendments:

Page 1, line 8, after the figures "1,064," insert "United States Code, title 39, section 104."

Page 2, line 4, after the word "driver-mechanics," insert the word "and."

Page 2, line 5, strike out "and substitute special mechanics."

Page 2, line 6, after the word "driver-mechanics," insert the word "or."

Page 2, line 7, after the word "mechanics," strike out the comma and the words "or special mechanics."

Page 2, line 11, after the word "driver-mechanics," insert the word "or."

Page 2, line 12, after the word "mechanic," strike out "or special mechanic."

The committee amendments were agreed to and the bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

A motion to reconsider the vote by which the bill was passed was laid on the table.

STANDARDS FOR HAMPERS AND BASKETS

The next business on the Consent Calendar was the bill (H. R. 8907) to fix standards for hampers, round-stave baskets, and splint baskets for fruits and vegetables, and for other purposes.

The title of the bill was read.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. LaGUARDIA. Mr. Speaker, reserving the right to object, I have one or two amendments here that I believe are necessary from my study of the bill. I would like to know the views of the Member who introduced the bill, but inasmuch as he is not on the floor at this time I ask unanimous consent that the bill may be passed over without prejudice.

Mr. LOWREY. I am not the sponsor of the bill, but I am a member of the committee which reported it. This bill has been passed over many times. It is so heartily approved and heartily appealed for over and over by both the trade and the dealers that I think it should be passed. There has been a strong sentiment for the passage of this bill for four or five years. I think it has been before our committee at least that long. I should hate to see it delayed.

Mr. LaGUARDIA. Would the gentleman object to the amendment?

Mr. LOWREY. What amendment?

Mr. LaGUARDIA. On page 5 you can relieve the dealer from responsibility if he can produce a signed guaranty from the manufacturer of these hampers. I would tighten that up a little. Also, at the bottom of page 5, lines 25 and 26, I think the language is ill-chosen and may lead to confusion. Instead

of referring to the person who made the purchase I would name him as the person who offers the article for sale.

Mr. LOWREY. I do not think there would be any objection to that last amendment. Will the gentleman state the first one again?

Mr. LAGUARDIA. Yes. On page 5 your bill reads that—

No person shall be prosecuted under the provisions of this act when he can establish a guaranty signed by the manufacturer, wholesaler, shipper, or other party residing within the United States from whom the hampers were purchased.

That establishes the party who signs the guaranty. I would place the guaranty on the man who offers the article.

Mr. LOWREY. I would not object to that guaranty.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the standard hampers and round stave baskets for fruits and vegetables shall be of the following capacities: One-eighth bushel, one-fourth bushel, one-half bushel, three-fourths bushel, 1 bushel, 1½ bushels, and 2 bushels, which, respectively, shall be of the cubic content set forth in this section. For the purposes of this act a bushel standard dry measure has a capacity of 2,150.42 cubic inches.

(a) The standard one-eighth-bushel hamper or round stave basket shall contain 268.8 cubic inches.

(b) The standard one-fourth-bushel hamper or round stave basket shall contain 537.6 cubic inches.

(c) The standard one-half-bushel hamper or round stave basket shall contain 1,075.21 cubic inches.

(d) The standard three-fourths-bushel hamper or round stave basket shall contain 1,612.8 cubic inches.

(e) The standard one-bushel hamper or round stave basket shall contain 2,150.42 cubic inches.

(f) The standard 1½-bushel hamper or round stave basket shall contain 3,225.63 cubic inches.

(g) The standard 2-bushel hamper or round stave basket shall contain 4,300.84 cubic inches.

With a committee amendment, as follows:

Section 1, page 2, line 21, after the word "inches" insert: "*Provided,* That nothing herein contained shall prohibit or interfere with the farmers or market gardeners, or others, using five-eighths-bushel baskets in gathering, delivering, and selling their products to canning, packing, or wholesale houses."

The SPEAKER pro tempore. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The SPEAKER pro tempore. The Clerk will proceed with the reading of the bill for amendment.

The Clerk read as follows:

SEC. 2. That the standard splint baskets for fruits and vegetables shall be the 4-quart basket, 8-quart basket, 12-quart basket, 16-quart basket, 24-quart basket, and 32-quart basket, standard dry measure. For the purposes of this act a quart standard dry measure has a capacity of 67.2 cubic inches.

(a) The 4-quart splint basket shall contain 268.8 cubic inches.

(b) The 8-quart splint basket shall contain 537.6 cubic inches.

(c) The 12-quart splint basket shall contain 806.4 cubic inches.

(d) The 16-quart splint basket shall contain 1,075.21 cubic inches.

(e) The 24-quart splint basket shall contain 1,612.8 cubic inches.

(f) The 32-quart splint basket shall contain 2,150.42 cubic inches.

SEC. 3. That the Secretary of Agriculture shall in his regulations under this act prescribe such tolerances as he may find necessary to allow in the capacities for hampers, round-stave baskets, and splint baskets set forth in sections 1 and 2 of this act in order to provide for reasonable variations occurring in the course of manufacturing and handling. If a cover be used upon any hamper or basket mentioned in this act, it shall be securely fastened or attached in such a manner, subject to the regulations of the Secretary of Agriculture, as not to reduce the capacity of such hamper or basket below that prescribed therefor.

SEC. 4. That no manufacturer shall manufacture hampers, round-stave baskets, or splint baskets for fruits and vegetables unless the dimension specifications for such hampers, round-stave baskets, or splint baskets shall have been submitted to and approved by the Secretary of Agriculture, who is hereby directed to approve such specifications if he finds that hampers, round-stave baskets, or splint baskets for fruits and vegetables made in accordance therewith would not be deceptive in appearance and would comply with the provisions of sections 1 and 2 of this act.

SEC. 5. That it shall be unlawful to manufacture for sale or shipment, to offer for sale, to sell, to offer for shipment, to ship, or to import or cause to be imported into the continental United States, hampers, round-stave baskets, or splint baskets for fruits or vegetables, either filled or unfilled, or parts of such hampers, round-stave baskets, or splint baskets that do not comply with this act: *Provided,* That this act shall not apply to Climax baskets, berry boxes, and till baskets which comply with the provisions of the act approved August 31, 1916, entitled "An act to fix standards for Climax baskets for grapes and other fruits and vegetables, and to fix standards for baskets and other containers for small fruits, berries, and vegetables, and for other purposes" (39 U. S. Stat. L. 673), and the regulations thereunder. Any individual, partnership, association, or corporation that willfully violates this section shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding $500: *Provided further,* That no person shall be prosecuted under the provisions of this act when he can establish a guaranty signed by the manufacturer, wholesaler, shipper, or other party residing within the United States from whom the hampers, round-stave baskets, or splint baskets, as defined in this act, were purchased, to the effect that said hampers, round-stave baskets, or splint baskets are correct, within the meaning of this act. Said guaranty, to afford protection, shall contain the name and address of the party or parties making the sale of the hampers, round-stave baskets, or splint baskets to such person, and in such case such party or parties making such sale shall be amenable to the prosecution, fines, and other penalties which would attach in due course under the provisions of this act to the person who made the purchase.

Mr. LAGUARDIA. Mr. Speaker, I offer an amendment.

The SPEAKER pro tempore. The gentleman from New York offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. LAGUARDIA: Page 5, line 13, after the word "guaranty," insert the words "and identified." On line 14, strike out the words "signed by"; and in line 15, after the word "States," insert "who signed such guaranty and."

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

Mr. LAGUARDIA. Mr. Speaker, I offer another amendment.

The SPEAKER pro tempore. The gentleman from New York offers another amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. LAGUARDIA: Page 5, line 25, after the word "made," insert "or offered to make a resale," and strike out all of line 26.

The SPEAKER pro tempore. The question is on agreeing to the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The Clerk will proceed with the reading of the bill for amendment.

The Clerk read as follows:

SEC. 6. That any hamper, round stave basket, or splint basket for fruits or vegetables, whether filled or unfilled, or parts of such hampers, round stave baskets, or splint baskets not complying with this act, which shall be manufactured for sale or shipment, offered for sale, sold, shipped, or imported, may be proceeded against in any district court of the United States within the district where the same shall be found and may be seized for confiscation by a process of libel for condemnation. Upon request the person entitled shall be permitted to retain or take possession of the contents of such hampers or baskets, but in the absence of such request, or when the perishable nature of such contents makes such action immediately necessary, the same shall be disposed of by destruction or sale, as the court or a judge thereof may direct. If such hampers, round stave baskets, splint baskets, or parts thereof be found in such proceeding to be contrary to this act, the same shall be disposed of by destruction, except that the court may by order direct that such hampers, baskets, or parts thereof be returned to the owner thereof or sold upon the payment of the costs of such proceeding and the execution and delivery of a good and sufficient bond to the effect that such hampers, baskets, or parts thereof shall not be sold or used contrary to law. The proceeds of any sale under this section, less legal costs and charges, shall be paid over to the person entitled thereto. The proceedings in such seizure cases shall conform as nearly as may be to the proceedings in admiralty, except that either party may demand trial by jury of any issue of fact joined in such cases, and all such proceedings shall be at the suit and in the name of the United States.

SEC. 7. That this act shall not prohibit the manufacture for sale or shipment, offer for sale, sale, or shipment of hampers, round stave baskets, splint baskets, or parts thereof to any foreign country in accordance with the specifications of a foreign consignee or customer not contrary to the law of such foreign country; nor shall this act prevent the manufacture or use of banana hampers of the shape and character now in commercial use as shipping containers for bananas.

SEC. 8. That it shall be the duty of each United States district attorney to whom satisfactory evidence of any violation of this act is presented to cause appropriate proceedings to be commenced and prose-

cuted in the proper courts of the United States in his district for the enforcement of the provisions of this act.

SEC. 9. That the Secretary of Agriculture shall prescribe such regulations as he may find necessary for carrying into effect the provisions of this act, and shall cause such examinations and tests to be made as may be necessary in order to determine whether hampers, round stave baskets, and splint baskets, or parts thereof, subject to this act, meet its requirements, and may take samples of such hampers, baskets, or parts thereof, the cost of which samples, upon request, shall be paid to the person entitled.

SEC. 10. That for carrying out the purposes of this act the Secretary of Agriculture is authorized to cooperate with State, county, and municipal authorities, manufacturers, dealers, and shippers to employ such persons and means, and to pay such expenses, including rent, printing, publications, and the purchase of supplies and equipment in the District of Columbia and elsewhere, as he shall find to be necessary, and there are hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary for such purposes.

SEC. 11. That sections 5 and 6 of this act shall become effective at but not before the expiration of one year following the 1st day of November next succeeding the passage of this act.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

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

A motion to reconsider the last vote was laid on the table.

The SPEAKER pro tempore. The Clerk will report the next bill.

COMMUNITY MAIL BOXES ON RURAL ROUTES

The next business on the Consent Calendar was the bill (H. R. 12605) to enable the Postmaster General to purchase and erect community mail boxes on rural routes and to rent compartments of such boxes to patrons of rural delivery.

The title of the bill was read.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. LAGUARDIA. Mr. Speaker, I reserve the right to object, for the purpose of obtaining information. On page 2, line 1, it is provided that the units of said boxes and space in said racks or stands shall be rented at their option to patrons of the rural delivery service. Is there any need for that wording in the bill?

Mr. KENDALL. That was put in so as not to compel the person to rent a box if he didn't want one.

Mr. LAGUARDIA. In other words, it will be better if persons who wish to avail themselves of it pay out of their own private funds?

Mr. KENDALL. That is the object.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That under such regulations as he may provide the Postmaster General be, and he is hereby, authorized to purchase community boxes with or without separate compartments for incoming and outgoing mail and to erect and maintain such community boxes and suitable sheltered racks or stands for rural mail boxes, in such selected localities as he may determine. The units of said boxes and space in said racks or stands shall be rented at their option to patrons of the rural delivery service at such monthly or annual rates as the Postmaster General shall determine, based on the cost of installation and maintenance. The cost of such installation and maintenance of said community boxes and sheltered stands, not exceeding $2,000 per annum, shall hereafter be paid from the appropriation for rural delivery.

With a committee amendment as follows:

On page 1, line 5, strike out the words "or without."

The SPEAKER pro tempore. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

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

A motion to reconsider the last vote was laid on the table.

THOMAS A. EDISON

The next business on the Consent Calendar was House Joint Resolution 243, to provide for the coinage of a medal commemorative of the achievements of Thomas A. Edison in illumining the path of progress through the development and application of inventions that have revolutionized civilization in the last century.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the present consideration of the resolution?

Mr. HOOPER. Mr. Speaker, reserving the right to object, I want to say I have nothing against the bill itself, but I do not see the gentleman from New Jersey [Mr. PERKINS] present and something has come to my attention which I would like to investigate. Therefore I am going to ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER pro tempore. Without objection it is so ordered.

There was no objection.

CONSOLIDATION OF COPYRIGHT ACTS

The next business on the Consent Calendar was the bill (H. R. 8913) to amend sections 27, 42, and 44 of the act entitled "An act to amend and consolidate the acts respecting copyrights," approved March 4, 1909.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. LANHAM. Mr. Speaker, at the request of the chairman of the Committee on Patents, I ask unanimous consent that this bill be passed over without prejudice.

The SPEAKER pro tempore. Without objection it is so ordered.

There was no objection.

STANDARDIZATION OF LIME BARRELS

The next business on the Consent Calendar was the bill (H. R. 43) to amend an act entitled "An act to standardize lime barrels," approved August 23, 1916.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. LAGUARDIA. Mr. Speaker, reserving the right to object, since the gentleman from Ohio [Mr. CHALMERS] talked to me one thing has occurred to me. Who assumes the responsibility for the quality, as well as the weight of this lime, when it is sold by what the gentleman calls in the bill the shipper?

Mr. CHALMERS. The shipper guarantees the quality.

Mr. LAGUARDIA. In other words, the mere fact that he does not put the name of the manufacturer on the barrel does not relieve him of responsibility?

Mr. CHALMERS. No. He assumes all responsibility for the weight and quality.

Mr. LAGUARDIA. Is this reselling from the manufacturer done by irresponsible concerns, so that there is a way out of assuming responsibility as to weight and quality?

Mr. CHALMERS. No. It protects the public, as I understand it.

Mr. LAGUARDIA. Then the shipper would assume responsibility as to quality and weight?

Mr. CHALMERS. Absolutely.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That sections 2 and 3 of the act entitled "An act to standardize lime barrels," approved August 23, 1916, are amended to read as follows:

"SEC. 2. That it shall be unlawful for any person to sell or offer for sale lime imported in barrels from a foreign country, or to sell or offer for sale lime in barrels for shipment from any State or Territory or the District of Columbia, to any other State or Territory or the District of Columbia, unless there shall be stenciled or otherwise clearly marked on one or both heads of the small barrel the figures "180 lbs. net" and of the large barrel the figures "280 lbs. net" before the importation or shipment, and on either barrel in addition the name of the shipper or manufacturer of the lime and where manufactured, and, if imported, the name of the country from which it is imported.

"SEC. 3. When lime is sold in interstate or foreign commerce in containers of less capacity than the standard small barrel, it shall be sold in fractional parts of said standard small barrel, and the net weight of lime contained in such container shall by stencil or otherwise be clearly marked thereon, together with the name of the shipper or manufacturer thereof, and the name of the brand, if any, under which it is sold, and, if imported, the name of the country from which it is imported."

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

A motion to reconsider the vote by which the bill was passed was laid on the table.

ENLISTED MEN IN THE NAVAL SERVICE

The next business on the Consent Calendar was the bill (H. R. 5644) to enable an enlisted man in the naval service to make good time lost in excess of one day under certain conditions.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That every enlisted man in the naval service who, without proper authority, absents himself from his ship, station, or duty for more than one day, or who is confined for more than one day under sentence, or while awaiting trial and disposition of his case, if the trial results in conviction, shall be liable to serve, after his return to a full-duty status, for such period as shall, with the time he may have served prior to such unauthorized absence or confinement, amount to the full term of his enlistment.

With the following committee amendment:

In line 7 strike out the words "shall be liable to" and insert in lieu thereof the words "may be permitted to."

The committee amendment was agreed to.

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

A motion to reconsider the vote by which the bill was passed was laid on the table.

ADVANCEMENT OF PUBLIC FUNDS TO NAVAL PERSONNEL

The next business on the Consent Calendar was the bill (H. R. 11621) to authorize the Secretary of the Navy to advance public funds to naval personnel under certain conditions.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. LAGUARDIA. Mr. Speaker, reserving the right to object, I have an amendment to offer to this bill. I have talked it over with the gentleman from Georgia [Mr. VINSON]. He is engaged in committee work just now, but I believe he would not object to the amendment, and with that understanding I will withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Navy is hereby authorized, in accordance with such regulations as may be approved by the President, to advance public funds to naval personnel when required to meet expenses of officers and men detailed on shore patrol duty, or emergency duty: *Provided*, That the funds so advanced shall not exceed a reasonable estimate of the actual expenditures to be made and for which reimbursement is authorized by law.

Mr. LAGUARDIA. Mr. Speaker, I offer an amendment. In line 7, strike out the words "shore patrol duty or" and after the word "emergency" insert the word "shore," so it will read "expenses of officers and men detailed on emergency shore duty."

The SPEAKER pro tempore. The gentleman from New York offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. LAGUARDIA: In line 7, strike out the words "shore patrol duty or," and after the word "emergency" insert the word "shore."

The amendment was agreed to.

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

A motion to reconsider the vote by which the bill was passed was laid on the table.

BRIDGE ACROSS THE OHIO RIVER

The next business on the Consent Calendar was the bill (S. 797) granting the consent of Congress to the J. K. Mahone Bridge Co., its successors and assigns, to construct, maintain, and operate a bridge across the Ohio River, at or near Wellsburg, W. Va.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. LAGUARDIA. Mr. Speaker, reserving the right to object, I hope the gentleman from West Virginia will understand that this is simply following a policy in connection with these bridge bills. Does the gentleman know the grantee in this bill?

Mr. BACHMANN. I might say to the gentleman from New York that Mr. Mahone, who originally wanted the permit to build this bridge, on investigation did not turn out to be a satisfactory and proper party. The gentleman from Ohio [Mr. MURPHY], whose district parallels mine and whose district the bridge touches, and I investigated Mr. Mahone. As the gentleman will note, we objected to the passage of the bill the last time it was before the House. We did that in order to have an opportunity to have the town council at Wellsburg make an investigation. That has been done, and the town council is in favor of this bridge and the community is back of it.

Mr. LAGUARDIA. Is the permit to go to Mahone?

Mr. BACHMANN. It goes to the Mahone Bridge Co.

Mr. LAGUARDIA. And this corporation will build the bridge itself?

Mr. BACHMANN. Yes.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That the consent of Congress is hereby granted to the J. K. Mahone Bridge Co., its successors and assigns, to construct, maintain, and operate a bridge and approaches thereto across the Ohio River at a point suitable to the interests of navigation at or near Wellsburg, Brooke County, W. Va., in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906, and subject to the conditions and limitations contained in this act.

SEC. 2. There is hereby conferred upon the J. K. Mahone Bridge Co., its successors and assigns, all such rights and powers to enter upon lands and to acquire, condemn, occupy, possess, and use real estate and other property needed for the location, construction, operation, and maintenance of such bridge and its approaches and terminals as are possessed by railroad corporations for railroad purposes or by bridge corporations for bridge purposes in the State in which such real estate or other property is situated, upon making just compensation therefor, to be ascertained and paid according to the laws of such State, and the proceedings therefor shall be the same as in the condemnation and expropriation of property in such State.

SEC. 3. The said J. K. Mahone Bridge Co., its successors and assigns, is hereby authorized to fix and charge tolls for transit over such bridge, and the rates of toll so fixed shall be the legal rates until changed by the Secretary of War under the authority contained in the act of March 23, 1906.

SEC. 4. After the completion of such bridge, as determined by the Secretary of War, either the State of West Virginia, the State of Ohio, any political subdivision of either of such States within or adjoining which any part of such bridge is located, or any two or more of them jointly may at any time acquire or take over all right, title, and interest in such bridge and its approaches, and any interest in real property necessary therefor, by purchase or by condemnation in accordance with the laws of either of such States governing the acquisition of private property for public purposes by condemnation. If at any time after the expiration of 20 years after the completion of such bridge the same is acquired by condemnation, the amount of damages or compensation to be allowed shall not include good will, going value, or prospective revenues or profits, but shall be limited to the sum of, first, the actual cost of constructing such bridge and its approaches, less a reasonable deduction for actual depreciation in value; second, the actual cost of acquiring such interests in real property; third, actual financing and promotion cost, not to exceed 10 per cent of the sum of the cost of constructing the bridge and its approaches and acquiring such interest in real property; and fourth, actual expenditures for necessary improvements.

SEC. 5. If such bridge shall be taken over or acquired by the States or political subdivisions thereof as provided in section 4 of this act, and if tolls are charged for the use thereof, the rates of toll shall be so adjusted as to provide a fund sufficient to pay for the cost of maintaining, repairing, and operating the bridge and its approaches, to pay an adequate return on the cost thereof, and to provide a sinking fund sufficient to amortize the amount paid therefor, as soon as possible under reasonable charges, but within a period of not to exceed 20 years from the date of acquiring the same. After a sinking fund sufficient to pay the cost of acquiring the bridge and its approaches shall have been provided, such bridge shall thereafter be maintained and operated free of tolls, or the rates of toll shall thereafter be so adjusted as to provide a fund of not to exceed the amount necessary for the proper care, repair, maintenance, and operation of the bridge and its approaches. An accurate record of the amount paid for acquiring the bridge and its approaches, the expenditures for operating, repairing, and maintaining the same, and of the daily tolls collected shall be kept, and shall be available for the information of all persons interested.

SEC. 6. The J. K. Mahone Bridge Co., its successors and assigns, shall within 90 days after the completion of such bridge file with the Secretary of War a sworn itemized statement showing the actual original cost of constructing such bridge and its approaches, the actual cost of acquiring any interest in real property necessary therefor, and the actual financing and promotion costs. The Secretary of War may, at any time within three years after the completion of such bridge, investigate the actual cost of constructing the same; and for such purpose the said J. K. Mahone Bridge Co., its successors and assigns, shall make available all of its records in connection with the financing and the construction thereof. The findings of the Secretary of War as to the actual original cost of the bridge shall be conclusive, subject only to review in a court of equity for fraud or gross mistake.

SEC. 7. The right to sell, assign, transfer, and mortgage all the rights, powers, and privileges conferred by this act is hereby granted to the J. K. Mahone Bridge Co., its successors and assigns; and any corporation to which or any person to whom such rights, powers, and privileges may be sold, assigned, or transferred, or who shall acquire the same by mortgage foreclosure or otherwise is hereby authorized and empowered to exercise the same as fully as though conferred herein directly upon such corporation or person.

SEC. 8. The right to alter, amend, or repeal this act is hereby expressly reserved.

With the following committee amendments:

Page 1, line 3, strike out the words "the consent of Congress is hereby granted to" and insert the words "in order to promote interstate commerce, improve the Postal Service, and provide for military and other purposes."

Page 1, line 6, after the word "assigns," insert the words "be and is hereby authorized."

Page 2, line 12, strike out the words "and terminals."

Page 2, line 19, strike out the word "and" and insert the word "or."

Page 3, line 5, after the word "any," insert the words "public agency or."

Page 3, line 11, after the word "condemnation," insert the words "or expropriation."

Page 3, line 13, after the word "condemnation," insert the words "or expropriation."

Page 3, line 16, after the word "condemnation," insert the words "or expropriation."

Page 4, line 1, strike out the word "interest" and insert the word "interests."

Page 4, line 3, after the word "shall," insert the words "at any time."

Page 4, line 5, after the word "are," insert the word "thereafter."

Page 4, line 7, after the word "the," insert the word "reasonable."

Page 4, line 9, after the word "approaches," insert the words "under economical management."

Page 4, line 11, after the word "therefor," insert the words "including reasonable interest and financing cost."

Page 4, line 15, after the word "sufficient," strike out the words "to pay the cost of acquiring the bridge and its approaches" and insert the words "for such amortization."

Page 4, line 17, after the word "been," insert the word "so."

Page 4, line 20, after the word "proper," strike out the word "care."

Page 4, line 21, after the word "approaches," insert the words "under economical management."

Page 4, line 23, after the word "the," insert the word "actual."

Page 5, line 5, after the word "War," insert the words "and with the highway departments of the States of West Virginia and Ohio."

Page 5, line 11, after the word "may," insert the words "and upon request of the highway department of either of such States shall."

Page 5, line 14, after the word "investigate," strike out the words "the actual cost of constructing the same" and insert the words "such costs and determine the accuracy and the reasonableness of the costs alleged in the statement of cost so filed, and shall make a finding of the actual and reasonable costs of constructing, financing, and promoting such bridge."

Page 5, line 19, after the word "for," strike out the word "such" and insert the word "the." And in the same line, after the word "purpose" insert the words "of such investigation."

Page 5, line 22, after the word "the," insert the word "construction," and in the same line, after the word "and," strike out the words "the construction" and insert the word "promotion."

Page 5, line 24, after the word "the," strike out the words "actual original cost" and insert the words "reasonable cost of the construction, financing, and promotion."

Page 6, line 1, after the word "conclusive," insert the words "for the purposes mentioned in section 4 of this act."

The committee amendments were agreed to.

The bill as amended was ordered to be read a third time, was read the third time, and passed.

The title was amended.

A motion to reconsider the vote by which the bill was passed was laid on the table.

INTERNATIONAL STREET, NOGALES, ARIZ.

The next business on the Consent Calendar was the bill (S. 2004) authorizing the paving of the Federal strip known as International Street, adjacent to Nogales, Ariz.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. CRAMTON. Mr. Speaker, reserving the right to object, I have gone over the peculiar circumstances in this case at some length with the gentleman from Arizona [Mr. DOUGLAS]. The circumstances here seem to be entirely different from what we are apt to find at any other place, and they are so different I feel reassured that granting this paving would not constitute a precedent on which claim could be made for paving adjacent to public buildings.

Mr. DOUGLAS of Arizona. It could not be so construed.

Mr. CRAMTON. In this case we own the fee simple of the land, while we do not in the other cases. The estimate furnished carries a number of frills that really ought not to be provided at our expense. If the city of Nogales wants to provide them, I think there would be no objection. If the gentleman from Arizona will consent to a reduction of the amount to $40,000, I would withdraw any objection to the bill. This amount would provide the roadway, but would eliminate some of the ornamentation.

Mr. DOUGLAS of Arizona. In order that the road may be paved I would be willing to accept that as an amendment.

Mr. CRAMTON. I withdraw any objection.

Mr. DOUGLAS of Arizona. I thank the gentleman.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Treasury be, and he is hereby, authorized and directed to cause the grading and paving of the Federal strip of land known as International Street, belonging to the United States, along the international boundary line between Mexico and the United States, and adjacent to the city of Nogales, Ariz., said paving to extend from the east side of Nelson Avenue to the top of the hill beyond West Street, with the necessary retaining walls, storm sewers, the installation of an ornamental lighting system, and other items necessary in connection therewith, at a limit of cost of $60,000.

Mr. CRAMTON. Mr. Chairman, I offer an amendment striking out $60,000 and insert $40,000.

The SPEAKER pro tempore. The gentleman from Michigan offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. CRAMTON: On page 2, line 2, strike out "$60,000" and insert in lieu thereof "$40,000."

The amendment was agreed to.

The bill as amended was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

ZUNI RESERVATION, N. MEX.

The next business on the Consent Calendar was the bill (S. 1456) to authorize an appropriation for a road on the Zuni Indian Reservation, N. Mex.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That there is hereby authorized an appropriation of $8,000, out of any money in the Treasury not otherwise appropriated, for the construction of that portion of the Gallup-St. Johns highway within the Zuni Indian Reservation, N. Mex., under the direction of the Secretary of the Interior and in conformity with such rules and regulations as he may prescribe: *Provided*, That Indian labor shall be employed so far as practicable: *And provided further*, That the proper authorities of the State of New Mexico or the county of McKinley shall agree to maintain such road free of expense to the United States.

Mr. CRAMTON. Mr. Speaker, I move to strike out the last word.

It is my understanding if this bill becomes law the Government of the United States will be put to no further expense in the construction or maintenance of this road.

Mr. MORROW. That is what the bill provides.

Mr. CRAMTON. And that with this appropriation toward construction the county will take the road over and whatever is done in the future will be done by the county.

Mr. MORROW. Yes.

Mr. CRAMTON. On this basis I have offered no objection to the bill.

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

A motion to reconsider was laid on the table.

Mr. MORROW. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by inserting in the RECORD the report on this bill.

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

There was no objection.

The report is as follows:

Mr. MORROW, from the Committee on Indian Affairs, submitted the following report (to accompany S. 1456):

The Committee on Indian Affairs, to whom was referred the bill (S. 1456) to authorize an appropriation for a road on the Zuni Indian Reservation, N. Mex., having considered the same, report thereon with a recommendation that it do pass without amendment.

This bill has the approval of the Secretary of the Interior and the Director of the Bureau of the Budget.

When constructed, the road will connect two State highways, providing access to markets for Indians of the Zuni Reservation. The road is not on the State's approved 7 per cent system and therefore not eligible for Government aid under the Federal highway act. The State has built a good road to the reservation line on each side, and this will eliminate a link which is almost impassable at times.

In order that the greatest possible benefit may accrue to the Indians, provision is contained in the bill that Indian labor shall be employed so far as practicable.

The State of New Mexico or the county of McKinley must agree to maintain the road free of expense to the United States before construction is started.

Your committee, after full consideration, believes that construction of the road is not only wise but desirable and that proper safeguards are placed in the bill.

The Secretary of the Interior reports favorably, as follows:

DEPARTMENT OF THE INTERIOR,
Washington, January 18, 1928.

Hon. LYNN J. FRAZIER,
Chairman Committee on Indian Affairs,
United States Senate.

MY DEAR SENATOR FRAZIER: This will refer further to your letter of December 17, transmitting for report and recommendation a copy of S. 1456, proposing to authorize an appropriation of $8,000 for the construction of that portion of the Gallup-St. Johns Highway on the Zuni Indian Reservation, N. Mex.

This road is a link in the National Park-to-Park Highway. It also connects with the famous Petrified Forest and El Morro, or Inscription Rock. The State has built a good road up to the reservation line on both sides, but as the Indian land is not subject to taxation, the State feels that the Government should provide funds for that part of the road on the reservation, or about 15 miles. However, this road is not on the State's approved 7 per cent system and hence it is not eligible for Government aid under the Federal highway act.

This department has no appropriation for road work on the Indian reservation; hence we have not been able to do more than try to keep the road open to traffic by making the most urgent repairs with the limited funds available. It is stated that the road is in bad condition; that part of it is almost impassable at times; and that travelers suffer great inconvenience and discomfort on account of the difficulty encountered in getting across the reservation. It is very desirable to have the road rebuilt on a par with the State highway on each side of the reservation, at a cost of approximately $8,000, the amount carried in the bill.

Under the circumstances, therefore, and for the reasons given above, it is recommended that S. 1456 be enacted into law.

The Director of the Bureau of the Budget advises that this report is not in conflict with the President's financial program.

Very truly yours,

HUBERT WORK.

ADMINISTRATION OF OATHS OF OFFICE

The next business on the Consent Calendar was the bill (H. R. 12408) authorizing custodians and acting custodians of Federal buildings to administer oaths of office to employees in the custodian service.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. LAGUARDIA. Mr. Speaker, reserving the right to object, is the gentleman from Indiana [Mr. ELLIOTT] here?

Mr. DENISON. The gentleman has gone out to the election, I will say to the gentleman from New York.

Mr. LAGUARDIA. Oh, yes. There is a reference here to section 2693 of the Revised Statutes, and I do not know whether this is an error or not. I spent a great deal of time trying to locate this section of the Revised Statutes but could not find it. I located section 1790 very readily. I simply wanted to call attention to this, but if there is any mistake I suppose they can catch it in the Senate. I do not think it is sufficiently important to hold up the matter.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That hereafter custodians and acting custodians of Federal buildings shall be competent to administer oaths of office to employees in the custodian service, required by sections 1790 and 2693 of Revised Statutes.

