legislation; to the Committee on Immigration and Naturalization.

469. By Mr. GREEN: Petition of citizens of the State of New Jersey, petitioning Congress not to weaken the immigration act of 1924 by repealing or suspending national-origins provisions of that act, and asking that Mexico be placed under the quota provisions of that act, and asking for needed deportation legislation; to the Committee on Immigration and Naturalization.

470. By Mr. GRIEST: Petition of Pequea Baptist Church, Lancaster County, Pa., urging the amendment of the preamble of the national Constitution; to the Committee on the Judiciary.

471. By Mr. JENKINS: Petition signed by 50 citizens of New York City, petitioning Congress to retain the national-origins provision of the immigration act of 1924; to the Committee on Immigration and Naturalization.

472. Also, petition signed by 50 citizens of New York City, petitioning Congress to retain the national-origins provision of the immigration act of 1924; to the Committee on Immigration and Naturalization.

473. Also, petition signed by 50 citizens of New York City, petitioning Congress to retain the national-origins provision of the immigration act of 1924; to the Committee on Immigration and Naturalization.

474. Also, petition signed by 50 citizens of New York City, petitioning Congress to retain the national-origins provision of the immigration act of 1924; to the Committee on Immigration and Naturalization.

475. By Mr. LEAVITT: Petition of the directors of the Huntley Project Development Association, Worden, Mont., indorsing the sugar schedule contained in the pending tariff bill (H. R. 2667); to the Committee on Ways and Means.

476. By Mr. McCORMACK of Massachusetts: Petition of the A. T. Stearns Lumber Co., F. R. Moseley, president, Neponset, Boston, Mass., protesting against duty on logs, cedar lumber, shingles, birch, and maple flooring; to the Committee on Ways and Means.

477. By Mr. O'CONNELL of New York: Petition of Chamber of Commerce of the United States of America, with reference to passports; to the Committee on Foreign Affairs.

478. Also, petition of the Maritime Association of the Port of New York, opposing the passage of House bill 121; to the Committee on the Merchant Marine and Fisheries.

479. By Mr. O'CONNOR of New York: Resolutions of the board of directors of the Maritime Association of the Port of New York, protesting against the passage of the bill entitled "A bill fixing the liability of owners of vessels"; to the Committee on the Merchant Marine and Fisheries.

SENATE

TUESDAY, *May 21, 1929*

(Legislative day of Thursday, May 16, 1929)

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

Mr. FESS. 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:

Allen	Frazier	La Follette	Smith
Ashurst	George	McKellar	Smoot
Barkley	Gillett	McMaster	Steck
Bingham	Glenn	McNary	Steiwer
Black	Goff	Metcalf	Stephens
Blaine	Goldsborough	Moses	Swanson
Blease	Gould	Norbeck	Thomas, Idaho
Borah	Greene	Norris	Thomas, Okla.
Brookhart	Hale	Nye	Townsend
Broussard	Harris	Oddie	Trammell
Burton	Harrison	Overman	Tydings
Capper	Hastings	Patterson	Vandenberg
Caraway	Hatfield	Phipps	Wagner
Connally	Hawes	Pine	Walcott
Couzens	Hayden	Pittman	Walsh, Mass.
Cutting	Heflin	Ransdell	Walsh, Mont.
Dale	Howell	Reed	Warren
Deneen	Johnson	Robinson, Ind.	Waterman
Dill	Jones	Sackett	Watson
Edge	Kean	Sheppard	Wheeler
Fess	Kendrick	Shortridge	
Fletcher	King	Simmons	

The VICE PRESIDENT. Eighty-six Senators have answered to their names. A quorum is present. The Senator from Nebraska [Mr. NORRIS] is entitled to the floor.

Several Senators addressed the Chair.

Mr. NORRIS. I yield to Senators who wish to present routine matters.

PETITIONS AND MEMORIALS

Mr. KING. Mr. President, I have been requested to present a memorial signed by the Harlem Bar Association, through its president, and the Interdenominational Preachers' Meeting of New York and vicinity, praying the Senate of the United States to appoint a committee of its Members and to take appropriate action empowering that committee to make a complete, fair, and impartial investigation of conditions in Haiti and the conduct referred to in the memorial, with a view to appropriate legislation that will free Haiti from the military control of the United States. I ask its reference to the Committee on Foreign Relations.

The VICE PRESIDENT. The memorial will be referred to the Committee on Foreign Relations.

Mr. BLAINE presented the following joint resolution of the Legislature of the State of Wisconsin, which was referred to the Committee on Finance:

STATE OF WISCONSIN.

Senate Joint Resolution 77

Joint resolution memorializing Congress of the United States to increase the duty on farm products and products that enter into the manufacture of substitutes for farm products, such as oils and fats, and copra

Whereas the dumping of foreign farm products and products that enter into the manufacture of substitutes for farm products, such as oils and fats, and copra, on American markets is in direct competition with and materially decreases the value of our home products; and

Whereas the American farmer, with his large investment in farm capital and ever-increasing expenditures, is entitled to the highest protection from foreign competition than can be afforded to his products; and

Whereas the organized farm and dairy groups of the State of Wisconsin have crystallized their sentiments in schedules carefully worked out and presented to Congress by the National Milk Producers' Federation: Now, therefore, be it

Resolved by the senate (the assembly concurring), That this legislature respectfully memorialize and urge the Congress of the United States to enact during the special session the necessary legislation which will revise the tariffs on farm products and products that enter into the manufacture of substitutes for farm products, such as oils and fats, and copra, to conform to the said schedules presented to the Congress by the National Milk Producers' Federation; and be it further

Resolved, That suitable copies of this resolution, properly attested, be forwarded to the President of the United States Senate, the Speaker of the House of Representatives, and to each United States Senator and Representative in Congress from this State.

Mr. KEAN presented the following concurrent resolution of the Legislature of the State of New Jersey, which was referred to the Committee on Interstate Commerce:

STATE OF NEW JERSEY.

A concurrent resolution recommending to the Congress of the United States that legislation providing for the regulation of interstate motor-bus passenger transportation be immediately enacted

Whereas the transportation of passengers in interstate commerce by motor bus has greatly increased; and

Whereas a large number of motor busses are engaged in this interstate traffic between New Jersey and adoining States, the operation of which is not subject to regulation under existing law; and

Whereas such unregulated operation is highly detrimental to the interests of the State of New Jersey, to the traveling public, and the public generally; and

Whereas such conditions present an urgent need for adequate Federal regulation, at least as to proper certification and control: Now, therefore, be it

Resolved by the house of assembly (the senate concurring), That the Legislature of the State of New Jersey recommends to the Congress of the United States that legislation providing for the proper certification or licensing of such interstate motor busses and such other Federal regulation as may be in the public interest be immediately enacted.

NATIONAL-ORIGINS CLAUSE OF IMMIGRATION ACT

Mr. REED. Mr. President, I send to the desk a telegram from Paul V. McNutt, national commander of the American Legion, which I ask may be read.

The VICE PRESIDENT. Without objection, the clerk will read, as requested.

The telegram was read, as follows:

INDIANAPOLIS, IND., *May 20, 1929.*

Hon. DAVID A. REED,
United States Senate, Washington, D. C.:

The American Legion strongly urges the retention of the national-origins provision of the immigration law. The American Legion from the very first has supported the present immigration law, and at the tenth annual national convention in San Antonio last October the

organization positively reaffirmed its stand by the adoption of the following resolution:

"*Resolved by the American Legion in convention assembled,* That we favor and recommend continuance of the method of restriction upon immigration in the 1924 immigration law, with its fundamental national-origins provision."

I respectfully and emphatically request that you exert every effort to support the American Legion's position.

PAUL V. MCNUTT,
National Commander.

The VICE PRESIDENT. The telegram will be referred to the Committee on Immigration.

BILLS INTRODUCED

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

By Mr. KENDRICK:

A bill (S. 1191) for the relief of Ralph H. Lasher, alias Ralph C. Lasher; to the Committee on Military Affairs.

A bill (S. 1192) granting an increase of pension to Sarah E. Hilty (with accompanying papers); to the Committee on Pensions.

A bill (S. 1193) to provide for the storage for diversion of the waters of the North Platte River and construction of the Casper-Alcova reclamation project; and

A bill (S. 1194) to provide for the storage for diversion of the waters of the North Platte River and construction of the Saratoga reclamation project; to the Committee on Irrigation and Reclamation.

By Mr. JONES:

A bill (S. 1195) to provide for the coordination of the public-health activities of the Government, and for other purposes; to the Committee on Commerce.

By Mr. KING:

A bill (S. 1196) conferring jurisdiction on the Court of Claims to hear and determine certain claims of persons to property rights as citizens of the Choctaw and Chickasaw Nations or Tribes; and

A bill (S. 1197) conferring jurisdiction on the Court of Claims to hear and determine certain claims of persons to property rights as citizens of the Choctaw and Chickasaw Nations or Tribes; to the Committee on Indian Affairs.

By Mr. VANDENBERG:

A bill (S. 1198) granting an increase of pension to Dora Nash (with accompanying papers); to the Committee on Pensions.

By Mr. GOULD:

A bill (S. 1199) granting a pension to Ellwood Z. Potter (with accompanying papers); to the Committee on Pensions.

A bill (S. 1200) to amend the act entitled "An act relative to the naturalization and citizenship of married women," approved September 22, 1922; to the Committee on Immigration.

By Mr. THOMAS of Oklahoma:

A bill (S. 1201) to authorize the establishment of an employment agency for the Indian Service; to the Committee on Indian Affairs.

By Mr. McNARY:

A bill (S. 1202) to amend sections 4, 6, 8, 9, 10, 11, 12, 25, 29, and 30 of the United States warehouse act, approved August 11, 1916, as amended; to the Committee on Agriculture and Forestry.

A bill (S. 1203) authorizing the Secretary of the Interior to convey certain lands to the county of Douglas, Oreg., for park purposes; to the Committee on Public Lands and Surveys.

By Mr. SHORTRIDGE:

A bill (S. 1204) granting a pension to Frank B. Hayes; to the Committee on Pensions.

A bill (S. 1205) for the relief of Lieut. Nicholas S. Duggan;

A bill (S. 1206) for the relief of Medical Inspector Royall Roller Richardson, United States Navy;

A bill (S. 1207) for the relief of Otto F. Schroder;

A bill (S. 1208) for the relief of Albert Ross;

A bill (S. 1209) for the relief of Edward J. Murphy;

A bill (S. 1210) to correct the naval record of Robert Hofman;

A bill (S. 1211) to further amend section 4756 of the Revised Statutes;

A bill (S. 1212) establishing a naval record for certain officers and enlisted men of the naval militia of California who performed active duty on the U. S. S. *Marion* or *Pinta* during the war with Spain; and

A bill (S. 1213) to amend section 30 of the act entitled "An act providing for sundry matters affecting the naval service, and for other purposes," approved March 4, 1925; to the Committee on Naval Affairs.

By Mr. CUTTING:

A bill (S. 1215) to provide for the aiding of farmers on wet lands in any State by the making of loans to drainage districts, levee districts, levee and drainage districts, counties, boards of supervisors, and/or other political subdivisions and legal entities, and for other purposes; to the Committee on Irrigation and Reclamation.

By Mr. HATFIELD:

A bill (S. 1216) granting a pension to John Mainard; to the Committee on Pensions.

A bill (S. 1217) for the relief of Martin L. Chandler; to the Committee on Military Affairs.

By Mr. SWANSON:

A bill (S. 1218) appropriating money for improvements at Wakefield, Westmoreland County, Va., the birthplace of George Washington; to the Committee on the Library.

By Mr. BROUSSARD:

A bill (S. 1219) to provide for a preliminary examination and survey for the enlargement of Bayou Lafourche, La.; to the Committee on Commerce.

By Mr. SCHALL:

A bill (S. 1220) for the relief of Rear Admiral Douglas E. Dismukes, United States Navy, retired; to the Committee on Naval Affairs.

By Mr. HOWELL:

A bill (S. 1221) for the relief of U. R. Webb; to the Committee on Claims.

PHILIP R. ROBY

Mr. WALSH of Massachusetts. I introduce a private bill for appropriate reference, and attached to the bill is a memorandum which I ask to have printed in the RECORD.

The bill (S. 1214) granting compensation to Philip R. Roby was read twice by its title and referred to the Committee on Finance; and there being no objection the accompanying memorandum was likewise referred and ordered to be printed in the RECORD, as follows:

MAY 20, 1929.

Memorandum as to case of Philip R. Roby

Philip R. Roby served in the sanitary detachment, First New Hampshire Infantry, National Guard, enlisting June 5, 1917, and was discharged with a "blue" (undesirable) discharge, but Mr. Roby believed this to be an honorable discharge given by reason of his disability of tuberculosis.

In 1919 and 1920 Mr. Roby on several occasions tried to make application for compensation, but on presenting his discharge was informed by the local Red Cross unit, etc., that he was not entitled to any benefits, due to the character of his discharge. In July of 1928, through the efforts of persons interested in him, the War Department took up the blue discharge, which they indicated was issued in error, and issued an honorable discharge by reason of disability. Mr. Roby immediately took his case up with the Veterans' Bureau, they acknowledged his claim, and paid him compensation retroactive for one year; that is, to July 13, 1927. Section 210 of the World War veterans' act specifically states "that no compensation shall be payable for any period more than one year prior to the date of claim therefor," and accordingly the Veterans' Bureau, under the law, are unable to make further retroactive payments, although they frankly admit Mr. Roby is entitled to the same.

Had it not been for the error of the War Department, Mr. Roby would have received compensation since his discharge. This bill seeks to correct that error and injustice.

AMENDMENT TO TARIFF BILL—TURPENTINE, ROSIN, ETC.

Mr. FLETCHER submitted an amendment intended to be proposed by him to House bill 2667, the tariff revision bill, which was referred to the Committee on Finance and ordered to be printed.

AMENDMENT OF THE RULES—OPEN EXECUTIVE SESSIONS

Mr. JONES. Mr. President, there appeared in the paper this morning what purports to be a statement of a vote in executive session a day or two ago. It simply emphasizes the impractical character of our rules with reference to the transaction of business in executive session. It seems to me it emphasizes the necessity of taking some action with reference to the matter. Therefore I desire to give notice that at the first opportunity after the bill which is now the unfinished business shall have been disposed of I expect to call up my proposed amendment to the rules relating to executive business.

Mr. BORAH. Mr. President, I have prepared a resolution, but before I submit it I want to ask the Senator from Washington if the motion to amend the rules which he proposes to call up will be considered in open session?

Mr. JONES. I expect it to be considered in that way.

The VICE PRESIDENT. The Chair will state that, it being a proposed amendment to the rules, it will be considered in open session unless the Senate otherwise orders.

Mr. BORAH. In view of that fact, I shall not offer my resolution at this time.

Mr. BARKLEY. Mr. President, apropos of what the Senator from Washington said, I have on more than one occasion expressed my opposition to secret sessions and the failure to make public the roll calls therein. The roll call published in the paper this morning is not accurate, and I wish to call attention to the fact that if the roll calls are to be published they ought to be published accurately. The roll call as published in the paper this morning contains the name of one Senator who was absent and paired, while the published roll call stated that he was absent and not paired. It contains the name of another Senator as present and voting when, as a matter of fact, he was absent.

Mr. HEFLIN. Who was he?

Mr. BARKLEY. I am not at liberty to state a matter of that kind, but I merely desired to let it be known that the roll call as printed is incorrect.

Mr. BLAINE and Mr. BLACK addressed the Chair.

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

Mr. NORRIS. I yield to the Senator from Wisconsin.

Mr. BLAINE. In order to overcome the very situation that the Senator from Kentucky has suggested, I ask unanimous consent that there may be printed in the RECORD an article published in the Washington Post of to-day, on page 1 and continued on page 7, the article being entitled "Roll Call of the Senate on Lenroot Revealed."

The VICE PRESIDENT. Is there objection?

Mr. BINGHAM. Mr. President, reserving the right to object, I should like to ask the Senator from Wisconsin what is the object of having the roll call printed in the RECORD, when it has already been printed in all the newspapers?

Mr. BLAINE. The answer to that question is that the Members of the Senate then would have an opportunity to let the public know exactly how they voted, without violating the rules of the Senate.

Mr. BINGHAM and Mr. BLACK addressed the Chair.

The VICE PRESIDENT. The Senator from Nebraska has the floor. Does he yield further?

Mr. NORRIS. I do not care to yield for an argument or a speech.

Mr. BINGHAM. Then, I object.

Mr. NORRIS. I now yield to the Senator from Alabama.

Mr. BLACK. Mr. President, in view of the fact that the statement has been made that the roll call as it appears in the Washington Post is incorrect, I ask unanimous consent at this time that the roll-call vote in the executive session with reference to the nomination of Judge Lenroot be printed in the RECORD.

The VICE PRESIDENT. Is there objection?

Mr. BINGHAM. A point of order, Mr. President.

The VICE PRESIDENT. The Senator from Connecticut will state his point of order.

Mr. BINGHAM. The request made by the Senator from Alabama should properly be made in executive session and not in legislative session.

The VICE PRESIDENT. The Chair would hold that the Senate by unanimous consent could order the roll call to be printed in the RECORD.

Mr. BINGHAM. Then I object.

The VICE PRESIDENT. There is objection. The Senator from Nebraska.

Mr. BLACK. Mr. President, will the Senator from Nebraska yield to me further?

Mr. BLAINE. Mr. President——

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

Mr. BLAINE. I urge my request. There was no objection, I understand.

The VICE PRESIDENT. The Senator from Connecticut [Mr. BINGHAM] objected to the request.

Mr. BLAINE. I understood the Senator from Connecticut merely to reserve the right to object, but that the objection had not in fact been entered.

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

Mr. NORRIS. I yield to the Senator from Alabama.

Mr. BLACK. Of course, I understand that the Senator from Nebraska might not want to yield for a continuance of this discussion, but if he will yield to me for one other suggestion in order to get the question squarely on record, I move at this time that the vote with reference to the nomination of Judge Lenroot——

The VICE PRESIDENT. The Chair will hold that such a motion can only be made in executive session. The Senator from Nebraska [Mr. NORRIS] has the floor.

Mr. BLACK. The Senator from Nebraska yielded to me for this purpose.

Mr. BLAINE. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator from Wisconsin will state his parliamentary inquiry.

Mr. BLAINE. What has become of the request which I made for unanimous consent?

The VICE PRESIDENT. The Senator from Connecticut [Mr. BINGHAM] objected, and the Chair has so stated.

Mr. BINGHAM. Mr. President, will the Senator from Wisconsin yield to me for a brief statement?

The VICE PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Connecticut?

Mr. BLAINE. Mr. President, just a moment. I do not understand that the Senator from Connecticut objected to the request for unanimous consent which I made, but that his objection was to the request made by the Senator from Alabama [Mr. BLACK].

Mr. BINGHAM. No, Mr. President; I did object to the request of the Senator from Wisconsin, because the Senator from Nebraska stated that he did not care to yield further. Therefore, since I was unable to explain the reason for my objection or secure the object which I desired, I was obliged to object.

Mr. BLAINE. The Senator now objects?

Mr. BINGHAM. Yes.

Mr. HEFLIN and Mr. BLACK addressed the Chair.

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

Mr. NORRIS. I yield to the senior Senator from Alabama.

Mr. HEFLIN. I wish to state to the Senator from Wisconsin that later in the day he may read into the RECORD of the Senate the roll-call vote which he desires published.

The VICE PRESIDENT. The Senator from Nebraska has the floor.

ACQUISITION OF NEWSPAPERS BY POWER TRUST

Mr. NORRIS. Mr. President, during the course of my remarks on yesterday, while our airplane was landed at Los Angeles, I reviewed to some extent certain conditions that have existed in California. Among other things, I read a letter which I had received in reference to Mr. Copley and his purchase of newspapers in California and his former connection with the Insull interests of Illinois. I am in receipt this morning of a telegram from Mr. Copley, which, in justice to him, I desire to read before I proceed further. The telegram is dated May 21, at Hollywood, Calif., is addressed to me, and reads as follows:

> Associated Press quotes you as stating that it is peculiar that Copley overlooked $5,000,000 ownership in Insull's utilities and that his bonds were handled in Aurora, Ill. I will repeat what I said to you in my cable from Naples more than one year ago.

I might digress here to say that at that time I placed the cablegram referred to in the RECORD.

> I have still all my interest in the Western United Corporation and Western United Gas & Electric Co. In that cable I told you to whom I sold control, and for two years Insull had no connection whatever with it. I retained some underlying interest which I have since sold. I have every right to expect fair treatment from you. It is reported that you said that a man in San Francisco whom you knew wrote you that I still own $5,000,000 in securities. He is a plain, common liar. I never testified before the Federal Trade Commission, being more than 4,000 miles away when that unwarranted attack was made. I explained to you by cable how it originated. My lawyer testified, but he testified of his knowledge and not of mine. I have sold every share of stock which I ever owned. I started Armstrong in business 20 years ago. I sold my interest in his business at the same time control of Western United was sold. He has been a friend of mine for years and never had anything to do with Insull until more than two years after my sale of control and at about the same time I sold all the balance. Please present my compliments to your acquaintance in San Francisco. Tell him for me that he is a plain, common liar. Please have the fairness to read this before the United States Senate and at the same time please ask the Federal Trade Commission to put me on the witness stand. I have a right to ask you this.
>
> IRA C. COPLEY.

Mr. President, as I stated yesterday, there seems to be a controversy between Mr. Copley and his attorney. The telegram to which he refers as a letter which I read was not the only statement to the same effect. I have in my possession and had here yesterday on my desk some editorials on the matter quot-

ing the testimony of his attorney to the same effect as the telegram which I read. I only read the editorial because I did not want to encumber the RECORD, but, in fairness to Mr. Copley, I desire to have his telegram printed in the RECORD and to join him in asking the Federal Trade Commission to reinvestigate that whole proposition. His attorney stated, and the evidence which I adduced here yesterday was to the effect, that he still owns considerable stock. I had here yesterday also a quotation to the same effect from a newspaper printed by him, upon which was editorial comment by another newspaper, calling attention to the same facts to which I called attention in my remarks on yesterday.

Mr. President, when the Senate took a recess last evening we were in the South considering the activities of the Power Trust in buying newspapers all through the Southland. Some of the greatest water-power possibilities on earth are in the South. Some of the Southern States are amply supplied with water power, which, if properly utilized, would make of the South the greatest manufacturing locality in the world. If the South would only consider what is being done in other places with cheap power, they would cease to permit the Power Trust to own the God-given gift that has been bestowed on them that would light all the homes and turn all the wheels of industry in that great section.

It is not only the people in their homes, Mr. President, who are interested in cheap electricity, but the manufacturing industries are likewise interested. Before I conclude to-day I am going to call attention to an official record, which only repeats in substance the statements in other official records which several years ago I called to the attention of the Senate, showing that manufacturers were claiming a tariff because their competitors in Ontario had cheap power and that manufacturers there were not handicapped as they are in this country, where they have to pay a royalty for every kilowatt to private monopoly.

However, while we are in the South, considering the newspaper situation, I want to read a portion of an editorial showing, as some of the editorials I read yesterday show, the condemnation coming from the press that is still free against the violation of the constitutional inhibition in opposition to anything that would prevent a free press. I read a portion of an editorial from the Greensboro Daily News, published in North Carolina. Honest newspaper men have been shocked at the revelations which have been made. Conscientious editors and owners of newspapers everywhere feel outraged that members of their profession should be so subservient to monopoly and greed, absolutely forgetful of the good of the public interest, which a newspaper always ought to remember, because a newspaper is a good deal like a public man; it has to take positions sometimes contrary to its financial interest; it may be it has to take positions that are unpopular in the community. The newspaper has a right to demand of a public man that he should do likewise; that he should advocate such measures as he honestly believes to be right; that he should never hesitate or falter in opposing those things which he believes to be detrimental to the common good, but they should practice what they preach. They should do likewise.