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

A motion to reconsider was laid on the table.

BATTLE BETWEEN THE SIOUX AND PAWNEE INDIAN TRIBES

The next business on the Consent Calendar was the bill (H. R. 9194) authorizing the Secretary of the Interior to acquire land and erect a monument on the site of the battle between the Sioux and Pawnee Indian tribes, Hitchcock County, Nebr., fought in the year 1873.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection?

Mr. CRAMTON. Reserving the right to object, I understand it is probable these lands will be donated. Will it be agreeable to the gentleman to have an amendment providing for that?

Mr. SHALLENBERGER. I have a letter from the American Legion saying that they will acquire the land.

Mr. CRAMTON. It can be accomplished by striking out line 4 and inserting a statement that we accept the donation.

Mr. LAGUARDIA. The gentleman from Nebraska will not object to my proposed amendment which I am offering to all bills of this character providing that the monument shall be the work of some artist a citizen of the United States?

Mr. SHALLENBERGER. No.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior is hereby authorized and directed to acquire, by condemnation or otherwise, such land as may be deemed appropriate, not exceeding 40 acres, on the site of the battle between the Sioux and Pawnee Indians near the Republican River in Hitchcock County, Nebr., the last battle between Indian tribes on American soil, and to erect thereon a suitable monument and historical tablets.

SEC. 2. There is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $10,000, or so much thereof as may be necessary to carry out the provisions of this act.

With the following committee amendment:

Page 2, section 2, line 3, strike out the figures "$10,000" and insert in lieu thereof the figures "$7,500."

The committee amendment was agreed to.

Mr. CRAMTON. Mr. Speaker, I offer the following amendment:

The Clerk read as follows:

Page 1, strike out line 4 and insert in lieu thereof "and accept the donation of."

The amendment was agreed to.

Mr. LAGUARDIA. Mr. Speaker, I offer the following amendment.

The Clerk read as follows:

Page 2, after the word "act" in line 4 strike out the period, insert a colon and the following: "*Provided,* That said work shall be the work of an artist who is a citizen of the United States."

The amendment was agreed to.

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

Mr. SHALLENBERGER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by printing the report on this bill.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The report is as follows:

The monument proposed to be erected is to commemorate the last great battle between Indian tribes fought on American soil. As far back as records are available the Republican Valley was famous as a hunting ground for the Pawnee and other Indian tribes. After white men learned of the game to be found there, it became the region most favored for buffalo hunting in the West. Railroads were built up the Platte Valley to the north and across Kansas to the south, which resulted in the buffalo being soon driven from those sections, but there were still plenty in the great valley lying between the pioneer railroads. Both Buffalo Bill and Dr. W. F. Carver are said to have considered this region the best big-game hunting ground in the world in the early sixties and seventies.

Many famous buffalo-hunting expeditions visited the Republican Valley region, where it is proposed to erect this monument. Probably the most celebrated was that of the Russian Grand Duke Alexis and a party of distinguished men of the Russian Empire. The hunt was a national event, planned by Gen. Philip Sheridan as the representative of our Government and under the immediate command of General Custer. W. F. Cody, "Buffalo Bill," was chief of scouts at Fort McPherson, where the hunting party was outfitted, and was in actual charge of the details of the hunt. Spotted Tail, war chief of the Brule Sioux, accom-

panied the hunting party with a band of 300 Sioux warriors and buffalo hunters. The party hunted over the same ground in 1872 that the Pawnee and Sioux warriors fought over in August of 1873.

From the earliest times the Republican Valley had been the hunting ground for the great Pawnee Nation. They claimed it as their special hunting preserve. When a treaty was agreed to between the Federal Government and the Pawnee, the Indians had reserved to themselves the right to hunt buffalo in the Republican Valley to provide them necessary meat and leather supply.

The Government agents and Army officers divided the hunting grounds in western Nebraska into north and south Platte sections. They required that the Sioux must hunt north of the Platte and leave the valley of the Republican River for the sole use of the Pawnee Nation. The Pawnees were historically and essentially the Nebraska Indian Nation. The name Nebraska is a Pawnee word meaning Broad Waters, the Indian name for the State's principal river. The river's name was later changed into the more modern version, the Platte.

The Pawnee Nation was divided into three tribes or clans—the Loup Pawnee, the Grand Pawnee, and the Republican Pawnee. The Loups lived north and east of the Platte and gave their name to the principal river in that section. The Grand Pawnees occupied the valley of the Platte or middle ground, and the Republican Pawnees claimed the region farther south.

When the nation engaged in its great annual hunt or went into battle this same organization was always followed. The Loups hunted or fought upon the right wing, the Grand Pawnee in the center, and the Republican Pawnee upon the left. Hence the north river on the right was named the Loup and the south river, or left as the nation moved west to hunt, was named Republican for the left wing tribe.

In the summer of 1873 the Pawnee Nation was occupying a reservation on the north of the Platte River and in northeastern Nebraska, not far from the site of the city of Columbus. The Indians petitioned the Government agent for permission to make their annual hunt for buffalo in the Republican Valley. They wanted to secure their meat and robe supplies for the coming winter. Permission was granted.

In July, 1873, about 600 buffalo hunters and warriors, with some women and children to do the work, started westward up the Platte Valley. They were accompanied by two white men as agents of the Government to see that they conducted themselves peacefully and did not commit depredations upon any white settlers or hunters they might encounter.

The hunting party turned south from the valley of the Platte at a point near Plum Creek and traveled over into their favorite hunting ground on the Republican and its tributaries. They hunted there for nearly a month, killing many buffalo and curing much meat and many skins.

On the 5th of August they had hunted westward to a point in Hitchcock County west of the north fork of the Republican, now called the Frenchman River. Sky Chief was in command of the Pawnee hunting party at this time. Word was brought to him by two white hunters who were fleeing down the valley eastward that a large war party of Brule Sioux had crossed over the Platte and were now in the Republican Valley and evidently looking for opportunity to battle with their hereditary foe, the Pawnee.

Sky Chief's scouts reported buffalo in great numbers near their camp on the north bank of the river. He scoffed at the threat of danger, boasted that his young men were not afraid of any band of Sioux that might have come into their valley, and said to his people, "The white men are only trying to frighten us from this good hunting ground."

On the morning of August 6, 1873, the Pawnee moved out in hunting formation up what is now known as Massacre Canyon to a point where it heads out into the open country. There they discovered a big band of buffalo. The hunters had killed a large number, the warriors had dismounted, and the women and boys had come up to skin and dress the game when scouts came riding in and reported a Sioux war party coming in upon them at full speed.

Sky Chief rallied his warriors quickly and determined to make battle at the head of the canyon. The women and children tried to escape down the canyon, which was quickly crowded to its walls by the rush of those attempting to reach the camp in the valley below. Sky Chief and his bravest warriors fell in the fight at the head of the canyon. With courage equal to that of Leonidas and his 300, the Pawnee fought to stop the victorious Sioux and save the women and children. The white agent, Williamson, was with the Pawnee and has written a graphic account of the battle. His estimate is that from 1,200 to 1,500 Sioux warriors battled with the Pawnee who tried to stop the onrush of their enemy. After losing most of their young warriors the Pawnee battle line broke and the remnant of their band was driven down the canyon and out on the valley, never stopping their flight until they had crossed the river and turned to make a last stand upon the south bank of the stream.

The Sioux before continuing their attack stopped long enough to round up and seize all the supplies the Pawnee had gathered in their weeks of hunting, and drove off between five and six hundred ponies belonging to the defeated Pawnee. Just as the Sioux war chiefs were mustering their warriors for another charge, United States Army bugles were heard sounding the call for battle action. Down the valley to the eastward on the north bank of the river several troops of United States Cavalry were seen deploying for battle. The Sioux took one look at the flag and pennants that told them that the dreaded regular Cavalry were coming. They quickly rounded up their spoils of war, picked up their dead and wounded, fled back up the canyon, and disappeared to the north.

They never stopped until they were back over the Platte River and returned to the reservation from which they had slipped away. The Pawnee Nation lost all their ponies and other tribal property. Their principal war chiefs and warriors fell in the battle on the mesa and in the retreat down the canyon. The total loss in killed and wounded was more than 50 per cent of the Pawnee engaged in the battle. Williamson, the white agent with the Pawnee, was ordered by the Government agent at Omaha to return and bury the fallen. He counted 146 dead Pawnee that were buried on the battle field. He estimated that the Sioux must have lost 50 or 60 warriors in the earlier hour of the conflict. The wounded were many. The crush of the fleeing Pawnee in the canyon after their warriors gave way was terrific. The Sioux rode on either side upon the rim of the canyon and poured a deadly fire into the crush of fleeing Pawnee that was so thick they could not miss.

Many brave deeds performed that day by Pawnee warriors are still told at their tribal councils. Two thousand red warriors fought fiercely in this last great battle between red men on this continent.

The occasion that brought on the battle was an historic hunt for the buffalo that once were countless on these western plains. Both the warriors and the buffalo are now gone from there forever. A monument on the site selected would be a fitting memorial to the Indian and his wars and the buffalo, the most numerous and valued of animals that once covered our western plains.

The site upon which it is proposed to erect this monument is on the Goldenrod Highway and is readily accessible to visitors. The Massacre Canyon Battle Association have for the past 10 or a dozen years held their annual reunion at this place.

Your committee recommends the passage of H. R. 9194, with the following amendment:

Page 2, section 2, line 3, strike out the figures "10,000" and insert in lieu thereof the figures "7,500."

THE BATTLE OF KETTLE CREEK

The next business on the Consent Calendar was the bill (H. R. 9965) to erect a tablet or a marker to mark the site of the Battle of Kettle Creek in Wilkes County, Ga., where, on February 14, 1779, Elijah Clarke, of Georgia, and Colonel Pickens, of South Carolina, overtook the Tories under Colonel Boyd, killing him and many of his followers, thus ending the British dominion in Georgia.

The Clerk read the title to the bill.

The SPEAKER pro tempore. Is there objection?

Mr. CRAMTON. Reserving the right to object, it seems that the Committee on the Library is going to have monuments and markers all over the country wherever there has been a gun fired. In this case the bill when introduced only asked for $1,000. It seems to me that that is sufficient to take care of any markers. If it will be agreeable to the gentleman from Georgia to let it go at $1,000 I shall not object. The committee amendment raises it to $2,500 simply because they have agreed to $2,500 in other cases, and this evidently violates the rules of the union.

Mr. GILBERT. Mr. Speaker, that was not the reason. You can not get anything suitable for $1,000. It is either $2,500 or nothing. For $1,000 you could not get any kind of a marker. We felt that this deserved recognition, and that it would require $2,500.

Mr. CRAMTON. This was a minor affair, and if we are going to have markers all over the country I think that we ought to have them for $1,000 and not make them all $2,500.

Mr. GILBERT. In my opinion this great Government ought not to be so economical in providing markers for historical sites.

Mr. CRAMTON. I think it is more important to take care of folks who are living than to provide stone markers for battle sites. I know of many ways in which the Government is cutting pretty close in education, care of the health, and general living.

Mr. GILBERT. I think we need a little inspiration in historic knowledge.

Mr. CRAMTON. I doubt whether a marker for the site of the Battle of Kettle Creek is going to have any great effect on our historical knowledge. I object.

Mr. BRAND of Georgia. Will the gentleman withhold his objection?

Mr. CRAMTON. I will.

Mr. BRAND of Georgia. The gentleman from Michigan speaks about building markers all over the country. I want to say that as far as my district is concerned, which has been represented here by such men as Judge Lawson, William M. Howard, Alexander Stephens, and partly by Benjamin Hill, that no bill has ever been introduced asking for a single dollar from the Government for my district. I have never known a marker to be established in my district during the 11 years I have been a Member of Congress; neither have I known of the Government being asked to spend a dollar for that purpose in the State of Georgia. The general, sweeping statement of the gentleman from Michigan [Mr. CRAMTON] that we are going to broaden out and put one at every insignificant spot wherever a gun was fired I think is more or less subject to criticism. Why aim at this particular spot, the Kettle Creek battle ground, covering an area of about 12 acres, on which was fought the last battle of the Revolution, thus ending British dominion in Georgia? It was at this place in Wilkes County our people drove the British out of my district and State, the British and the Tories giving this county the name of the "Hornet's nest of the Revolution." If the gentleman from Michigan will refresh his memory, he will find that the Battle of Kettle Creek is referred to in 8 or 10 different histories written by historians of distinction. I respectfully submit a request to the gentleman not to insist on a reduction of this amount.

Mr. CRAMTON. Mr. Speaker, I shall withdraw my objection in response to the gentleman's appeal in the interest of the calendar, but make this statement: If the Committee on the Library is going to continue to bring in bills of this kind to place monuments at every place they can think of, I shall object to all of them. The amount of money that is involved in these bills is simply ridiculous. I withdraw my objection.

Mr. GILBERT. Mr. Speaker, reserving the right to object, as a member of the Committee on the Library I say to the House right now that I favor marking with a suitable marker every historical spot in the United States.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That the sum of $1,000 be, and is hereby, authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, for the purpose of erecting a tablet or marker on the grounds of the Battle of Kettle Creek, in Wilkes County, Ga., where, on February 14, 1779, Elijah Clarke, of Georgia, and Colonel Pickens, of South Carolina, overtook the Tories under Colonel Boyd, killing him and many of his followers, thus ending British dominion in Georgia, said tablet or marker to be placed on the portion of this battle ground now owned by the Daughters of the American Revolution, said sum to be dispensed by the Secretary of War after he shall have approved the plans of said tablet or marker.

With the following committee amendment:

Page 1, line 3, strike out "$1,000" and insert "$2,500."

The committee amendment was agreed to, and the bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

A motion to reconsider the vote by which the bill was passed was laid on the table.

ALABAMA AND COUSHATTA INDIANS, POLK COUNTY, TEX.

The next business on the Consent Calendar was the bill (H. R. 5479) to provide for the purchase of land, livestock, and agricultural equipment for the Alabama and Coushatta Indians in Polk County, Tex., and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. CRAMTON. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice. I am making a study of it and I have not yet been able to complete that study.

Mr. BRIGGS. Mr. Speaker, I should like to ask the gentleman from Michigan if there is any prospect of satisfying him so that this legislation may be enacted at this session of Congress. The situation of these Indians is desperate and I call the attention of the House to a telegram just received from the district judge and other officials and prominent and worthy citizens of Polk County, reading as follows:

LIVINGSTON, TEX., *May 7, 1928.*

Hon. CLAYSTONE BRIGGS:

We commend you for your faithful efforts in behalf of the Alabama and Coushatta Indians and pray that the Congress will pass your measure to relieve the suffering of these worthy and starving red men.

J. L. MANRY, *District Judge.*
E. T. MURPHEY, *Representative.*
JAMES E. HILL, *County Judge.*
FRED NORRIS, *County Superintendent.*
R. D. HOLLIDAY, *Sheriff.*
Z. L. FOREMAN, *County Attorney.*
C. F. FAIN, Jr.
Rev. C. W. CHAMBERS, *Missionary.*

Mr. CRAMTON. Mr. Speaker, the gentleman knows something of my views. I am impressed by the report of the Polk County Chamber of Commerce that appears in the hearings. In the first place the bill asks for too much money. If I could feel sure that it was going to secure lands that could be farmed by these Indians, and not the kind of lands that they live on at the present time, which can not be farmed, and that those lands could be secured at a reasonable price and not an exorbitant price, I would be more friendly. Joined with that I should like to know that the locality and State that have the responsibility were going to join in along some such line as the Polk County Chamber of Commerce has suggested in the way of providing a road that would make the lands acceptable, and in providing supervision of their agricultural activities.

Mr. BRIGGS. Mr. Speaker, let me suggest to the gentleman from Michigan that undoubtedly the Polk County Chamber of Commerce and every other interest will have at heart in every possible way the success of these Indians and will aid in that success. But these Indians need help now and need it desperately, and the Federal Government should provide unconditionally the relief recommended by the Indian Affairs Committee in this bill.

Mr. CRAMTON. If they would provide an exact statement in advance of the appropriation, what lands are available in the vicinity of the home of these Indians, and at what price particular tracts of land may be purchased, it would be well, because then, if the appropriation is made, the Indian Bureau could examine these several tracts and make its choice feeling sure that the price has not been tilted up because of the appropriation.

Mr. BRIGGS. It is manifestly impracticable to get options on any territory to await action by the Federal Government without even any legislation.

Mr. CRAMTON. It is not at all impossible in such a situation as this for the Polk County Chamber of Commerce to get a price on large areas of cut-over lands that are in this vicinity, without a formal, legal option, to get a proposition of what acreage is available and what it will cost. Then we can tell better whether we can afford to do business with them or not.

Mr. BRIGGS. The gentleman will remember, if he has read the hearings, that the testimony reflects that from $7.50 to $10 per acre has been indicated by Polk County representatives and by the report of the Government investigator in 1918, as the price for which suitable land can be obtained.

Mr. CRAMTON. And the testimony also indicates that the lands they expect to buy are adjacent to and similar to the lands the Indians have, and of those lands not over one-third the acreage is suitable for agriculture. This bill as it stands, in my judgment, would be certain to be of advantage to the land owners to sell the land to the Government. I am not sure that it would mean much to the Indians.

Mr. BRIGGS. My opinion is that it would be of tremendous value to the Indians and the testimony at the hearings reflects that only the interest of the Indians, and not of land owners, is being considered. I have no objection to setting a fair limitation on the price to be paid for the land, and the land to be acquired, and its desirability for the Indians, will be left entirely to the Government and the Indian Bureau to determine.

Mr. LAGUARDIA. Mr. Speaker, will the gentleman yield?

Mr. CRAMTON. I yield.

Mr. LAGUARDIA. I looked the matter up when it was first on the Calendar. Judging from the report that this land is available now at $10 an acre, I have prepared an amendment to be offered when we come to that stage of the proceedings, to provide that the land shall not be purchased at to exceed $10 per acre.

Mr. CRAMTON. When we put a limitation of $10 an acre on the purchase price, we are providing a limitation that is materially above what cut-over lands should cost. I do not

think we ought to take the time of the calendar with so many bills waiting to be called, and I am willing to let this go over and agree to have a definite proposition ready for the gentleman before the next call of the calendar. Otherwise I shall have to object.

Mr. BRIGGS. Mr. Speaker, in view of the urgent need of the Indians, I insist on the consideration of the bill. I am ready to accept a limitation on the other proposition.

Mr. CRAMTON. Mr. Speaker, I object.

The SPEAKER pro tempore. It is necessary that three objections be made. One objection has been noted.

Mr. LAGUARDIA. I understand the gentleman from Texas will accept a limitation of $10 an acre.

Mr. BRIGGS. I will.

Mr. LEAVITT. And that will be satisfactory to the Committee on Indian Affairs.

Mr. MAPES. I object.

Mr. HOOPER. I object.

The SPEAKER pro tempore. Three objections are noted, and the Clerk will call the next bill.

SEPARATION OF JURIES IN FELONY CASES, DISTRICT OF COLUMBIA

The next business on the Consent Calendar was the bill (H. R. 12350) to regulate the separation of juries in felony cases in the District of Columbia.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. ROMJUE. Mr. Speaker, reserving the right to object, I call the attention of the House to an amendment that I propose to offer to the second section of the bill, if the bill is to be considered. In line 9 after the word "defendant" the proposed amendment would add the following: "Such agreement, if any, shall be in writing and noted of record by the judge presiding in any such case."

The second section provides for the separation of juries in noncapital cases, but it provides also that the jury may be separated upon an agreement between the counsel on the two sides of the case. There is nothing in the language of the bill which requires the agreement to be in writing, and consequently it may be oral between the two attorneys, and in that case there is no record. There is nothing requiring a record to be made of it. The amendment is that such agreements shall be in writing and noted in the record by the judge presiding. In the trial of a defendant where it is agreed by the counsel on the two sides that the jury may be separated and there is no record preserved of that agreement, and the case goes up on appeal, I think you will find, if the bill is not amended, that there will be opportunity for dispute between the counsel for the defendant and the State.

It is an important matter, as it seems to me. There ought not to be any opportunity for a dispute to arise between the counsel after the trial of the case as to just what was agreed to. Therefore the agreement should be made a matter of court record.

Mr. LAGUARDIA. This is rather unusual. May not either side, the district attorney or the other attorney, in order to relieve the jury, compel a quick decision? It occurs to me that that is a matter that should be considered very carefully. I do not think it should be left to the discretion of the court whether he would hold the jury or not.

Mr. ROMJUE. I am not pressing the matter as to the first section, but personally my view is that the second section, which provides for the trial of noncapital cases, ought to be amended so that in cases where the jury is separated that fact ought to be entered as of record. In every State of the Union where a man is tried for a capital offense the separation of the jury its not permitted, and a failure to keep the jury together is a reversible error in every State of the Union that I know anything about. This amendment provides that the court when it deems it necessary may separate the jury. Although I am not pressing that now, as to capital cases, I think that fact ought to be entered on the record in cases where the attorneys are permitted to agree as to the separation of the jury.

Mr. LAGUARDIA. What is the purpose of section 919 (b), page 2? Is it to require the consent of both sides as to the separation of a jury?

Mr. BRAND of Georgia. I shall be glad to answer the gentleman. Under the common law which prevails in this district, the judge trying a felony case less than a capital has the discretion, without the consent of the district attorney or the attorney representing the defendant, to separate the jury and let them mix and mingle with the multitude at their will. That is, he has full power to turn the jury loose, for instance, in the afternoon or at night until the court convenes in the morning following.

Mr. LAGUARDIA. Is not that the usual course?

Mr. BRAND of Georgia. It is in the District of Columbia but not the rule in the States. Such rule, I think, is exceedingly bad practice in the District of Columbia. Under the common law it is discretionary with the court in the trial of felony cases less than capital and in the District of Columbia it has been the practice to allow the juries to separate in all cases. This amendment provides that they may be allowed to separate provided the defendant's counsel and the district attorney consent to it. It does not take away the right of separation, but takes away from the judge the right to turn them loose unless the district attorney and the defendant's attorney agree that the jury may separate. Under the laws of the States that I have investigated—and I have investigated about 60 per cent of them—the statutory law gives this discretion to the judge, which is only enactment of the common law, in the trial of felony cases less than capital, but the usual practice is in these States when objection is made by counsel to keep the jury together.

Mr. O'CONNELL. That is not compulsory. It is within the discretion of the judge. This, however, makes it compulsory.

Mr. BRAND of Georgia. If the judge in his discretion turns the jury loose until the next morning, the responsibility for the evil consequences is upon him by reason of this separation. This amendment relieves the judge of the responsibility of turning the jury loose and thus allow them to come in contact with the jury fixers, the briber, and the criminally minded generally, and also relieves the district attorney of the embarrassment of objecting to separation.

Mr. O'CONNELL. Is Washington in a better condition in that respect than other jurisdictions?

Mr. BRAND of Georgia. I do not think so.

Mr. ROMJUE. I think this is a good bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. LAGUARDIA. Mr. Speaker, I wish to be heard further.

The SPEAKER pro tempore. Is there objection?

Mr. MORTON D. HULL. The regular order, Mr. Speaker.

The SPEAKER pro tempore. The regular order is demanded. Is there objection to the present consideration of the bill?

Mr. LAGUARDIA. I will object if I can not be heard.

The SPEAKER pro tempore. Objection is heard. The Clerk will report the next bill.

CONVENTION OF THE AMERICAN LEGION AT APPALACHIA, VA.

The next business on the Consent Calendar was the bill (H. R. 11804) authorizing and directing the Secretary of War to lend to the town of Appalachia, Va., 500 canvas cots, 500 blankets, 1,000 bed sheets, 500 pillows, 500 pillowcases, and 500 mattresses or bed sacks, to be used at the convention of the American Legion, Department of Virginia, to be held at Appalachia, Va., on August 13, 14, and 15, 1928.

The title of the bill was read.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The SPEAKER pro tempore. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the Secretary of War be, and he is hereby, authorized to lend, at his discretion, to the entertainment committee of the American Legion, Department of Virginia, whose convention is to be held at Appalachia, Va., on August 13, 14, and 15, 1928, 500 canvas cots, 500 blankets, 1,000 bed sheets, 500 pillows, 500 pillowcases, and 500 mattresses or bed sacks: *Provided,* That no expense shall be caused the United States Government by the delivery and return of said property, the same to be delivered at such time prior to the holding of said convention as may be agreed upon by the Secretary of War and the chairman of said entertainment committee, J. A. Gardner: *Provided further,* That the Secretary of War before delivering said property shall take from said J. A. Gardner a good and sufficient bond for the safe return of said property in good order and condition, and the whole without expense to the United States.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

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

A motion to reconsider the last vote was laid on the table.

ALABAMA AND COUSHATTA INDIANS

Mr. LEAVITT. Mr. Speaker, I ask unanimous consent to return to Calendar No. 592, H. R. 5479, and allow the bill to go over without prejudice.

The SPEAKER pro tempore. The gentleman from Montana asks unanimous consent that the objection to Calendar No. 592,

H. R. 5479, may be considered as withdrawn and that the bill may be passed over without prejudice. Is there objection?

There was no objection.

TENTS AND CAMP EQUIPMENT FOR THE CONVENTION OF THE AMERICAN LEGION FOR THE DEPARTMENT OF WASHINGTON

The next business on the Consent Calendar was House 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.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the present consideration of the resolution?

There was no objection.

The Clerk read the resolution, as follows:

Resolved, etc., That the Secretary of War be, and he is hereby, authorized to lend, at his discretion, to the housing committee of the American Legion for the Department of Washington, for its use, in connection with the ninth annual convention of the American Legion for the Department of Washington, to be held in Centralia, Wash., on the 9th, 10th, and 11th of August, 1928, such tents and other camp equipment as may be required at such convention: *Provided*, That no expense shall be caused the United States by the delivery and return of said property, the same to be delivered to said committee at such time, prior to the holding of said convention, as may be agreed upon by the Secretary of War and F. W. Schwab, of Centralia, Wash., general chairman of said housing committee: *Provided further*, That the Secretary of War, before delivering said property, shall take from the said F. W. Schwab a good and sufficient bond for the safe return of said property in good order and condition, and the whole without expense to the United States of America.

The resolution was ordered to be engrossed and read a third time, was read the third time, and passed.

A motion to reconsider the vote by which the resolution was passed was laid on the table.

WARRANT OFFICERS OF THE REGULAR ARMY

The next business on the Consent Calendar was the bill (H. R. 8314) to amend an act of Congress approved March 4, 1927 (Public, No. 795, 69th Cong.), to provide for appointment as warrant officers of the Regular Army of such persons as would have been eligible therefor but for the interruption of their status caused by military service rendered by them as commissioned officers during the World War.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. MORTON D. HULL. Mr. Speaker, I ask that this bill be passed over without prejudice as I want to offer an amendment to it; but before doing so I want to confer with the gentleman from Texas [Mr. WURZBACH], the introducer of the bill, and he is now out of the city.

Mr. CRAMTON. Mr. Speaker, reserving the right to object to that request, I have a letter from the Director of the Budget with reference to this bill which I would like to put in the RECORD and commend it to the attention of those in charge of the legislation. I ask unanimous consent to extend my remarks by inserting this letter.

The SPEAKER pro tempore. The gentleman from Michigan asks unanimous consent to extend his remarks in the RECORD by inserting the letter referred to. Is there objection?

Mr. SCHAFER. Mr. Speaker, I object.

Mr. MORTON D. HULL. Mr. Speaker, what disposition has been made of my request that the bill may be passed over without prejudice?

The SPEAKER pro tempore. Is there objection to the consideration of the bill?

Mr. COLLINS. Mr. Speaker, I object.

ISSUANCE OF PATENT FOR CERTAIN LAND TO THE CITY OF BUHL, IDAHO

The next business on the Consent Calendar was the bill (H. R. 12192) authorizing the Secretary of the Interior to accept a deed to certain land and issue patent therefor to the city of Buhl, Twin Falls County, Idaho.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. LAGUARDIA. Mr. Speaker, reserving the right to object, may I ask the gentleman from Idaho the necessity of having this land deeded from the State to the Government and then from the Government to a city or municipality?

Mr. SMITH. This action is necessary for the reason that the Federal Government has already patented the land to the State of Idaho as a part of a large tract and the State does not now desire it. The city of Buhl wishes the land for a dumping ground. It is necessary to have this legislation in order to make it available. The Federal Government can not accept title to this land without authority of Congress.

Mr. LAGUARDIA. Why can not the State deed it directly to the city of Buhl?

Mr. SMITH. Because of the fact that the State has no authority under its constitution to dispose of State land without the payment of $10 per acre. The State has no use for this land and is willing to deed it to the Federal Government in order that it may be deeded by the Federal Government to the city of Buhl.

Mr. LAGUARDIA. The purpose of this is to avoid the requirement in the constitution of the gentleman's State that before any land is sold to municipalities there shall be a certain consideration paid?

Mr. SMITH. That is right.

Mr. LAGUARDIA. This was originally Government land, and under this legislation it will revert to the Government and then to the municipality?

Mr. SMITH. Yes.

Mr. LAGUARDIA. This will entail no expense to the Government?

Mr. SMITH. None whatever.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of the Interior be, and he is hereby, authorized to accept a deed from H. C. Baldridge, Governor of the State of Idaho, to the following-described lands: The southeast quarter of the southeast quarter of section 23, township 9 south, range 14 east, Boise meridian, Idaho, containing 40 acres, and to issue a patent for said lands to the city of Buhl, Twin Falls County, Idaho, for use as a public dumping ground.

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

A motion to reconsider the vote by which the bill was passed was laid on the table.

ALLOWANCE OF SIOUX BENEFITS

The next business on the Consent Calendar was the bill (H. R. 9046) to amend section 17 of the act of March 2, 1889, entitled "An act to divide a portion of the reservation of the Sioux Nation of Indians into separate reservations and to secure the relinquishment of the Indian title to the remainder, and for other purposes," as amended by the act of June 10, 1896.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That section 17 of the act of March 2, 1889 (25 Stat. L. 888), entitled "An act to divide a portion of the reservation of the Sioux Nation of Indians into separate reservations and to secure the relinquishment of the Indian title to the remainder, and for other purposes," as amended by the act of June 10, 1896 (29 Stat. L. 321, 334), be, and the same is hereby, amended to provide as follows:

"That the articles enumerated in said section 17 of the act of March 2, 1889 (25 Stat. L. 888), to be provided for the persons therein mentioned, or the payment of the commuted value thereof as provided in the act of June 10, 1896 (29 Stat. L. 321, 334), shall be furnished or paid to all persons whose allotments of land have been made and approved under the provisions of the act of March 2, 1889: *Provided, however*, That no person shall receive more than one allowance of such benefits, nor shall any single person under the age of 18 years, or any person who is or has been married, where the right has been claimed and allowed by either the husband or wife as the head of a family, be entitled thereto. The right to such benefits is expressly limited to the person entitled to receive the same and, if not allowed during the lifetime of such person, the same shall lapse."

With the following committee amendment:

Strike out all after the enacting clause and insert:

"That the Secretary of the Interior be, and he is hereby, directed to continue the allowance of the articles enumerated in section 17 of the act of March 2, 1889 (25 Stat. L. 894), or their commuted cash value under the act of June 10, 1896 (29 Stat. L. 334), to all Sioux Indians who shall have taken or may hereafter take allotments of land in severalty under section 19 of the act of May 29, 1908 (35 Stat. L. 451), and who have the prescribed status of the head of a family or single person over the age of 18 years, and his approval shall be final and conclusive, claims therefor to be paid as formerly from the permanent appropriation made by said section 17 and carried on the books of the Treasury for this purpose. No person shall receive more than one

allowance of the benefits, and application must be made and approved during the lifetime of the allottee or the right shall lapse."

The committee amendment was agreed to.

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

The title was amended.

A motion to reconsider was laid on the table.

OLYMPIC NATIONAL FOREST, WASH.