The editorial in the Greensboro News says:

IT IS NOT NEW

"No more amazing story of its kind has ever been unfolded before the reading public of the United States," the Asheville Citizen prints, than that which S. E. Thomason told the Federal Trade Commission the other day, of assurances he had from a paper company of its readiness to finance the purchase of any paper he might be interested in with a long-term paper contract. Mr. Thomason gave a list of papers in the list ownership of which he started out to acquire. Many of them are nationally known. The Citizen thinks it would probably take several hundred million dollars to finance the purchase of all these papers, which fact does not appear to have caused any bother. If the plan had succeeded, it would have given the paper manufacturing company an outlet, probably, for all the newsprint it could produce. "What is vital to the public is that it would have set up at the same time a newspaper chain so powerful as to stagger the imagination. Truly a gigantic scheme, its success would have made a newspaper colossus of somebody. What one thinks of it depends a good deal on the value one attaches to the importance of a free and independent press in a democracy such as ours. Jefferson thought it so important that he stressed it above free government itself."

Along that same line, Mr. President, I want to read an editorial, made emphatic by its publication in large type and by being spread over an entire page in the Mobile Register, printed at Mobile, Ala. I will read only portions of it. It starts out by giving a quotation from Thomas Jefferson, one that is referred to in the editorial that I have just read; and, using that as a text, it makes editorial comment.

This is the quotation:

If the choice were left to me whether to have a free press or a free government, I would choose a free press.

THOMAS JEFFERSON.

Here is some of the comment:

Newspapers free to tell the truth, and free otherwise to observe the ethical standards of respectable journalism, are edited in newspaper offices; and matter which appears in such newspapers, whether as editorial opinion, or as news, is read and known outside these offices only after what is set down is inked on white paper for the general public.

Peddlers of newspaper opinion, of news space in newspaper columns, and of newspaper prestige, are not of respectable note in American journalism. * * *

Copy for newspapers free to tell the truth is not prepared in the offices of utility corporations, or in the offices of corporations of any other kind interested in warping public opinion; it is prepared in the offices of such newspapers, edited in these offices and always with the interests of the whole public in view, and reaches the public only when it is available to all the public.

These rules are in the primer of journalism; newspaper integrity depends upon them, and they can not be disregarded without betrayal of the public newspapers are presumed to serve.

* * * * * * *

Newspapers not free to tell the truth, not free to serve the public, are not the kind of newspapers contemplated by the fathers of this Republic when they guaranteed the freedom of speech and of the press, and are not properly entitled to the extraordinary rights and privileges of a free press, nor to public confidence and respect.

Mr. President, it is refreshing to find such great and patriotic editorials as these right in the heart of the region where this Power Trust was sending its traveling men all over the country, buying newspapers here and there at almost any price. It is refreshing to know that, even in the hotbed of the country controlled to a great extent by the Power Trust there are at least some newspapers that are fearlessly and courageously speaking out in behalf of common justice and common honor for journalism. It is refreshing to know that up in Maine—in Portland, Me.—we have such a newspaper as the Evening News that can not be bribed, that can not be frightened, but that has the courage upon all occasions to speak its mind, to speak the truth as it believes the truth to be. The public are interested in seeing that we have that kind of journalism in America. All right-minded newspaper men and newspaper publishers are likewise interested in the honesty and the honor and the courage of journalism in America.

I have here, Mr. President, a letter from a newspaper man in the South. I will not read all of the letter, because a portion of it has personal reference to myself; but I want to read what the honest newspaper man thinks of the traveling men who are going over the sunny South to buy its press.

This writer says:

These birds, Hall and La Varre—

Remember, Hall and La Varre were two of the traveling men representing the International Paper & Power Co. who were traveling through the South to buy newspapers, neither one of them having any money, neither one of them a newspaper man, but they were financed by the Power Trust. They were financed by the same power corporation that bought the two Boston daily papers; and they called on this man, so he says.

These birds, Hall and La Varre, tried their best to buy the Citizen. They also made an offer for the Asheville Times, made an offer for the Greenville News and Piedmont, had an option on the Greensboro News, and intimated to Curtis Johnson that they would buy the Observer. They also made an offer for the Macon Telegraph, and tried to negotiate with Clark Howell, of the Atlanta Constitution.

There is not any end. The Federal Trade Commission has unearthed only a few of the things that have been going on. So far, we have developed only four traveling men out on the road to buy newspapers. I presume there are others; and I presume a full investigation would show that almost every newspaper in the United States has had an opportunity to sell to the Power Trust.

Mr. President, I have now concluded with the South. We are going to get back into our airplane, our flying machine, and come back to Washington; and after we turn the flying machine, unharmed and uninjured, over to Colonel Lindbergh's representatives, and separate to our various offices, I pause for a moment to take up one or two other considerations.

Before I close, I want to call attention to some testimony that was adduced here in Washington before the Federal Trade Commission in reference to the activities of Mr. Wyer. It is just a few days since Mr. Wyer was put on the witness stand

down here and he testified. He is an old representative as far as power is concerned. His name has been before the public for several years as the representative of the Power Trust. Two or three years ago, at least, on the floor of the Senate, I consumed nearly a half day in telling the Senate about his activities. He had gone over to Ontario as the representative of the National Electric Light Association to write up Ontario and its methods of generating and distributing electric current. He had written a book in which he was not only unfair but in a great many instances untruthful as to what the facts were regarding Ontario and her light situation. His book was issued as a publication of the Smithsonian Institution.

I called attention then to the fact that the Smithsonian Institution was originally founded by an Englishman; that the money that started that great institution came from a British subject; that they had fathered, through the activities of Wyer, a book that was given national circulation by the Power Trust. It was published at great length in magazines friendly to them. I remember that The Nation's Business, in great headlines, told how the Smithsonian Institution, seeking only for truth, a scientific institution of the Government, had made a careful, unbiased investigation of the water-power business in Ontario, and had condemned it, had shown that the price they were charging for power in Ontario, where they had the publicly owned institution, was higher than over here in America, where we had the blessed private initiative and private ownership.

At that time I condemned the Smithsonian Institution and its director. I said on the floor of the Senate that the Government of the United States ought to demand the resignation of the man who had permitted that great scientific institution to be inveigled into a charge which in effect was a charge against a friendly government. I told how this book had condemned the governmental activities in Ontario and how it had been circulated all over the United States. I put into the RECORD at that time the answer to Mr. Wyer's book, written by Sir Adam Beck—now dead, but at that time the head and one of the originators, nearly 20 years ago, of the Ontario system. I thought it was a dastardly attack. No matter what we may think of private ownership or Government ownership, or high rates or low rates, we ought to treat our neighbors, friendly nations, in a way that is fairly respectable, at least.

I called attention to the denunciation that Sir Adam Beck had made of this publication, and also to the fact that the Smithsonian Institution was a scientific body, and that it ought not to permit itself to be led into a controversy of this kind; but I was unable to prove then that Wyer was paid money for this business. I charged, in effect, that he represented the Electric Power Trust, but I was unable to give concrete evidence that they had hired him, that they had paid him, and that they had in effect used the good name of the Smithsonian Institution to bring into disrespect the activities of a neighboring friendly government. But the other day Wyer was put on the stand at the Federal Trade Commission hearing, and he was compelled to admit, and did admit, under oath, some things which explain clearly now what was rather mystifying before. I read from the Washington Herald of yesterday:

A giant propaganda mill, operated by Samuel S. Wyer at Columbus, Ohio, was turned inside out. At the commission hearing yesterday, Wyer admitted having been paid individually and as an "educational foundation," approximately $40,000. The bulk of this came from electric power interests.

Wyer is the tireless pamphleteer who for half a dozen years has been flooding the country with what were described as independent scientific and technical studies of the Boulder Dam project, the publicly owned Ontario Hydro-Electric system and Muscle Shoals.

Two of his studies which the power people paid for were printed in such a fashion as to make them appear to carry the prestige of the Smithsonian Institution.

That is gospel truth. If Senators will get a copy of The Nation's Business of a few years ago they will find that that was printed there in great glee. It was circulated in pamphlet form all over the United States, always giving the impression to the reader that it was something gotten out by the Smithsonian Institution.

He started to make a third study in conjunction with the Smithsonian, he testified, but the Smithsonian called the deal off.

Let us see why they called it off.

According to Wyer this third study, of Muscle Shoals, was proposed by the late C. D. Walcott, then secretary of the Smithsonian, who said facts were needed to inform public opinion.

If Senators will go back into the RECORD to the time when I attempted to expose this pamphlet of Wyer that was backed up under the name of the Smithsonian Institute, they will find that I showed on that occasion that they were doing something of this kind, and that the remark was made at one of the conferences down there, "You will start the Senator from Nebraska off if you make such an attempt. You must have somebody ready to answer him." They named the Senator who should answer him, and furnished him the document which he should use in answer. I secured a copy of it in a way which was perfectly honorable, but which I did not explain at the time. Through a good newspaper friend of mine I obtained it, however, and at the time, on the floor of the Senate, I called attention to just what they had said they were going to do, and said to the Senate, "Here I am. Now, let us have the answer."

Here is a quotation from his testimony given the other day. This is Wyer speaking. He was asked by the head of the Smithsonian Institution to prepare an argument against Muscle Shoals. They needed some facts. I am not sure but what it was the same time that I got hold of what they were doing, and mentioned it here on the floor of the Senate. He said:

At first I just laughed at him. I told him it would be impossible to get at the records. He assured me he had discussed it with the President and arrangements would be made to get access to the records.

Mr. HEFLIN. Mr. President——

The PRESIDING OFFICER (Mr. WATERMAN in the chair). Does the Senator from Nebraska yield to the Senator from Alabama?

Mr. NORRIS. I yield.

Mr. HEFLIN. What year was that?

Mr. NORRIS. I do not remember the year now, and it is not given here.

Mr. HEFLIN. It was within the last three or four years?

Mr. NORRIS. Oh, yes; since the Muscle Shoals question has been before the public. This is an argument he was going to get out in opposition to what some of us were trying to do with Muscle Shoals.

Mr. HEFLIN. Evidently President Coolidge, then, was President.

Mr. NORRIS. Evidently. That is what he testified to. Before I read this I want to say that I got some definite information so as to know whether this quotation was right, and I am assured by one who heard the testimony that it was right. He was assured that he would have no trouble to get the records. He had that assurance from the President of the United States. Then he started to do it. He said, according to the Herald:

When I got down there a cub newspaper reporter who had not yet learned newspaper ethics listened in on a conversation between me and Major Fisk, when a number of confidential things were discussed.

When the reporter's story appeared, according to Wyer, the Smithsonian withdrew and he made the survey for the Duquesne Light & Power Co., which paid him $2,400.

So this second attempt to use the Smithsonian Institution's name to get into this power controversy was thwarted by this young man whom he called a cub reporter. I suppose it was the same cub reporter who gave me the information which I had and which I used on the floor of the Senate; and they proceeded no further, as far as the Smithsonian Institution was concerned. They had men to travel under their own name. So he did the work, but he did it for the Duquesne Light & Power Co., and they paid him $2,400 for it.

Wyer said the conversation with Walcott took place in March, 1925.

That answers the question of the Senator from Alabama.

What the National Electric Light Association wanted as "scientific studies" of Ontario Hydro-Electric was indicated by Wyer in testimony that its representatives shied away from his report, and demanded "a snappy report against Government ownership."

After the dispute the light association, which had agreed to contribute $3,000, withdrew. Wyer got his pay, $15,890, from the Duquesne Light & Power Co., whose head, A. W. Thompson, had instigated the survey, according to Wyer. Thompson also is president of the Philadelphia Co., of Pittsburgh.

Mr. President, so often this investigation has disclosed evidence like that, having a direct bearing upon activities that took place several years ago, where men were in reality in secret employment of power companies and power trusts, but there was no way definitely to prove it, and when we charged, as some of us did on the floor of the Senate, that there was a trust, that they were deceiving the people through these misrepresentations, we were laughed at. We could all say now, after the revelations that have come daily from the Federal Trade Commission investigation, "We told you so." We were "dreamers" then. You would not believe us then. We were denounced as "Bolsheviks," and "socialists," and men who were trying to oppose the best interests of the people. Now the evidence discloses that the men we denounced were the hired

men of the trust, and the information as to the amount of money they have been paid has been disclosed, coming from their own unwilling lips.