The next business on the Consent Calendar was the bill (H. R. 9297) authorizing the adjustment of the boundaries of the Olympic National Forest, Wash., and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. LAGUARDIA. Mr. Speaker, reserving the right to object, may I ask the gentleman from Washington [Mr. HILL] the purpose of exchanging this land? Are we giving good land for some bad land or can not this desirable land be attached to the National Forest without an exchange?

Mr. HILL of Washington. This applies to privately owned lands, principally, outside of the National Forest, within 3 miles of the National Forest on two sides and 12 miles on one side.

Mr. LAGUARDIA. We could acquire this land by purchase.

Mr. HILL of Washington. This bill provides for an exchange either in land value or in timber value, the idea being to bring land that is desirable for forestry purposes into the National Forest by exchanging therefor land values or timber values within the National Forest.

Mr. LAGUARDIA. In whose discretion does that rest?

Mr. HILL of Washington. That is within the discretion of the Secretary of Agriculture.

Mr. LAGUARDIA. As to values?

Mr. HILL of Washington. As to values; yes. The Secretary of Agriculture fixes the values.

Mr. LAGUARDIA. You have certain specific land in mind that you are going to take in, and I suppose the value of that land has been estimated?

Mr. HILL of Washington. I am not advised as to that. I presume they may have some estimates on it, but I do not know whether there has been a survey made for that purpose or not.

Mr. LAGUARDIA. Is it customary or is it the purpose in this case to give some timberland for some land already stripped of its timber?

Mr. HILL of Washington. The idea is to reforest this land on the outside that is suitable for forestry purposes by bringing the land within the forest and to exchange for this land ripe timber within the limits of the forest.

Mr. LAGUARDIA. It strikes me, as a tenderfoot, that it is a very poor conservation measure to give away good timberland and take in exchange land where the timber has been wasted.

Mr. SUMMERS of Washington. Will the gentleman yield?

Mr. LAGUARDIA. Certainly.

Mr. SUMMERS of Washington. That is not the purpose at all. The value of the land exchanged is always taken into consideration. It might be an exchange of 100 acres in one instance for 200 acres in another. It goes on value, and the exchange is not made acre for acre. Oftentimes it helps to adjust the boundaries so as to make the administration of the forest better.

Mr. HUDSON. Will the gentleman yield?

Mr. LAGUARDIA. Yes.

Mr. HUDSON. Does this mean that the land that is taken out of the national forest is to be cut over and then brought back into the national forest by an exchange again at the expense of the Government after the lumber companies have taken off the timber?

Mr. LAGUARDIA. It hits me that way.

Mr. SUMMERS of Washington. There is nothing of that kind contemplated at all.

Mr. HUDSON. If it is the purpose to reforest this land, why not take the land and reforest it without giving up any other land?

Mr. LAGUARDIA. These trees are very many years old, are they not?

Mr. HILL of Washington. Yes; it is mature timber.

Mr. LAGUARDIA. The trees are 100 years old, so two weeks would not make much difference, and therefore I ask unanimous consent that the bill may go over without prejudice so that I may be better advised about it.

The SPEAKER pro tempore. Without objection, the bill will be passed over without prejudice.

There was no objection.

LASSEN VOLCANIC NATIONAL PARK, CALIF.

The next business on the Consent Calendar was the bill (H. R. 11406) to consolidate or acquire alienated lands in Lassen Volcanic National Park, in the State of California, by exchange.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. CRAMTON. Mr. Speaker, reserving the right to object, the gentleman from California [Mr. ENGLEBRIGHT] is not present. There have been some developments in connection with this situation since the bill was reported, so that I imagine the gentleman might not want to press it. I ask unanimous consent that the bill be passed over without prejudice.

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

There was no objection.

RIGHT OF WAY THROUGH CHALMETTE NATIONAL CEMETERY

The next business on the Consent Calendar was the bill (H. R. 11758) authorizing the Secretary of War to grant a right of way for a levee through the Chalmette National Cemetery.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection?

Mr. LAGUARDIA. Reserving the right to object.

Mr. O'CONNOR of Louisiana. This is to authorize the Secretary of War to grant a right of way through the cemetery on account of the breaking of the levee in the National Cemetery. I might say that the military appropriation bill carries an appropriation to make the necessary changes.

The SPEAKER pro tempore. Is there objection?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of War is hereby authorized to grant the Lake Borgne Basin levee board, an agency of the State of Louisiana, a right of way through the Chalmette National Cemetery Reservation, St. Bernard Parish, La., in such location as may be designated by him, for the purpose of constructing and maintaining a new levee to replace the existing levee in front of said reservation.

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

A motion to reconsider was laid on the table.

ACQUISITION OF LANDS IN HAWAII

The next business on the Consent Calendar was the bill (H. R. 11847) to authorize the acquisition of the Queen Emma and Damon estates and the Halawa site in the vicinity of Fort Kamehameha, Hawaii, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection?

Mr. BLACK of Texas. I object. This bill involves more than a million dollars and should not be considered on the Calendar for Unanimous Consent when the Military Affairs Committee can call it up on Calendar Wednesday.

Mr. JAMES. Let me say to the gentleman that the Military Affairs Committee will not have a Calendar Wednesday this session and there is no way of getting the bill up except by unanimous consent. We must have it because the Army and the Navy need it and the sooner we condemn the land the more it will save the Government.

Mr. BLACK of Texas. There are two tracts of land involved here. One is to cost at the rate of $300 an acre, and there are 1,434 acres. Another tract contains 862 acres and is to cost around $900 per acre.

Mr. CRAMTON. Will the gentleman yield?

Mr. BLACK of Texas. I will.

Mr. CRAMTON. This bill at first impressed me much as it does the gentleman from Texas, but I took it up with the Governor of Hawaii, Mr. Farrington, in whom I have very great confidence. I have a statement from him which I will ask unanimous consent to put in the RECORD as a part of my remarks. I suggest to the gentleman from Michigan [Mr. JAMES] that if the gentleman from Texas is reluctant about letting the bill pass that the gentleman from Michigan ask unanimous consent to have it go over without prejudice and I will ask the gentleman from Texas in the meantime to read the statement which I have put in.

Mr. BLACK of Texas. I will be very glad to do so.

Mr. CRAMTON. In connection with that I will say that I want to put in also some discussion of the way the Army officers have handled land matters in Hawaii. In my judgment the Army officers in Hawaii have conducted themselves as con-

quering officers in a subdued nation, in connection with their attitude toward disposal of valuable territorial lands turned over to the War Department for military purposes, and I want to put in also some information with reference to that.

Mr. BLACK of Texas. Let me say that I would have to investigate a situation thoroughly before I would be willing to let a bill pass to pay $900 an acre for 300 acres and approximately $300 an acre for another tract of 1,400 acres. I will have to be convinced that there is some real good substantial reason for paying such a price.

Mr. CRAMTON. I will say to the gentleman that if this was a proposition to allow the Army officers to make an exchange of land, I would agree absolutely with the gentleman from Texas, but this does provide for condemnation of the land, and it is not probable that the land can be secured for any less price.

Mr. BLACK of Texas. Mr. Speaker, I ask unanimous consent that the bill go over without prejudice.

The SPEAKER pro tempore. Is there objection?

The Chair hears none.

Mr. CRAMTON. Mr. Speaker, I ask unanimous consent to extend my remarks by inserting certain correspondence with the Governor of Hawaii and also the other matter I referred to.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. CRAMTON. I have considerable contact, personally and officially, with Governor Farrington, and I have implicit confidence in his business judgment and his zeal for the public interest. The statement from him which I present satisfies me that the passage of the pending bill is desirable. It further satisfies me that the Army officers in Hawaii have been reckless in their waste of the public domain and that something should be done to prevent continuance of such reckless dissipation of lands in their control in Hawaii of great public value.

I am advised otherwise that the transfer to Dillingham was consummated without any public notice or discussion and two miles of valuable water front was disposed of without proper consideration. I do not criticize Dillingham, but the facts themselves are an indictment of the Army administration of valuable property intrusted to it. Action should be taken by Congress to prevent any further repetition of this waste. The letters from Governor Farrington are as follows:

EXECUTIVE CHAMBER, TERRITORY OF HAWAII,
Honolulu, April 25, 1928.

Hon. LOUIS C. CRAMTON,
Member of Congress, Washington, D. C.

MY DEAR CONGRESSMAN CRAMTON: I inclose confirmation copy of our telegram sent to you by naval radio in answer to your inquiry regarding the James bill for the purchase of land to give the War Department a proper aviation field in the vicinity of Pearl Harbor and the coast defenses of the island of Oahu.

I hope I have made myself clear in expressing cordial approval of the speedy acquiring of this property by the Federal Government.

In my opinion the most approved method for the Government to secure possession of private land is through the medium of condemnation proceedings. The fact that a tentative value for this land was secured for the information of Congressman JAMES indicates that the private owners, realizing that the land may be condemned and must, in the natural order of events, come into the possession of the Federal Government, have placed what they would consider a fair value. I am not disposed to dispute this value, but, on account of my experience and observation with and of Army methods of handling public lands, I have a very poor opinion of the experience, judgment, and degree of responsibility possessed by the officers who have handled Army land matters in this Territory during the period of my administration.

In this connection I could tell you a long story regarding the acquiring of a 254-acre tract, known as the Kalena tract, located in the midst of the Schofield Barracks Reservation. Summerall, when first assuming command down here, at the beginning of my administration, tried his best to force me to carry out a land exchange which would have resulted in the Territory giving up control of over 2,000 acres to private interests, in order that the Army might secure 254 acres of the Kalena tract. I insisted that the land should be condemned. Last December the final trial was held in connection with the condemnation proceedings. The price of the Kalena land and all charges against it amounted to $58,000. That money has been appropriated, I think, during the present session of Congress. The folly of Summerall's program is now brought into clear relief.

Last year the local Army officers were endeavoring to manipulate a land exchange to secure possession of the land included in the present James bill. The things that they proposed to do with public lands that were originally Territorial and made over to the War Department by Executive order during Governor Pinkham's administration were simply outrageously foolish. I inclose a copy of a letter which I wrote Major General Lewis bearing on this subject relating to another field at Waianae.

I have a very definite opinion on the propriety of the War Department returning to the administration of the Territory all the public land not required for the immediate uses of the War Department. The fact that the War Department was ready and would undoubtedly have exchanged the land had the Delegate and myself not protested directly to the President makes it clear that these lands, which I mention generally and can define specifically if desired, are not a factor of military necessity to the War Department.

Reverting again to the land area covered in the James bill, there is no doubt in my mind that this land will never be available at a lower figure. If it remains in private hands, it will be filled from dredgings of Pearl Harbor and vicinity and sold privately at a very much increased value. Should war ever come, there is no doubt in my mind that immediate possession would have to be taken of this property by the military authorities. It is the natural and logical location for the aviation field. It is, therefore, sound business for the Federal Government to acquire possession of the land at the present time, and thus allow the military authorities to develop their defensive program in a normal manner and at the lowest cost to the country.

I can go into all these land transactions in detail, if it is desired. Congressman JAMES made a very careful and intensive survey of the situation from a military standpoint. I most cordially support him in all his programs, except possibly when he suggests in a casual conversation that the Government might sell some of the property, once Territorial but now made over to the Army by Executive order, and use the money for local military programs. My answer to this is that the land, being originally Territorial, should revert to the Territory for public use. This Territory pays its normal share of taxes into the Treasury, and I do not feel that we should be specially assessed and placed in the position of having to buy back from private interests what was once public property. This condition exists on the water front of Honolulu at the present time, as the Territory in order to round out its harbor-terminal scheme must buy back from a private citizen a land area originally made over to the War Department by Executive order and through the War Department channels placed in private hands by exchange. This will cost the Territory approximately from $100,000 to $150,000. There is nothing of sound business in such a program.

I am delighted to know that you are continuing your interest in the affairs of Hawaii from every standpoint.

Yours sincerely,

W. R. FARRINGTON,
Governor of Hawaii.

AUGUST 15, 1927.

Maj. Gen. E. M. LEWIS, U. S. Army,
Commanding, Hawaiian Department,
Honolulu, Hawaii.

MY DEAR GENERAL LEWIS: Responding to your request of August 11, regarding the possibility of the Territory undertaking to condemn land on the island of Oahu that might be turned over to the Army, I am of the opinion that such a proceeding could not be of any immediate value to you. There are legal difficulties that would make the procedure long drawn out and in any event the final consummation of the program would properly await confirmation by the legislature of 1929.

I should say it would be better to seek an appropriation from Congress, so that the lands desired may be condemned and purchased by the Federal Government.

While inspecting Territorial lands in the Waianae region on Friday last, I had the opportunity of viewing the tract at Makaha that I am informed is the area sought by the Army as a landing field. I have been informed that the program of exchange contemplates the transfer to the Waianae plantation or allied private interests of a portion of the near-by land now controlled by the War Department (being designated as Waianae-kai parcel No. 2, Executive Order 2900, July 2, 1918), containing approximately 153 acres; also several hundred feet (approximately a thousand) of the beach frontage on Waianae Bay (designated on map as Pokai Bay) in the vicinity of the Dowsett residence.

For your information, the Territory has usually been able to consummate exchanges of this nature on the basis of giving acre for acre, for land of the same general character. This would appear to be possible in this case. Consequently the inclusion of the beach frontage appears to be unnecessary. The 153-acre tract referred to produced an income of $811 a year under lease from the Territory previous to its being set aside for the purposes of the Army on the recommendation of Governor Pinkham.

My experience in dealing with private landholders in the Territory of Hawaii on matters of exchange does not lead me to believe that any branch of the Government need feel that private holders are conferring any particular favor on the Government when indicating a willingness to exchange. On my present information, I fail to see why any branch of the United States Government should transfer any portion of the Waianae Bay frontage to private interests.

A fair sample of what happens is now furnished by the conditions near the Maile Beach area. The 62 acres, carrying approximately 6,000 feet of beach frontage, that was deeded to W. F. Dillingham in a land

exchange completed by the Hawaiian Department, includes over a mile of the best beach in the Maile Beach section of the Waianae district.

The construction of an improved highway, for which the Territory has appropriated approximately $600,000, makes this region easily accessible from the more populous sections of the island of Oahu. Already petitions have been presented to me to secure an opening for the public on the so-called Maile Beach, that was placed under the control of W. F. Dillingham through exchange with the Army. I am informed that a 47-acre tract of land located across the main highway from this Maile Beach section recently sold for $40,000. Other sales of approximately $1,000 an acre are reported in this section. There is an increasing demand for access to the beach in that vicinity. The section of the beach a mile distant still controlled by the Territory is the rockiest portion and the least attractive for public use.

You can thus readily understand why the Territory views with concern the alienation of any of this beach area when it has become obvious that the retention of the beach area by the Army is not a matter of military necessity.

Judging from some of the proposals of exchange that have come to my attention as having been made under the authority of the act of Congress approved January 31, 1922 (entitled "An act to provide for the exchange of Government lands for privately owned lands in the Territory of Hawaii"), officers of your department have not resided in the Territory long enough to appreciate the importance of continued public control of beach areas. Hawaii has gone through the experience of allowing private interests to secure control of beach land, and then, as a result of the lack of foresight, the taxpayers have been forced to buy back these lands at a very high cost.

A portion of the public park at Waikiki was bought back by the city and county of Honolulu at a cost of $30,000, and only recently the site for the present war memorial at Waikiki was bought back at the cost of $200,000.

I can not bring myself to believe on any information now at my disposal that there is need or justification under the heading of either military necessity or national financial economies to alienate to private interests another foot of land along the Waianae Beach area or any other beach section of the island of Oahu.

There is an investment value in this property, and if there is any advantage to be gained it should be for the benefit of the public, not for private interests.

Yours very truly,

W. R. FARRINGTON,
Governor of Hawaii.

SALE OF SURPLUS WAR DEPARTMENT REAL PROPERTY

The next business on the Consent Calendar was the bill (H. R. 11953) to authorize the sale under the provisions of the act of March 12, 1926 (Public, No. 45, 69th Cong.), of surplus War Department real property.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection?

Mr. LAGUARDIA. Reserving the right to object, does this clean up all the surplus real property under the control of the War Department?

Mr. JAMES. I hope not. I do not think we ought to keep any real property that can be disposed of.

Mr. LAGUARDIA. The gentleman from Michigan and I have never agreed about the disposition of surplus real property. In the light of past experience in the sale of real property will not the gentleman agree that it has not been very successful?

Mr. JAMES. In some places the Government has got more than was expected.

Mr. LAGUARDIA. It is impossible to get the gentleman from Michigan to agree to the fact.

Mr. JAMES. No; we have overridden the War Department time after time. I am not taking any orders from the War Department.

Mr. LAGUARDIA. The gentleman will recall that when he came before the House with the first bill I opposed it, and we were assured by the gentleman that if we sold the real property it would be sufficient to finance the building program.

Mr. JAMES. Oh, I never made any such statement as that.

Mr. LAGUARDIA. I think that was the impression that the House got.

Mr. JAMES. I hope not.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of War be, and he is hereby, authorized to sell or cause to be sold under the provisions of the act of March 12, 1926, the several tracts or parcels of real property hereinafter designated or any portion thereof, upon determination by him that said tracts or parcels are no longer needed for military purposes, and execute and deliver in the name of the United States and in its behalf any contracts, conveyances, or other instruments necessary to effectuate such sale and conveyance, to wit: Amaknak Island, Alaska (that portion under the control of the War Department); Carlstrom Field, Fla.; Door Field, Fla.; East Jordan Range, Mich.; Fort Griswold, Conn.; Fort Independence, Mass. (portion only); Camp Lee, Va.; Fort Madison, Me.; Fort Sewall, Mass. The expense of sale of these properties shall be paid from the proceeds thereof, and the net proceeds shall be deposited in the Treasury of the United States to the credit of the military-post construction fund: *Provided,* That the net proceeds of the sale of East Jordan Range, Mich., shall be credited to the State allotment of funds for the Michigan National Guard.

With the following committee amendment:

Page 2, line 14, after the word "guard," insert "pursuant to the act of Congress approved May 12, 1917."

The committee amendment was agreed to.

Mr. FROTHINGHAM. Mr. Speaker, I move to amend on page 2, lines 7 and 8, by striking out "Fort Sewall, Mass."

The SPEAKER pro tempore. The gentleman from Massachusetts offers an amendment which the Clerk will report.

The Clerk read as follows:

Amendment by Mr. FROTHINGHAM: Page 2, line 7, strike out the words "Fort Sewall, Mass."

The amendment was agreed to.

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

A motion to reconsider the vote by which the bill was passed was laid on the table.

APPOINTMENT OF WARRANT OFFICERS, UNITED STATES ARMY

Mr. CRAMTON. Mr. Speaker, I ask unanimous consent to revise and extend my remarks upon the bill (H. R. 8314) to provide for appointment as warrant officers of the Regular Army of such persons as would have been eligible therefor but for the interruption of their status, caused by military service rendered by them as commissioned officers in the World War, by inserting a letter.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. CRAMTON. The letter is as follows:

BUREAU OF THE BUDGET,
Washington, May 2, 1928.

Hon. LOUIS C. CRAMTON,
House of Representatives.

MY DEAR MR. CRAMTON: On the 20th ultimo you wrote me with regard to H. R. 8314, a bill to amend the act of Congress approved March 4, 1927, to provide for appointment as warrant officers of the Regular Army of such persons as would have been eligible therefor but for the interruption of their status, caused by military service rendered by them as commissioned officers during the World War.

The act of March 4, 1927 (44 Stat. 1416), authorizes the counting of commissioned service in the Army during the World War as the equivalent of service as quartermaster clerks, but does not authorize the counting of such commissioned service as the equivalent of detached service away from the permanent station or duty beyond the continental limits of the United States.

The act of August 29, 1916 (39 Stat. 625), specifically requires 12 years of service to establish eligibility for appointment as field clerks, Quartermaster Corps, with the provision that at least 3 years of such service must have been on detached duty or on duty beyond the continental limits of the United States or both. The bill under consideration (H. R. 8314) among other things contemplates amending the act of March 4, 1927, so as to have commissioned service during the World War count not alone for the equivalent of service as clerks, Quartermaster Corps, but also for the detached service or foreign duty prescribed by the act of August 29, 1916.

As it has been decided by Congress that the commissioned service shall count as equivalent to service as clerks, Quartermaster Corps, there would seem to be no objection to the commissioned service being counted as the equivalent of detached service or foreign duty. However, H. R. 8314 goes far beyond this and authorizes the counting of "all classified service rendered as clerks in the Military Establishment." None of the laws relating to the appointment of warrant officers, including the last enactment of March 4, 1927, has authorized the counting of all classified service rendered as clerks in the Military Establishment and to make this departure now for the eight men who would be the beneficiaries under H. R. 8314 would establish a precedent for all classes of these people who have been given an enlisted or warrant status or a commissioned status. While the amount involved for the eight men would not be large, the establishment of a precedent might prove to be extremely costly.

Sincerely yours,

H. M. LORD, *Director.*

DONATING REVOLUTIONARY CANNON TO NEW YORK STATE

The next business on the Consent Calendar was the bill (S. 805) donating Revolutionary cannon to the New York State Conservation Department.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of War, in his discretion, is hereby authorized to deliver to the order of the New York State Conservation Department five Revolutionary cannon stored in the Watervliet Arsenal at Watervliet, N. Y., and marked "W. A. 60," "W. A. 61," "W. A. 62," "W. A. 63," and "W. A. 64": *Provided*, That the United States shall be put to no expense in connection with the delivery of said cannon.

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

A motion to reconsider the vote by which the bill was passed was laid on the table.

SALES BY UTILITIES IN THE ARMY

The next business on the Consent Calendar was the bill (H. R. 7938) to regulate sales by utilities in the Army.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. LAGUARDIA. Mr. Speaker, I object.

The SPEAKER pro tempore. This takes three objections.

Mr. SCHAFER. Mr. Speaker, I object.

Mr. COLLINS. Mr. Speaker, I object.

The SPEAKER pro tempore. Three objections are noted, and the Clerk will call the next bill.

UNITED STATES BARRACKS AT BATON ROUGE, LA.

The next business on the Consent Calendar was the bill (H. R. 11852) providing for the confirmation of grant of lands formerly the United States barracks at Baton Rouge, La., to the board of supervisors of the Louisiana State University and Agricultural and Mechanical College.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read as follows:

Be it enacted, etc., That the patent issued by the United States General Land Office to the board of supervisors of the Louisiana State University and Agricultural and Mechanical College in trust for the Louisiana State University and Agricultural and Mechanical College under date of February 20, 1903, by virtue of the authority conferred by an act of Congress approved April 28, 1902, entitled "An act providing for the transfer of the title to the military reservation at Baton Rouge, La., to the Louisiana State University and Agricultural and Mechanical College," which conveyed full and complete title to the buildings and grounds of the United States barracks at Baton Rouge, La., for the purpose of said university and college, being sections 44 and 71 of township 7 south, range 1 west, St. Helena meridian, State of Louisiana, containing 211.56 acres be, and the same is hereby, approved and confirmed; and the right of the board of supervisors of the Louisiana State University and Agricultural and Mechanical College to sell or lease any of the said grounds or buildings in its development of said university is fully recognized, the proceeds to form part of the funds of the said Louisiana State University and Agricultural and Mechanical College and to be used for the purposes of said university and college.

With the following committee amendments:

Page 2, line 18, after the word "college" insert "excepting from the force and effect of this act the parcel of ground containing about 2.45 acres granted to the Roman Catholic congregation of St. Joseph's Church of the city of Baton Rouge, by act of Congress approved September 30, 1890 (26 Stat. 503); and further excepting that portion of land that lies westward of a line 100 feet east of the center of the railroad tract of the Louisville, New Orleans, & Texas Railroad Co.: *Provided*, That if the said railroad company shall cease to use and occupy such land it shall thereupon become subject to all the provisions of this act.

The committee amendment was agreed to and the bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

A motion to reconsider the vote by which the bill was passed was laid on the table.

GAME REFUGES ON THE OUACHITA NATIONAL FOREST

The next business on the Consent Calendar was the bill (H. R. 8130) authorizing the creation of game refuges on the Ouachita National Forest, in the State of Arkansas.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the present consideration of the bill?

Mr. LAGUARDIA. Mr. Speaker, reserving the right to object, I shall not object if the gentleman from Arkansas [Mr. REED] will agree to accept an amendment striking out lines 1 and 2 on page 2. If this is going to be a bird sanctuary, let us make it so; if it is going to be a bird refuge, let us make it so. But if it is going to be a hunting ground, let us say so.

Mr. REED of Arkansas. Mr. Speaker, of course, I would object to the striking out of lines 1 and 2 on page 2.

The SPEAKER pro tempore. Is there objection?

Mr. LAGUARDIA. Mr. Speaker, I object.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate, by Mr. Craven, its principal clerk, announced that the Senate had passed a bill of the following title, in which the concurrence of the House of Representatives was requested:

S. 3699. An act for the relief of the land-grant railroad operated between the station formerly known as East Portland, in the State of Oregon, and Roseville, in the State of California.

The message also announced that the Senate insists upon its amendments to the bill (H. R. 12030) entitled "An act to amend Title II of an act approved February 28, 1925 (43 Stat. 1066, U. S. C., title 39) regulating postal rates, and for other purposes," disagreed to by the House of Representatives, agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. MOSES, Mr. PHIPPS, and Mr. MCKELLAR to be the conferees on the part of the Senate.

The message further announced that the Senate had concurred in the following concurrent resolution:

House Concurrent Resolution 34

Resolved by the House of Representatives (the Senate concurring), That the committee of conference on the disagreeing votes of the two Houses on the amendments of the House to the bill (S. 3740) entitled "An act for the control of floods on the Mississippi River and its tributaries, and for other purposes," be authorized to include in its report on said bill a recommendation amending the proviso to the first paragraph of section 10 by striking out the words in said paragraph "board created in section 1 of this act," and inserting in lieu thereof the words "Mississippi River Commission," and no point of order shall be made against the report by reason of such action.

THE CONSENT CALENDAR

BRIDGE ACROSS THE OHIO RIVER AT NEW CUMBERLAND, W. VA.

The next business on the Consent Calendar was the bill (H. R. 5475), granting the consent of Congress to the R. V. Reger Bridge Co. to construct, maintain, and operate a bridge across the Ohio River.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The SPEAKER. Without objection, the Clerk will read the committee amendment.

There was no objection; and the Clerk read as follows:

Strike out all after the enacting clause and insert:

"That in order to facilitate interstate commerce, improve the postal service, and provide for military and other purposes, the New Cumberland Bridge Co., its successors and assigns, be, and is hereby, authorized to contruct, maintain, and operate a bridge and approaches thereto across the Ohio River, at a point suitable to the interests of navigation, at or near the city of New Cumberland, W. Va., in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906, and subject to the conditions and limitations contained in this act.

"SEC. 2. There is hereby conferred upon the New Cumberland Bridge Co., its successors and assigns, all such rights and powers to enter upon lands and to acquire, condemn, occupy, possess, and use real estate and other property needed for the location, construction, operation, and maintenance of such bridge and its approaches as are possessed by railroad corporations for railroad purposes or by bridge corporations for bridge purposes in the State in which such real estate or other property is situated, upon making just compensation therefor, to be ascertained and paid according to the laws of such State, and the proceedings therefor shall be the same as in the condemnation or expropriation of property for public purposes in such State.

"SEC. 3. The said New Cumberland Bridge Co., its successors and assigns, is hereby authorized to fix and charge tolls for transit over such bridge, and the rates of toll so fixed shall be the legal rates until changed by the Secretary of War under the authority contained in the act of March 23, 1906.

"SEC. 4. After the completion of such bridge, as determined by the Secretary of War, either the State of West Virginia, the State of Ohio,

any public agency or political subdivision of either of such States, within or adjoining which any part of such bridge is located, or any two or more of them jointly, may at any time acquire and take over all right, title, and interest in such bridge and its approaches, and any interest in real property necessary therefor, by purchase or by condemnation or expropriation, in accordance with the laws of either of such States governing the acquisition of private property for public purposes by condemnation or expropriation. If at any time after the expiration of 20 years after the completion of such bridge the same is acquired by condemnation or expropriation, the amount of damages or compensation to be allowed shall not include good will, going value, or prospective revenues or profits, but shall be limited to the sum of (1) the actual cost of constructing such bridge and its approaches, less a reasonable deduction for actual depreciation in value, (2) the actual cost of acquiring such interests in real property, (3) actual financing and promotion costs, not to exceed 10 per cent of the sum of the cost of constructing the bridge and its approaches and acquiring such interests in real property, and (4) actual expenditures for necessary improvements.

"SEC. 5. If such bridge shall be taken over or acquired by the States or public agencies or political subdivisions thereof, or by either of them, as provided in section 4 of this act, and if tolls are thereafter charged for the use thereof, the rates of toll shall be so adjusted as to provide a fund sufficient to pay for the reasonable cost of maintaining, repairing, and operating the bridge and its approaches under economical management, and to provide a sinking fund sufficient to amortize the amount paid therefor including reasonable interest and financing cost, as soon as possible under reasonable charges, but within a period of not to exceed 20 years from the date of acquiring the same. After a sinking fund sufficient for such amortization shall have been so provided, such bridge shall thereafter be maintained and operated free of tolls, or the rates of toll shall thereafter be so adjusted as to provide a fund of not to exceed the amount necessary for the proper maintenance, repair, and operation of the bridge and its approaches under economical management. An accurate record of the amount paid for acquiring the bridge and its approaches, the actual expenditures for maintaining, repairing, and operating the same, and of the daily tolls collected, shall be kept and shall be available for the information of all persons interested.

"SEC. 6. The said New Cumberland Bridge Co., its successors and assigns, shall within 90 days after the completion of such bridge file with the Secretary of War, and with the highway departments of the States of West Virginia and Ohio, a sworn itemized statement showing the actual original cost of constructing the bridge and its approaches, the actual cost of acquiring any interest in real property necessary therefor, and the actual financing and promotion costs. The Secretary of War may, and upon request of the highway department of either of such States shall, at any time within three years after the completion of such bridge, investigate such costs and determine the accuracy and the reasonableness of the costs alleged in the statement of costs so filed, and shall make a finding of the actual and reasonable costs of constructing, financing, and promoting such bridge; for the purpose of such investigation the said New Cumberland Bridge Co., its successors and assigns, shall make available all of its records in connection with the construction, financing, and promotion thereof. The findings of the Secretary of War as to the reasonable costs of the construction, financing, and promotion of the bridge shall be conclusive for the purposes mentioned in section 4 of this act, subject only to review in a court of equity for fraud or gross mistake.

"SEC. 7. The right to sell, assign, transfer, and mortgage all the rights, powers, and privileges conferred by this act is hereby granted to the New Cumberland Bridge Co., its successors and assigns, and any corporation to which or any person to whom such rights, powers, and privileges may be sold, assigned, or transferred, or who shall acquire the same by mortgage foreclosure or otherwise, is hereby authorized and empowered to exercise the same as fully as though conferred herein directly upon such corporation or person.

"SEC. 8. The right to alter, amend, or repeal this act is hereby expressly reserved."

The committee amendment was agreed to; and the bill as amended was ordered to be engrossed and read a third time, was read the third time, and passed.

The title was amended to read: "A bill authorizing the New Cumberland Bridge Co., its successors and assigns, to construct, maintain, and operate a bridge across the Ohio River at or near New Cumberland, W. Va."

A motion to reconsider the vote by which the bill was passed was laid on the table.

BRIDGE ACROSS LITTLE CALUMET RIVER, ILL.

The next business on the Consent Calendar was the bill (H. R. 11917) granting the consent of Congress to the county of Cook, State of Illinois, to widen, maintain, and operate the existing bridge across the Little Calumet River in Cook County, State of Illinois.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That the consent of Congress is hereby given to the county of Cook, State of Illinois, to widen, maintain, and operate the existing highway bridge and approaches thereto across Little Calumet River at or near Halstead Street, within section 8, township 36 north, range 14 east, in said county and State, in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. The right to alter, amend, or repeal this act is hereby expressly reserved.