Mr. President, before I close I want to offer a little evidence on the very question upon which Wyer has been attempting to deceive the people, the cost of power in Ontario compared with the cost of power in the United States. I have gone over that subject a great many times in the Senate. I have shown that the electric-light users, the power users, people of all kinds who use electric current over in Ontario, are getting it for one-half and often for one-third of the price of the same accommodation on this side of the line. But I want now to use their own witnesses to disprove their own witnesses on another occasion.

As we all know, for a long time the Ways and Means Committee of the House has been preparing a tariff bill. They get evidence from various places. People come in and testify. I am not vouching for the truth of the testimony to which I am about to refer. It comes from the enemy. It comes from those who have been fighting everybody I have been with since I have been in public life. But I am going to use their words. I am not going to offer my witnesses, I am not going to offer my testimony, but I am going into the camp of the enemy and get their testimony. I did that on a different occasion here in connection with a former tariff bill. Senators can go back into the hearings on the tariff bill before us several years ago, the one which was enacted into law and is now on the statute books, and they will find that the manufacturers of certain articles came before the committees of Congress framing a tariff because, they said, "Just across the line this article is manufactured with cheap power. They have cheap power over there." Wyer was trying to demonstrate, and these selfish interests all over the United States said he did demonstrate, that power was cheaper in the United States than in Ontario.

I have here the tariff hearings, from which I want to read. This is something new. This came out only a few days ago. It is right up to date. I am about to read from a brief filed before the Ways and Means Committee on behalf of the National Sand and Gravel Association. Who are they? That is a national association, whose members are engaged in the mining and the handling of gravel, the mining of rock, and the handling of crushed rock. They came before the Ways and Means Committee and asked for a tariff on sand and gravel and crushed rock. Does anybody wonder why they need a tariff on crushed rock and gravel?

Who are the members of this association? The president is R. C. Fletcher, of the Flint Crushed Gravel Co., of Des Moines, Iowa. The vice president is F. D. Coppock, American Aggregates Corporation, Greenville, Ohio. The secretary-treasurer is H. S. Davison, J. K. Davison & Bro., Pittsburgh, Pa. The executive committee are as follows: R. J. Potts, Potts-Moore Gravel Co., Waco, Tex.; H. V. Owens, Booneville Sand Corporation, Utica, N. Y.; F. W. Peck, Muncie Sand Co., Kansas City, Mo.; J. C. Buckbee, Northern Gravel Co., Chicago, Ill. They said:

> This brief is filed by the National Sand & Gravel Association in support of a petition for a duty of 5 cents per hundred pounds weight on all aggregates (prepared sand and gravel) imported into the United States from any source to be used for any purpose.

Why, we ask, do you want a tariff? They give several reasons. I am going to read you the first one, probably in their minds the most important one. If Senators will read all of their reasons they will reach the conclusion that it is practically the only one of any importance. The enemy is testifying. I am not saying this. The National Sand & Gravel Association is saying it. They are saying it notwithstanding that the Electric Light Trust, represented by Wyer, has said that power is cheaper over here than in Ontario. They use a great deal of power in crushing rock and mining their gravel, and they have to sort it and screen it and wash it and grade it. It all requires a great deal of power. The first reason they give is:

> Power: The power used in land pits by the Ontario manufacturers is supplied by a public-owned hydroelectric power commission known as the Ontario Hydroelectric Power Commission. This power is manufactured from natural water-power resources and is supplied to the public approximately at cost.

That is what I have always been trying to tell the Senate.

> The power necessary to the operation of the American plants is obtained from private corporations, operating at a profit, which must produce their power from coal and other high-priced fuels. The consequence is that the cost of power to the Ontario manufacturer is approximately 60 per cent of the cost of power to the American manufacturer.

Now "put that in your pipe and smoke it." Let the high-tariff men put that argument of those people up against the misleading and false arguments that have been made by the emissaries of the Power Trust in America to discredit the Ontario power business, publicly owned and publicly operated. They say in this brief that the electricity on this side of the Canadian line is made by the use of coal and over there by the use of water. I have read it all. The argument is made that it affects only the American handlers of sand and gravel within a reasonable distance of the Ontario line, and within that distance the power people of the United States get their power from the same water that makes the power on the other side. We get half of the power and our manufacturers over here use it, the same as the manufacturers across the line use it, but those people get their power over there at a cost that is only 60 per cent of ours.

Mr. President, I wonder how long the American people are going to permit themselves to be hoodwinked. When they want to do something for the special interests, they deny the people here the benefits that come from cheap electricity. They say on this side, where we have private initiative and private ownership, that we have cheaper power than over there, and yet their own people when they want to go into any business on this side of the line come to Congress and say, "If you do not give us a tariff on this product the cheap power of Ontario will drive us off the American market." Take your choice.

Two or three years ago when we had the present tariff law up for discussion this man Wyer had just issued the book about which I have been telling you. I listened to the argument here in the Senate where carbide was one of the things discussed. Carbide is used for one of the finest kinds of lights that is known. It required a great deal of power to make it. Those people came before the committee, and you can search the records and find the testimony, as I have done. They implored the committee of the House or the Senate—I think the latter committee—to give them a tariff on carbide and several other things, because they said, "Our competitor in carbide is a manufacturer of carbide over in Ontario. We do not need protection from any other country, but Ontario makes cheaper carbide than we can make," and they then gave the reason why they made carbide cheaper was because they had cheaper power, cheaper electricity. We gave them a tariff on it.

So we first penalize the consumers of electric current both in the home and in the shop and the manufacturing concerns by permitting our natural resources to be monopolized and turned over to the special interests for private profit, and then because they were making these unconscionable profits we turn around and put a tariff on whatever they make in order to protect them in the enjoyment of that unholy profit. That is our system. That is what we have been doing. That is what we are going to be asked in a few days to do on many articles in the tariff.

How long, oh, how long can this be kept up? How long is the struggling giant of human liberty going to remain asleep while the Power Trust and monopoly is binding his hands and his feet so that he will be helpless? How long are we going to permit inroads to be made upon a free press? How long are we going to continue to go back on the words of Thomas Jefferson, who said he would rather have a free press than a free country if he could not have them both, because he knew, as I know and as you know and as God knows, that we can not have a free country without a free press, and that when our press is monopolized, when it is gathered up by special interests and used for private profit, then it will soon be that human liberty will be dissipated, human liberty will commence to disappear, and there will be founded a Mussolini government on the ruins of our Republic.

We can not longer close our eyes to what has been going on. A few years ago it was said by many Senators to some of us that we were cranks; that we were honest, perhaps, and enthusiastically new; but that we were misled, that we were socialistic, that we were Bolshevistic, that we were frightened at a shadow. We were told by a Senator who has now gone to his long reward, whom I loved and with whom I served both here and in the House, that I was a dreamer, that there was nothing to come out of this water-power investigation. But now the truth is beginning to percolate out. We are finding almost every day something that dribbles out from the very lips of the men who have this country by the throat, who are trying to monopolize, as they admit, all the power in America. Every rippling stream is to be their slave. Every pound of coal that God put in the earth is to do something for them for private gain without considering the people, without considering the poor, without considering the great common people, who in this great day of civilization are just beginning to learn that electricity is the greatest civilizing influence of all the world, that

its unseen power is going eventually to come into every home, into every factory, into every activity, and that the drudge and the dirt and the smudge of existing circumstances now in our factories and our homes are going to be driven out by the enlightening and powerful influence of this unseen and but little understood power. How long are we going to struggle in the darkness? How long are we going to permit ourselves to be subjugated, knowing full well that following us our children will be economic slaves unless we rise in our might and properly represent the great people of the United States who honestly believe in freedom, in righteousness, in honesty of government, in free speech, in a free press? O my God, Mr. President, how long, oh, how long will a suffering people in a supposedly free land permit private greed and monopoly to monopolize the blessings of Almighty God?

FARM RELIEF

Mr. McNARY. Mr. President, Hon. Joseph E. Tumulty, secretary to former President Woodrow Wilson, has always shown an intelligent sympathy for those who toil. He has sent me an article which appeared in the Baltimore Sun entitled "One Farmer Recites His Story in Detail." I ask unanimous consent that the article may be printed in the RECORD.

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

The article is as follows:

[From The Baltimore Sun, May 16, 1929]

ONE FARMER RECITES HIS STORY IN DETAIL—WRITER IN GLENCOE, MD., COMPARES PAST AND PRESENT PRICES OF HIS SALES AND HIS PURCHASES AND FINDS FARM PROFITS ALL BUT INVISIBLE

To the EDITOR OF THE SUN:

SIR: It is time that you be enlightened upon a subject of which your ignorance is pitiful. Your editorial in Friday's Sun, Hard Words, proves your dense ignorance. You compare the farmer to the small grocer shelled out by competition. The farmer is being shelled out by poor prices.

You raise no howls when rich manufacturers yell for high tariff, and being both rich and powerfully organized they get it. It is all right for the taxpayer to pay half a dozen artificial costs, but anything like farmers getting living wages or relief from Congress is too absurd to consider.

Taxpayers must not dig down to give farmers anything. Why? Because the farmers have no money and no organizations to back up their demands. "To him that hath shall be given, and from him that hath not shall be taken even that which he hath."

Twenty-five years ago a grain binder could be had for $125. To-day the same costs $235. Why? Because the manufacturers found their profits zero, for the mechanics and materials in those days cost less than half of present-day prices. A mechanic worked long hours for small wages in 1904. The war came on, and these men took advantage of the stress of the times and demanded more than double wages. The farmers did not. After the war, being strongly organized, these mechanics refused to go back to starvation wages. They had become accustomed to fine automobiles, radios, social advantages, and other modern privileges and proposed to hold them. The employers dared not defy the powerful labor unions. It was the easiest thing on earth to jump on the unorganized farmer.

Now, let us see why he is such a monster asking for relief, which appears absurd to the Sun—fleecing the taxpayers' pockets even though high tariff makes the taxpayers pay many prices into rich, organized industrial lines through compulsion. We will take wheat, the staple of the world. Its prices are lower in purchasing power of the farmer's dollar, worth only 60.3 cents, than ever before in the history of the country. A report of the Federal Government says in reference to wheat: "In purchasing power the price was lower than the low price of 49 cents per bushel on December 1, 1894." Another Government report says: "The average farm price of wheat should have been about $1.35 per bushel to give wheat pre-war purchasing power at wholesale prices."

Costs of production are more than doubled in wages, and in other requirements like fertilizer much more so, because the fertilizer manufacturers would not sell at a loss, as their wages are higher and other costs in proportion. This translates into farmers' language that a grade costing $10 25 years ago now costs more than $25 per ton.

The lowest purchasing power in the history of the Nation has been cited by authority of the Federal Government. Along comes the thresher man, who 25 years ago charged 3½ cents per bushel. Now it is 7 cents. He says, too, his wages have increased as well as machinery; that his upkeep is severe; if he breaks a small piece requiring repairs many fictitious prices are charged him—some more of the high tariff to enrich manufacturers and pauperize farmers.

During the war the prices of wheat were fixed for the farmer. When he was ready to reap profit he was knocked prostrate. Twenty-five years ago men would help grow wheat at $1.50 per day and board, working long hours. If they will do it at all now it is $3 and board for only very short hours. What is the matter with the world? Does it expect the farmer to everlastingly go on feeding it at a loss, and then if he asks for living wages to be regarded as a highwayman?

Senator CARAWAY is one of the few men in Washington who understand the critical plight of the farmer, because he started as hired boy on a farm at $3 per month. The papers seek to make a boob of him because he understand his subject. Of what use is it to send lawyers, bankers, and military men to Washington expecting anything from them but ridicule toward helping farmers?

Look at the gigantic taxes farmers have to pay to keep roads for the dudes to ride over and schools to educate youths to scoff at the farmers' hardships. Look at the thefts in the roads that the farmers have paid for by the sweat of their brows, harvesting their crops in a scorching sun in the nineties, working in their fields after hours when others were riding at terrific rate to gather the cool air in fine automobiles, and then milking cows until dark, coming out of the hot stables simply drenched.