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

A motion to reconsider the vote by which the bill was passed was laid on the table.

LEGALIZING WHARF IN DEER ISLAND, ME.

The next business on the Consent Calendar was the bill (H. R. 11950) to legalize a pier and wharf in Deer Island thoroughfare on the northerly side at the southeast end of Buckmaster Neck at the town of Stonington, Me.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. LAGUARDIA. Mr. Speaker, reserving the right to object, how was this pier originally constructed?

Mr. DENISON. It was constructed without authority of law. This is to legalize it.

Mr. LAGUARDIA. There is not much navigation on this stream?

Mr. DENISON. No; but the law is general in respect to such matters.

The SPEAKER. Is there objection?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That the pier and wharf built by Marguerite S. Morrison in the Deer Island thoroughfare, State of Maine, on the northerly side at the southeast end of Buckmaster Neck, which is about 2 miles north of the wharf at the town of Stonington, in the State of Maine, be, and the same is hereby, legalized to the same extent and with like effect as to all existing or future laws and regulations of the United States as if the permit required by the existing laws of the United States in such cases made and provided had been regularly obtained prior to the erection of said pier and wharf: *Provided*, That any changes in said pier which the Secretary of War may deem necessary and order in the interest of navigation shall be promptly made by the owner thereof.

SEC. 2. That the right to alter, amend, or repeal this act is hereby expressly reserved.

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

A motion to reconsider the vote by which the bill was passed was laid on the table.

BRIDGE ACROSS THE TENSAS RIVER IN LOUISIANA

The next business in order on the Consent Calendar was the 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.

The title of the bill was read.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. SCHAFER. Reserving the right to object, Mr. Speaker, I would like to inquire whether or not this bridge is to be constructed on some property which is to be acquired as a flood way under the terms of the relief bill that we recently passed?

Mr. DENISON. I am unable to state definitely where the flood way is, but I will say to the gentleman from Wisconsin that this bill only authorizes the construction of a temporary bridge.

Mr. SCHAFER. And we might conclude that under this proposition, if the Government is going to purchase land along these flood ways, we may have to pay damages on account of the construction of this bridge?

Mr. DENISON. The flood way bill does not contemplate the Government purchasing anything but flowage rights. This does not interfere in any way.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the consent of Congress is hereby granted to the Fisher Lumber Corporation, incorporated under the laws of the State of Delaware, its successors and assigns, to construct, maintain, and operate a railroad bridge and approaches thereto across the

Tensas River, in Louisiana, at a point suitable to the interests of navigation at or near the dividing line between sections 1 and 12, township 12 north, range 9 east, Louisiana meridian, in accordance with the provisions of an act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. The right to sell, assign, transfer, and mortgage all the rights, powers, and privileges conferred by this act is hereby granted to the Fisher Lumber Corporation, its successors and assigns, and any corporation to which or any person to whom such rights, powers, and privileges may be sold, assigned, or transferred, or who shall acquire the same by mortgage foreclosure or otherwise, is hereby authorized to exercise the same as fully as though conferred herein directly upon such corporation.

SEC. 3. The right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER. The question is on the engrossment and third reading of the bill.

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

A motion to reconsider the last vote was laid on the table.

CLAIMS OF LOWER SPOKANE AND LOWER PEND OREILLE OR LOWER CALISPELL TRIBES OF INDIANS, STATE OF WASHINGTON

The next business on the Consent Calendar was the bill (H. R. 5574) authorizing the Lower Spokane and the Lower Pend Oreille or Lower Calispell Tribes or Bands of Indians in the State of Washington, or any of them, to present their claims to the Court of Claims.

The title of the bill was read.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. CRAMTON. Reserving the right to object, Mr. Speaker, I have certain amendments that I will not take time now to enumerate unless I am requested to do so. I understand those amendments are agreeable to the gentleman from Washington [Mr. HILL].

Mr. HILL of Washington. Yes.

Mr. CRAMTON. With that understanding I shall withhold any objection, and offer the amendments at the proper time.

Mr. HILL of Washington. Mr. Speaker, the bill S. 1480 is identical with this bill and is on the Union Calendar. I request that the Senate bill 1480 be considered in lieu of the House bill 5574, and that the House bill be laid on the table.

The SPEAKER. The gentleman from Washington asks unanimous consent that the Senate bill 1480 be considered in lieu of the House bill. Is there objection?

There was no objection.

The SPEAKER. The Clerk will report the Senate bill.

Mr. CRAMTON. Mr. Speaker, it is a rather long bill, and unless somebody is interested in hearing it read I will ask unanimous consent that it be considered as read.

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

There was no objection.

The Senate bill reads as follows:

S. 1480, Seventieth Congress, first session

A bill authorizing certain Indian tribes and bands, or any of them, residing in the State of Washington, to present their claims to the Court of Claims.

Be it enacted, etc., That jurisdiction is hereby conferred on the Court of Claims, with the right to appeal to the Supreme Court of the United States by either party, as in other cases, notwithstanding the lapse of time or statutes of limitation, to hear, examine, and adjudicate and render judgment in any and all legal and equitable claims of the Lower Spokane and the Lower Pend Oreille or Lower Calispell Tribes or Bands of the State of Washington, or any of said tribes or bands, against the United States arising under or growing out of the original Indian title, claim, or rights of the said Indian tribes and bands, or any of said tribes or bands (with whom no treaty has been made), in, to, or upon the whole or any part of the lands and their appurtenances claimed by said Lower Spokane Tribe or Band of Indians, in the State of Washington, and embraced within the following general descriptions, to wit:

Commencing in the State of Washington on the east and west Government survey township line between townships 24 and 25 north at a point whose longitude is 119° 10′ west; thence east along said township line to the first draw leading and draining into Hawk Creek in Lincoln County, Wash.; thence down the center of said draw to said Hawk Creek and down the center of said Hawk Creek to its conflux with the Columbia River; thence up and along the south and east bank of the Columbia River to the north bank of the Spokane River at its conflux with the Columbia River, which said boundary lines separate the lands of said Lower Spokane Tribe or Band of Indians from those, the several so-called Colville and Okanogan Tribes or Bands of Indians; thence easterly up and along the north bank of the said Spokane River to a north and south line whose longitude is 118° west; thence south along said line to its intersection with the forty-seventh parallel of latitude; thence west along said forty-seventh parallel to a line whose longitude is 119° 10′ west; thence north on said line to the point of beginning, which two latter lines of boundary separate the lands of the said Lower Spokane Tribe or Band of Indians from the lands of the confederated Yakima Indians as defined by the treaty between the United States and said Yakima Indians concluded at Camp Stevens, Walla Walla Valley, Washington Territory, June 9, 1855 (12 U. S. Stat. L. 941, 956); lands in the States of Idaho, Montana, and Washington, claimed by said Lower Calispell or Lower Pend Oreille Indian Tribe or Band of Indians and embraced within the following description, to wit:

Commencing at a point in the State of Idaho at the forty-ninth parallel latitude on the divide between the waters of the Flat Bow or Kootenai River and those of the Clark Fork River and its tributaries; thence southerly and southeasterly along said summit of the divide, known as the Cabinet Mountain, to the headwaters of Thompsons River in Sanders County, Mont.; thence southerly along the divide between Thompsons River and the tributaries of the Flathead River to the town of Plains, Mont., and continuing southwesterly on a line drawn through St. Regis, Mont., to the summit of the Calispell or Coeur d'Alene Range of the Bitter Root Mountain (which said boundaries separate the original habitat and lands of said Lower Calispell or Lower Pend O'Reille Indians from those of the Cooteney, Upper Pend O'Reille, and Flathead Tribes or Bands of Indians as defined by the treaty between the United States and said last-named tribes or bands of Indians executed July 16, 1855) (12 Stat. L. 975–979); thence northwesterly along the summit of said Calispell or Coeur d'Alene Range and the divide between the waters of the said Clark Fork and those of the Coeur d'Alene River, and along said course extend to and across the Spokane Plains and continuing in a general northwesterly direction to the divide separating the waters of said Clark Fork River from the Spokane River and its tributaries to the main ridge of the Calispell Mountains in the State of Washington; and thence in a northerly direction, along the summit of main ridge of said Calispell Mountains, and said course extending to the international boundary line between the Province of British Columbia and the State of Washington; then east along said international boundary line to the point of beginning, which last-named boundaries separate the original habitat and land of said Lower Calispell or Lower Pend O'Reille Indians from those of the Coeur d'Alene, Spokane, Colville, and Lake Tribes or Bands of Indians; which said lands or rights therein or thereto are claimed to have been taken away from said Indian tribes and bands, or some of them, by the United States, recovery therefor in no event to exceed $1.25 per acre; together with all other claims of said tribes or bands of Indians, or any of said tribes or bands, arising under or growing out of fishing rights and privileges held and enjoyed by said tribes and bands, or any of them, in the waters of the Columbia River and its tributaries; or arising or growing out of hunting rights and privileges held and enjoyed by said tribes and bands, or any of them, in common with other Indians in the "common hunting grounds" east of the Rocky Mountains as reserved by and described in the treaty with Blackfoot Indians October 17, 1855 (11 Stat. L. 657–662), and which are claimed to have been taken away from said tribes and bands, or any of them, by the United States without any treaty or agreement with such Indian claimants therefor and without compensation to them.

SEC. 2. Any and all claims against the United States within the purview of this act shall be forever barred unless suit or suits be instituted or petition, subject to amendment, be filed as herein provided in the Court of Claims within five years from the date of the approval of this act, and such suit or suits shall make the said Lower Spokane and Lower Calispell or Lower Pend O'Reille Indian Tribes or Bands of Washington, or any of said tribes or bands, party or parties plaintiff and the United States party defendant. The petition shall be verified by the attorney or attorneys employed to prosecute such claim or claims under contract with the Indians approved in accordance with existing law; and said contract shall be executed in their behalf by a committee or committees selected by said Indians as provided by existing law. Official letters, papers, documents and records, maps, or certified copies thereof may be used in evidence, and the departments of the Government shall give access to the attorney or attorneys of said Indians to such treaties, papers, maps, correspondence, or reports as they may require in the prosecution of any suit or suits instituted under this act.

SEC. 3. In said suit or suits the court shall also hear, examine, consider, and adjudicate any claims which the United States may have against the said Indian tribes and bands, or any of them, but any payment or payments which have been made by the United States upon any such claim or claims shall not operate as an estoppel, but may be pleaded as an offset in such suit or suits, as may gratuities, if any, paid to or expended for said Indian tribes and bands of any of them.

SEC. 4. Any other tribes or bands of Indians the court may deem necessary to a final determination of any suit or suits brought hereunder

may be joined therein as the court may order: *Provided*, That upon final determination of such suit or suits the Court of Claims shall have jurisdiction to fix and determine a reasonable fee, not to exceed 10 per cent of the recovery, by any one of said tribes or bands, and in no event to exceed the sum of $25,000 for any one of said tribes or bands of Indians, together with all necessary and proper expenses incurred in the preparation and prosecution of such suit or suits to be paid to the attorney or attorneys employed as herein provided by the said tribes or bands of Indians, or any of said tribes or bands, and the same shall be included in the decree, and shall be paid out of any sum or sums adjudged to be due said tribes or bands, or any of them, and the balance of such sum or sums shall be placed in the Treasury of the United States, where it shall draw interest at the rate of 4 per cent per annum.

Mr. CRAMTON. Mr. Speaker, I submit my amendments and ask that they be considered together.

The SPEAKER. The Clerk will report the amendments offered by the gentleman from Michigan [Mr. CRAMTON].

The Clerk read as follows:

Amendments offered by Mr. CRAMTON: Page 6, line 18, after the word "them," strike out the comma and the words "but any" and insert in lieu thereof a period and the word "Any"; on line 7 of page 7 strike out the words "any one" and insert in lieu thereof the word "all"; and in line 17, page 7, strike out the period after the word "annum" and insert a comma and the following: "subject to appropriation by Congress for the health, education, and industrial advancement of said Indians, including the building of homes."

The SPEAKER. The question is on agreeing to the amendments.

The amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

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

A motion to reconsider the vote whereby the Senate bill was passed was laid on the table.

The similar House bill was laid on the table.

HOWARD SEABURY

The next business on the Consent Calendar was the bill (H. R. 12379) granting the consent of Congress to Howard Seabury to construct, maintain, and operate a dam to retain tidal waters in an unnamed cove which is situated and extends from Cases Inlet into section 28, township 21 north, range 1 west, Willamette meridian, in Pierce County, State of Washington.

The title of the bill was read.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That the consent of Congress is granted to Howard Seabury to construct, maintain, and operate, at a point suitable to the interests of navigation, a dam for the purpose of retaining tidal waves in an unnamed cove which is situated and extends from Cases Inlet into section 28, township 21 north, range 1 west, Willamette meridian, in Pierce County, State of Washington. Work shall not be commenced on such dam until the plans therefor, including plans for all accessory works, are submitted to and approved by the Secretary of War, who may impose such conditions and stipulations as he deems necessary to protect the interests of the United States, which may include the condition that Howard Seabury shall construct, maintain, and operate, in connection with such dam, and without expense to the United States, a lock, boom, sluice, or any other structure or structures which the Secretary of War at any time may deem necessary in the interests of navigation, in accordance with such plans as he may approve. This act shall not be construed to authorize the use of such dam to develop water power or to generate hydroelectric energy.

SEC. 2. The authority granted by this act shall terminate if the actual construction of the dam hereby authorized is not commenced within one year and completed within three years from the date of the passage of this act.

SEC. 3. The right to alter, amend, or repeal this act is hereby expressly reserved.

With committee amendments, as follows:

Page 1, line 6, strike out the word "waves" and insert in lieu thereof the word "waters." Page 2, line 5, after the word "War," insert "and the Chief of Engineers." On page 2, line 6, strike out the words "he deems" and insert "they deem"; page 2, line 12, after the word "War," insert the words "and the Chief of Engineers." On page 2, line 14, strike out the word "he" and insert the word "they."

The SPEAKER. The question is on agreeing to the committee amendments.

The committee amendments were agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

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

A motion to reconsider the last vote was laid on the table.

BRIDGE ACROSS THE SABINE RIVER, STATES OF TEXAS AND LOUISIANA

The next business on the Consent Calendar was the bill (H. R. 12386) authorizing the State of Texas and the State of Louisiana to construct, maintain, and operate a free highway bridge across the Sabine River at or near Pendleton's Ferry.

The title of the bill was read.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The SPEAKER. The Clerk will report the bill.

The Clerk read as follows:

Be it enacted, etc., That in order to facilitate interstate commerce, improve the Postal Service, and provide for military and other purposes, the State Highway Commission of Texas and the Louisiana Highway Commission be, and are hereby, authorized to construct, maintain, and operate a free highway bridge and approaches thereto across the Sabine River, between Sabine County, Tex., and Sabine Parish, La., at a point suitable to the interests of navigation, at or near Pendleton's Ferry, in accordance with the provisions of an act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906.

SEC. 2. There is hereby conferred upon the State Highway Commission of Texas and the Louisiana Highway Commission all such rights and powers to enter upon lands and to acquire, condemn, occupy, possess, and use real estate and other property needed for the location, construction, operation, and maintenance of such bridge and its approaches as are possessed by railroad corporations for railroad purposes or by bridge corporations for bridge purposes in the State in which such real estate or other property is situated, upon making just compensation therefor, to be ascertained and paid according to the laws of such State, and the proceedings therefor shall be the same as in the condemnation or expropriation of property for public purposes in such State.

SEC. 3. The right to alter, amend, or repeal this act is hereby expressly reserved.

The SPEAKER. The question is on the engrossment and third reading of the bill.

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

A motion to reconsider the last vote was laid on the table.

BRIDGE ACROSS THE OUACHITA RIVER

The next business on the Consent Calendar was the bill (H. R. 12677) to amend section 2 of an act approved March 12, 1928, granting consent of Congress for the construction of a bridge across the Ouachita River at or near Calion, Ark.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That section 2 of an act approved March 12, 1928, granting consent of Congress for the construction of a bridge across Ouachita River at or near Calion, Ark., shall read as follows:

"SEC. 2. If tolls are charged for the use of such bridge, the rates of toll shall be so adjusted as to provide a fund sufficient (1) to pay the reasonable cost of maintaining, repairing, and operating the bridge and its approaches; (2) the interest on borrowed money necessarily required and financing charges necessarily incurred in connection with the construction of the bridge and its approaches; and (3) to provide a sinking fund sufficient to retire the bonds issued and sold in connection with such original construction. All revenue received from the bridge shall be applied to the foregoing purposes and no bonds issued in connection with the construction of the bridge and its approaches shall be made to mature later than 20 years after the date of issue thereof.

"After a fund sufficient to retire such bonds in accordance with their provisions shall have been so provided, the bridge shall thereafter be maintained and operated as a free highway bridge, upon which no tolls shall be charged. An accurate and itemized record of the original cost of the bridge, and its approaches, the expenditures for maintaining, repairing, and operating the same, the interest charges paid and the tolls charged and the daily revenues received from the bridge shall be kept by the State Highway Commission of Arkansas, and shall be available at all reasonable times for the information of all persons interested."

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

A motion to reconsider the vote by which the bill was passed was laid on the table.

BRIDGE ACROSS RED RIVER

The next business on the Consent Calendar was the bill (H. R. 12676) to amend section 2 of an act approved February 14, 1926, granting consent of Congress for the construction of a bridge across Red River at or near Fulton, Ark.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That section 2 of an act approved February 14, 1926, granting consent of Congress for the construction of a bridge across Red River at or near Fulton, Ark., shall read as follows:

"SEC. 2. If tolls are charged for the use of such bridge, the rates of toll shall be so adjusted as to provide a fund sufficient (1) to pay the reasonable cost of maintaining, repairing, and operating the bridge and its approaches; (2) the interest on borrowed money necessarily required and financing charges necessarily incurred in connection with the construction of the bridge and its approaches; and (3) to provide a sinking fund sufficient to retire the bonds issued and sold in connection with such original construction. All revenue received from the bridge shall be applied to the foregoing purposes, and no bonds issued in connection with the construction of the bridge and its approaches shall be made to mature later than 20 years after the date of issue thereof.

"After a fund sufficient to retire such bonds in accordance with their provisions shall have been so provided, the bridge shall thereafter be maintained and operated as a free highway bridge, upon which no tolls shall be charged. An accurate and itemized record of the original cost of the bridge and its approaches, the expenditures for maintaining, repairing, and operating the same, the interest charges paid and the tolls charged and the daily revenues received from the bridge shall be kept by the State Highway Commission of Arkansas, and shall be available at all reasonable times for the information of all persons interested."

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

A motion to reconsider the vote by which the bill was passed was laid on the table.

TIMES AND PLACES FOR HOLDING COURT FOR THE EASTERN DISTRICT OF NORTH CAROLINA

Mr. WARREN. Mr. Speaker, I ask unanimous consent to return to Calendar 716 and call up Senate bill 3947, to provide for the times and places for holding court for the eastern district of North Carolina. I will state to the House that at the last session a bill was passed which inadvertently destroyed the entire court procedure of the eastern district of North Carolina. This bill is to remedy that situation. It is an emergency and is of great public importance.

The SPEAKER. Is there objection?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That the terms of the District Court for the Eastern District of North Carolina shall be held at Durham on the first Monday in March and September; at Raleigh a one-week civil term on the second Monday in March and September and a criminal term only on the second Monday after the fourth Monday in April and October; at Fayetteville on the third Monday in March and September; at Elizabeth City on the fourth Monday in March and September; at Washington on the first Monday in April and October; at New Bern on the second Monday in April and October; at Wilson on the third Monday in April and October; and at Wilmington a two-weeks term on the fourth Monday in April and October: *Provided*, That this act shall take effect on July 1, 1928: *And provided further*, That at Wilson and Durham it shall be made incumbent upon each place to provide suitable facilities for holding the courts.

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

A motion to reconsider the vote by which the bill was passed was laid on the table.

BRIDGE ACROSS THE SUWANNEE RIVER

The next business on the Consent Calendar was the bill (S. 3173) authorizing the St. Johns River Development Co., a corporation of the State of Florida, its successors and assigns, to construct, maintain, and operate a bridge across the Suwannee River at a point where State Road No. 15 crosses the Suwannee River, State of Florida.

The Clerk read the title of the bill.

The SPEAKER. Is there objection to the present consideration of the bill?

Mr. COOPER of Wisconsin. Mr. Speaker, reserving the right to object, I want to ask a question about this bridge. Is this a toll bridge?

Mr. DENISON. It is.

Mr. COOPER of Wisconsin. I saw the other day a newspaper statement that there had been more toll bridges authorized by Congress during the last year and a half or two years than had been authorized in the previous 25 years, and that as a result of this a corporation had been organized and was printing advertisements that it would now attend to the selling of the bonds and stocks of toll-bridge corporations. I wonder whether Congress is being used to enable a corporation organized for the purpose of selling toll-bridge bonds and stocks to exploit the people. This matter of putting up toll bridges and the consequent obstructing of free intercourse between the States may degenerate into a very great evil. I would like to be informed whether this particular bridge company is going to have its stocks and bonds sold by this corporation.

The SPEAKER. Is there objection?

Mr. COOPER of Wisconsin. Mr. Speaker, I object.

Mr. COCHRAN of Missouri. Will the gentleman withhold his objection?

Mr. COOPER of Wisconsin. I will withhold it until I get a statement showing what is going on.

Mr. COCHRAN of Missouri. Mr. Speaker, I will say to the gentleman that I saw the statement in the papers to which he has referred. I wrote to the officials of Maryland and asked what change had been made in the charter, and they answered by saying that the original incorporators had amended their charter so as to read that they would build and purchase toll bridges. I have the names of the incorporators in my office and have been watching the bills to see if any of them were interested in any of the bridge bills presented here, but their names have not appeared.

Mr. DENISON. Does the gentleman from Wisconsin wish me to make a statement?

Mr. COOPER of Wisconsin. I do; yes.

Mr. DENISON. The gentleman from Wisconsin has asked a question, and I feel as though some member of the committee ought to try to answer it. The fact that some company may have wanted to amend its charter so that it can deal in bridge bonds has no special significance unless it comes before our committee asking for some special privileges. Such a concern has never been before us so far as I have ever heard. I myself never heard of the corporation the gentleman refers to.

Mr. COOPER of Wisconsin. The gentleman from Missouri [Mr. COCHRAN] has just said that he had heard about that toll bridge stock and bond corporation and has been in correspondence respecting it with the officials of Maryland.

Mr. DENISON. I say I have never heard about it myself.

Mr. COOPER of Wisconsin. The gentleman has read about it?

Mr. DENISON. I will again state that I have never heard or read of the corporation, but I will be glad to have the name of it. It has never been called to the attention of our committee. I have heard of no member of our committee who knows about it. If we can get information in regard to such a concern, we would be very glad to have the information and would endeavor to prevent its having any connection with any bridges that we authorize.

Mr. COOPER of Wisconsin. Does not the gentleman think he had better suspend until he gets the information before passing any more of these bills?

Mr. DENISON. I do not think so. The Member who introduced this bill is just as vitally interested in having this bridge bill passed as any other Member in his bill. It is a matter of vital interest to his district. He assures us this is being built by local parties who are not connected with any other concern.

There is a reason why there are more applications for toll bridges now. There have been more roads built in the last 5 or 10 years than were ever built before in the history of this country, and as improved roads are being built demands for bridges are increasing. No such bridge is built except at places where there are tolls charged by ferries, and a modern bridge is an improved method of crossing a river; and nine times out of ten the charges for crossing by the bridge are reduced below those charged by the ferries; and in every instance we provide for protecting the public against indefinite charging of tolls and against excessive tolls. It should be remembered that the Federal Government can regulate the tolls charged on any bridge we authorize, and we provide for recapture of all bridges at any time by public authorities.

Mr. COOPER of Wisconsin. Can the gentleman from Missouri [Mr. COCHRAN] tell the House what correspondence he

has had with the Maryland authorities about this corporation?

Mr. COCHRAN of Missouri. I wrote the officials of the State of Maryland when I saw the article in the paper and I requested information as to how they amended their original charter. I was advised the amendment provided they should have the right to build and buy toll bridges, and that the original incorporators had asked for the amendment and it was granted. I have this letter in my office, together with the names, which I do not now recall. I have checked up on the bridge bills, and so far I have not seen the names of the people who are interested in this corporation. I realize this is a very important matter and one that should be watched, and if I come across their names in connection with any bill I will certainly call the attention of the committee to it.

Mr. COOPER of Wisconsin. Mr. Speaker, I shall have to object at this time until I can get more information upon this exceedingly important matter.

THE AIR CORPS

Mr. JAMES. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 12814) to increase the efficiency of the Air Corps.

The SPEAKER. The gentleman from Michigan moves to suspend the rules and pass the bill H. R. 12814, which the Clerk will report.

The Clerk read the bill, as follows:

Be it enacted, etc., That the Secretary of War shall cause to be prepared an Air Corps promotion list on which shall be placed the names of all officers of the Air Corps of the Regular Army below the grade of colonel. The names on this list shall be arranged in the same relative order that they now have on the Army promotion list and shall be removed from the Army promotion list, and no officer whose name appears on the original Air Corps promotion list shall be considered as having less commissioned service than any officer whose name is below his on this list. All officers commissioned in the Air Corps after the formation of the original Air Corps promotion list shall be placed thereon in accord with length of commissioned service. Any officer whose position on the Air Corps promotion list is changed by sentence of a general court-martial or by law shall be deemed to have the same commissioned service as the officer next below whom he may be placed by such change.

SEC. 2. Except as herein provided, Air Corps flying officers shall be promoted to the grade of first lieutenant when credited with three years' commissioned service; to the grade of captain when credited with seven years' commissioned service; to the grade of major when credited with 12 years' commissioned service; to the grade of lieutenant colonel when credited with 20 years' commissioned service; to the grade of colonel when credited with 26 years' commissioned service. All flying officers of the Air Corps below the grade of colonel shall be promoted in the order of their standing on the Air Corps promotion list: *Provided*, That the number of Air Corps officers in the grade of colonel shall not be less than 4 per cent nor more than 6 per cent and the number in the grade of lieutenant colonel shall not be less than 5 per cent nor more than 7 per cent of the total number of officers on the Air Corps promotion list, and the aggregate number of Air Corps officers in the grades of colonel, lieutenant colonel, and major shall not be less than 26 per cent nor more than 40 per cent of the total number of officers on the Air Corps promotion list, and in so far as necessary to maintain said minimum percentage, Air Corps flying officers of less than the required years of commissioned service shall be promoted to the grades of colonel, lieutenant colonel, and major, and only in so far as their promotion will not cause said maximum percentages to be exceeded shall officers who have completed the prescribed years of commissioned service be promoted to the grades of colonel, lieutenant colonel, and major. Nonflying officers of the Air Corps shall be promoted as provided for other branches of the Army.

SEC. 3. When an officer of the Air Corps has served 30 years, either as an officer or soldier, he shall, if he makes application therefor to the President, be retired from active service and placed on the retired list: *Provided*, That, except in time of war, in computing the length of service for retirement credit shall be given for one and one-half the time heretofore or hereafter actually detailed to duty involving flying and credit shall also be given for all other time now counted toward retirement in the Army: *Provided further*, That the number of such voluntary retirements annually shall not exceed 6 per cent of the authorized strength of the Air Corps. When a flying officer of the Air Corps reaches the age of 54 years he shall, if he makes application therefor to the President, be retired from active service and placed on the retired list. Officers of the Air Corps who become physically disqualified for the performance of their duties as flying officers shall be eligible for retirement for physical disability.

SEC. 4. An officer of the Air Corps, may, upon his own request, be transferred to another branch of the service, and when so transferred shall take rank and grade therein in accordance with his length of commissioned service as computed under existing laws governing the branch to which transferred.

SEC. 5. All laws or parts of laws in so far as they may be inconsistent herewith or in conflict with the provisions of this act are repealed.

The SPEAKER. Is a second demanded?

A second was not demanded.

The question was taken; and two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

Mr. FURLOW. Mr. Speaker, the problem of adequately caring for Air Corps officers now on the promotion list has been studied by many boards and committees of Congress and we now have before us H. R. 12814, which, in my opinion, will go a long way toward correcting the injustices which admittedly exist.

Military organization demands that its officers have the appropriate rank for their commands and responsibilities. The Army Air Corps is no exception to this principle.

Ever since the formation of the single promotion list of the Army, which includes the officers of the Air Corps with those of other branches, it has become more and more apparent that additional legislation was needed to correct a situation in the Air Corps which has been growing worse rather than better under the principles governing that list.

Prejudiced at the very beginning by their position in the lower files of the promotion list due to the greater period of training required and also greatly affected by the exceedingly high casualty rate as compared with other branches, the Air Corps officers have presented a problem that has been repeatedly investigated. As early as the spring of 1922 a War Department board of officers headed by Maj. Gen. David Shanks reported:

The board is of the opinion that this situation will affect adversely the efficiency of the Air Service.

And it is particularly significant that this board also stated:

The Air Service is the only branch or arm of the service which is adversely affected by the promotion situation.

Another War Department board nearly two years later reported:

The prejudice to the Air Service incident to having some of its officers on the promotion list well below their contemporaries in other branches should be remedied.

Other investigations have continued to disclose this unfortunate situation existing in the Air Corps and to bring to light the fact that year after year the relative rank of this corps with respect to the other branches has become lower and lower. It is the exception rather than the rule that officers of the Air Corps hold the appropriate rank for their commands and responsibilities.

The report—1277—submitted by the gentleman from New York [Mr. WAINWRIGHT] on the bill H. R. 12814, which has been unanimously passed by the House, sets forth the situation outlined above and enunciates what this bill will accomplish. In addition, it might be stated that over two-thirds of the officers commissioned in the Air Corps to-day are in what is commonly known as the World War hump, and these officers are almost entirely in the lower files of that hump. Their prospects for promotion under any system which would keep them on the single promotion list of the Army are always jeopardized by the fact that thousands of other officers in this World War hump must be promoted before reaching them. And yet the principal cause of their position is, as above stated, simply that they were required to undergo a greater period of training for their specialized work than officers of other branches.

The two officers who made that world-famed flight from San Francisco to the Hawaiian Islands, Lieutenants Hegenberger and Maitland—and these officers are typical of that great group of over 600 in the Air Corps who are thus affected—told our committee that their prospects, under the present system, of promotion to the grade of major indicate this would not occur until 1948, after 31 years of service and when both of these officers were 50 or more years of age. Yet both of them have already held the responsibilities of field officers for several years.

Lieut. Eric Nelson, who represents a smaller group of Air Corps officers, nevertheless, is an example of the situation which H. R. 12814 will tend to correct. Lieutenant Nelson, it will be remembered, was a member of the flight which encircled the world in 1924. He participated in the flight of Army planes which went to Alaska and back and was also on the flight from the United States to Porto Rico and return. For his accomplishments Congress saw fit to pass a special bill advancing him 500 files on the promotion list. Still this officer is a first lieutenant, and his prospects, under the present system, of becoming a major are little better than those of Lieutenants Hegenberger and

Maitland, above cited. He would be nearly 60 years of age at that time. Lieut. H. A. Dinger, who appeared before the Military Affairs Committee, is nearly 42 years of age, and is likewise adversely affected. There are several lieutenants in the Air Corps older than Lieutenant Dinger.

Military flying will no doubt always be hazardous, as the factors which contribute to the safety of commercial flying must in war planes give way to speed, greater fire power, larger bomb loads, and other desirable military characteristics. Combat will require decidedly different maneuvers from commercial flying. During the past five years, even with the introduction of the parachute and the increased efficiency of aircraft, the Army Air Corps, with less than a thousand officers, has borne the burden of nearly 40 per cent of all the casualties on the active list of approximately 12,000 officers in the Army. The accident death rate is nearly nine times as great as that in other branches.

Colonel Lindbergh brought out the point that "if a flying officer meets his death the vacancy should be filled by an Air Corps officer of equal experience." This principle is eminently sound and is the very basis upon which this Air Corps promotion list is built.

H. R. 12814 provides a reasonable rate of promotion. It contemplates the advancement of air officers so as to keep in step with the responsibilities placed upon him. It provides an inducement to candidates to enter the Air Corps, where now there is a tremendous stagnation in the promotion situation, and always that great hump of thousands of officers of other branches above them.

This bill recognizes the principle enunciated in the very first sentence of my remarks, that military organization must have its proper ranks. It recognizes the greater casualty rate, and assures to the average officer advancement to a field grade during his active flying career.

Annually 2.4 per cent of the commissioned personnel of the Air Corps lose their lives in air accidents. It is obvious that in about 20 years' flying an Air Corps officer has even chances of keeping off that casualty list. During that period he has given the best years of his life to the service of the Government in a profession which is recognized as many times more hazardous than any other Army activity. It is but a meager reward and recognition for this service to permit him to retire after this period of service should he care to do so.

There is also a provision in this bill that officers who become physically unfit or reach the age of 54 years may be retired. Laws have already been enacted which contemplate keeping the Air Corps at a high state of flying efficiency. This can only be accomplished by enacting retirement provisions for those who have lost their usefulness as active flying officers.

It is to be noted that the cost of this bill is very small compared with the results to be obtained. Although an increase in the rate of promotion is provided, the pay of officers is under existing law based primarily on years of service and not on rank. A large number of first lieutenants in the Air Corps, who have over 10 years of service, will receive no increase in pay when passing into the grade of captain, and similarly the captains when promoted after 12 years' service to the grade of major receive no increase in pay. It is true that there are some small increases, due to increased rank, but these come principally because of length of service.

It is obviously necessary to maintain the national defense at its maximum state of efficiency and, with a limited number of commissioned personnel in the Air Corps, their quality should be of the best. Efficiency in this line can not adequately be maintained if officers continue to work under prospects of stagnation in promotion, such as have existed for several years. An officer's morale is greatly increased if given rank commensurate with his command. Furthermore, the whole command responds with greater enthusiasm when the organization is properly balanced in the various grades. The officers of the Air Corps do not lack in quality or type, but they do lack in rank.

The Lassiter Board, which recommended several years ago a 10-year program, approved in principle by the Secretary of War, for the development of the Air Corps, stated:

> We can not improvise an Air Service, and yet it is indispensable to be strong in the air at the very outset of a war.

This principle has become more and more apparent with the development of aircraft and its increasing importance in the scheme of national defense. The five-year development program provided in the Air Corps act of July 2, 1926, provides for 1,650 regular officers in the Air Corps. This will permit of the organization of a number of units which will constitute the foundation for an expansion in time of emergency. This foundation should be strong, well balanced, and of the finest quality that can be obtained.

The morale of the air officers has been low, many have resigned because of poor prospects for their future. There probably would have been more, except for the fact that anticipation of better prospects has been stimulated by the repeated investigations that have taken place. Lieutenant Hegenberger stated before the House Military Affairs Committee:

> Since the war we have had the subject under constant discussion and it has always seemed that the solution was imminent, and it has always been an incentive to hang on in hope that the situation would be corrected.

There is no doubt the present bill will very greatly increase the morale of the officers, as well as provide a better organization.

Summarizing his testimony, Colonel Lindbergh stated:

> I believe our air forces should constitute a first line of defense—they must be ready to take the initiative when danger threatens our Nation; there may be no time permitted for preparation. Efficiency will be gained by proper peace-time provisions to care for the personnel. The expectancy of life for the flying officer is far less than in other occupations; the rate of attrition is high, the strain on the physical resistance from combat flying is excessive, the period of greatest flying efficiency is limited; responsibilities of air officers are heavy; promotion for a large proportion appears to have stagnated. These observations have led me to believe the problem of the air officers is special and requires consideration by itself.

I believe in a separate promotion list for the Air Corps as provided by this bill in order that the air officers may be given rank commensurate with command and responsibility, in order that World War veterans may have a chance to command with the proper grade, in order that vacancies caused by casualties in the Air Corps may be filled by properly qualified Air Corps officers, in order that morale may be enhanced and the efficiency of the Air Corps be increased, in order to offer additional incentive to candidates and to increase the Air Corps up to that strength contemplated by the Air Corps act of 1926, and to provide proper recognition of the hazardous service to which our air officers have devoted themselves.

H. R. 12814 is truly in the interests of national defense. It aims to increase and to bring to a high state of efficiency our Army air forces; it singles out no one for individual benefits.

From personal investigation, I am firmly convinced that the enactment of this bill into law is awaited with keen expectation by the personnel of our Air Corps. I have no hesitancy in stating my opinion that, should it fail of passage by both Houses of Congress, there will be a great number of our most expert pilots leaving the service and accepting attractive offers now being held out in the fields of commercial aviation.

We can ill afford to lose these seasoned and experienced officers and we need have no fear of having them resign if we but meet them half way, and give them an opportunity for advancement in their chosen line of endeavor.

With aviation making rapid strides throughout the world the United States should ever keep in mind the needs of its own Air Corps and its proper development. Modern equipment is of little avail if we forget the human side—and that means the fliers themselves.

AMENDMENT OF SALARY RATES IN THE COMPENSATION SCHEDULES OF THE CLASSIFICATION ACT

Mr. LEHLBACH. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 6518) to amend the salary rates contained in the compensation schedules of the act of March 4, 1923, entitled "An act to provide for the classification of civilian positions within the District of Columbia and in the field services," as amended.

The SPEAKER. The gentleman from New Jersey moves to suspend the rules and pass the bill (H. R. 6518) as amended.

The Clerk will report the bill as amended.

The Clerk read the bill, as follows:

Be it enacted, etc., That section 13 of the act of March 4, 1923, entitled "An act to provide for the classification of civilian positions within the District of Columbia and in the field services," be amended to read as follows:

SEC. 13. That the compensation schedules be as follows:

PROFESSIONAL AND SCIENTIFIC SERVICE

The professional and scientific service shall include all classes of positions the duties of which are to perform routine, advisory, administrative, or research work which is based upon the established principles of a profession or science, and which requires professional, scientific, or technical training equivalent to that represented by graduation from a college or university of recognized standing.

Grade 1 in this service, which may be referred to as the junior professional grade, shall include all classes of positions the duties of which are to perform, under immediate supervision, simple and elementary

work requiring professional, scientific, or technical training as herein specified, but little or no experience.

The annual rates of compensation for positions in this grade shall be $2,000, $2,100, $2,200, $2,300, and $2,400.

Grade 2 in this service, which may be referred to as the assistant professional grade, shall include all classes of positions the duties of which are to perform, under immediate or general supervision, individually or with a small number of subordinates, work requiring professional, scientific, or technical training as herein specified, previous experience, and, to a limited extent, the exercise of independent judgment.

The annual rates of compensation for positions in this grade shall be $2,600, $2,700, $2,800, $2,900, and $3,000.

Grade 3 in this service, which may be referred to as the associate professional grade, shall include all classes of positions the duties of which are to perform, individually or with a small number of trained assistants, under general supervision, but with considerable latitude for the exercise of independent judgment, responsible work requiring extended professional, scientific, or technical training and considerable previous experience.

The annual rates of compensation for positions in this grade shall be $3,200, $3,300, $3,400, $3,500, and $3,600.

Grade 4 in this service, which may be referred to as the full professional grade, shall include all classes of positions the duties of which are to perform, under general supervision, difficult and responsible work requiring considerable professional, scientific, or technical training and experience, and the exercise of independent judgment.

The annual rates of compensation for positions in this grade shall be $3,800, $4,000, $4,200, and $4,400.

Grade 5 in this service, which may be referred to as the senior professional grade, shall include all classes of positions the duties of which are to perform, under general administrative supervision, important specialized work requiring extended professional, scientific, or technical training and experience, the exercise of independent judgment, and the assumption of responsibility for results, or for the administration of a small scientific or technical organization.

The annual rates of compensation for positions in this grade shall be $4,600, $4,800, $5,000, and $5,200, unless a higher rate is specifically authorized by law.

Grade 6 in this service, which may be referred to as the principal professional grade, shall include all classes of positions the duties of which are to act as assistant head of a major professional or scientific organization, or to act as administrative head of a major subdivision of such an organization, or to act as head of a small professional or scientific organization, or to serve, as consulting specialist, or independently to plan, organize, and conduct investigations in original research or development work in a professional, scientific, or technical field.

The annual rates of compensation for positions in this grade shall be $5,600, $5,800, $6,000, $6,200, and $6,400, unless a higher rate is specifically authorized by law.

Grade 7 in this service which may be referred to as the head professional grade shall include all classes of positions the duties of which are to act as assistant head of one of the largest and most important professional or scientific bureaus, or to act as the scientific and administrative head of a major professional or scientific bureau, or to act as professional consultant to a department head or a commission or board dealing with professional, scientific, or technical problems, or to perform professional or scientific work of equal importance, difficulty, and responsibility.

The annual rates of compensation for positions in this grade shall be $6,500, $7,000, and $7,500, unless a higher rate is specifically authorized by law.

Grade 8 in this service, which may be referred to as the chief professional grade, shall include all classes of positions the duties of which are to act as the administrative head of one of the largest and most important professional or scientific bureaus, or to perform professional or scientific work of equal importance, difficulty, and responsibility.

The annual rates of compensation for positions in this grade shall be $8,000, $8,500, and $9,000, unless a higher rate is specifically authorized by law.

Grade 9 in this service, which may be referred to as the special professional grade, shall include all positions which are or may be specifically authorized or appropriated for at annual rates of compensation in excess of $9,000.

SUBPROFESSIONAL SERVICE

The subprofessional service shall include all classes of positions the duties of which are to perform work which is incident, subordinate, or preparatory to the work required of employees holding positions in the professional and scientific service, and which requires or involves professional, scientific, or technical training of any degree inferior to that represented by graduation from a college or university of recognized standing.

Grade 1 in this service, which may be referred to as the minor subprofessional grade, shall include all classes of positions the duties of which are to perform, under immediate supervision, the simplest routine work in a professional, scientific, or technical organization.

The annual rate of compensation for positions in this grade shall be $1,020, $1,080, $1,140, $1,200, $1,260, and $1,320.

Grade 2 in this service, which may be referred to as the under-subprofessional grade, shall include all classes of positions the duties of which are to perform, under immediate supervision, assigned subordinate work of a professional, scientific, or technical character, requiring limited training or experience, but not the exercise of independent judgment.

The annual rates of compensation for positions in this grade shall be $1,260, $1,320, $1,380, $1,440, $1,500, and $1,560.

Grade 3 in this service, which may be referred to as the junior subprofessional grade, shall include all classes of positions the duties of which are to perform, under immediate supervision, subordinate work of a professional, scientific, or technical character, requiring considerable training or experience, but not the exercise of independent judgment.

The annual rates of compensation for positions in this grade shall be $1,440, $1,500, $1,560, $1,620, $1,680, and $1,740.

Grade 4 in this service, which may be referred to as the assistant subprofessional grade, shall include all classes of positions the duties of which are to perform, under immediate supervision, subordinate work of a professional, scientific, or technical character, requiring considerable training or experience, and, to a limited extent, the exercise of independent judgment.

The annual rates of compensation for positions in this grade shall be $1,620, $1,680, $1,740, $1,800, $1,860, and $1,920.

Grade 5 in this service, which may be referred to as the main subprofessional grade, shall include all classes of positions the duties of which are to perform, under immediate or general supervision, subordinate work of a professional, scientific, or technical character requiring a thorough knowledge of a limited field of professional, scientific, or technical work, and the exercise of independent judgment, or to supervise the work of a small number of employees performing duties of an inferior grade in the subprofessional service.

The annual rates of compensation for positions in this grade shall be $1,800, $1,860, $1,920, $1,980, and $2,040.

Grade 6 in this service, which may be referred to as the senior subprofessional grade, shall include all classes of positions the duties of which are to perform, under immediate or general supervision, subordinate but difficult and responsible work of a professional, scientific, or technical character, requiring a thorough knowledge of a limited field of professional, scientific, or technical work, and the exercise of independent judgment, or to supervise the work of a small number of employees holding positions in grade 5 of this service.

The annual rates of compensation for positions in this grade shall be $2,000, $2,100, $2,200, $2,300, and $2,400.

Grade 7 in this service, which may be referred to as the principal subprofessional grade, shall include all classes of positions the duties of which are to perform, under general supervision, subordinate but responsible work of a professional, scientific, or technical character requiring a working knowledge of the principles of the profession, art, or science involved, and the exercise of independent judgment, or to supervise the work of a small number of employees holding positions in grade 6 of this service.

The annual rates of compensation for positions in this grade shall be $2,300, $2,400, $2,500, $2,600, and $2,700.

Grade 8 in this service, which may be referred to as the chief subprofessional grade, shall include all classes of positions the duties of which are to perform, under general supervision, subordinate but difficult and responsible work of a professional, scientific, or technical character, requiring a thorough working knowledge of the principles of the profession, art, or science involved, and the exercise of independent judgment, or to supervise the work of a small number of employees holding positions in grade 7 of this service.

The annual rates of compensation for positions in this grade shall be $2,600, $2,700, $2,800, $2,900, and $3,000.

CLERICAL, ADMINISTRATIVE, AND FISCAL SERVICE

The clerical, administrative, and fiscal service shall include all classes of positions the duties of which are to perform clerical, administrative, or accounting work, or any other work commonly associated with office, business, or fiscal administration.

Grade 1 in this service, which may be referred to as the under clerical grade, shall include all classes of positions the duties of which are to perform, under immediate supervision, the simplest routine office work.

The annual rates of compensation for positions in this grade shall be $1,260, $1,320, $1,380, $1,440, $1,500, and $1,560.

Grade 2 in this service, which may be referred to as the junior clerical grade, shall include all classes of positions the duties of which are to perform, under immediate supervision, assigned office work requiring training or experience but not the exercise of independent judgment.

The annual rates of compensation for positions in this grade shall be $1,440, $1,500, $1,560 $1,620, $1,680, and $1,740.

Grade 3 in this service, which may be referred to as the assistant electrical grade, shall include all classes of positions the duties of which

are to perform under immediate or general supervision, assigned office work requiring training and experience and knowledge of a specialized subject matter or the exercise of independent judgment or to supervise a small section performing simple clerical operations.

The annual rates of compensation for positions in this grade shall be $1,620, $1,680, $1,740, $1,800, $1,860, and $1,920.

Grade 4 in this service, which may be referred to as the main clerical grade, shall include all classes of positions the duties of which are to perform, under immediate or general supervision, responsible office work requiring training and experience, the exercise of independent judgment or knowledge of a specialized subject matter, or both, and an acquaintance with office procedure and practice, or to supervise a small stenographic section or a small section performing clerical operations of corresponding difficulty.

The annual rates of compensation for positions in this grade shall be $1,800, $1,860, $1,920, $1,980, $2,040, and $2,100.

Grade 5 in this service, which may be referred to as the senior clerical grade, shall include all classes of positions the duties of which are to perform, under general supervision, difficult and responsible office work requiring considerable training and experience, the exercise of independent judgment or knowledge of a specialized subject matter, or both, and a thorough knowledge of office procedure and practice, or to supervise a large stenographic section or any large section performing simple clerical operations or to supervise a small section engaged in difficult but routine office work.

The annual rates of compensation for positions in this grade shall be $2,000, $2,100, $2,200, $2,300, and $2,400.

Grade 6 in this service, which may be referred to as the principal clerical grade, shall include all classes of positions, the duties of which are to perform, under general supervision, exceptionally difficult and responsible office work requiring extended training and experience, the exercise of independent judgment or knowledge of a specialized and complex subject matter, or both, and a thorough knowledge of office procedure and practice, or to serve as the recognized authority or adviser in matters requiring long experience and an exceptional knowledge of the most difficult and complicated procedure or of a very difficult and complex subject, or to supervise a large or important office organization engaged in difficult or varied work.

The annual rates of compensation for positions in this grade shall be $2,300, $2,400, $2,500, $2,600, and $2,700.

Grade 7 in this service, which may be referred to as the assistant administrative grade, shall include all classes of positions the duties of which are to perform, under general supervision, responsible office work along specialized and technical lines requiring specialized training and experience and the exercise of independent judgment, or as chief clerk to supervise the general business operations of a small, independent establishment or a minor bureau or division of an executive department, or to supervise a large or important office organization engaged in difficult and specialized work.

The annual rates of compensation for positions in this grade shall be $2,600, $2,700, $2,800, $2,900, and $3,000.

Grade 8 in this service, which may be referred to as the associate administrative grade, shall include all classes and positions the duties of which are to perform, under general supervision, difficult and responsible office work along specialized and technical lines requiring specialized training and experience and the exercise of independent judgment, or to supervise a large or important office organization engaged in work involving specialized training on the part of the employees.

The annual rates of compensation for positions in this grade shall be $2,900, $3,000, $3,100, $3,200, and $3,300.

Grade 9 in this service, which may be referred to as the full administrative grade, shall include all classes of positions the duties of which are to perform, under general supervision, exceptionally difficult and responsible office work along specialized and technical lines, requiring considerable specialized training and experience and the exercise of independent judgment, or as chief clerk, to supervise the general business operations of a large independent establishment or a major bureau or division of an executive department, or to supervise a large or important office organization engaged in work involving technical training on the part of the employees.

The annual rates of compensation for positions in this grade shall be $3,200, $3,300, $3,400, $3,500, and $3,600.

Grade 10 in this service, which may be referred to as the senior administrative grade, shall include all classes of positions the duties of which are to perform, under general supervision, the most difficult and responsible office work along specialized and technical lines, requiring extended training, considerable experience, and the exercise of independent judgment, or to supervise a large or important office organization engaged in work involving considerable technical training and experience on the part of the employees.

The annual rates of compensation for positions in this grade shall be $3,500, $3,600, $3,700, $3,800, and $3,900.

Grade 11 in this service, which may be referred to as the principal administrative grade, shall include all classes of positions the duties of which are to perform the most difficult and responsible office work along specialized and technical lines requiring extended training and experience and the exercise of independent judgment, or to supervise a large or important office organization engaged in work involving extended training and considerable experience on the part of the employees.

The annual rates of compensation for positions in this grade shall be $3,800, $4,000, $4,200, and $4,400.

Grade 12 in this service, which may be referred to as the head administrative grade, shall include all classes of positions the duties of which are to perform the most difficult and responsible office work along specialized and technical lines requiring extended training and experience, the exercise of independent judgment, and the assumption of full responsibility for results, or to supervise a large and important office organization engaged in work involving extended training and experience on the part of the employees.

The annual rates of compensation for positions in this grade shall be $4,600, $4,800, $5,000, and $5,200, unless a higher rate is specifically authorized by law.

Grade 13 in this service, which may be referred to as the chief administrative grade, shall include all classes of positions the duties of which are to act as assistant head of a major bureau, or to act as administrative head of a major subdivision of such a bureau, or to act as head of a small bureau, in case of professional or scientific training is not required, or to supervise the design and installation of office systems, methods, and procedures, or to perform work of similar importance, difficulty, and responsibility.

The annual rates of compensation for positions in this grade shall be $5,600, $5,800, $6,000, $6,200, and $6,400, unless a higher rate is specifically authorized by law.

Grade 14 in this service, which may be referred to as the executive grade, shall include all classes of positions the duties of which are to act as assistant head of one of the largest and most important bureaus, or to act as head of a major bureau, in case professional or scientific training is not required, or to supervise the design of systems of accounts for use by private corporations subject to regulation by the United States, or to act as the technical consultant to a department head or a commission or board in connection with technical or fiscal matters, or to perform work of similar importance, difficulty, and responsibility.

The annual rates of compensation for positions in this grade shall be $6,500, $7,000, and $7,500, unless a higher rate is specifically authorized by law.

Grade 15 in this service, which may be referred to as the senior executive grade, shall include all classes of positions, the duties of which are to act as the head of one of the largest and most important bureaus, in case professional or scientific training is not required, or to perform work of similar importance, difficulty, and responsibility.

The annual rates of compensation for positions in this grade shall be $8,000, $8,500, and $9,000, unless a higher rate is specifically authorized by law.

Grade 16 in this service, which may be referred to as the special executive grade, shall include all positions which are or may be specifically authorized or appropriated for at annual rates of compensation in excess of $9,000.

CUSTODIAL SERVICE

The custodial service shall include all classes of positions, the duties of which are to supervise or to perform manual work involved in the custody, maintenance, and protection of public buildings, premises, and equipment, the transportation of public officers, employees or property, and the transmission of official papers.

Grade 1 in this service, which may be referred to as the junior messenger grade, shall include all classes of positions, the duties of which are to run errands, to check parcels, or to perform other light manual or mechanical tasks with little or no responsibility.

The annual rate of compensation for positions in this grade shall be $600, $660, $720, $780, and $840.

Grade 2 in this service, which may be referred to as the office-laborer grade, shall include all classes of positions the duties of which are to handle desks, mail sacks, and other heavy objects, and to perform similar work ordinarily required of unskilled laborers; to operate elevators; to clean office rooms; or to perform other work of similar character.

The annual rate of compensation for positions in this grade shall be $1,080, $1,140, $1,200, $1,260, $1,320, and $1,380: *Provided*, That charwomen working part time be paid at the rate of 45 cents an hour and head charwomen at the rate of 50 cents an hour.

Grade 3 in this service, which may be referred to as the minor custodial grade, shall include all classes of positions the duties of which are to perform, under immediate supervision, custodial, or manual office work with some degree of responsibility, such as guarding office or storage buildings; operating paper-cutting, canceling, envelope-opening, or envelope-sealing machines; firing and keeping up steam in boilers used for heating purposes in office buildings, cleaning boilers, and oiling machinery and related apparatus; operating passenger or freight automobiles; packing goods for shipment; supervising a large group of charwomen; running errands and doing light manual or mechanical tasks with some responsibility; carrying important documents from

one office to another; or attending the door and private office of a department head or other public officer.

The annual rates of compensation for positions in this grade shall be $1,200, $1,260, $1,320, $1,380, $1,440, and $1,500.

Grade 4 in this service, which may be referred to as the undercustodial grade, shall include all classes of positions the duties of which are to perform, under general supervision, custodial work of a responsible character, such as supervising a small force of unskilled laborers, directly supervising a small detachment of watchmen or building guards, firing and keeping up steam in heating apparatus and operating the boilers and other equipment used for heating purposes, or performing general semimechanical new or repair work requiring some skill with hand tools.

The annual rates of compensation for positions in this grade shall be $1,320, $1,380, $1,440, $1,500, $1,560, and $1,620.

Grade 5 in this service, which may be referred to as the junior custodial grade, shall include all classes of positions the duties of which are to have general supervision over a small force of watchmen or building guards, or to have direction of a considerable detachment of such employees, to supervise the operation and maintenance of a small heating plant and its auxiliary equipment, or to perform other work of similar character.

The annual rates of compensation for positions in this grade shall be $1,500, $1,560, $1,620, $1,680, $1,740, and $1,800.

Grade 6 in this service, which may be referred to as the assistant custodial grade, shall include all classes of positions the duties of which are to assist in the supervision of large forces of watchmen and building guards, or to have general supervision over smaller forces, to supervise a large force of unskilled laborers, to repair office appliances, or to perform other work of similar character.

The annual rates of compensation for positions in this grade shall be $1,680, $1,740, $1,800, $1,860, $1,920, and $1,980.

Grade 7 in this service, which may be referred as to the main custodial grade, shall include all classes of positions the duties of which are to supervise the work of skilled mechanics; to supervise the operation and maintenance of a large heating, lighting, and power plant and all auxiliary mechanical and electrical devices and equipment; to have general supervision over large forces of watchmen and building guards; or to perform other work of similar character.

The annual rates of compensation for positions in this grade shall be $1,860, $1,920, $1,980, $2,040, $2,100, and $2,200.

Grade 8 in this service, which may be referred to as the senior custodial grade, shall include all classes of positions the duties of which are to direct supervisory and office assistants, mechanics, watchmen, elevator conductors, laborers, janitors, messengers, and other employees engaged in the custody, maintenance, and protection of a small building, or to assist in the direction of such employees when engaged in similar duties in a large building, or to perform other custodial work of equal difficulty and responsibility.

The annual rates of compensation for positions in this grade shall be $2,000, $2,100, $2,200, $2,300, and $2,400.

Grade 9 in this service, which may be referred to as the principal custodial grade, shall include all classes of positions the duties of which are to direct supervisory and office assistants, mechanics, watchmen, elevator conductors, laborers, janitors, messengers, and other employees engaged in the custody, maintenance, and protection of a large building, or to assist in the direction of such employees when engaged in similar duties in a group of buildings, or to perform other custodial work of equal difficulty and responsibility.

The annual rates of compensation for positions in this grade shall be $2,300, $2,400, $2,500, $2,600, and $2,700.

Grade 10 in this service, which may be referred to as the chief custodial grade, shall include all classes of positions the duties of which are to direct supervisory and office assistants, mechanics, watchmen, elevator conductors, laborers, janitors, messengers, and other employees engaged in the custody, maintenance, and protection of a group of buildings, or to perform other custodial work of equal difficulty and responsibility.

The annual rates of compensation for positions in this grade shall be $2,600, $2,700, $2,800, $2,900, and $3,000.

CLERICAL-MECHANICAL SERVICE

The clerical-mechanical service shall include all classes of positions which are not in a recognized trade or craft and which are located in the Bureau of Engraving and Printing, the mail equipment shop, the duties of which are to perform or to direct manual or machine operations requiring special skill or experience, or to perform or direct the counting, examining, sorting, or other verification of the product of manual or machine operations.

Grade 1 shall include all classes of positions in this service the duties of which are to perform the simplest operations or processes requiring special skill and experience.

The rates of compensation for classes of positions in this grade shall be 50 to 55 cents an hour.

Grade 2 shall include all classes of positions in this service the duties of which are to operate simple machines or to perform operations or processes requiring a higher degree of skill than those in grade 1.

The rates of compensation for classes of positions in this grade shall be 60 to 65 cents an hour.

Grade 3 shall include all classes of positions in this service the duties of which are to operate machines or to perform operations or processes requiring the highest degree of skill, or supervise a small number of subordinates.

The rates of compensation for classes of positions in this grade shall be 70 to 75 cents an hour.

Grade 4 shall include all classes of positions in this service the duties of which are to perform supervisory work over a large unit of subordinates.

The rates of compensation for classes of positions in this grade shall be 85 to 95 cents an hour.

The heads of the several executive departments and independent establishments of the Government whose duty it is to carry into effect the provisions of this act are hereby directed to so administer the same that the positions and employees affected herein shall retain in the classification schedules herein provided the same relative position or positions within their respective grades as they hold at the time this law goes into effect: *Provided*, That nothing herein shall prevent the promotion or allocation for an employee to a higher grade: *Provided further*, That nothing contained in this act shall operate to decrease the pay of any present employee, nor deprive any employee of any advancement authorized by law and for which funds are available.

Whenever in any case the basic qualifications of any already existing grade or subdivision of a service are by this act made the basic qualifications of a higher grade or subdivision, the positions of all employees in said existing grade or subdivision are by this act advanced to said higher grade or subdivision of a service.

SEC. 2. Upon the passage of this act the board shall forthwith make a survey of the classes of civilian positions in the various field services, exclusive of the Postal Service, Foreign Service, and employees in the mechanical and drafting groups whose wages are now or have heretofore been fixed by wage boards or similar authority, and shall present a report to Congress at its first regular session following the passage of this act, such report to contain: (a) Compensation schedules for such classes of positions, which shall follow the principles and general form of the compensation schedules contained in the classification act of 1923; (b) such additional services and grades as may be necessary according to the fields of work peculiar to the establishments concerned; (c) adequate descriptions of all the classes of positions within the scope of this act, including the title of the class, a statement of its characteristic duties and responsibilities, illustrated where desirable by examples of typical tasks or of typical positions included in the class, a statement of the minimum qualifications as to education, experience, knowledge, and ability required for the satisfactory performance of the duties and the discharge of the responsibilities of the class and the salary rates for the class; (d) a list prepared by the head of each department, after consultation with the board, and in accordance with a uniform procedure prescribed by it, showing the allocation of all positions covered by this act to their respective classes and grades and fixing the proposed rate of compensation of each employee thereunder in accordance with the rules prescribed in section 6 of the classification act of 1923; (e) recommendations as to principles and procedures for putting such compensation schedules into effect, for assuring uniform compensation of like positions under like employment and local economic conditions, and for carrying out the administrative steps necessary to keep the descriptions of classes and the allocations of positions to classes current accordingly as positions may be abolished or created or their duties or responsibilities changed; and (f) such statistical or other information as is necessary or desirable in exposition of the board's findings of fact as a result of its survey, or in explanation of its recommendations.

SEC. 3. The heads of the several executive departments and independent establishments are authorized to adjust the compensation of certain civilian positions in the field services, the compensation of which was adjusted by the act of December 6, 1924, to correspond, so far as may be practicable, to the rates established by this act for positions in the departmental services in the District of Columbia.

SEC. 4. The provisions of this act shall not apply to employees in the Government Printing Office whose rates of pay are set under authority of the "act to regulate and fix rates of pay for employees and officers of the Government Printing Office," approved June 7, 1924. (U. S. C., p. 1417, sec. 40.)

SEC. 5. This act shall take effect July 1, 1928.

Mr. LEHLBACH (during the reading of the bill). Mr. Speaker, I ask unanimous consent that so much of the reading of the bill be dispensed with as deals with the compensation schedules, inasmuch as it is routine matter and serves no useful purpose to be read unless the person has the material for comparison before him.

Mr. NEWTON. It will appear in the RECORD as if read?

Mr. LEHLBACH. Yes.

The SPEAKER. The gentleman from New Jersey asks unanimous consent that the sections of the bill dealing with

compensation schedules be printed in the RECORD and be considered as having been read. Is there objection?

There was no objection.

The SPEAKER. Is a second demanded?

Mr. WOODRUM. Mr. Speaker, I demand a second.

Mr. LEHLBACH. Mr. Speaker, I ask unanimous consent that a second be considered as ordered.

The SPEAKER. The gentleman from New Jersey asks unanimous consent that a second be considered as ordered. Is there objection?

There was no objection.

The SPEAKER. The gentleman from New Jersey is entitled to 20 minutes and the gentleman from Virginia 20 minutes.

Mr. LEHLBACH. Mr. Speaker, early in the session there was introduced by the gentleman from California [Mr. WELCH] a bill (H. R. 6518) which contemplated a complete permanent revision of the compensation schedule carried in the classification act of 1923. The best estimate as to the increased annual cost in salaries that the original Welch bill would carry was $68,000,000.

The committee held extensive hearings, and it found that it had not sufficient information—that the witnesses at the hearing could not furnish sufficient information to make a thorough comparison of the pay in Government service with the pay for similar work in private enterprise, and it was found that there could not be made adequate comparisons between the pay in the different services of the Government, particularly in the field.

The committee had the hearty cooperation of the Bureau of the Budget and other governmental agencies in considering the question, and it was decided that forthwith there should be made a complete survey of the employment situation in the Federal Government, and that in the meantime relief properly could be granted to employees in circumstances in which it was generally admitted that the compensation existing at the present time was too low.

Mr. CRAMTON. Will the gentleman yield?

Mr. LEHLBACH. Yes.

Mr. CRAMTON. Will the survey include the field service?

Mr. LEHLBACH. Yes; the field service, and the bill particularly takes care of that and I will come to that in a few minutes. It is in this bill. The increase provided in this bill is a temporary tide over until Congress can legislate permanently on the subject of salary revision. It carries about $18,000,000 annual increase, of which it is estimated that about $6,000,000 is for increase in the District of Columbia and about $12,000,000 in the field, distributed among various field services.

Mr. McMILLAN. Will the gentleman yield?

Mr. LEHLBACH. Yes.

Mr. McMILLAN. Will this include the animal inspectors and the customs service?

Mr. CRAMTON. Does it reach the Indian Service?

Mr. LEHLBACH. I have no reason to believe that it will not give an equitable increase to the Indian Service.

Mr. McMILLAN. Will the provisions of the bill cover employees in the navy yards in naval stations and the United States arsenals?