The farmers pay heavier taxes than any other class in the country, for they can not hide their operations like the bloated bondholders. The late Secretary Wallace, of the United States Department of Agriculture, an eminent authority on agriculture, said: "In most farming States taxes on farms have more than doubled; on 155 farms in Ohio, Indiana, and Wisconsin, taxes abscrbed one-third of the farm income, as compared with less than one-tenth in 1913." He further says: "The value of the wheat, oats, and tobacco crops and one-half the potato crop was required to pay taxes and interest."

A farm near Baltimore in 1907 paid $150 taxes and now pays $450. Let us cite a concrete example of the results on the same farm growing 820 bushels of wheat one year since the war from actual records and leave it to the people to act as a jury. If they don't say the farmer abundantly needs help, then we lose faith in the common sense of the American people.

Wages paid on wheat crop	$67.50
Expressage on bags	1.87
Binder twine	17.50
Threshing coal, 4,140 pounds	20.70
Fertilizer	364.88
Return bags	1.87
Threshing wages	63.38
Hire of 200 grain bags	8.80
Threshing, 74 cents per bushel	57.40
Marketing expenses	83.79
Killing weevil	5.76
Total	693.45
Received for wheat	722.51
Cost of production	693.45
Profit	29.06

Enough corn was held to feed the animals and the remainder sold, with the following results:

Wages paid on corn crop	$53.00
Tar rope	5.00
Plow repairs and paints	7.00
Cutting off 1,213 shocks	121.30
Husking, 436 shocks	48.60
Total	234.90
Sales, corn and fodder	205.20
Profit	29.70

It will be noted the farmer himself husked 727 shocks, thereby saving $72.70. Instead of $29.70 profit, there would have been, except for this, a net loss of $43.

The hay crop was very good and, after maintaining the animals, the very highest any buyer would offer was $15 per ton. Any schoolboy can estimate that these prices fail to pay growing costs. Forty years ago grass seed was had for 8½ cents per pound, against 33 cents at present. To make matters worse, the automobile highways have driven farmers' teams from the city markets, entailing $2 per ton truckage and $3 more baling expenses. A farmer who receives $7.50 to $8 per ton after his marketing expenses considers he has gotten all possible.

The price is set for his costs of production. It is set for what he sells for. He has no voice either way. It is obvious to any sensible person of ordinary intelligence that the majority of farmers are nearly bankrupt, holding out by their utmost skill and the very highest management; that such prices as those above will neither pay taxes nor wages of one man for one year, and that the situation is critical in the extreme because of the low prices a farmer receives for all he sells and the high prices he must pay for everything he has to buy, including labor.

If manufacturers get a good living, is there any reason why a farmer should not? Because without the farmer the manufacturer could not exist. To lower everything in proportion to the present prices that farmers receive is the surest basis for farm relief from Congress, and they will not yell for help.

If an organized army of farmers were to march on Washington they would get recognition. Let us all adopt a Christlike spirit to live and let live.

TWENTY-FIVE YEARS' EXPERIENCE.

GLENCOE, MD., *May 6, 1929.*

DECENNIAL CENSUS AND APPORTIONMENT OF REPRESENTATIVES

The Senate as in Committee of the Whole resumed the consideration of the bill (S. 312) to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress.

Mr. WALSH of Montana obtained the floor.

Mr. JOHNSON. Mr. President, will the Senator permit me to correct some typographical errors in the bill? It will take but a moment.

Mr. WALSH of Montana. I am glad to yield to the Senator for that purpose.

Mr. JOHNSON. On page 4, in line 17, amend the bill by striking out the period after the numeral 6 and inserting it after the parenthesis.

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

Mr. JOHNSON. On page 4, line 20, after the word "agents," strike out the comma; and in line 21, strike out the hyphen between the words "per" and "diem."

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

Mr. JOHNSON. On page 8, line 4, the word "mandatory" should be "amendatory."

The VICE PRESIDENT. Without objection the amendment is agreed to.

Mr. JOHNSON. On page 8, line 17, strike out the incorrectly spelled word "fictitious" and insert the same word properly spelled.

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

Mr. JOHNSON. On page 11, line 13, strike out the incorrectly spelled word "organization" and insert the word "organization" correctly spelled.

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

Mr. JOHNSON. On page 13, line 13, strike out the first word in the line, "be," and insert in lieu thereof the word "he."

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

THE STORY OF NEW YORK TO-DAY

Mr. WAGNER. Mr. President, I ask to have printed in the RECORD a paper which is entitled "The Story of New York To-day," being facts compiled by the Merchants' Association of the City of New York.

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

To begin at the beginning, a baby is born in New York every 4 minutes and 6 seconds—a total of 126,332 in 1928.

Using a 12-hour day as a basis of computation, couples are getting married in New York at the rate of 14 every hour—a total of 62,424 getting married in 1928. Everybody can't get married, however, and stay within the law, because in the population of 6,065,000 it is estimated there are 15,000 more females than males.

FOOD CONSUMPTION

These 6,065,000 people are consuming food at the rate of approximately 3,500,000 tons a year, an average of more than 1,000 pounds of food being consumed or wasted by every man, woman, and child.

These people use 2,659,632 quarts of milk a day, almost a pint a piece.

The health department estimates that they use 7,000,000 eggs a day.

Fifteen hundred freight cars are needed daily to bring the food that New York eats. If placed together, they would form a train 12 miles long.

New York City's annual consumption of coal amounts to approximately 21,000,000 tons, including 13,000,000 tons of virtually smokeless anthracite used for heating.

It uses annually 8,000,000 tons of bituminous coal, including 2,000,000 tons necessary to bunker the ships in the harbor.

The population of New York City is growing at the rate of 3,899 per month.

One of the factors is immigration. In the fiscal year ending June 30, 1928, 157,887 immigrant aliens and 133,217 nonimmigrant aliens, a total of 291,104, entered the country through the port of New York—more than entered the country through all the other ports of the United States combined.

35 TELEPHONE LINES TO MOON

More than 190 people in New York pick up the telephone receiver every second, on the average.

There are approximately 8,233,000 intracity telephone calls every 24 hours. In addition, the people make 508,000 commuting calls—calls within a 50-mile radius—and 34,383 long-distance calls every day.

If the telephone wires used to accommodate this service were stretched out, they would reach over one-twelfth of the distance from the earth to the sun.

The 8,367,000 miles of wire in the city would string 35 lines between the earth and the moon.

Five hundred and thirty-one thousand five hundred miles were added in 1928.

Fifty million dollars was expended last year for plant construction and improvements within the city to maintain and develop this service.

The city has 35,547 private branch telephone exchanges.

The city has 1,700,000 telephones in operation, almost one-fifth as many telephones as are in all of Europe, which, on December 31, 1927, had 8,650,000 phones.

681,818 BUILDINGS

To house the activities of New York's residents and visitors there were, on October 1, 1928, 681,818 buildings, including 277,118 one-family houses, 143,534 two-family houses, 121,557 nonelevator apartment houses, and 3,970 hotels and elevator apartments.

There are 89,263 garages and stables to accommodate their automobiles and horses.

There are still 50,000 horses in New York City, according to latest estimates.

New York's largest building (the Equitable) houses 12,000 people every day.

In addition, 50,000, or enough people to make a city almost as large as Atlantic City, N. J., visit the building every day, and 96,000 passengers are carried in its elevators.

TAX VALUES

The assessed valuation of the real property in New York is $17,133,817,310.

To support the city's public activities requires a budget of $538,928,697.

The city debt is $1,881,740,963, requiring interest payments of over $75,000,000 a year.

The city's tax levy in 1928 was $441,357,774.

9,000,000 TRAVEL EACH DAY

New York's population travels. This is shown by the fact that on an average business day over 9,000,000 passengers are carried on subway, elevated, street-car lines, and busses.

Five million six hundred and forty-two thousand six hundred and sixty-one of these travel on subway or elevated and 2,949,305 on the surface lines.

Approximately 592,000 people are carried daily on the various bus routes.

The city has normally 23,628 taxicabs in daily service.

Though 30,628 cabs are licensed, ordinarily some 7,000 of these are out of service for overhauling or some other reason.

It is estimated that 945,120 taxi fares are collected every 24 hours.

If one were to take an automobile journey through all the streets of New York, he would make a trip that would be the equivalent in distance of a journey from New York to Los Angeles, Calif., and from Los Angeles to Vancouver, British Columbia.

There are 4,702 miles of streets, of which 2,868.7 are paved and 1,833.3 are unpaved.

There are approximately 4,180 miles of water mains and over 2,600 miles of sewers.

PROVISION FOR VISITORS

New York is a Mecca for visitors.

According to the latest available count, more than 500,000 people come into New York over the railroads every business day.

Over 379,000 are commuters.

Over 127,000 people who are not commuters come into the city daily through the railroad stations.

At this rate the equivalent in numbers of the entire population of the United States visits the city in less than three years.

Of the total, 306,700 a day came from New Jersey, 84,600 a day from Westchester County, and 114,800 a day from Long Island.

To accommodate its visitors New York has 250 hotels and 94,400 hotel rooms. At a pinch the hotels can accommodate over 200,000 people.

Thirty-eight thousand seven hundred rooms were added to New York's hotel capacity in the last five years. In 1928, 5,800 rooms were added.

The hotel industry expects this rate to be maintained for the next five years.

CONVENTION RECORD

During 1928 the city entertained 1,005 conventions.

Each convention visitor remained in the city an average of four and a half days.

There were altogether over 800,000 visitors drawn by these conventions.

They expended upward of $68,000,000 for living expenses, merchandise, entertainment, and taxicab fares within the city.

Nine hundred and fifty-five thousand six hundred and thirteen automobiles were registered in the city at the end of 1928, an average of approximately one car for each six and a half residents.

Seven hundred and fifty-two thousand six hundred and fifty-two of these were passenger cars.

One hundred and fifty-seven thousand seven hundred and eighty-eight were commercial vehicles and 45,173 were omnibuses.

It is expected that this number will be exceeded considerably in 1929.

A count shows a greater number of vehicles traversing the Queensboro Bridge in a single day than any other thoroughfare in the city.

During a single day in July, 1928, 61,200 vehicles passed over the bridge in a 12-hour period from noon to midnight.

800 THEATERS

New York has 800 theaters.

Two hundred and fifty-two of these are devoted to the spoken drama.

Five hundred and forty-eight are movie houses and are rapidly becoming talkies.

For the average visitor who will be satisfied with none but first-class shows, 125 theaters are available.

Six hundred and seventy-five of New York's theaters belong to the neighborhood class.

The combined seating capacity of New York's theaters is 850,993, divided as follows:

Legitimate	338,140
Motion pictures	334,791
Neighborhood movies	178,062

HOSPITALS—DOCTORS

New York has 138 hospitals and, when the last count was made, 33,535 hospital beds.

The Academy of Medicine has listed 11,575 physicians and surgeons practicing in the city of New York.

This is approximately one physician for each 524 members of the population.

WATER SUPPLY

New York City has an exceptionally fine supply.

The major part of the supply is brought a distance of 92 miles.

In the last year an average of approximately 875,000,000 gallons were consumed each day.

This is at the rate of approximately 145 gallons per day per person. The per capita consumption of city-supplied water in London is listed at 43 gallons a day, though this does not include the supplies of manufacturing plants, which draw direct from the Thames.

POPULATION EXCEEDS LONDON'S

The New York metropolitan district, which embraces an area of 3,765.5 square miles, has a population in excess of 9,500,000, or almost one-twelfth of the population of the United States.

The population is in excess of that of Greater London, which embraces 693 square miles and in 1921 had a population of 7,480,201.

The port of New York has about 995 miles of water front, measured around piers and shore line.

It has 347 miles of wharfage and about 560 piers, many of them accommodating the largest ocean liners.

COMMERCE

Its sailings for foreign ports aggregate more than 500 vessels a month over more than 60 different trade routes.

Its nearest port competitor when the last comparison was made had 202 sailings a month along 39 routes.

With exports valued at $1,769,684,571, the port of New York in 1928 handled over 34 per cent of the exports of the entire Nation.

Imports by the United States in 1928 amounted to $4,091,120,064.

Imported goods valued at $1,949,982,707, or nearly half the United States total, came in through the port of New York.