Mr. LEHLBACH. No; they are specially excluded because they do not want to be included. They do not want to come under the classification, because the mechanics in the Government service, such as the gentleman describes, have their wages fixed by a wage board in accordance with the prevailing rate of wages in the communities in which they are employed.

Mr. KINDRED. Will the gentleman yield?

Mr. LEHLBACH. Yes.

Mr. KINDRED. Will the provisions of this bill cover the medical service?

Mr. LEHLBACH. Surely, it covers all Government employees, in the District and field exclusive of the Postal Service, exclusive of skilled laborers and mechanics in the various arsenals and navy yards of the country.

Mr. COCHRAN of Missouri. Does it take care of the deputy collectors in the Internal Revenue Department and the deputy marshals who, as I understand, are not under civil service?

Mr. LEHLBACH. It makes no difference whether they are in the classified civil service or not. The bill provides in the meantime for a report in December to be made of a complete classification for the field service such as contemplated when the classification act passed in 1923.

Mr. WOODRUFF. Will the gentleman yield?

Mr. LEHLBACH. Yes.

Mr. WOODRUFF. Do the employees in the Shipping Board, not under civil service, come under this act?

Mr. LEHLBACH. I should say they would.

Mr. HASTINGS. Mr. Speaker, I did not understand the gentleman's reply to the inquiry of the gentleman from Michigan, as to whether or not the provisions of this bill extended to the Indian field service?

Mr. LEHLBACH. I said that I believed that an equitable share of the increase designed for the field service would be accorded to the Indian Service, for this fiscal year commencing on the 1st of July, 1928. In the meantime there will be prepared a classification which will include the Indian Service as well as all other field services, which will be the basis of legislation when this Congress reconvenes in its next session.

Mr. BACHMANN. Mr. Speaker, I understand the gentleman to say that this bill brings into the classified service now those men who are not under the classified service under the act of 1923?

Mr. LEHLBACH. Classification has nothing to do with the classified civil service. An employee of the Government who is not in the armed forces of the Government, such as the Army, the Navy, and the Marine Corps, unless he is in the Postal Service, unless he is a skilled laborer or a mechanic in the navy yard or arsenal, is under the classification act, regardless of whether his position is subject to civil-service regulations or not. The classified civil service is one thing and the classification for purposes of salary is a different thing. There is no necessary correlation between the two.

Mr. BACHMANN. Yes; but those employees in the Indian Service who are now not under the classification act of 1923 will not get increases under this bill.

Mr. LEHLBACH. Yes; they will, because, as I said, the act of 1924 makes the District of Columbia schedules applicable as far as possible to all the field service.

Mr. TREADWAY. Mr. Speaker, will the gentleman yield further?

Mr. LEHLBACH. Yes.

Mr. TREADWAY. I notice some charts have been prepared and are in the lobby, and following down those lines there are several places where there is no increase in pay. Is not that an error in the chart?

Mr. LEHLBACH. Unfortunately, in the preparation of those charts—and I had nothing to do with the preparation of them—there has crept into the comparisons a very grave error. For instance, in the professional service the existing grade 4 was split into two new grades, 4 and 5. Consequently old grade 5 in the existing law is now the new grade 6 in the Welch bill. The comparison should be made between the old grade 5 and the new grade 6, and not the two grades 5. The old grade 6 is to be compared with the new grade 7, and the old grade 7 with the new grade 8, and the same thing obtains in the clerical, administrative, and fiscal services, because there grade 11 was split into two grades. Grade 11 is 11 and 12 in the new grades, and consequently the old grade 12 is to be compared not with the new grade 12 but with the new grade 13, and old grade 13 is to be compared with the new grade 14, So when you look at those charts you want to remember to make a comparison in a proper way and not in an improper way.

Mr. TREADWAY. As I understand the language of the bill, every Government employee in the classified service will under this bill receive some increase of salary.

Mr. LEHLBACH. That is the purpose of the bill, and as far as humanly possible it has provided for that. I reserve the remainder of my time.

Mr. WOODRUM. Mr. Speaker and gentleman of the House, in the long, extensive hearings held by the Civil Service Committee on this bill some 200 Members of the House appeared before that committee indorsing the principle of an increase in salary of Federal employees. As we come to consider to-day the so-called Welch bill, however, I think it proper to say to you that there is no more resemblance between the Welch bill to-day and the Welch bill then being considered by the Civil Service Committee than there is a resemblance between the Declaration of Independence and the Apostles' Creed.

The gentleman from California [Mr. WELCH] deserves the credit for having brought to the attention of Congress and the Nation the inadequacy of the salaries paid certain Federal employees, but the gentleman from California and the Civil Service Committee and the House of Representatives have been deprived of their functions as legislators, because the Bureau of the Budget, or else some subordinate in that bureau—I have no idea and no information has been given as to who the functionary is that prepared these schedules—decided how much money could be spent on an increase in salaries, and prepared the bill and sent it to the Civil Service Committee with the information that they could take that or nothing. So to-day we have, instead of the Welch bill which was prepared and indorsed by the National Federation of Federal Employees, a bill that was prepared by the Bureau of the Budget, with some slight amendments being permitted to be made by the distin-

guished chairman of the Finance Committee of the Senate. He was allowed to invade the sanctum sanctorum and add a couple of million dollars to the bill; but nobody else dared change any of the schedules of the bill.

I am in favor of an adequate increase in the salaries of the lower-paid Federal employees. I have advocated that consistently during the hearings and in the executive hearings of the committee. I think it is a crying need that should be remedied by Congress; but I can not support this bill for many reasons, and I shall try in the few moments allotted in the consideration of this important legislation to point out to you some of the reasons why I can not support it.

In the first place, there are 554,000 employees in the Federal Government. This revision of salaries affects only about 135,000. It does not affect at all the employees in the Postal Service; it does not affect other great groups of employees. Some of them possibly do not need a revision of their salaries, but there is an urgent, crying need in the Government for a careful and comprehensive revision of all of the pay schedules of the different departments of the Government in order that there may be something like a consistent and coordinated wage schedule for Federal employees. Let us see just who is affected by this bill.

According to a statement issued by the National Federation of Federal Employees, quoting figures issued by the Bureau of the Budget:

The total number of employees in the Government service are	554,175
Employees in the Postal Service not affected by the Welch bill	310,161
Other groups not affected:	
Estimated number of other mechanical employees	80,000
Government Printing Office	4,076
Navy-yard employees	38,000
State Department employees	3,791
Board of Tax Mediation	36
Board of Tax Appeals	154
National Advisory Committee on Aeronautics	187
War Finance Corporation	65
Commission of Fine Arts	2
Federal Reserve Board	202
Railway Administration	34
Total	436,708
	117,467

Figures furnished from the Personnel Classification Board estimate that 135,000 employees will be affected by the operation of the Welch bill. This estimate was based upon 45,000 employees in the District of Columbia and 90,000 in the field service.

When we approach this bill we find that unquestionably some of the employees of the 135,000 affected will receive adequate increases in their salaries. Some will receive something and some of them will receive a mere pittance—$5 a month or less. In my judgment as a member of the committee who has tried to understand this difficult and complicated scheme, a great many will receive nothing whatever; but bear in mind that there is one group about whom there will be absolutely no question but that they will receive a very handsome increase in their salaries.

As you will recall, the Civil Service Committee reported out a bill identical with the present bill you are considering, but it left out of the bill grades 8 and 9 in the professional and scientific service and grades 15 and 16 in the clerical, administrative, and fiscal service. The object of these new grades was to make it possible to raise the salaries of those affected from $7,500 to $9,000 per year. I exhibit before you here certain charts showing a comparison of the pay rates under existing law and the new rates contained in the Welch bill:

PROFESSIONAL AND SCIENTIFIC SERVICE

Grade 1

Existing law	$1,860, $1,920, $2,000, $2,100, $2,200, $2,300, $2,400
Welch bill	$2,000, $2,100, $2,200, $2,300, $2,400

Grade 2

Existing law	$2,400, $2,500, $2,600, $2,700, $2,800, $2,900, $3,000
Welch bill	$2,600, $2,700, $2,800, $2,900, $3,000

Grade 3

Existing law	$3,000, $3,100, $3,200, $3,300, $3,400, $3,500, $3,600
Welch bill	$3,200, $3,300, $3,400, $3,500, $3,600

Grade 4

Existing law	$3,800, $4,000, $4,200, $4,400, $4,600, $4,800, $5,000
Welch bill	$3,800, $4,000, $4,200, $4,400

Grade 5

Existing law	$5,200, $5,400, $5,600, $5,800, $6,000
Welch bill	$4,600, $4,800, $5,000, $5,200

Grade 6

Existing law	$6,000, $6,500, $7,000, $7,500
Welch bill	$5,600, $5,800, $6,000, $6,200, $6,400

Grade 7

Existing law	$7,500
Welch bill	$6,500, $7,000, $7,500

Grade 8 (new grade)

Welch bill	$8,000, $8,500, $9,000

Grade 9 (new grade)

Welch bill (positions specifically authorized)	$9,000

SUBPROFESSIONAL SERVICE

Grade 1

Existing law	$900, $960, $1,020, $1,080, $1,140, $1,200, $1,260
Welch bill	$1,020, $1,080, $1,140, $1,200, $1,260, $1,320

Grade 2

Existing law	$1,140, $1,200, $1,260, $1,320, $1,380, $1,440, $1,500
Welch bill	$1,260, $1,320, $1,380, $1,440, $1,500, $1,560

Grade 3

Existing law	$1,320, $1,380, $1,440, $1,500, $1,560, $1,620, $1,680
Welch bill	$1,440, $1,500, $1,560, $1,620, $1,680, $1,740

Grade 4

Existing law	$1,500, $1,560, $1,620, $1,680, $1,740, $1,800, $1,860
Welch bill	$1,620, $1,680, $1,740, $1,800, $1,860, $1,920

Grade 5

Existing law	$1,680, $1,740, $1,800, $1,860, $1,920, $1,980, $2,040
Welch bill	$1,800, $1,860, $1,920, $1,980, $2,040

Grade 6

Existing law	$1,860, $1,920, $2,000, $2,100, $2,200, $2,300, $2,400
Welch bill	$2,000, $2,100, $2,200, $2,300, $2,400

Grade 7

Existing law	$2,100, $2,200, $2,300, $2,400, $2,500, $2,600, $2,700
Welch bill	$2,300, $2,400, $2,500, $2,600, $2,700

Grade 8

Existing law	$2,400, $2,500, $2,600, $2,700, $2,800, $2,900, $3,000
Welch bill	$2,600, $2,700, $2,800, $2,900, $3,000

CLERICAL, ADMINISTRATIVE, AND FISCAL SERVICE

Grade 1

Existing law	$1,140, $1,200, $1,260, $1,320, $1,380, $1,440, $1,500,
Welch bill	$1,260, $1,320, $1,380, $1,440, $1,500, $1,560

Grade 2

Existing law	$1,320, $1,380, $1,440, $1,500, $1,560, $1,620, $1,680,
Welch bill	$1,440, $1,500, $1,560, $1,620, $1,680, $1,740

Grade 3

Existing law	$1,500, $1,560, $1,620, $1,680, $1,740, $1,800, $1,860,
Welch bill	$1,620, $1,680, $1,740, $1,800, $1,860, $1,920

Grade 4

Existing law	$1,680, $1,740, $1,800, $1,860, $1,920, $1,980, $2,040,
Welch bill	$1,800, $1,860, $1,920, $1,980, $2,010, $2,100

Grade 5

Existing law	$1,860, $1,920, $2,000, $2,100, $2,200, $2,300, $2,400
Welch bill	$2,000, $2,100, $2,200, $2,300, $2,400

Grade 6

Existing law	$2,100, $2,200, $2,300, $2,400, $2,500, $2,600, $2,700
Welch bill	$2,300, $2,400, $2,500, $2,600, $2,700

Grade 7

Existing law	$2,400, $2,500, $2,600, $2,700, $2,800, $2,900, $3,000
Welch bill	$2,600, $2,700, $2,800, $2,900, $3,000

Grade 8

Existing law	$2,700, $2,800, $2,900, $3,000, $3,100, $3,200, $3,300
Welch bill	$2,900, $3,000, $3,100, $3,200, $3,300

Grade 9

Existing law	$3,000, $3,100, $3,200, $3,300, $3,400, $3,500, $3,600
Welch bill	$3,200, $3,300, $3,400, $3,500, $3,600

Grade 10

Existing law	$3,300, $3,400, $3,500, $3,600, $3,700, $3,800, $3,900
Welch bill	$3,500, $3,600, $3,700, $3,800, $3,900

Grade 11

Existing law	$3,800, $4,000, $4,200, $4,400, $4,600, $4,800, $5,000
Welch bill	$3,800, $4,000, $4,200, $4,400

Grade 12

Existing law	$5,200, $5,400, $5,600, $5,800, $6,000
Welch bill	$4,600, $4,800, $5,000, $5,200

Grade 13

Existing law	$6,000, $6,500, $7,000, $7,500
Welch bill	$5,600, $5,800, $6,000, $6,200, $6,400

Grade 14

Existing law	$7,500
Welch bill	$6,500, $7,000, $7,500

Grade 15 (new grade)

Welch bill	$8,000, $8,500, $9,000

Grade 16 (new grade)

Welch bill (executive positions to be specifically authorized in excess of $9,000)	$9,000

CUSTODIAL SERVICE

Grade 1

Existing law	$600, $630, $660, $690, $720, $750, $780
Welch bill	$600, $660, $720, $780, $840

Grade 2

Existing law	$780, $840, $900, $960, $1,020, $1,080, $1,140
Welch bill	$1,080, $1,140, $1,200, $1,260, $1,320, $1,380

Grade 3

Existing law	$900, $960, $1,020, $1,080, $1,140, $1,200, $1,260
Welch bill	$1,200, $1,260, $1,320, $1,380, $1,440, $1,500

Grade 4

Existing law	$1,140, $1,200, $1,260, $1,320, $1,380, $1,440, $1,500
Welch bill	$1,320, $1,380, $1,440, $1,500, $1,560, $1,620

Grade 5

Existing law	$1,320, $1,380, $1,440, $1,500, $1,560, $1,620, $1,680
Welch bill	$1,500, $1,560, $1,620, $1,680, $1,740, $1,800

Grade 6

Existing law	$1,500, $1,560, $1,620, $1,680, $1,740, $1,800, $1,860
Welch bill	$1,680, $1,740, $1,800, $1,860, $1,920, $1,980

Grade 7

Existing law	$1,680, $1,740, $1,800, $1,860, $1,920, $1,980, $2,040
Welch bill	$1,860, $1,920, $1,980, $2,040, $2,100, $2,200

Grade 8

Existing law	$1,860, $1,920, $2,000, $2,100, $2,200, $2,300, $2,400
Welch bill	$2,000, $2,100, $2,200, $2,300, $2,400,

Grade 9

Existing law	$2,100, $2,200, $2,300, $2,400, $2,500, $2,600, $2,700
Welch bill	$2,300, $2,400, $2,500, $2,600, $2,700

Grade 10

Existing law	$2,400, $2,500, $2,600, $2,700, $2,800, $2,900, $3,000
Welch bill	$2,600, $2,700, $2,800, $2,900, $3,000

Charwomen (working part time)

Existing law	40 cents per hour
Welch bill	45 cents per hour

Head charwomen

Existing law	45 cents per hour
Welch bill	50 cents per hour

CLERICAL-MECHANICAL SERVICE

Grade 1

Existing law	per hour	45 cents, 50 cents
Welch bill	do	50 cents, 55 cents

Grade 2

Existing law	per hour	55 cents, 60 cents
Welch bill	do	60 cents, 65 cents

Grade 3

Existing law	per hour	65 cents, 70 cents
Welch bill	do	70 cents, 75 cents

Grade 4

Existing law	per hour	80 cents, 90 cents
Welch bill	do	85 cents, 95 cents

If you will refer to chart 1 [indicating] of the professional and scientific service you will find that grades 8 and 9 are new grades. The purpose of that is to permit employees in grade 7, where they are now receiving $7,500, to receive as high as $9,000; and by passing this bill we shall write into the organic law of the land a provision that will permit any appropriation bill to be brought in here and increase salaries even above $9,000.

My objection to that is this, gentlemen: There may be a need in some of the departments of the Government to increase salaries from $7,500 to $9,000, but if there is such a need it has not been brought to the attention of the Committee on the Civil Service. I hold in my hand the hearings, and in those hearings no representative of the Budget, no member of the Cabinet, no departmental head is shown to have come before our committee or represented to us that for the sake of the efficiency of the service certain salaries should be increased by $1,500 a year.

But our committee eliminating these four new grades took the position that we should pass a temporary bill, and that this comprehensive survey spoken of by the gentleman from New Jersey [Mr. LEHLBACH] might follow and then if a real need were shown for these higher salaries Congress could consider the matter, and pass appropriate legislation. The bill was reported out without the four grades mentioned, but it was promptly rejected by the Bureau of the Budget, and the Civil Service Committee was given to understand that unless these higher grades were included we might expect no legislation at this Congress.

It is my deliberate judgment that with these higher grades included, if we pass this bill to-day you will find it is the last consideration of Government salaries we will get for years to come.

The whole original purpose of this salary increase bill was to help the employees in the lower grades, the people receiving $1,100 and $1,200 and $1,400 a year. Now it is proposed to give them a raise of only $60 a year, or $5 a month, and then give to those people who are in the higher grades, men getting $7,500 a year, an increase of up to $1,500 a year. This bill, if passed, will add chaos to the present confusion. I venture to say there is no Member of this House who has not received repeated protests and criticism from his constituents against the discrimination and favoritism that is shown in the Government departments in the matter of its method of efficiency ratings and promotions of employees; and if you pass this bill, you put the power in the hands of the Classification Board and the departmental heads to add still more to that discrimination of which we complain.

Now, referring to the custodial service, I want to say frankly that these schedules provide with fair adequacy for the custodial service. They increase the maximum of grade 1 to $840, and these other grades, as indicated in the first line of this chart [indicating], showing the rates under existing law and the second line showing the new schedule.

A great many Members have had letters from men in the custodial service complaining about the operation of grade 2 in that service. I may say I had 125 letters in my mail yesterday morning complaining about grade 2 in that service. Let us look at that for a moment. Under existing law the salary ranges in that grade from $720 to $1,140. The criticism made against the provision with regard to the custodial service is this: It is said there are practically no employees in the custodial service who are now drawing $1,020 or less. Therefore the elimination of the rates $780, $840, $900, $960, and $1,020 means practically nothing, and these employees think—and they have a great deal of reason so to think—that when you come to $1,080 and $1,140, which is what most of those in the custodial service are getting, and is the first two classes in the grade as provided in the Welch bill, that discretion is left with the heads of the department to keep them at that rate and give them no increase at all.

Let us go over here for a moment to the clerical, administrative, and fiscal service. Bear this in mind, gentlemen of the House, that this bill does not provide any automatic increase of salaries. It simply provides a change in the maximum and the minimum wage scale, and it is still left in the discretion of the Personnel Classification Board and the administrative heads as to where they will allocate the employee within the salary limit of that grade. Of course, they must be brought up to the minimum. They can not be carried beyond the maximum.

Now, you gentlemen know that by the manipulation of the efficiency ratings of the employees many have been constantly discriminated against. To illustrate: You will find, say, in the employees of grade 4, of the clerical, administrative, and fiscal service, doing work now that ought to be assigned to grade 5, and if they were put in their proper grade under existing law they would receive an increase of salary. Let us refer to the chart showing the clerical administrative service, grade 1. We see the minimum under the existing law is $1,140, the maximum $1,260. Under the Welch bill the minimum is $1,260, the maximum $1,320.

Now, what does that mean? It means that employees in the two minimum classes getting $1,140 or $1,200 under existing law must be brought up to the minimum of the new schedule, which is $1,260. That is to say, a novice who is just entering the Government service, without any experience in the Government service, must automatically be given a $120 raise if he is fortunate enough to be in the minimum class of the grade. In the second place, an employee receiving $1,200 can, in the discretion of the Personnel Classification Board or departmental heads, be increased $60 or to $1,260, or if they carry him up two steps he can be brought to $1,320. But what about the man in the top of that grade, the man who has given years of patient and efficient service and gotten to the top of his grade? He can only, under any circumstances, receive a raise of $60 a year, or $5 a month.

That applies as to the first four grades, but when we come to grade 5 we see that under existing law the maximum of grade 5 is $2,400, but under the Welch bill, if passed, the maximum of that grade is still $2,400; when we get down here we see a man in grade 5 at $1,860 to-day, and if we pass the bill he gets an automatic increase of $140, which brings him up to $2,000. But what about the man who by years of service and efficient application to duty has reached the maximum of the grade and is getting $2,400? He can not receive any increase at all because you can not carry him beyond the maximum of his grade. The answer to that is that he will be promoted into another grade, but you who have had any experience with how hard it is for an employee to be promoted from one class to another, to say nothing of how hard it is to be promoted from one grade to another, know how long it would be until the board or departmental head would carry him to the next grade. But suppose he should make that hurdle and get into another grade. What happens? He goes from the maximum grade 5, which is $2,400, to the minimum of grade 6, which is $2,300, so that he loses $100 a year, but they could then carry him to a second step to $2,400, so that he would get the same salary that he got in his other grade. But what a situation! He has had a promotion and he has had some honor, if no money. But if they carry him up three steps out of the grade he is already in to a place in the next grade, then he can get a raise of $100. But in the meantime what have you done to the morale of your service, when you take a man out of one grade and carry him two or three steps into the next grade, and what are the employees in the minimum of these grades going to say when a man goes over their heads into the next grade?

The SPEAKER. The time of the gentleman from Virginia has again expired.

Mr. WOODRUM. Mr. Speaker, I yield myself two additional minutes. Now, gentlemen, this is such a big subject and so little is known about it by anybody, myself included. I could talk all day long and just speculate as to the possible effect of this bill, but there is a way that these employees could have had an increase in their salaries, and that way I

suggested to the House through the bill I introduced. That was a bill to give a flat horizontal increase to the employees in the Federal service, and I submit to you it is perfectly reasonable and perfectly consistent with good finance and good economics. Everybody says this is a temporary measure and, of course, my proposition would be a temporary measure. My suggestion was to give every one of these 135,000 employees a flat increase of $300. [Applause.] That would be $25 a month to everybody. The man getting $1,000 a year would be very much helped by receiving an increase of $300. The man getting $7,500 possibly would not think so much of it; but if a man working for the Government who gets $7,500 a year is so rich that he will turn up his nose at an increase of $300, then I do not think you need worry about him.

Mr. KINDRED. Can the gentleman tell us how much the expense would be to the Government under his bill?

Mr. WOODRUM. The bill I introduced would cost the Government $40,500,000. It would apply to everybody. There would be no manipulation—no opportunity to change it or to chisel the employees out of their raise. Of course, gentlemen, the amount of the raise could be decreased. The amount could be cut to $150 annually. That would cost approximately what this bill costs. I care not so much about the amount. That could be at the discretion of Congress, but I submit the principle is sound and workable.

Mr. O'CONNELL. And the heads of departments could not interfere with the raise taking effect?

Mr. WOODRUM. No. [Applause.] But that is water that has gone over the dam because the present bill is here to-day under suspension of the rules, and not subject to amendment or a motion to recommit.

I reserve the balance of my time, Mr. Speaker.

Mr. LEHLBACH. Mr. Speaker, I yield five minutes to the gentleman from California [Mr. WELCH]. [Applause.]

Mr. WELCH of California. Mr. Speaker, I ask unanimous consent that all Members of the House may be granted five legislative days in which to extend their remarks on the bill H. R. 6518.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. WELCH of California. Mr. Speaker, the bill under consideration, H. R. 6518, which has for its purpose an increase in salaries of Government employees holding certain positions within the District of Columbia and in the field service, is by no means new legislation. Similar bills have been before Congress for years past. Congressman John I. Nolan, who represented the fifth California district for many years, sponsored a salary increase bill, and with the assistance of Congressman James R. Mann, of Illinois, who at the time was Republican floor leader, secured its passage. The bill passed the Senate, but was held up on a motion to reconsider during the last days of the session. My immediate predecessor, the late Lawrence J. Flaherty, also introduced the bill during the brief time he was in Congress, and upon succeeding him I became its sponsor.

Mr. Speaker, this meritorious and humanitarian measure might well be called the child of the fifth California district. The bill in its present form does not provide the relief hoped for by the proponents of the original bill. It is, however, a step in the right direction and will in a measure bring comfort to the thousands of faithful men and women in the employ of our Government.

It has been repeatedly demonstrated that from a strictly business standpoint it is true economy to secure and retain well-paid, contented employees; that a contented state of mind on the part of the employees themselves has a direct effect upon the quantity and quality of their product. The present inadequate rates of compensation in the Federal service render it increasingly difficult to secure and retain a quality of employees necessary to carry on efficiently the business of our Government. I maintain that a readjustment of the rates of pay of these employees even to the extent provided for in the amended bill will inure to the benefit of the employer as well as the employee; that it will reduce turnover, which is at present dangerously high, and retain the service of experienced employees who are leaving the service of the Federal Government, the loss of whose experience and training and the resultant cost of breaking in new employees amount to a staggering total in money value each year.

This bill wisely provides for a classification of the field service, exclusive of the Postal Service and Foreign Service, by the Personnel Classification Board, which consists of the Bureau of the Budget, Bureau of Efficiency, and the Board of Civil Service Commissioners, who shall present a report to Congress at its first regular session following the passage of this act. With this information at hand Congress can then proceed in an intelligent and comprehensive manner, and provide equitably and fairly for all Government employees, who come under the provisions of this bill. [Applause.]

Mr. HOWARD of Oklahoma. Will the gentleman yield?

Mr. WELCH of California. I yield; yes.

Mr. HOWARD of Oklahoma. The gentleman from Michigan and also the gentleman from Oklahoma have asked the question whether or not the employees in the field service of the Indian Bureau come under this bill——

Mr. WELCH of California. It is my information they will come under the bill.

Mr. HOWARD of Oklahoma. Can not some one who is the author of the bill tell us whether they will or not come under the bill?

Mr. LEHLBACH. Mr. Speaker, I yield three minutes to the gentleman from West Virginia [Mr. BACHMANN]. [Applause.]

Mr. BACHMANN. Mr. Speaker and gentlemen of the House, this bill ought to pass. There is only one issue now before the House. Do we want to increase the salaries of 135,000 Federal employees $18,000,000 annually or do we want to refuse them this increase?

The gentleman from Virginia supported practically this same bill in committee. He complained then about the employees in the higher grades. The rates were not all satisfactory to him. He amended the bill by cutting out sections 8 and 9 of the professional and clerical service and 14 and 15 of the clerical, administrative, and fiscal services. When they were taken out of the bill it was satisfactory, but to-day with the amendments of the committee it is not satisfactory. Why? If you leave in the higher grades, he is against the bill. If we take out these grades, he is for the bill.

Let me tell the Members of the House what this amounts to. The total increase for grades 7 and 8 in the professional and scientific service only amounts to $77,750. The total increase in grades 14 and 15 in the clerical, administrative, and fiscal services only amounts to $103,500, or a total of $181,250 out of a grand total of increase of about $18,000,000.

Mr. LEHLBACH. Will the gentleman yield?

Mr. BACHMANN. Yes.

Mr. LEHLBACH. Thirty-two thousand dollars of that is in grade 7, the third from the top grade in the clerical, administrative, and fiscal service.

Mr. BACHMANN. That is true, because grade 7 and the other grade had to be changed in order to allow for these increases.

Mr. LEHLBACH. So there is only $149,000 involved in those four grades.

Mr. BACHMANN. In grades 7 and 8 and grades 15 and 16. I yield back the balance of my time.

Mr. HASTINGS. I would like to ask the gentleman a question.

Mr. BACHMANN. All right.

Mr. HASTINGS. We have been trying to find out whether or not these increases apply to the field service of the Indian Bureau. What can the gentleman say about that?

Mr. BACHMANN. I can not answer the gentleman from Oklahoma with respect to that. My understanding is this bill takes care of the same employees that were taken care of in the classification act of 1923.

Mr. HASTINGS. Is there any member of the committee who can give us that information?

Mr. BACHMANN. The gentleman from New Jersey [Mr. LEHLBACH], I think, can answer the question.

Mr. WOODRUM. Mr. Speaker, I yield myself the remainder of my time, three minutes.

Gentlemen of the House, I will answer the gentlemen's question about the Indians.

I want to say to you, gentlemen of the House, there are a lot of good Indians who think they are going to get something under this bill and there are a lot of good Congressmen who think they are voting for something for some of their constituents who are going to be sadly disillusioned when the roll is called.

Gentlemen, I am sure my friend from West Virginia did not intend to leave the impression on the House that this bill was ever satisfactory to me. It was not. I have fought it right from the jump. I made a speech on the floor of the House and condemned the Welch bill. The Welch bill was very much better than this bill because it did provide something for everybody. This bill does not even do that.

I have objected to the bill all along, and inasmuch as my name has been brought up I may state that these little increases here for these four top grades of the clerical, administration, and fiscal service were put in at my insistence, as well as an amendment requiring the employees to retain their relative positions in

grades in this bill. They would not go any further than that with me.

Gentlemen, this is a bad bill. Nobody can tell what it will do. The distinguished chairman of the committee very frankly told you he did not know what it will do.

Now, what about the high salaries? I do not care if it does not add but ten cents to the annual pay roll, it is wrong in principle to ask the Committee on Civil Service and the House of Representatives to delegate to departmental heads and the Personnel Classification Board the right to increase salaries from $7,500 to $9,000. When I vote to increase salaries to that extent I want at least to have some idea of who is going to get the money, what they are doing and whether or not they deserve to receive it.

It is not a question of amount at all; it is a question of principle. What will the Personnel Classification Board do with this survey that is called for? Your bill calls for a classification of the field service. Let me call attention to the fact that in 1923 you passed a bill requiring a classification of the field service, and it is a known fact to every Member of the House and the chairman of this committee that that board defied the mandate of Congress, and you have to-day no classification of field service. I have no right to believe that you will do any different under this bill.

I think if you do pass the bill you will get a little temporary relief and then beyond that you will get no survey, and it will reflect on Congress and nobody will be satisfied. It is immaterial to me what you do. I have no personal interest whatever in the matter, and it is immaterial to me how any Member may vote. I have discharged my duty. I have attempted to point out the glaring defects in the bill, and the rank and file of the Federal employees are not satisfied with the bill. [Applause.]

Mr. LEHLBACH. Mr. Speaker, I will again say what I have said before, that there is no classification of the field service, and that the $18,000,000 increase in this bill will give that service $12,000,000 or two to one—and what is to be spent in the field service is to be allocated to the various services in the field, including the Indian Service. It is only temporary until we get a classification, including the Indian Service, under the survey which is to be made.

The gentleman says that a person of the custodial service in grade 2 will go down in the range of salaries and receive no benefits. He knows that the bill provides—

> The heads of the several executive departments and independent establishments of the Government whose duty it is to carry into effect the provisions of this act are hereby directed to so administer the same that the positions and employees affected herein shall retain in the classification schedules herein provided the same relative position or positions within their respective grades as they hold at the time this law goes into effect: *Provided,* That nothing herein shall prevent the promotion or allocation for an employee to a higher grade: *Provided further,* That nothing contained in this act shall operate to decrease the pay of any present employee, nor deprive any employee of any advancement authorized by law and for which funds are available.

Do you want to make $18,000,000 available for the employees of the Federal Government? If you do, vote "yes"; if you do not, vote "no." [Applause.]

The SPEAKER. The question is on the motion of the gentleman from New Jersey to suspend the rules and pass the bill.

Mr. CRAMTON. Mr. Speaker, I ask for the yeas and nays.

The SPEAKER. The gentleman from Michigan demands the yeas and nays. All those in favor of taking the vote by yeas and nays will rise. [After counting.] Twenty-seven Members have risen, not a sufficient number, and the yeas and nays are refused.

The question was taken; and on a division (demanded by Mr. WOODRUM) there were 281 ayes and 14 noes.

So two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

EXTENSION OF REMARKS—SALARY INCREASES FOR GOVERNMENT EMPLOYEES

Mr. COHEN. Mr. Speaker, under the leave to extend my remarks in the RECORD I wish to submit the following:

For some months the question of increase of salaries for Government employees in the classified service has been investigated and discussed. There has been a great difference of opinion as to the method and amount of increases, both by the employees, the heads of the departments, and the Members of Congress. It has seemed impossible to arrive at a conclusion satisfactory to all, and the bill introduced in the House by Mr. WELCH of California has finally come up for action and been passed by the House to-day.

I am of the opinion that a great many of my colleagues feel as I do about this bill and are not at all pleased with many of the features of it. It has been changed until it could not be recognized as the original bill, and even then it does not meet the requirements.

I certainly feel that the higher-paid employees should have had the increase given them for, unfortunately, Uncle Sam is known as an employer who never overpays, and our big commercial enterprises have been fortunate in securing the services of many of our scientists and experienced men and women who could not easily be spared in the places they were filling, solely because they could not afford to stay with the Government and see no future before them.

However, it is the poorly paid Government clerk I feel should have the most consideration, and under this bill, I understand, many of them will only receive a benefit of $5 a month. Is it any incentive to give the best in you, and be interested and attentive to your work, when you feel you are facing a stone wall, with no chance of advancement? The "bread and butter" problem is a very vital one to all those in the small-salaried positions and, with prices soaring to the sky from month to month, a $5 increase does not go very far.

I want to say here, as I have said before since taking my seat as a Member of the House of Representatives, that I have never in my whole business experience met with such courtesy and readiness to serve as that received from the Government employees, from those at the head down to the humblest worker. And it can not be said that it was because I was a Member of Congress, for in many cases no possible gain could come to those with whom I had come in contact and who were most courteous and helpful.

I understand this is to be only a temporary measure, and I certainly trust it will be and that a survey will be made immediately so that before many months these faithful and efficient employees will be given a wage commensurate with the services performed and the cost of living to-day.

RETIREMENT OF OFFICERS OF THE ARMY, NAVY, AND MARINE CORPS

Mr. SNELL, chairman of the Committee on Rules, presented the following resolution for printing under the rule:

House Resolution 188

Resolved, That upon the adoption of this resolution it shall be in order to move that the House resolve itself into the Committee of the Whole House on the state of the Union for consideration of S. 777, an act making eligible for retirement, under certain conditions, officers, and former officers of the Army, Navy, and Marine Corps of the United States, other than officers of the Regular Army, Navy, or Marine Corps, who incurred physical disability in line of duty while in the service of the United States during the World War. That after general debate, which shall be confined to the bill and shall continue not to exceed five hours, to be equally divided and controlled by those favoring and opposing the bill, the bill shall be read for amendment under the five-minute rule. At the conclusion of the reading of the bill for amendment the committee shall arise and report the bill to the House with such amendments as may have been adopted, and the previous question shall be considered as ordered on the bill and the amendments thereto to final passage without intervening motion, except one motion to recommit.

FLOOD CONTROL

Mr. REID of Illinois presented the conference report on the bill (S. 3740) for the control of floods on the Mississippi River and its tributaries, for printing under the rule.

ONE HUNDRED AND FIFTIETH ANNIVERSARY OF THE CONQUEST OF THE NORTHWEST TERRITORY

Mr. LUCE. Mr. Speaker, I move to suspend the rules and pass Senate Joint Resolution 23 as amended.

The Clerk read as follows:

Senate Joint Resolution 23, Seventieth Congress, first session

Senate joint resolution providing for the participation of the United States in the celebration in 1929 and 1930 of the one hundred and fiftieth anniversary of the conquest of the Northwest Territory by Gen. George Rogers Clark and his army, and authorizing an appropriation for the construction of a permanent memorial of the Revolutionary War in the West, and of the accession of the old Northwest to the United States on the site of Fort Sackville, which was captured by George Rogers Clark and his men February 25, 1779

Whereas the expedition of George Rogers Clark into the territory northwest of the Ohio River in 1778–79, culminating in the capture on February 25, 1779, of Fort Sackville, at Vincennes, with its British garrison and the British commander of all the northwest region, was instrumental in adding to the 13 Atlantic seaboard States possession of the great Northwest Territory, which now contains the States of Ohio, Indiana, Illinois, Michigan, Wisconsin, and part of Minnesota; and

Whereas the march of George Rogers Clark and his men from Kaskaskia to Vincennes, February 7–23, 1779, was one of the most dramatic examples of patriotism, endurance, and heroism afforded in the whole

course of the war for the independence of the United States, the memory of which is worthy of perpetuation by a grateful country; and

Whereas the conquest of the old Northwest, in which the capture of Fort Sackville was the culminating event, contributed largely to the present greatness of the Republic and started the march of the American flag toward the Pacific; and

Whereas national recognition of the winning in the Revolutionary War of the country west of the Appalachian Mountains is appropriate upon the one hundred and fiftieth anniversary of Clark's decisive victory at Vincennes, and links the East and the West together in our common heritage of national independence and continental expansion; and

Whereas the campaigns of George Rogers Clark aided materially during the Revolutionary War in the protection of the whole western frontier of the United States in bringing the war of independence to a successful conclusion and in bursting the barriers which threatened to limit the new Republic to the Atlantic seaboard; and

Whereas the State of Indiana has by legislative enactment provided for the purchase of the site of Fort Sackville and has made provision for its proper maintenance as a national shrine and has created the George Rogers Clark Memorial Commission; and

Whereas no adequate recognition has been given by the Nation to the acquisition of the old Northwest and to the great achievements of George Rogers Clark and his associates: Therefore be it

Resolved, etc., That there is hereby established a commission to be known as the George Rogers Clark sesquicentennial commission (hereinafter referred to as the commission) and to be composed of 11 commissioners, as follows: 3 persons to be appointed by the President of the United States; 4 Senators by the President of the Senate; and 4 Members of the House of Representatives by the Speaker of the House of Representatives. The commissioners shall serve without compensation, select a chairman from among their number, and appoint a secretary at such salary as the commission may fix.

SEC. 2. There is hereby authorized to be appropriated, out of money in the Treasury not otherwise appropriated, the sum of $1,000,000 to be expended by the commission in cooperation with the George Rogers Clark Memorial Commission of Indiana, the county of Knox, Ind., the city of Vincennes, Ind., and such other agencies, public or private, as the commission may determine, for the purpose of designing and constructing at or near the site of Fort Sackville in the city of Vincennes, Ind., a permanent memorial, commemorating the winning of the old Northwest and the achievements of George Rogers Clark and his associates in the war of the American Revolution: *Provided*, That the State of Indiana shall furnish the site for such memorial and that full, complete, and absolute title to the land shall be vested in the State of Indiana, free and clear of all liens and encumbrances, and that the State of Indiana shall assume, without expense to the Federal Government, the perpetual care and maintenance of said site and the memorial constructed thereon, after such memorial shall have been constructed.

SEC. 3. The commission may in its discretion accept from any source, public or private, sums of money to be added to the amount herein authorized to be appropriated for said memorial, or gifts for its embellishment.

SEC. 4. All expenditures of the commission shall be allowed and paid upon the presentation of itemized vouchers therefor approved by the chairman of the commission, but no expenditure shall be made or authorized by the commission except with the approval of a majority of the commissioners.

SEC. 5. The United States shall not be held liable for any obligation or indebtedness incurred by the State of Indiana, the George Rogers Clark Memorial Commission of Indiana, the county of Knox, Ind., the city of Vincennes, Ind., or any other agency or officer, employee, or agent thereof, for any purpose for which the commission may under the provisions of this resolution make expenditures.

SEC. 6. Before any of the funds herein authorized to be appropriated shall be expended, the plans and designs of the said memorial shall be approved by the National Commission of Fine Arts.

SEC. 7. No fee or charge of any character shall be imposed or made for admission to the said memorial or the grounds on which it may stand after the memorial shall have been completed and accepted by the commission.

SEC. 8. The commission shall cease and terminate June 30, 1931.

The SPEAKER. Is a second demanded?

Mr. GILBERT. Mr. Speaker, I demand a second.

Mr. LAGUARDIA. Mr. Speaker, I demand a second.

Mr. LUCE. Mr. Speaker, I ask unanimous consent that a second be considered as ordered.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. The gentleman from Massachusetts is entitled to 20 minutes and the gentleman from Kentucky [Mr. GILBERT] is entitled to 20 minutes.

Mr. LUCE. Mr. Speaker, the time available under a motion to suspend the rules, of course, does not permit any extended narration of the episode that is to be commemorated. If granted permission to extend my remarks, I shall insert the report accompanying the bill, which tells the story.

Mr. CRAMTON. Mr. Speaker, will the gentleman yield?

Mr. LUCE. Yes.

Mr. CRAMTON. The gentleman, however, expects to make enough of a statement to the committee so that the pending proposition may be favorably presented?

Mr. LUCE. Oh, certainly. I am referring simply to the historical narrative that is set forth in the report. It will be sufficient for the moment to say that this episode is one of the most striking in the world's annals for heroism, suffering, and results. [Applause.] It accomplished the securing of what was long known as the old Northwest for the Union, and to this gallant march, the bravery of Clark, the boldness of his conception, and the success of its execution, historians largely attribute the presence in the Union to-day of Kentucky, Ohio, Indiana, Illinois, Michigan, Wisconsin, and part of Minnesota.

Next February comes the one hundred and fiftieth anniversary of the culminating point in the campaign, the capture of Vincennes, together with the British commander, the lieutenant governor of the English territory in the Northwest, and all the garrison of the fort. As a result of this the control of the British over the Indians was so weakened that it was possible to colonize Kentucky more and thereby bring to the region settlers enough to protect it against further disastrous inroads by the red men as well as to prevent the British themselves from attacking the struggling States on the seaboard from the rear.

In recognition of the great importance of this affair the State of Indiana, the county of Knox, in that State, and the city of Vincennes have undertaken to expend about $720,000 next year in celebration and commemoration. Representatives of the locality immediately concerned came to Congress with a request for an appropriation of $1,750,000, of which $250,000 was to be used for historical celebrations in the way of pageants. The remainder, $1,500,000, was to be used in the erection of a memorial of the same general plan as the Lincoln Memorial here in Washington, but, of course, not on so large a scale. The site of the old Fort Sackville was covered with factories, warehouses, and other buildings of commerce, and it was necessary to clear the land after the purchase of these unsightly edifices. That is the part which Indiana will play. The part asked of the Government is the building of the memorial itself.

Mr. SNELL. Mr. Speaker, will the gentleman yield?

Mr. LUCE. Certainly.

Mr. SNELL. I did not understand how much the State of Indiana is going to appropriate for this celebration.

Mr. LUCE. Already the action of the Indiana Legislature brings in sight about $720,000.

Mr. SNELL. Is that to purchase land and help build the memorial?

Mr. LUCE. No; that is for purchase of the land, clearing from it the buildings, and preparing the site. The edifice itself is to be the work of the Federal Government.

Mr. SNELL. And this bill carries an appropriation of $1,000,000?

Mr. LUCE. One million dollars for the edifice. As the estimates were laid before the joint committee, they totaled one and a half million dollars, but your Committee on the Library, after study of the details, came to the conviction that $1,000,000 would suffice, and we cut the resolution as it came to us from the Senate to the extent of $500,000, taken off the estimate for the cost of the memorial, and eliminated altogether the $250,000 for the pageants. The reasons are set forth in the report.

Mr. SNELL. The entire million dollars appropriated here is to go for the memorial?

Mr. LUCE. Entirely for the memorial.

At the same time we changed the bill by reason of our belief that the money of the Nation should be expended by the Nation. As the resolution came to us from the Senate, it provided that we were to turn this money over to the Indiana commission. This was contrary to precedent, and not in accord with the judgment of your committee. Therefore, in substituting the House resolution we provide for the usual form of commission—three to be appointed by the President, four by the President of the Senate, four by the Speaker of the House—who shall expend this million dollars.

Mr. LAGUARDIA. Mr. Speaker, will the gentleman yield?

Mr. LUCE. Yes.

Mr. LAGUARDIA. Will the gentleman explain to the House why the State of Illinois withdrew from material participation in this movement?

Mr. LUCE. It is a thing that can not be explained, as far as I have been able to learn, a thing that is greatly to my regret. Perhaps some gentleman from Illinois—one already stands before me—will answer the question.

Mr. RATHBONE. Mr. Speaker, if the gentleman will permit, Illinois could not withdraw, because she did not participate in the first place. We are very heartily in favor of this memorial. I appeared before the committee and supported it to the best of my ability, but on the soil of Illinois there occurred an event which is of perhaps equal importance—namely, the capture of Kaskaskia—and we are going to devote our energies not only to making the Vincennes memorial a success, but also to make suitable provision for the celebration of the capture of Kaskaskia, which occurred in Illinois and at the opposite part of the State on the Mississippi River.

Mr. LAGUARDIA. Do I understand the gentleman to say that they have withdrawn from this because the State of Illinois intends to finance the other projects of which he speaks?

Mr. RATHBONE. We have not withdrawn, because the Legislature of Illinois has never acted on this particular proposal. But our people are very much interested in it, and we intend to support it.

Mr. LAGUARDIA. Is it true that the people of Illinois are willing to appropriate a large amount of money to establish a monument to King George? [Laughter.]

Mr. RATHBONE. I will say to the gentleman that the Legislature of Illinois will not be in session until next winter. At that time I look for action for a suitable memorial to be erected commemorating the capture of Kaskaskia.

Mr. LUCE. We were told a year ago that the State of Illinois and the State of Ohio and other States interested would join in this celebration at Vincennes; but, greatly to the regret of the committee, the legislatures of those States have not seen fit to act. We hope they yet will see the desirability of sharing with Indiana and the Nation in commemorating an event of precisely as much significance and import to them as to that State where the fort happened to be, on the one side of the river instead of the other.

Mr. CRAMTON. Mr. Speaker, will the gentleman yield?

Mr. LUCE. Yes.

Mr. CRAMTON. What has become of the proposition for use of Federal funds for the ornamentation of a memorial toll bridge at this point?

Mr. LUCE. We were assured in the hearings that Illinois would build half of this bridge and Indiana the other half, and that the ornamentation would be provided by private subscription. Illinois has withdrawn, as I understand, and declines to take part in the building of this bridge. They reduced the people of Vincennes to the regrettable necessity of asking Congress to provide a toll bridge to mark the spot where Abraham Lincoln and his family crossed the Wabash River on the journey from Indiana to Illinois. It is to be hoped that this strange proposal will not prevail to the extent of a charge for passage of the bridge.

Mr. LAGUARDIA. Are commissioners authorized to act in connection with this celebration?

Mr. LUCE. These commissioners will serve, as in the case of the landing of the Pilgrims, without pay, but with a paid secretary who will serve as their executive officer.

Mr. LAGUARDIA. Is it not the gentleman's experience that once we create these commissions, and some time elapses before the members are appointed, and when appointed they commence their labors, they then come in and seek to amend the bill by providing a salary? If once we start on that there will be no end to it.

Mr. LUCE. It has not been done with respect to any commission created on advice of the Committee on the Library, since I have had the honor to be a member of that committee. It was not done in the case of the Plymouth commission.

Mr. SNELL. Has there been any other similar occasion except the big memorial to Lincoln that has cost so much as this?

Mr. LUCE. I do not recall one. When commemoration has been by way of an exposition, as in the case of the settlement of Jamestown and the acquisition resulting from the Louisiana Purchase, the Federal appropriation was much larger.

Mr. SNELL. I think this is the first time we shall have ever appropriated a million dollars for such a memorial.

Mr. LUCE. I think it is the largest appropriation of the sort thus far.

Mr. KETCHAM. Mr. Speaker, will the gentleman yield?

Mr. LUCE. Yes.

Mr. KETCHAM. In response to the question propounded by the gentleman from New York [Mr. SNELL], I may call his attention to the fact that no other such event has taken place in our history. Therefore it is worthy of an unusual expenditure.

Mr. RATHBONE. Mr. Speaker, will the gentleman yield?

Mr. LUCE. Yes.

Mr. RATHBONE. I would like to ask the gentleman on what he bases the statement, if I understood him correctly, that Illinois had withdrawn from any offer it had made? I know of no offer from an official source made by Illinois in this matter.

Mr. LUCE. The assurances will be found in the testimony given before the hearings of the Joint Committee on the Library a year and more ago.

Mr. CRAMTON. While the gentleman from Illinois is on the floor the House will be glad to know if the gentleman from Illinois has introduced a similar bill for the ceremony at Kaskaskia?

Mr. RATHBONE. I have introduced such a bill. Illinois is desirous of playing a broad and generous part, and Illinois is perfectly willing to have the Vincennes memorial made the principal memorial. But we do feel that there should be another memorial on the capture of Kaskaskia, which was the first great achievement of George Rogers Clark, and therefore should not be passed unnoticed.

Mr. LUCE. There have been bills introduced by Members from Illinois and Kentucky, but in no instance except in the case of Indiana have the persons interested secured a local contribution. If Kentucky and Illinois and any other States concerned should follow the example of Indiana and demonstrate willingness to take part in the expenditure the proposal would receive prompt consideration from the Committee on the Library.

Mr. CRAMTON. Has the gentleman from Massachusetts in mind the idea that if the gentleman from Illinois would introduce a bill to permit equally generous participation by Illinois the Federal Government would furnish a million dollars to match that generous participation?

Mr. LUCE. The gentleman from Massachusetts is not warranted in giving any assurance. He feels quite safe, however, in awaiting the offer of any money from any other State. [Laughter.]

Mr. LOWREY. Will the gentleman yield?

Mr. LUCE. Certainly.

Mr. LOWREY. Can the gentleman tell us how much money the Federal Government spent on the Washington Monument and how much on the Lincoln Memorial?

Mr. LUCE. I do not remember about the Washington Monument, but my impression is that the Lincoln Memorial cost between $3,000,000 and $4,000,000.

Mr. RATHBONE. Will the gentleman yield?

Mr. LUCE. Certainly.

Mr. RATHBONE. Replying to the question of the gentleman from Michigan, which seemed to reflect, in a way, upon my State, I will say that the only thing which the bill I have introduced provides for is an authorization of $100,000, and I have stated in the presence of the committee that we would be satisfied with less. We are not asking for any great memorial. Moreover, in fairness to our State, it should be stated by the chairman of the committee that there has been no session of the Illinois Legislature at which this matter could have been acted upon since this particular bill has been introduced and brought before the Congress, and Illinois, before aspersions are cast upon the State, should be given a fair opportunity to act, which I am satisfied she will do.

Mr. LUCE. I cast no aspersions; I express a prayerful hope. [Applause.]

The report of the committee is as follows:

[H. Rept. No. 1386, 70th Cong., 1st sess.]

GEORGE ROGERS CLARK MEMORIAL

Mr. LUCE, from the Committee on the Library, submitted the following report (to accompany S. J. Res. 23):

The President, in his address to this Congress at its opening, said:

"February 25, 1929, is the one hundred and fiftieth anniversary of the capture of Fort Sackville, at Vincennes, in the State of Indiana. This eventually brought into the Union what was known as the Northwest Territory, embracing the region north of the Ohio River between the Alleghenies and the Mississippi River. This expedition was led by George Rogers Clark. His heroic character and the importance of his victory are too little known and understood. They gave us not only this Northwest Territory but by means of that the prospect of reaching the Pacific. The State of Indiana is proposing to dedicate the site of Fort Sackville as a national shrine. The Federal Government may well make some provision for the erection under its own management of a fitting memorial at that point."

On every hand there is approval for commemoration of Clark, his expedition, and the achievement that gave us what was long known as the old Northwest.

It was a great enterprise, boldly and skillfully planned, heroically executed. Clark, a young Kentucky pioneer from Virginia, conceived that the way to protect the infant settlements of the Ohio Valley, to win the favor of menacing Indians between the Ohio and the Lakes, to oust the British from the vast region that had been yielded to them

by the French, and thus to remove the menace from the rear that in the darkest months in the Revolutionary War threatened ominously the States strung along the seaboard, was to strike the enemy unexpectedly on the flank and from behind. To that end and in the summer of 1778, with a force of less than 200 men, he started downstream from the Falls of the Ohio. Leaving the river near the mouth of the Tennessee he marched overland and took Kaskaskia, a thriving French town near the Mississippi, and then Cahokia, farther up, near what is now St. Louis. Next he sent a detachment eastward to Vincennes, on what is now the Indiana bank of the Wabash River. It yielded without resistance.

When the news of this reached Colonel Hamilton, lieutenant governor of the western British possessions, with headquarters at Detroit, he marched at the head of a considerable force to recover the Illinois territory, and had no trouble in overpowering the few men who were garrisoning Fort Sackville at Vincennes. There he prepared to pass the winter, never dreaming that he might be attacked at that time of the year. Clark, however, frontiersman and fighter, paid no heed to the perils of the season, and early in February of 1779 with only about 130 men started through the rains and mud of an Illinois winter on his audacious march. It proved to be of nearly 240 miles, by reason of detours to avoid the areas deeply overflowed and to reach places where the swollen streams could be crossed. The desperate venture is not equaled in American annals, nor surpassed by any in the recorded history of any other land. For nearly three weeks they struggled through the mire, often wading, sometimes up to their necks, in the icy waters. For the last six days they were virtually without food. Hamilton, completely taken by surprise, quickly surrendered. Without the loss of a man Clark thus gained possession of the town and the fort, with the garrison and colonel prisoners of war.

Clark hoped to follow this up with the capture of Detroit. Circumstances frustrated him, but the hold of the British on the region had been so shaken that thereafter such offensives as came from the Lakes were fruitless, and though Indian trouble continued, Clark's achievement, by giving the Kentucky region security enough to encourage the incoming of many more settlers, had so increased the number of fighting men and the volume of supplies as to make the conquest permanent. By the time of the treaty of peace American dominance of the Ohio Valley was so clear that England made no persistent attempt to assert title to the vast region involved. This was the region that became the States of Kentucky, Ohio, Indiana, Illinois, and Michigan, with possibly Wisconsin, Iowa, Minnesota, and the Dakotas to be included.

To commemorate this the State of Indiana has authorized expenditure by itself, the county of Knox, and the city of Vincennes, which is expected to amount to $720,000. This is chiefly, if not wholly, to be used for the purchase of the site of the old Fort Sackville, the removal of the buildings thereon, and the conversion of the spot into a beautiful park with attractive water front. It is hoped to raise a substantial amount in addition by further public action or private contribution to carry out the details of a program that is ambitious but, in the belief of those actively interested, not beyond the deserts of the praiseworthy object in view.

The Federal Government has been asked to contribute $1,500,000 for a memorial structure to be erected on the site of the old fort, with $250,000 for historical celebration. The Senate has sent to the House a bill granting the request for the full $1,750,000. Your committee, while sympathizing with the purpose and seeking to be generous in the matter, yet for the following reasons thinks it would not be warranted in recommending authority to appropriate more than a million dollars.

In matter of both national and local concern, the rough-and-ready standard of division of cost spoken of colloquially as "50-50," allotting half the contribution to each party, has become generally accepted as reasonable. Deviation in this instance may be warranted by the possibility that the local contribution will be increased, but that its total will reach more than a million dollars, if indeed that much, is distinctly a hope rather than a fact.

At the hearing before the joint committee a year or more ago, besides eminent witnesses from Indiana there were in attendance gentlemen from Kentucky, Ohio, Illinois, and Michigan, who united in emphasizing that this was to be commemoration of an episode that virtually involved the destinies of the whole region from Kentucky to the Lakes, making it of direct interest to all the States that have been carved out of the old Northwest. We were given to understand that all these States should and would join somehow in this commemoration. No State outside of Indiana, however, has yet shown any inclination to contribute.

On the other hand the State outside that is most concerned, Illinois, has actually withdrawn the incidental help we understood to have been assured. We were told that Illinois would share in building a new bridge across the Wabash, which separates Indiana and Illinois at this point. It was said a steel bridge would cost $350,000, and a bridge of the ornamental type $500,000. Illinois was to pay half the cost of a steel truss bridge, Indiana the other half, and Vincennes would provide the extra money necessary to make it a concrete bridge, fittingly ornamental. Since then Illinois has decided not to pay even half of the cost of a steel truss bridge.

In this regrettable dilemma, for which of course the Vincennes people were not responsible, they sought to meet the situation by backing a bill presented to Congress for a toll bridge, which meant that the traveling public would in the end make good the outlay that Illinois had avoided. The proposal to charge toll on a bridge designed to commemorate the passage of the Wabash by Abraham Lincoln and his family on the way to an Illinois home, somehow grates on the sense of propriety.

Possibly the Illinois authorities may yet decide to reverse their position and conclude to take some part in the commemoration of an episode that was of just as much importance to Illinois as to Indiana. Clark's heroic march was through what is now Illinois, and that its object was a fort happening to be on one bank of the river rather than the other should not deprive any of those who now dwell in the country saved for them, of the opportunity to show an interest in the memorial proposed, particularly when that interest would not seem to go beyond the material, practical needs of modern highway travel.

There is another aspect of this bridge matter that should not be overlooked. The architect of the proposed memorial says in his report:

"It would be nothing less than a tragedy if this bridge were not made a thing of beauty. It will be in such close proximity to the George Rogers Clark Memorial that a mere utilitarian structure or iron trusses perched on slender concrete piers would ruin the entire picture. I strongly advise that your commission make every effort to induce the States of Indiana and Illinois to erect a worthy bridge at this point. Unless you can succeed in so doing, I should be strongly inclined to recommend that you do not attempt to build an important memorial at or near the site of Fort Sackville. It would be far better to go to the other end of the town."

It will be seen that this so complicates the situation as to make difficult an estimate of what should be the Federal appropriation if on the basis of equal share. This increases our reluctance to authorize appropriation beyond the evident needs of a structure alone.

We are of the belief that such a structure could be built for a million dollars. This belief is based on the figures of the items in the estimate laid before us. They total $797,740 for the construction work. To this is added in the estimate the following:

Mural paintings	$200,000
Sculpture	225,000
Drives, planting, fountain, river wall, grading, seeding, and sodding	153,309
Architect's fee	123,951
Total	702,260

It will be seen that the outlay for decoration, with so much of the architect's fee as its based thereon (if on a 10 per cent basis), would amount to $467,500. While your committee believe in artistic treatment of memorials, it doubts whether such lavish outlay as is here proposed would be justifiable. Question arises as to whether it would comport with the character of the man or the nature of the episode to be commemorated. Remembering the impressive dignity, the solemn simplicity of the Lincoln Memorial here in Washington, to memorialize a hardy backwoodsman for such a feat as the capture of Vincennes with something ornate, elaborate, gorgeous, brilliant savors of the incongruous.

It has been urged, to be sure, that this edifice is also to commemorate the winning of the West. Even so, the occasion for such extensive ornamentation does not appear.

If, however, that should after all be deemed desirable, it might well be accomplished in part by gifts of the desired works of art from the other States directly concerned, from patriotic organizations, or from individuals of wealth who might be glad to share in such a memorial.

Inasmuch as the river wall, the landscape gardening, and the other beautification of the site will inure to the advantage of Vincennes by giving it a beautiful park, it would not be unreasonable to view the item for this as properly to be included in the providing of the site for the memorial structure.

The Senate bill would permit the expenditure of $250,000 for an historical celebration, expected to consist chiefly of pageants, and to continue through several months.

Your committee urged the proponents of the bill to secure some reasonably definite estimates in this particular, but nothing has been submitted to us. We have, however, ourselves given some study to one phase of the matter. Vincennes in 1920 had less than 20,000 population. There may be 200,000 more within 50 miles, less than 900,000 within 100 miles, and the nearest large center of population is more than 100 miles away. It is improbable that to witness pageants any large throng would come repeatedly for several months from a distance farther than would easily permit a round trip of a day by automobile, with stay long enough to allow enjoyment of the spectacle, nor could a city of less than 20,000 furnish accommodations to a throng from a distance for stay overnight were it desired, which is of itself improbable. Our conclusion is that a very much smaller

outlay for celebration would conform to the conditions, an outlay indeed so small that it could easily be borne by the community, particularly if nearly all those taking part should be townsfolk, as is desirable if the benefits of pageants are to be secured in fullest measure. This would seem to make Federal appropriation unnecessary even if it were wise to establish the precedent of having the Government finance celebrations of this sort, which is far from clear.

Taking these considerations all into account, it has seemed to your committee that a reasonable authorization would be for enough to cover the structural cost contemplated, with a quarter of that amount added for the architect's fee and such ornamentation as it might permit, which would make the total $1,000,000.

It is our judgment that this should be expended by the National Government. Appropriation can be justified only on the ground that it is a matter of national interest which is to be commemorated. On general principles wherever possible the money of the Nation should be spent by the agencies of the Nation, agencies chosen by itself, agencies that can be held directly accountable. Presumably it was with this in mind that the President said: "The Federal Government may well make some provision for the erection under its own management of a fitting memorial." Agreeing with this view, your committee recommends pursual of the usual course—the appointment of a commission of 11, 3 named by the President, 4 Senators named by the President of the Senate, and 4 Members of the House of Representatives named by the Speaker. This commission is to cooperate with the George Rogers Clark Commission of Indiana, the county of Knox, the city of Vincennes, and such other agencies as may be concerned. Provision for a paid secretary is designed to secure competent executive management under the direction of the commission. Presumably the commission also, as is usual, will represent the Nation in such formal exercises as may take place in connection with the memorial.

Accordingly your committee recommends striking out all after the enacting clause of the Senate bill and appropriate insertion as herewith.

Mr. GILBERT. Mr. Speaker, I yield 10 minutes to the gentleman from Indiana [Mr. GREENWOOD]. [Applause.]

Mr. GREENWOOD. Mr. Speaker, in the century and a half since our country threw off the yoke of monarchy, we as a people have made unparalleled strides toward wealth and influence in the family of nations. History discloses no finer or better proportioned national development.

From 13 struggling colonies of 3,000,000 souls scattered along the Atlantic seaboard with a lack of coordination—with relations at times bordering on enmity—we have expanded into a Union of States from sea to sea. We now have a population of 115,000,000 occupying the heart of a great continent and reputed to be the wealthiest nation of all time.

We must acknowledge that the first great factor which contributed to greatness of these United States was the spirit possessed by our colonial ancestry, viz, the spirit of independence—the love of liberty. It was this spirit that impelled them to fight the War of the Revolution and following that to build a constitutional Government safeguarding the rights of the individual against the encroachments of tyranny. We gave the world a new vision of representative democracy when we substituted for the ancient creed—the divine right of kings; a new doctrine, emphasizing the declaration, "The king is not the law, but the law is king."

To this achievement of democratic Government as a factor in our phenomenal progress must be added our territorial expansion and material development. Our present imperial greatness as a nation must be credited to a large extent to geographical location. Let us search our hearts and reread our histories and seriously ask ourselves: Whence came this opportunity for our Nation's territorial growth? We are to-day a Nation whose lands stretch from the Atlantic to the Pacific and even to the islands of the sea.

I would not venture to assert that this territorial expansion was due to the efforts of any one man. Nevertheless, I think of one heroic soul who in the militant flower of young manhood caught the vision, lead the campaign that opened the gateway to our infant struggling Nation through which she advanced to build a glorious state, filled with opportunity for a free people.

This intrepid youth, a son of old Virginia, Col. George Rogers Clark, possessed the courage and imagination to lead the way and conquer a wilderness filled with bloodthirsty savages conspiring with British soldiers. It was no task for a soldier who loved only the tinsel of dress parade. It called for heroic action. While his native State of Virginia claimed the territory north of the Ohio by colonial grant, it had never possessed this land. With a commission to raise an army, along with appropriation for 500 pounds of powder, Colonel Clark became as a military leader what John Randolph described as "The Hannibal of the West."