New York's building industry is one of the modern wonders of the world.

During every day of 1928 an average of six buildings were demolished.

BUILDING INDUSTRY

But the building industry more than made up for them by erecting an average of 23 new buildings every day.

Total contracts awarded for building construction in the five boroughs of Greater New York in 1928 amounted to $1,056,120,000.

There were a total of 8,398 separate building projects, providing altogether 160,549,900 square feet, or 3,680 acres of new floor space.

Contracts were made for buildings providing over 2,600 acres of floor space to be devoted to residential purposes.

Contracts were made for 5,640 residential buildings, for 1,463 commercial buildings, for 161 educational buildings, for 82 hospitals and institutions, for 223 industrial buildings, for 103 religious and memorial buildings, for 77 public buildings, and 164 social and recreational buildings.

Contracts were let providing for over 50 acres of new floor space in social and recreational buildings alone.

The city has more than caught up with the housing shortage existing in 1919.

In the 10 years ending on December 31, 1928, $4,116,725,400 was expended on new buildings for residential purposes.

This is at the rate of over $7,700 for each individual added to the population.

In February, 1921, the city had 983,000 apartments and 915 vacancies.

In January, 1929, there were 1,316,000 apartments and 102,000 vacancies. During the intervening period there were 36,000 apartments demolished and 369,000 built, giving a net gain of 333,000.

FACTORIES AND WAGES

The value of the products of New York City's factories is equal to almost one-tenth of the value of the products manufactured by the entire country.

In 1927—date of last census of manufactures—New York City had 27,062 separate factories, in which were employed an average number of 552,507 wage earners.

These wage earners received $904,646,427 and turned out products valued at $5,722,071,259, an increase of $397,657,647 in two years.

The New York City workman is exceptionally well paid. In 1927 he received an average wage of $1,637, as against an average of $1,298 paid in wages for the country as a whole.

The New York workman is making up for his high wages by high production.

The value added by manufacture per dollar spent in wages was $3.17 in New York City, as compared with $2.54 for the rest of the country.

New York City leads the Nation in the production of wearing apparel.

It manufactured in 1927 women's clothing valued at $1,145,612,504.

Its apparel industries as a whole, without including its shoe plants, turned out goods valued at $2,181,152,223.

The product of New York's printing and publishing houses is valued at approximately $600,000,000 a year.

It manufactures food and beverage products valued at about $600,000,000 a year.

New York City is the leader in the airplane industry.

In 1927 airplane products valued at $21,000,000 were manufactured in the United States.

Of these almost $12,000,000 worth were manufactured in the New York metropolitan district.

The Aeronautical Chamber of Commerce estimates that the commercial aircraft production of the country in 1929 will amount to $100,000,000.

Six big New York firms, not including one of the largest, place their commercial plane production for 1929 at 2,815, the retail value of which, not including motors, is given at $21,456,250.

The aeronautical chamber estimates that the city will have an aircraft turnover for 1929 in excess of $35,000,000.

BRIDGE TRAFFIC

New York City has four great vehicular bridges connecting it with Brooklyn and is building another giant bridge across the Hudson to connect it with New Jersey.

On a given date in 1928, on which a count was made, 194,566 vehicles and 1,364,618 individuals crossed these bridges.

New York City has a vehicular tunnel known as the Holland Tunnel connecting it with New Jersey.

In January, 1929, 638,735 vehicles, an average of nearly 21,000 a day, passed through this tunnel.

FARMS

It is interesting to note that, according to the last Federal census, New York City, which was then approaching in size and facilities its record of to-day, should have had 810 separate farms with an area of more than 20,000 acres and products valued at over $3,500,000.

The products were chiefly corn and potatoes.

In the last nine years farms have had to give way to make room for homes and factories.

No accurate statistics are available on the number now existing.

New York City is the oldest incorporated city in the United States.

It contains 308.95 square miles of 197,727 acres. Its highest natural elevation is Todt Hill in the Borough of Richmond—430 feet—but this height is exceeded by its tallest building, the Woolworth Building, which is 58 stories and 792 feet in height.

BANKS

New York City has 38 State banks, 56 national banks, and 38 trust companies, a total of 132, with a total capital on March 22, 1929, of $663,976,800 and total deposits of $9,851,833,200. The capital has been increased by $317,000,000, while deposits have gone up nearly $3,000,000,000 in seven years. The total resources of New York national and State banks and trust companies on March 22, 1929, was $13,017,328,800.

The city has 67 savings banks. On July 1, 1928, their total deposits were $3,298,162,021.

Bank clearings in the fiscal year ending September 30, 1928, were $368,917,656,546, about four times what they were in 1915.

EDUCATION

New York City has 927 elementary and high schools, of which 664 are public schools and 263 are parochial schools.

There were 38,433 teachers in these schools and over 1,190,000 pupils.

The total city appropriation for teachers' salaries in 1929 was $111,017,364.

New York City has 37 institutions of higher education, including 13 general colleges and universities. There are 8 schools of medicine and 2 schools of law in addition to law schools connected with the larger universities, 5 technical institutions, and 4 schools of theology.

The city has 1,584 churches with a membership in 1927 of 1,611,299.

The value of the church property in New York City is over $286,000,000.

FARM RELIEF—PREROGATIVES OF THE TWO HOUSES

Mr. WALSH of Montana. Mr. President, I have sought for some days an opportunity and now embrace the occasion to supplement the argument made a week ago on the propriety from a constitutional standpoint of the action of the Senate in sending to the House of Representatives the farm relief bill with the debenture plan as a feature thereof. Although it was shown when the matter was last before the Senate that the Supreme Court of the United States has three several times decided the question at issue, the contention is still made in some quarters that, by virtue of the provision of the Constitution to the effect that all bills for raising revenue shall originate in the House of Representatives, the Senate invaded the prerogatives of the House in the action taken. It was denominated by the President pro tempore of the Senate as an affront and by a local newspaper as an insult to the House of Representatives.

I do not think, Mr. President, that any consideration of this subject would be quite complete without a reference to the speech made upon this question by former Senator Spooner, of the State of Wisconsin, some 25 years ago. This is by no means a new question. Innumerable controversies have arisen between the two Houses of Congress concerning the application of this particular provision of the Constitution. The distinguished Senator from Ohio [Mr. BURTON], whose ability as a lawyer every one having any knowledge of him must recognize, referred to another speech on another occasion by Senator Spooner, dealing with this subject, in which he argued that the word "raising" in the constitutional provision referred to does not mean "increasing," but means "acquiring" or "getting" or "receiving." He argued, accordingly, that a bill which reduced revenues was as much a bill for raising revenue as a bill which increased taxes or duties. I fully agree with that. I think there can be no doubt at all that that contention is correct; but it by no means follows, Mr. President, that a bill that actually repeals a law imposing a tax is a bill for raising revenue. No definition can be given to the word "raising" in the Constitution which, as I view it, could include a bill of that character.

I realize, as was suggested by the distinguished leader of the Republicans in this body, the wisdom and, indeed, the necessity for harmonious action between the two branches of Congress in order that the public business may be transacted at all. I do not think, however, that such harmony is to be arrived at by either body acceding, without discussion, to any whim or caprice that may be indulged in by the other body, but it is to be arrived at by careful and dispassionate consideration of the questions that arise from time to time, each of the Houses endeavoring to resolve it upon the basis of reason and authority, so far as its action can be guided by authority.

Mr. President, I wish to recall to the attention of the Senate the fact that in 1926 we originated in this body what was generally known as the McNary-Haugen bill. It contained, as is well understood, the equalization-fee feature, which was nothing more nor less than a tax imposed upon every commodity which was to be favored under that particular legislation, and the amount thereof was to be paid into the Public Treasury. The bill passed this body with such a provision as that in it. It went over to the House of Representatives, was considered by the House without the question of any invasion of its privileges by the action of the Senate being raised by anyone. It was passed by the House and sent to the President, by whom it was vetoed. The Senate passed Senate bill 4808 and sent it to the House of Representatives on February 11, 1927. In that House it was substituted for House bill 15474, was passed on February 17, 1927, and was vetoed by the President on February 25, 1927.

It will be borne in mind, Mr. President, that the debenture feature of the farm relief bill passed by this body a short time ago does not undertake to put a dollar into the Treasury of the United States. By its operation revenue which would otherwise go into the Treasury does not go into the Treasury. On the contrary, the equalization-fee feature of the McNary-Haugen bill actually put money into the Treasury, yet not a word by way of opposition on constitutional grounds was urged in the House of Representatives to that measure. It would appear accordingly that those who now contend that the farm relief bill recently passed offends the constitutional provision are straining at a gnat when they easily swallowed a camel.

Mr. BROOKHART. Mr. President——

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from Iowa?

Mr. WALSH of Montana. I yield.

Mr. BROOKHART. I should like to call the attention of the Senator from Montana to the intermediate-credit bank law which, in the Senate, was known as the Lenroot bill. I think the Senator from Montana made the argument the other day that where a tax is originated in the Senate, but is only incidental to the main feature of the bill under consideration, it is not a violation of the constitutional provision. The Lenroot bill which we passed provided for a franchise tax; it is called a tax in the law, and raises money, in that case, for the Treasury of the United States. Yet that bill went over to the House and was received without any question in 1923.

Mr. WALSH of Montana. I thank the Senator for the information. I have no doubt that innumerable instances might be cited of bills originating in this body which, by virtue of some of their provisions, brought money into the national Treasury being debated, considered, and concurred in by the House without any objection upon constitutional grounds.

Mr. SWANSON. Mr. President——

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from Virginia?

Mr. WALSH of Montana. I yield.

Mr. SWANSON. If I remember accurately, the Senator from Montana who is now addressing the Senate objected to the McNary-Haugen bill at that time on account of its being unconstitutional.

Mr. WALSH of Montana. My objection on constitutional grounds, however, was not founded upon this particular provision of the Constitution. I made no objection upon that ground at all.

I referred, Mr. President, to the address of former Senator Spooner in this body. The bill then under consideration related to the Panama Canal. A bill originated in the House of Representatives and, coming over here, everything after the enacting clause was stricken out, and there was inserted in lieu thereof a provision by which the tax on Panama Canal 2 per cent bonds was reduced from 1 per cent to one-half of 1 per cent. At that time there was a general law providing that the holders of all 2 per cent bonds issued by the Government of the United States should pay a tax thereon of 1 per cent. It was intended to put the Panama bonds upon the same basis. The 2 per cent bonds carried a one-half per cent tax, but the Panama Canal act provided that the bonds issued under that act bearing 2 per cent interest should be taxed to the extent of 1 per cent. The Senate bill provided for the reduction of that tax from 1 per cent to one-half of 1 per cent, and it would, therefore, be a revenue bill if it were simply a matter having to do with the reduction of a tax, but it was an amendment to the act for the construction and operation of the Panama Canal, and it was just merely to amend that particular feature of the fact.

I will read some extracts from the address of former Senator Spooner, as a considerable portion of his address is found in the second volume of Hinds' Precedents at section 1494, on page 963. Senator Spooner said:

> If the House of Representatives is correct in its view that the bill is a bill "for raising revenue," within the meaning of section 7 of Article I of the Constitution, certainly the bill is properly returned and must rest here.

I should say in this connection that the Senate substitute was offered by the then eminent Republican leader, Senator Aldrich, of Rhode Island, who argued against the contention then made by the House that the bill was a bill for raising revenue and should originate in the House of Representatives.

Senator Aldrich having completed his argument, he was followed by Senator Spooner. He said:

> If the House of Representatives is wrong, the Senate has no right to yield its jurisdiction. No department of the Government has any right to surrender any portion of the power or responsibility with which the Constitution has clothed it. It is vital, both as to the National Government and to the State governments, that the line of demarcation drawn by the framers of the Constitution of the United States and of the various States between the three independent and coordinate branches of the Government shall be observed always with the utmost strictness, to the end that neither shall in the slightest degree invade the other.

He continues:

> But, Mr. President, if the House of Representatives, 357 of whose Members voted for this resolution challenging the power of the Senate—rising to make it more solemn—is right, then the Senate is deprived of

a legislative jurisdiction which from the foundation of the Government it has exercised and it is weakened in the legislative power to the detriment of the public interest.