He crossed the mountains, builded his own boats and followed the Ohio, recruited and drilled his forces at the Falls, sailed on to the mouth of the Tennessee, traversed the forests of southern Illinois and captured the English post at Kaskaskia without the firing of a gun on July 4, 1778. Much of his success followed from a masterful understanding of men and knowledge of frontier life. It called for courage of the highest order, shrewd military strategy, and an enduring tenacity of spirit. Colonel Clark had a wonderful combination of these essential qualities.

At Kaskaskia, Clark by both threats and diplomacy was able to control the Indians, dislodge from their savage minds the belief that the British were as powerful as "the big knives," the significant name that had been given to the Americans. He formed treaties with the Indian tribes which removed a menace from the inner frontiers and allowed the settlers to join Washington's army in the East.

From Kaskaskia, Clark proceeded on another step of his campaign and captured Vincennes and placed it under the command of Capt. Leonard Helm. Upon learning of this capture of the fort at Vincennes, Hamilton, the British commander at Detroit, sent forces from Detroit and recaptured the fort in December, 1778. The situation was desperate, and Clark decided upon immediate heroic action. With the assistance of Father Gibault, a Catholic priest, the leader among the French Creoles, and Francis Vigo, a Spanish merchant of St. Louis, who advanced funds, Clark recruited his forces, obtained supplies, and with 170 men started in midwinter across the Illinois country to retake Fort Sackville on the east banks of the Wabash. Words can not properly picture to you that little band advancing upon the British at Vincennes.

It was a journey filled with unparalleled hardship. There were icy swamps, swollen streams, and prairies covered with slush. It required physical endurance and patriotic courage to continue on through icy streams from ankle depth to their armpits. When on the last terrible day they reached the Indiana shore they had been four days without fire or food. Upon that desperate last day with no breakfast for the weakened discouraged band Major Bowman made this entry in his diary: "No provisions. God help us." The men were weak with cold and starvation, yet with no disposition to mutiny. Clark delivered a patriotic address, smeared his face with water and gunpowder, gave a war whoop and sprang into the water, and the loyal, fighting company struggled on.

By perseverance, strategy, and shrewd diplomacy he was able to compel a surrender of the fort and send the commander, General Hamilton, back to Virginia in irons.

At this time George Rogers Clark was 26 years of age, and he deserves the highest praise for his accomplished leadership of men.

Much of the success of this military venture was due to the sympathy extended by Patrick Henry, Governor of Virginia, Thomas Jefferson and George Mason, both of whom used their influence to get action by the Virginia Legislature.

It was at Kaskaskia that Clark formed the friendship of two men who contributed much to the future success of his campaign. One of these was a Catholic priest, Father Pierre Gibault, and the other a Spanish merchant, Col. Francis Vigo.

Father Gibault, when he learned that Clark extended full religious liberty to his people and made no confiscations of property, became a devoted patriot to the cause of American independence. He came and went among his French Creole parishoners, who possessed no love for their British former foes in arms, the reverend father promoted among his devoted followers an allegiance that was a great contribution to the cause of American independence. This volunteer, patriot, priest—Father Gibault—should receive proper recognition, in marble or bronze, in the memorial at Vincennes, which this legislation proposes to build. Gibault's loyalty and devotion to America was constant to the end. Like the Master of old he went about administering to those in sickness and distress, and had no place to lay his head. He died in poverty, and his grave is unknown. We can recount his loyalty, recite his acts of service, and preserve his memory by giving him a part in this memorial to the winning of the West.

Likewise, Francis Vigo threw all that he possessed into the campaign of Clark. He gave his fortune to buy food and clothing for the soldiers. He made trips to Vincennes and elsewhere and obtained invaluable information to guide Clark and his army. He took Virginia currency and accepted drafts on Virginia for several thousands of dollars for supplies which were never paid. He made money but lost it, and died in poverty with his claims still unpaid. Forty years after his death Congress allowed the claims and paid the same to his estate. Colonel Vigo likewise must be remembered in this memorial.

In the winning and holding of the West for American independence there is one with a military genius like unto that of Washington; with a love of liberty and a vision for expansion comparable to Jefferson; one with a devotion to law and order

worthy of John Marshall and possessing an understanding of human nature with a diplomacy to win and engage others similar to Benjamin Franklin. This patriot and soldier used his preeminent talents for his country at a time when his capable leadership was sorely needed. When we take into consideration the results obtained by the military leaders of the Revolution there seems to be few, if any, who accomplished so much with the meager assistance provided as Col. George Rogers Clark.

Out of the Northwest Territory acquired by this campaign has been carved the five great States of Ohio, Indiana, Illinois, Michigan, and Wisconsin, along with a portion of Minnesota. This section now constitutes one-sixth of the territorial area of continental United States, is peopled by more than one-fifth of our population, possesses one-fifth of our national wealth, and contributes almost a billion dollars each year in Federal taxes.

The acquisition of this territory which we propose to celebrate next year at Vincennes on the one hundred and fiftieth anniversary of its capture by George Rogers Clark and his band of Kentucky riflemen, became the common possession of the original thirteen States. Virginia graciously ceded her rights to the Federal Government. John Fiske, the noted historian, makes the assertion that this common ownership of land that could be pioneered by emigrants from all the colonies as the greatest influence in cementing the bonds of union of the original States. Moreover, the sale of this land to homesteaders helped to provide the funds that paid off the debts of the Revolution. This section, therefore, became the melting pot of the Nation, wherein colonists from all the original States settled and developed a wholesome fellowship and a tolerant national spirit.

Just a few miles removed from the site of old Fort Sackville is found the center of population of our Nation. At Vincennes is the crossing of two highly traveled United States highways—one from Chicago to centers of population of the Southland; the other, Highway 50, the shortest route from the Capital to St. Louis and points to the westward. The roads are paved with concrete slab and are thoroughfares carrying many tourists.

Here upon the banks of the Wabash at the site where Colonel Clark achieved his chief victory we propose to build a memorial to the winning of the old Northwest. It will be worthy of the great episode in history which we propose to commemorate.

The State of Indiana, Knox County, and the city of Vincennes have already provided funds to the extent of three-quarters of a million dollars. These funds are buying the real estate, removing the buildings, and building boulevards. These preparations are made in the hope that the Federal Government will contribute liberally to the erection of this national shrine. Indiana assumes the obligation of preservation and maintenance of the memorial after completion. The George Rogers Clark Memorial Commission created by Indiana statute has studied plans and proposed a memorial building that would be beautiful in architectural design and with impressive interior treatment. The proposed design is one of which the Nation will be proud. Its inspiring beauty will draw the attention of everyone who can visit the site of its erection. I regretted that while the Senate committee, which had exhaustive hearings, was convinced that the amount requested by the Indiana commission was needed to properly complete the plans, the House committee reduced the amount from one and one-half million to one million dollars. This will call for a revision of the plans. However, I am pleased with the prospect for a memorial to Colonel Clark and his army—and I know that a million dollars can build a beautiful structure—I am not sure that it will be as satisfying in design and detail as was proposed by the plans submitted to the committees. It would be gratifying to see the amount returned to the Senate bill, but if the conferees of the two Houses shall deem otherwise we will then adjust ourselves accordingly and build the best we can with the funds provided.

It sometimes appears in the modern passion for legislation that the sum and substance of statecraft is to consider only economic advancement and prosperity as evidenced by material wealth. Surely America, the richest country of all times, may hesitate in her mad rush of accumulation to consider and memorialize those finer and richer traditions of sacrifice, courage, and unselfish patriotic devotion which have been the chief factors in creating this golden age in which we live. That the youth of our land and the coming generations may understand and appreciate the daring, loyalty, and genius of the crusaders of the past, let us spend more for education and patriotic inspiration. For historical and memorial perpetuation there is no individual more appealing than George Rogers Clark and no more inspiring episode in our Nation's history than the capture of old Fort Sackville at Vincennes on February 25, 1779, by Colonel Clark and intrepid followers. John W. Daniel, former United States Senator from Virginia, speaking of famous Revolutionary soldiers, said:

> There was no hero of the Revolution who did a cleaner or better piece of work than George Rogers Clark, and there is none who can stand by him or be mentioned on the same page with him, who has been so much neglected.

Last year I visited his grave in Cave Hill Cemetery, Louisville, and found his final resting place marked only by an insignificant monument not over 3 feet in height erected by the Daughters of American Revolution. Upon this small slab the meager lettering can be read only with difficulty. It seems almost a travesty that one who contributed so much to his country's glory and expansion of empire, should be so signally neglected.

I come to you with the hope that this Congress may rectify this ingratitude. For a century there have been spasmodic efforts to memorialize this event in history. The State of Indiana has made preparation for the Federal Government to cooperate in this worthy endeavor. May we not work together to build a shrine in memory to this great man and his army? One who, like Washington, was not of any political party, but belongs to all because he was a great American. George Rogers Clark and his achievements are the common heritage of every section and his memory should be perpetuated.

I ask your support for the pending measure. [Applause.]

Mr. GILBERT. Mr. Speaker, I observe the situation of the House. I will not make any speech. However, Kentucky and the other States that have Clark suggestions have been alluded to. The gentleman from Indiana spoke about Clark's expedition. Indiana has another suggestion for a monument about the Battle of the Thames. Of course, Kentuckians won the Battle of the Thames and Kentuckians won the battle at Vincennes. The gentleman from Illinois speaks of Lincoln and his great contribution. Of course, Kentucky furnished Lincoln; in fact, it seems that Indiana and Illinois would have little to commemorate if Kentuckians had not gone across the river.

The SPEAKER. The question is on the motion of the gentleman from Massachusetts to suspend the rules and pass the bill.

The question was taken, and two-thirds having voted in favor thereof, the rules were suspended and the bill was passed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to Mr. BURDICK, for the balance of the week, on account of important business.

BRIDGE ACROSS THE MISSISSIPPI RIVER NEAR TIPTONVILLE, TENN.

Mr. DENISON. Mr. Speaker, the gentleman from Tennessee [Mr. GARRETT] has a bill here which he would like to have passed as he has to leave for his home. I refer to the bill (H. R. 12985) authorizing J. T. Burnett, his heirs, legal representatives, and assigns, to construct, maintain, and operate a bridge across the Mississippi River at or near Tiptonville, Tenn. There is a similar Senate bill on the Speaker's table and I ask unanimous consent to call up the Senate bill S. 3862 and consider the same in lieu of the House bill.

The SPEAKER. The gentleman from Illinois asks unanimous consent for the present consideration of the bill S. 3862. Is there objection?

There was no objection.

The Clerk read the bill, as follows:

Be it enacted, etc., That in order to facilitate interstate commerce, improve the postal service, and provide for military and other purposes, J. T. Burnett, his heirs, legal representatives, and assigns, be, and is hereby, authorized to construct, maintain, and operate a bridge and approaches thereto across the Mississippi River, at a point suitable to the interests of navigation, at or near Tiptonville, Tenn., in accordance with the provisions of the act entitled "An act to regulate the construction of bridges over navigable waters," approved March 23, 1906, and subject to the conditions and limitations contained in this act.

SEC. 2. There is hereby conferred upon J. T. Burnett, his heirs, legal representatives, and assigns, all such rights and powers to enter upon lands and to acquire, condemn, occupy, possess, and use real estate and other property needed for the location, construction, operation, and maintenance of such bridge and its approaches as are possessed by railroad corporations for railroad purposes or by bridge corporations for bridge purposes in the State in which such real estate or property is situated, upon making just compensation therefor, to be ascertained and paid according to the laws of such State, and the proceedings therefor shall be the same as in the condemnation or expropriation of property for public purposes in such State.

SEC. 3. The said J. T. Burnett, his heirs, legal representatives, and assigns, is hereby authorized to fix and charge tolls for transit over such

bridge, and the rates of toll so fixed shall be the legal rates until changed by the Secretary of War under the authority contained in the act of March 23, 1906.

SEC. 4. After the completion of such bridge, as determined by the Secretary of War, either the State of Tennessee, the State of Missouri, any public agency or political subdivision of either of such States, within or adjoining which any part of such bridge is located, or any two or more of them jointly, may at any time acquire and take over all right, title, and interest in such bridge and its approaches and any interest in any real property necessary therefor, by purchase or by condemnation or expropriation, in accordance with the laws of either of such States governing the acquisition of private property for public purposes by condemnation or expropriation. If at any time after the expiration of 15 years after the completion of such bridge the same is acquired by condemnation or expropriation, the amount of damages or compensation to be allowed shall not include good will, going value, or prospective revenues or profits, but shall be limited to the sum of (1) the actual cost of constructing such bridge and its approaches, less a reasonable deduction for actual depreciation in value; (2) the actual cost of acquiring such interests in real property; (3) actual financing and promotion costs, not to exceed 10 per cent of the sum of the cost of constructing the bridge and its approaches and acquiring such interest in real property; and (4) actual expenditures for necessary improvements.

SEC. 5. If such bridge shall be taken over or acquired by the States or public agencies or political subdivisions thereof, or by either of them, as provided in section 4 of this act, and if tolls are thereafter charged for the use thereof, the rates of toll shall be so adjusted as to provide a fund sufficient to pay for the reasonable cost of maintaining, repairing, and operating the bridge and its approaches under economical management, and to provide a sinking fund sufficient to amortize the amount paid therefor, including reasonable interest and financing cost as soon as possible under reasonable charges, but within a period of not to exceed 15 years from the date of acquiring the same. After a sinking fund sufficient for such amortization shall have been provided, such bridge shall thereafter be maintained and operated free of tolls or the rates of toll shall thereafter be so adjusted as to provide a fund of not to exceed the amount necessary for the proper maintenance, repair, and operation of the bridge and its approaches under economical management. An accurate record of the amount paid for acquiring the bridge and its approaches, the actual expenditures for maintaining, repairing, and operating the same, and of the daily tolls collected shall be kept and shall be available for the information of all persons interested.

SEC. 6. J. T. Burnett, his heirs, legal representatives, and assigns, shall within 90 days after the completion of such bridge file with the Secretary of War and with the Highway Departments of the States of Tennessee and Missouri, a sworn itemized statement showing the actual original cost of constructing the bridge and its approaches, the actual cost of acquiring any interest in real property therefor, and the actual financing and promotion costs. The Secretary of War may, and upon request of the highway department of either of such States, shall, and at any time within three years after the completion of such bridge, investigate such costs and determine the accuracy and the reasonableness of the costs alleged in the statement of costs so filed, and shall make a finding of the actual and reasonable costs of constructing, financing, and promoting such bridge; for the purpose of such investigation the said J. T. Burnett, his heirs, legal representatives, and assigns, shall make available all of its records in connection with the construction, financing, and promotion thereof. The findings of the Secretary of War as to the reasonable costs of the construction, financing, and promotion of the bridge shall be conclusive for the purposes mentioned in section 4 of this act, subject only to review in a court of equity for fraud or gross mistake.

SEC. 7. The right to sell, assign, transfer, and mortgage all the rights, powers, and privileges conferred by this act is hereby granted to J. T. Burnett, his heirs, legal representatives, and assigns, and any corporation to which, or any person to whom such rights, powers, and privileges may be sold, assigned, or transferred, or who shall acquire the same by mortgage foreclosure or otherwise, is hereby authorized and empowered to exercise the same as fully as though conferred herein directly upon such corporation or person.

SEC. 8. The right to alter, amend, or repeal this act is hereby expressly reserved.

Mr. DENISON. Mr. Speaker, I desire to offer two small amendments to correct the text.

The SPEAKER. The gentleman from Illinois offers an amendment, which the Clerk will report.

The Clerk read as follows:

On page 5, line 5, strike out the word "and," and on page 5, line 13, strike out the word "its" and substitute the word "his."

The amendment was agreed to.

The bill as amended was ordered to be read a third time, was read the third time, and passed.

A motion to reconsider was laid on the table.

A similar House bill was laid on the table.

THE SURCHARGE ON PULLMAN FARES

Mr. BOYLAN. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by printing a small editorial from the New York Evening World of April 18, 1928, on the Pullman surcharge bill.

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

There was no objection.

Mr. BOYLAN. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the following:

While Congress is considering the removal of the remaining wartime taxes it might well turn its attention to one tax of war origin whose proceeds do not go into the Federal Treasury. This is the surcharge of 50 per cent on Pullman tickets. It was originally imposed when the Government was in control of the railroads and was intended for the twofold purpose of raising revenue and discouraging civilian travel when a large part of the railway equipment was needed for moving troops.

After the armistice this surcharge was discontinued, but in 1920, when the roads were hard hit by the postwar inflation, the Interstate Commerce Commission restored it. Since then conditions have changed, and the reasons for its retention appear to be no longer valid. An examiner of the commission has recommended its removal, but the commission itself has not been able to agree whether it should be removed or only reduced. Meantime the Senate has twice passed a bill for its repeal, but so far the House has failed to act.

It has been objected that a bill of this character puts rate making into the hands of Congress. The measure now before Congress, however, prescribes no rates, but leaves that function to the Interstate Commerce Commission, where it properly belongs. It merely prescribes a policy which the commission is to follow by stipulating that there shall be no discrimination or double charges for the same service. The Pullman surcharge is in effect a double payment, for which the passenger gets nothing in return. Its proceeds do not go to the Pullman Co., which renders the special service, but to the railway company.

As a second objection to the repeal of the surcharge it is urged that the roads badly need the money. Whether they do or not, a discrimination against one class of traffic is hardly the proper way to get it.

BILLS AND JOINT RESOLUTION SIGNED

Mr. CAMPBELL, from the Committee on Enrolled Bills, reported that they had examined and found truly enrolled bills and a joint resolution of the following titles, when the Speaker signed the same:

H. R. 4357. An act for the relief of William Childers;

H. R. 6492. An act to authorize the Secretary of War to donate to the city of Charleston, S. C., a certain bronze cannon; and

H. J. Res. 177. An act authorizing the erection of a flagstaff at Fort Sumter, Charleston, S. C., and for other purposes.

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 3594. An act to extend the period of restriction in lands of certain members of the Five Civilized Tribes, and for other purposes.

ADJOURNMENT

Mr. TILSON. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 6 minutes p. m.) the House adjourned until to-morrow, Tuesday, May 8, 1928, at 12 o'clock noon.

COMMITTEE HEARINGS

Mr. TILSON submitted the following tentative list of committee hearings scheduled for Tuesday, May 8, 1928, as reported to the floor leader by clerks of the several committees:

COMMITTEE ON FOREIGN AFFAIRS

(10.30 a. m.)

To ascertain if the State Department is adequately equipped in both its foreign and domestic services (H. Res. 87).

To provide for the reorganization of the Department of State (H. R. 13179).

COMMITTEE ON THE DISTRICT OF COLUMBIA

(10.30 a. m.)

To authorize the merger of street-railway corporations operating in the District of Columbia (H. J. Res. 276).

COMMITTEE ON AGRICULTURE

(10 a. m.)

For the prevention and removal of obstructions and burdens upon interstate commerce in cotton by regulating transactions on cotton-futures exchanges (H. R. 11017).

COMMITTEE ON NAVAL AFFAIRS

(10.30 a. m.)

To authorize the Secretary of the Navy to proceed with the construction of certain public works (H. R. 13319).

COMMITTEE ON RIVERS AND HARBORS

(10 a. m.)

To consider a report from the Chief of the Army Engineers on the proposal to deepen the Great Lakes channel.

COMMITTEE ON THE JUDICIARY

(10 a. m.)

Prescribing the procedure for forfeiture of vessels and vehicles under the customs navigation and internal revenue laws (H. R. 12730).

COMMITTEE ON BANKING AND CURRENCY

(10.30 a. m.)

To amend the act approved December 23, 1913, known as the Federal reserve act; to define certain policies toward which the powers of the Federal reserve system shall be directed; to further promote the maintenance of a stable gold standard; to promote the stability of commerce, industry, agriculture, and employment; to assist in realizing a more stable purchasing power of the dollar (H. R. 11806).

EXECUTIVE COMMUNICATIONS, ETC.

488. Under clause 2 of Rule XXIV, a letter from the Secretary of War, transmitting report from the Chief of Engineers on preliminary examination and survey of Norfolk Harbor, Va., with a view to deepening, widening, and extending the channel in the Western Branch of Elizabeth River (H. Doc. No. 265), was taken from the Speaker's table and referred to the Committee on Rivers and Harbors and ordered to be printed, with illustration.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. GRAHAM: Committee on the Judiciary. H. R. 170. A bill to provide for the care of certain insane citizens of the Territory of Alaska; with amendment (Rept. No. 1540). Referred to the Committee of the Whole House on the state of the Union.

Mr. GRAHAM: Committee on the Judiciary. H. R. 9778. A bill to amend an act entitled "An act providing for the revision and printing of the index to the Federal Statutes," approved March 3, 1927; without amendment (Rept. No. 1541). Referred to the Committee of the Whole House on the state of the Union.

Mr. GRAHAM: Committee on the Judiciary. H. R. 7200. A bill to amend section 321 of the Penal Code; with amendment (Rept. No. 1542). Referred to the House Calendar.

Mr. WRIGHT: Committee on Military Affairs. H. R. 9961. A bill to equalize the rank of officers in positions of great responsibility in the Army and Navy; with amendment (Rept. No. 1547). Referred to the Committee of the Whole House on the state of the Union.

Mr. WRIGHT: Committee on Military Affairs. H. R. 12449. A bill to define the terms "child" and "children" as used in the acts of May 18, 1920, and June 10, 1922; with amendment (Rept. No. 1548). Referred to the Committee of the Whole House on the state of the Union.

Mr. McSWAIN: Committee on Military Affairs. H. R. 12689. A bill authorizing the sale of surplus War Department real property at Jeffersonville, Ind.; with amendment (Rept. No. 1549). Referred to the Committee of the Whole House on the state of the Union.

Mr. WRIGHT: Committee on Military Affairs. S. 1829. An act to authorize the collection, in monthly installments, of indebtedness due the United States from enlisted men, and for other purposes; without amendment (Rept. No. 1550). Referred to the Committee of the Whole House on the state of the Union.

Mr. WRIGHT: Committee on Military Affairs. S. 1828. An act to amend the second paragraph of section 5 of the national defense act, as amended by the act of September 22, 1922, by adding thereto a provision that will authorize the names of certain graduates of the General Service Schools and of the Army War College, not at present eligible for selection to the General Staff Corps eligible list, to be added to that list; without amendment (Rept. No. 1551). Referred to the House Calendar.

Mr. WRIGHT: Committee on Military Affairs. H. R. 12352. A bill to require certain contracts entered into by the Secretary of War, or by officers authorized by him to make them, to be in writing, and for other purposes; without amendment (Rept. No. 1552). Referred to the House Calendar.

Mr. SNELL: Committee on Rules. H. Res. 188. A resolution providing for the consideration of S. 777, an act making eligible for retirement, under certain conditions, officers and former officers of the Army, Navy, and Marine Corps of the United States, other than officers of the Regular Army, Navy, or Marine Corps, who incurred physical disability in line of duty while in the service of the United States during the World War; without amendment (Rept. No. 1554). Referred to the House Calendar.

Mr. GLYNN: Committee on Military Affairs. H. R. 10363. A bill to provide for the construction or purchase of two L boats for the War Department; without amendment (Rept. No. 1556). Referred to the Committee of the Whole House on the state of the Union.

Mr. GLYNN: Committee on Military Affairs. H. R. 10364. A bill to provide for the construction or purchase of two motor mine yawls for the War Department; without amendment (Rept. No. 1557). Referred to the Committee of the Whole House on the state of the Union.

Mr. FURLOW: Committee on Military Affairs. H. R. 10365. A bill to provide for the construction or purchase of one heavy seagoing Air Corps retriever for the War Department; without amendment (Rept. No. 1558). Referred to the Committee of the Whole House on the state of the Union.

Mr. SPEAKS: Committee on Military Affairs. S. 4216. An act to authorize the adjustment and settlement of claims for armory drill pay; without amendment (Rept. No. 1559). Referred to the Committee of the Whole House on the state of the Union.

Mr. BRITTEN: Committee on Naval Affairs. H. R. 12032. A bill to amend the act entitled "An act to readjust the pay and allowances of the commissioned and enlisted personnel of the Army, Navy, Marine Corps, Coast Guard, Coast and Geodetic Survey, and Public Health Service," approved June 10, 1922, as amended; with amendment (Rept. No. 1560). 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. BECK of Wisconsin: Committee on Claims. H. R. 11153. A bill for the relief of Harry C. Tasker; with amendment (Rept. No. 1543). Referred to the Committee of the Whole House.

Mrs. LANGLEY: Committee on Claims. H. R. 12021. A bill for the relief of Samuel S. Michaelson; without amendment (Rept. No. 1544). Referred to the Committee of the Whole House.

Mr. GRAHAM: Committee on the Judiciary. H. R. 12809. A bill to permit the United States to be made a party defendant in a certain case; with amendment (Rept. No. 1545). Referred to the Committee of the Whole House.

Mr. WARE: Committee on Claims. S. 1122. An act for the relief of S. Davidson & Sons; with amendment (Rept. No. 1546). Referred to the Committee of the Whole House.

Mr. WRIGHT: Committee on Military Affairs. H. R. 8341. A bill to amend the national defense act, approved June 3, 1916, as amended; with amendment (Rept. No. 1553). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of Rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GAMBRILL: A bill (H. R. 13590) creating a commission to investigate and report on the relocation of the food-distributing district of the District of Columbia to be moved to make way for the public-building program, and for other purposes; to the Committee on the District of Columbia.

By Mr. KEARNS: A bill (H. R. 13591) authorizing the Ripley Bridge Co., its successors and assigns (or his or their heirs, legal representatives, and assigns), to construct, maintain, and operate a bridge across the Ohio River at or near Ripley, Ohio; to the Committee on Interstate and Foreign Commerce.

By Mr. HOWARD of Nebraska: A bill (H. R. 13592) authorizing H. A. Rinder, his successors and assigns, to construct, maintain, and operate a bridge across the Missouri River at or near Niobrara, Nebr.; to the Committee on Interstate and Foreign Commerce.

By Mr. REID of Illinois: A bill (H. R. 13593) granting the consent of Congress to the city of Dundee, State of Illinois, to construct, maintain, and operate a footbridge across the Fox River within the city of Dundee, State of Illinois; to the Committee on Interstate and Foreign Commerce.

By Mr. CASEY: A bill (H. R. 13594) to provide for the cooperation of the Federal Government in the sesquicentennial of the Battle of Wyoming; to the Committee on the Library.

By Mr. COCHRAN of Missouri: A bill (H. R. 13595) to punish the sending through the mails of certain threatening communications; to the Committee on the Post Office and Post Roads.

By Mr. HOPE: A bill (H. R. 13596) to amend the packers and stockyards act, 1921; to the Committee on Agriculture.

By Mr. UPDIKE: A bill (H. R. 13597) to prohibit the making of photographs, sketches, or maps of vital military and naval defensive installations and equipment, and for other purposes; to the Committee on Military Affairs.

By Mr. SMITH: Joint resolution (H. J. Res. 298) providing for the delivery of water on the Okanogan irrigation project, Washington, during the season of 1928; to the Committee on Irrigation and Reclamation.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. CARTER: A bill (H. R. 13598) for the relief of Robert W. Miller; to the Committee on Claims.

By Mr. CRAIL: A bill (H. R. 13599) granting a pension to Rosanna Monroe; to the Committee on Invalid Pensions.

By Mr. DOUGLAS of Arizona: A bill (H. R. 13600) for the relief of C. R. Olberg; to the Committee on Indian Affairs.

By Mr. FULMER: A bill (H. R. 13601) for the relief of Herbert Warren McCollum; to the Committee on Claims.

By Mr. GARDNER of Indiana: A bill (H. R. 13602) granting a pension to Sarah E. McHobson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 13603) granting a pension to Alfred McClellan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 13604) granting a pension to Emily C. Colvin; to the Committee on Invalid Pensions.

By Mr. WILLIAM E. HULL: A bill (H. R. 13605) granting a pension to Cora Nevil; to the Committee on Invalid Pensions.

By Mr. LEAVITT: A bill (H. R. 13606) for the relief of Russell White Bear; to the Committee on Indian Affairs.

By Mr. McSWEENEY: A bill (H. R. 13607) granting a pension to Regina W. Smith; to the Committee on Invalid Pensions.

By Mr. MOORE of Virginia: A bill (H. R. 13608) for the relief of the estate of Moses M. Bane; to the Committee on Claims.

By Mr. SHREVE: A bill (H. R. 13609) granting a pension to Catherine Peer; to the Committee on Invalid Pensions.

By Mr. SUMMERS of Washington: A bill (H. R. 13610) granting a pension to John T. Truax; to the Committee on Invalid Pensions.

By Mr. TINKHAM: A bill (H. R. 13611) for the relief of Peter Joseph Sliney; to the Committee on Naval Affairs.

By Mr. UNDERWOOD: A bill (H. R. 13612) granting a pension to Versa Shoemaker; to the Committee on Invalid Pensions.

Also, a bill (H. R. 13613) granting a pension to Phebie Hamilton; to the Committee on Invalid Pensions.

PETITIONS, ETC.

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

7446. By Mr. BARBOUR: Resolution of State Council of California, Junior Order United American Mechanics, opposing the entry of members of the Facisti to the United States, etc.; to the Committee on Immigration and Naturalization.

7447. By Mr. KINDRED: Petition of Senator William M. Calder, in behalf of a number of Army officers who served with distinction in World War and residing in New York, for the early and favorable passage by the House of Representatives of House bill 13509, the Wainwright-McSwain bill; to the Committee on Military Affairs.

7448. By Mr. MAJOR of Missouri: Petition of citizens of Springfield, Mo., urging the passage of legislation providing increased pensions for Civil War soldiers and their dependents; to the Committee on Invalid Pensions.

7449. By Mr. MAPES: Petition of 30 retail merchants of Grand Rapids, Mich., recommending the passage of House bill 11; to the Committee on Interstate and Foreign Commerce.

7450. By Mr. CARTER: Petition of Oscar Rose and many others of Oakland, Calif., urging an amendment to the Welch bill granting increased wages to the lesser-paid Government employees; to the Committee on the Civil Service.

7451. By Mr. O'CONNELL: Petition of Chamber of Commerce of the State of New York, opposing the passage of the Norris bill (S. 3151) to limit the jurisdiction of district courts of the United States by amending the Judicial Code so that the Federal courts would not have jurisdiction in "diversity of citizenship" cases; to the Committee on the Judiciary.

7452. Also, petition of the Chamber of Commerce of the State of New York, opposing the enactment into law of the Swing-Johnson bill (S. 592 and H. R. 5773) or similar measures which shall commit the Government to the operation of hydroelectric plants and other business projects usually conducted by private enterprises; to the Committee on Irrigation and Reclamation.

7453. Also, petition of the Chamber of Commerce of the State of New York, indorsing and commends the policy being followed by the President to limit the cost of flood control to reasonable and definite amounts, and to require the States and other local authorities to supply all land and assume all pecuniary responsibility for damages that may result from the execution of the project; to the Committee on Flood Control.

7454. Also, petition of Chamber of Commerce of the State of New York favoring the passage of Senate bill 744, as amended by the House Committee on the Merchant Marine and Fisheries, but strongly indorses the recommendations herein suggested by the committee on the harbor and shipping, believing such modifications would greatly promote the purposes of the measure in developing the American merchant marine; to the Committee on the Merchant Marine and Fisheries.

7455. Also, petition of the National Federation of Post Office Clerks, Local 1022, Jamaica, N. Y., favoring the passage of House bill 10422, a bill to give day-for-day credft to employees of the Post Office Department for the time served in the Army, Navy, or Marine Corps of the United States during any war, expedition, or military occupation; to the Committee on the Post Office and Post Roads.

7456. Also, petition of A. J. Ralph, Port Washington, Long Island, N. Y., favoring the passage of the Tyson bill (S. 777) in the form it passed the Senate; to the Committee on World War Veterans' Legislation.

7457. Also, petition of the Ithaca Gun Factory, Ithaca, N. Y., favoring the passage of the Tyson-Fitzgerald bill (S. 777) without amendment; to the Committee on World War Veterans' Legislation.

7458. By Mr. SHREVE: Petition of numerous citizens of Union City, Pa., and vicinity, for the enactment of Civil War pension bill; to the Committee on Invalid Pensions.