He then proceeds to discuss the question, and says:

Under existing law the 2 per cent canal bonds heretofore authorized could, when issued, be used as a basis for national-bank circulation. Under existing law the tax upon that circulation would be 1 per cent. The law which is made by this bill to apply to the canal bonds relates to 2 per cent bonds, and to encourage their purpose and use as a basis for bank circulation reduces the tax from 1 per cent to one-half of 1 per cent. So the bill which was returned to us was simply a bill bringing these 2 per cent canal bonds upon the same basis in respect of taxation with all 2 per cent bonds of the Government.

Is it possible, Mr. President, that it can with reason be said that the object of this bill is to "raise revenue" for the support of the Government?

The question is this: Is the bill, which was introduced as a separate proposition by the Senator from Colorado [Mr. Teller], and which the Senate passed, a revenue bill within the meaning of section 7 of the first article of the Constitution?

"All bills for raising revenue shall originate in the House of Representatives."

This brings us to the question: What is a "revenue bill" within the meaning of the Constitution?

The definition is well settled, thus:

"Revenue laws: Laws made for the direct and avowed purpose of creating and securing revenue or public funds for the service of the Government." (Anderson's Law Dictionary, p. 899.)

This embraces clearly all bills passed in the exercise of the taxing power, whether in the form of customs duties or internal-revenue taxation, for the purpose of raising money for the support of the Government.

This definition excludes, and the constitutional provision was intended to exclude, bills passed in the exercise of constitutional powers other than the taxing power, even if they operated to raise revenue or even if they imposed incidentally a tax or taxes to secure the more efficient and successful exercise of the power.

Such bills or laws have never been, either in practice or judicially, deemed "revenue" bills or laws.

Congress enacts laws from time to time which operate to raise revenue. The post office laws operate to raise revenue. Congress frequently changes the post office laws so as to raise more revenue. But it has not been contended for many years—it was once—that those were revenue bills within the meaning of this clause of the Constitution.

The power to create national banks is a power which exists in Congress. It is not the sole prerogative of either House. It is not the taxing power. It is legislation which Congress may enact under the money power; and the Supreme Court of the United States has so decided. The taxation imposed from the beginning upon the circulation of national banks is purely incidental to the exercise by the Congress in creating national banks, in supplying the people with the circulation of national banks, of a distinct power vested by the Constitution in either House. * * *

Mr. President, the definition of "revenue laws" which I read to the Senate is taken from Mr. Justice Story (see United States *v.* Mayo, 1 Gall. 398, and Story on Constitution, sec. 880), and the Supreme Court, in the case of United States *v.* Norton (91 U. S. 568), had occasion to consider carefully the question as to what is meant by the phrase "revenue bill" or what the word "revenue" as used in section 7 of Article I of the Constitution means. This was a post-office money order case.

"The Constitution of the United States, Article I, section 7, provides that 'all bills for raising revenue shall originate in the House of Representatives.'

"The construction of this limitation is practically well settled by the uniform action of Congress. According to that construction it 'has been confined to bills to levy taxes in the strict sense of the words and has not been understood to extend to bills for other purposes which incidentally create revenue.' (Story on the Constitution, sec. 880.) 'Bills for raising revenue' when enacted into laws become revenue laws. Congress was a constitutional body sitting under the Constitution. It was, of course, familiar with the phrase 'bills for raising revenue' as used in that instrument and the construction which had been given it.

"The precise question before us"—

That is, as to what was meant by a "revenue bill" under this clause of the Constitution—

"came under the consideration of Mr. Justice Story, in the United States *v.* Mayo (1 Gal. 396). He held that the phrase 'revenue laws,' as used in the act of 1804, meant such laws 'as are made for the direct and avowed purpose of creating revenue or public funds for the service of the Government.' The same doctrine was reaffirmed by that eminent judge in the United States *v.* Cushman, 426."

These views commend themselves to our judgment.

Here is an interesting and original discussion of the question, and I will take but a moment with it before I bring to the attention of the Senate a decision by the Supreme Court of the United States declaring this very section involved between the Senate and the House not to be a revenue bill within that clause of the Constitution invoked by the House. I read from the case of the United States on the relation of Oran C. Michels *v.* Thomas L. James, postmaster of the city of New York (13 Blatchford's Circuit Court Repts. 207). After quoting the clause, "All bills for raising revenue shall originate in the House of Representatives," the court says:

"Certain legislative measures are unmistakably bills for raising revenue. These impose taxes upon the people, either directly or indirectly, or lay duties, imposts, or excises for the use of the Government, and give to the persons from whom the money is exacted no equivalent in return, unless in the enjoyment, in common with the rest of the citizens, of the benefit of good government."

That is a well-thought-out distinction and definition.

"It is this feature which characterizes bills for raising revenue"—

Taxes levied throughout the United States upon all coming within the purview of the act to raise revenue for the general uses of the Government and of all of the people—

"It is this feature which characterizes bills for raising revenue. They draw money from the citizen; they give no direct equivalent in return. In respect to such bills it was reasonable that the immediate representatives of the taxpayers should alone have the power to originate them. Their immediate responsibility to their constituents and their jealous regard for the pecuniary interests of the people, it was supposed, would render them especially watchful in the protection of those whom they represented. But the reason fails in respect to bills of a different class. A bill regulating postal rates for postal service provides an equivalent for the money which the citizen may choose voluntarily to pay. He gets the fixed service for the fixed rate, or he lets it alone, as he pleases and as his own interests dictate. Revenue, beyond its cost, may or may not be derived from the service and the pay received for it, but it is only a very strained construction which would regard a bill establishing rates of postage as a bill for raising revenue, within the meaning of the Constitution. This broad distinction existing in fact between the two kinds of bills, it is obviously a just construction to confine the terms of the Constitution to the case which they plainly designate. To strain those terms beyond their primary and obvious meaning, and thus to introduce a precedent for that sort of construction, would work a great public mischief. Mr. Justice Story, in his Commentaries on the Constitution (sec. 880), puts the same construction upon the language in question and gives his reasons for the views he sustains, which are able and convincing. In Tucker's Blackstone only, so far as authorities have been referred to, is found the opinion that a bill for establishing the post office operates as a revenue law. But this opinion, although put forth at an early day, has never obtained any general approval; but both legislative practice and general consent have concurred in the other view."

I read further from the address of Senator Spooner. He is referring now to the case of the Twin City Bank against Nebecker, in One hundred and sixty-seventh United States, heretofore commented upon by the Senator from Arkansas [Mr. ROBINSON]. He quotes from the opinion in that case as follows:

The case is not one that requires either an extended examination of precedents or a full discussion as to the meaning of the words in the Constitution "bills for raising revenue." What bills belong to that class is a question of such magnitude and importance that it is the part of wisdom not to attempt, by any general statement, to cover every possible phase of the subject. It is sufficient in the present case to say that an act of Congress providing a national currency, secured by a pledge of bonds of the United States, and which, in the furtherance of that object, and also to meet the expenses attending the execution of the act, imposed a tax on the notes in circulation of the banking associations organized under the statute, is clearly not a revenue bill which the Constitution declares must originate in the House of Representatives.

Mr. Justice Story has well said that the practical construction of the Constitution and the history of the origin of the constitutional provision in question proves that revenue bills are those that levy taxes in the strict sense of the word, and are not bills for other purposes which may incidentally create revenue. (1 Story on Constitution, sec. 880.)

That was the language of Mr. Justice Story long ago, incorporated in this opinion and expressly affirmed, and also in the Ninety-first United States, by unanimous decision of the Supreme Court. The court continues:

"The main purpose that Congress had in view was to provide a national currency based upon United States bonds, and to that end it was deemed wise to impose the tax in question. The tax was a means for effectually accomplishing the great object of giving to the people a currency that would rest primarily upon the honor of the United States and be available in every part of the country. There was no purpose

by the act or by any of its provisions to raise revenue to be applied in meeting the expenses or obligations of the Government."

Now, Mr. President, I do not intend to take further time. Here is to be found, under the strongest possible sanction, a definition of the word "revenue," as used in this constitutional provision, made a great many years ago by Judge Story, practically adopted by both bodies ever since, sustained by a number of decisions which I have not stopped to even note, and lastly sustained in language too plain for dispute by the Supreme Court of the United States. Nothing can be plainer than that this bill and kindred bills do not fall within that definition.

There seems to be no answer to the suggestion of the Senator from Rhode Island [Mr. Aldrich] that if section 1 as sent to us by the House of Representatives is a revenue bill within the meaning of section 7 of article I of the Constitution we have a right under that clause to add to it a tariff bill or amendments to the internal-revenue law. An attempt to treat the bill as a revenue bill for such a purpose could not fail to excite derision.

Mr. President, so much reference has been made to the opinion of Story on the matter that I desire to read to the Senate the paragraph to which reference was made.

Section 880 in the first volume of Story is as follows:

What bills are properly "bills for raising revenue," in the sense of the Constitution, has been matter of some discussion. A learned commentator supposes that every bill which indirectly or consequentially may raise revenue is, within the sense of the Constitution, a revenue bill. He therefore thinks that the bills for establishing the post office and the mint, and regulating the value of foreign coin, belong to this class and ought not to have originated (as in fact they did) in the Senate. But the practical construction of the Constitution has been against his opinion. And, indeed, the history of the origin of the power already suggested abundantly proves that it has been confined to bills to levy taxes in the strict sense of the words, and has not been understood to extend to bills for other purposes, which may incidentally create revenue. No one supposes that a bill to sell any of the public lands, or to sell public stock, is a bill to raise revenue, in the sense of the Constitution. Much less would a bill be so deemed which merely regulated the value of foreign or domestic coins, or authorized a discharge of insolvent debtors upon assignments of their estates to the United States, giving a priority of payment to the United States in cases of insolvency, although all of them might incidentally bring revenue into the Treasury.

So, Mr. President, if this is the true rule—that all bills that bring revenue into the Treasury are revenue bills within this provision of the Constitution—all of our legislation concerning the disposition of the public lands consists of bills for raising revenue, because all of them bring some money into the Treasury; all of them provide for the payment of fees; and most of them, or many of them at least, provide for payment for the land itself, and that money goes into the Treasury. Yet, Mr. President, if all bills of that kind are bills for raising revenue, the power of this body to originate bills is restricted within relatively narrow limits.

Mr. President, we do pass these bills here and send them over to the House without any question being raised. For instance, there was approved May 10, 1918, a bill originating in the Senate providing for fees to be paid in money order cases either raising or lowering the amount to be paid. We passed an act providing for loaning money to farmers in the Northwest to enable them to buy seed. The result of that was that they would be obliged to repay those loans, and the money that was repaid by them would come into the Treasury. Equally, such a bill would be a bill for raising revenue, if all bills bringing money into the Treasury should be held to be bills for raising revenue.

Likewise, thereafter we provided that under certain circumstances the people who made the loans and had not paid them should be forgiven the loans, so that the money would not come into the Treasury, and in that respect that measure was identical with the bill now under consideration, because it arrested the passage of revenue from the taxpayer into the Treasury. Yet no objection was made to that.

Naturalization laws usually provide for the payment of some fees by the applicant for naturalization into the court before which the proceedings are had, and that money goes into the Treasury of the United States. Thus it incidentally raises some revenue. We would be denied, likewise, the opportunity to pass laws upon that subject.

Mr. CARAWAY. Mr. President, the laws relating to practice and procedure in the courts would be revenue bills, if the contention urged were sound.

Mr. WALSH of Montana. Exactly. It will be perceived at once if the basic principle is admitted at all, that any bill which brings money into the Treasury is a revenue bill, the power of this body to originate legislation will be reduced to almost negligible proportions.

Not only has this matter been settled and determined, put past all discussion or controversy at all, by the decisions of the Supreme Court of the United States, but the same question has arisen in many of the States. Most of them have similar provisions in their constitutions, and the decisions of the State courts are uniform to the same effect, that bills for raising revenue are only those which levy a tax upon the people for which there is no return, for the purpose of meeting the general needs of the Government, and that a bill which brings some money into the Treasury, but which result is only incidental to the general purpose of the act, is not a bill for raising revenue. Such was the decision of the Supreme Court of Oregon in the case of State against Wright, Fourteenth Oregon, 365; in the case of Anderson against Ritterbusch, in Oklahoma, reported in Ninety-eighth Pacific, 1002; in the case of Colorado National Life Insurance Co. against Clayton, Fifty-fourth Colorado, 147; in the case of Evers against Hudson, Thirty-sixth Montana, 147; and in North Carolina in the case of Hart against Board, One hundred and thirty-fourth S. E., 403.

This list is by no means exhaustive, and I desire to say, in this connection, that a very thorough search of the authorities has revealed no decision by any State court contrary to the holding of the Supreme Court of the United States in the three cases to which reference has heretofore been made.

Mr. President, in some remarks submitted some days ago by the junior Senator from Ohio [Mr. BURTON] he indicated that there was some doubt about this matter, as might be gathered from two cases referred to by him, the case of Warner against Fowler, in Fourth Blatchford, and the case of Burton against Bromley, Twelfth Howard, 88. I am very sure the Senator from Ohio could not have been aware of the fact that the case of Warner against Fowler, in Fourth Blatchford, to which he referred, has been repeatedly overruled by courts of equal dignity with that announcing the opinion. I read from page 943 of One hundred and sixty-second Federal Reporter the case of Peoples United States Bank against Goodwin, an opinion by the circuit court for the eastern district of Missouri.

Warner *v.* Fowler, supra, was decided in the Circuit Court for the Southern District of New York by Judge Ingersoll in 1859. It was there held that a postmaster was a revenue officer within the meaning of section 3 of the act of March 2, 1833, citing United States *v.* Bromley as conclusive authority for this ruling. But this case has been clearly overruled by the same court in Victor *v.* Cisco (5 Blatchford 128, Federal Cases No. 16,934), and Stevens *v.* Mack (5 Blatchford 514, Federal Cases No. 13,404), and at least by implication by what was decided by the Supreme Court in Philadelphia *v.* Diehl, supra.

So it has been expressly overruled twice by the same court by which it was announced, and is found to be contrary to a third decision of the Supreme Court of the United States.

Burton against Bromley, in Twelfth Howard 88, a decision by the Supreme Court of the United States, is, to my mind, clearly overruled by United States against Norton in Ninety-first United States 566–569. Burton against Bromley was a proceeding arising out of an act which authorized a writ of error in cases arising under the revenue laws. A postmaster was accused of some offense, and he sought a writ of error by which a judgment in revenue cases might be reviewed by the Supreme Court of the United States, and he was allowed to sue out the writ, the court there holding that the law in question was a revenue law.

That is entirely inconsistent with the decision in United States against Norton, in Ninety-first United States 566–569. That was a case in which an employee in the Post Office Department was indicted for embezzlement. The general statute of limitations, as is well known, is three years, but there is a special statute of limitations, applicable to offenses committed against the revenue laws, of five years—that is to say, for a general offense the statute of limitations runs against the offense in three years, but for an offense against the revenue laws the statute does not run out for five years.

It was contended by the Government that this was an offense against the revenue laws, and therefore that the 5-year statute was applicable and the conviction was proper. The Supreme Court, however, held that it was not an offense against the revenue laws, that although the statute provided for the payment of some money into the Post Office Department, and accordingly into the Treasury of the United States, the legislation was for the purpose of regulating the postal affairs of the country, and not a bill for raising revenue, and therefore the 5-year statute did not apply; and the 3-year statute was available to the defendant, and he was dismissed.

There does not seem to be any longer any question about this matter, either upon the authority of the Federal courts or upon the authority of the State courts. Indeed, if adjudication by

the courts can put the matter beyond controversy or cavil, that situation arises. It has become hornbook law, so that the principle is announced in the twenty-sixth volume of the American and English Encyclopedia of Law, page 539, in the following language:

In which house bills may originate: Generally, bills may originate in either house and may be amended, altered, or rejected in the other house. There is a general exception, however, to the effect that bills for raising revenue must originate in the lower house. But this exception is generally held to apply merely to laws whose primary object is the raising of revenue, and a bill which has some other legitimate and well-defined purpose does not become a bill for raising revenue so that it must originate in the lower house merely because, as an incident to the main object, it may contain some provision for the payment of certain dues, license fees, or taxes.

Mr. President, we are confronted with this situation. This provision puts no money into the Treasury; it prevents money from going into the Treasury. It becomes necessary, therefore, to establish that a bill for raising revenue is a bill that embraces not only bills that put money into the Treasury, but embraces bills which prevent money from going into the Treasury. It likewise becomes necessary to establish that it is the main purpose of the bill to put money into the Treasury, and not that the bill has as its primary purpose some other object, but merely incidentally operates to put money into the Treasury. Were it not for the source from which this suggestion comes, it might be justifiable to repeat the language of Senator Spooner, that the contention can only excite derision.

Mr. GEORGE. Mr. President——

The VICE PRESIDENT. Does the Senator from Montana yield to the Senator from Georgia?

Mr. WALSH of Montana. I yield.

Mr. GEORGE. Even if the debenture were payable out of the Treasury, and did not merely intercept funds going into the Treasury, it still would not be a bill for raising revenue within the meaning of the Constitution.

Mr. WALSH of Montana. Of course, if it were a bill to get money out of the Treasury, it would be in the nature of an appropriation bill, not a revenue bill.

Mr. GEORGE. Yes.

Mr. WALSH of Montana. That would again raise the question as to whether under the Constitution bills appropriating money must originate in the House of Representatives.

Mr. GEORGE. Exactly. If, however, the purpose of the debenture plan, so-called, is to grant a bounty to farm products, the main purpose being to give relief to the producers of those products, even if that debenture or bounty were payable directly out of the Treasury, it would not be, in the strict constitutional sense, a bill for raising revenue, would it, in the opinion of the Senator?

Mr. WALSH of Montana. I should say not, because it would not only be simply incidental to the main purpose of the bill, and thus would not fall under the condemnation of the Constitution, but it likewise would not be a bill for raising revenue at all. It would be a bill taking money out of the Treasury. It would be an appropriation bill.

Mr. GEORGE. I think the Senator is quite right, and I think a casual glance at this particular bill illustrates that this can not be a bill for raising revenue. The bill as it was introduced in the House proposed a scheme for farm relief. One of the provisions of the bill was the authorization of an appropriation of $500,000,000 out of the Treasury of the United States. When the bill came to the Senate, keeping in mind the same general primary purpose—that is, farm relief—we simply attached the additional provision contained in the debenture plan in the bill. It can not in any proper sense of the word be said to be a bill for the raising of revenue.

Mr. WALSH of Montana. I thank the Senator for his comments. I merely desire to remark that I do not imagine that anyone can doubt that the primary purpose of this particular legislation is to grant relief to the farmer, and this is only one of the methods proposed by the bill for the purpose of accomplishing that end. If we admit the principle that a bill to fall under the condemnation of the Constitution must be one, the primary purpose of which is the raising of revenue, no one can contend that this bill would be of that character.

LAW ENFORCEMENT—PRESIDENT HOOVER'S ADDRESS

Mr. HEFLIN. Mr. President, a few days ago there was printed in the RECORD an article from William Randolph Hearst criticizing the President's speech before the Associated Press in New York City. I have here a reply from the Woman Voter, which I have been requested to ask to have printed in the RECORD. I now submit the request.

The VICE PRESIDENT. Without objection, it is so ordered. The matter referred to is as follows:

[From the Woman Voter, Washington, D. C., May, 1929]

WE NEED NEWSPAPERS THAT WILL ADVOCATE RESPECT FOR LAWS AND UPHOLD THE PRESIDENT

The Woman Voter does not agree with a well-known publisher that President Hoover's address on law enforcement at the Associated Press luncheon in New York was a shot in the air—a blank cartridge discharged against a blank wall.

Everybody knows the laws ought to be enforced.

Everybody knows the President is doing his level best to enforce the laws in agreement with the obligation of his office.

It is ridiculous for this publisher to make the charges he does with nothing to back up what he says.

If editors with such wide ranges of publicity through the chain system of newspapers would be as zealous in advocating respect for law and observance of law as they are in writing editorials and filling their columns with disrespect of law, we would have more respect for our laws and better observance.

The Jones Act has done much already to break up the liquor rings throughout the Nation—and it seems strange that any responsible editor would give so much valuable space to criticizing the President when he is carrying out his pledge to his people.

There are serious reasons for believing that there exists a virtual conspiracy to so lower the morale of the public that it will be unable to defend itself against this organized element working to break down respect for our laws.

It seems to us since the women played so important a part in helping to elect President Hoover it now behooves them to stand by him and help to stop some of this propaganda by these wet newspapers.

The Woman Voter thinks a good plan would be to start a boycott against firms advertising in these wet newspapers who continue to criticize and embarrass the President when he is doing his duty.

Let our newspaper editors know that we are alert and are backing our President 100 per cent and if needs be we are willing to use such drastic means to stop this flood of wet propaganda by certain newspapers in this country.

We are glad that the Republican Party in power realizes that the referendum on the wet and dry issue was settled in the past campaign and that as the drys were the victors, they with the majority who put Mr. Hoover in office are entirely satisfied up to the present with the position taken by the President, and it now behooves these wets to follow and back up the President.

MOLLIE DAVIS NICHOLSON.

FEDERAL AND JOINT STOCK LAND BANKS

Mr. BLEASE. Mr. President, I ask permission to have inserted in the RECORD three articles in reference to the farm-loan bank situation.

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

[Reprinted from Chicago Journal of Commerce, April 27, 1929]

ROUND TABLE OF BUSINESS—FEDERAL AND JOINT-STOCK LAND BANKS' MANAGEMENT SHOWN TO NEED ATTENTION

By Glenn Griswold

While we are worrying about agricultural relief and passing a law to bring it about, it may be fair to ask why Congress and the administration do not pay a little more attention to a miserable situation which prevails in the structure Congress set up to finance the farmer.

There is practically no dissent from the opinion that one of the things most vitally needed by agriculture is adequate credit at a reasonable price. To meet this need Congress created the Federal land banks and the joint-stock land banks, along with intermediate credit banks and other agencies. These furnished the farmer with nearly $2,000,000,000 at a rate much lower than that at which farm credit ever had been available before, and frequently at a rate lower than that available to industries whose security was as sound and considerably more liquid.

Then came the collapse of farm values, which wrecked thousands of banks, ruined hundreds of thousands of farmers, and put heavy burdens on the agricultural finance agencies that were operating under Government control.

During that period of stress two of the large joint-stock land banks and one small bank failed, and others encountered difficulties from which they have recovered slowly. Some of the Federal land banks would have failed, except for help from other land banks and the support of Federal resources. That but three of these institutions failed at a time when everything finding root in agriculture was tottering offers some testimony of fundamental strength.

The principal part of the difficulties met by these institutions grew directly out of the collapse of 1921. In so far as human failure contributed to their difficulties, the Farm Loan Board has a much larger responsibility than the aggregate of the theoretical managers of those

institutions. Indisputable evidence of bad banking on the part of the managers of a few of these banks has been disclosed. Charges of dishonesty might be proved against one or two of them; but for the most part the amazingly bad judgment, poor management, and reckless loaning find responsibility in Washington.

There is room for improvement in the personnel of the Federal Farm Loan Board, as it is now constituted, but there is vastly more ability to be found in the board to-day than in some of the boards of the past.

From the beginning joint-stock land banks were stepchildren. The board undertook to dominate every activity. The board appointed the most incompetent lot of examiners and appraisers, and forced these upon the bankers over their protest. Some of the soundest of the joint-stock land banks to-day are those which defied the board, and, for the most part, hired or trained their own appraisers; and among some of these exceptionally strong joint-stock land banks practically the only foreclosures they have experienced have been those on properties appraised by the board's appraisers in the early days.

In authorizing a loan the board had before it exactly the same set of information that was before the directors and managers of the local bank. In addition, the board had the recommendation of its own appointees, while in most cases the local boards and executives were passing judgment on the recommendations of employees, in whom they had no confidence, and whose ability they had every reason to doubt.

When the trouble came, the board did everything possible to destroy the credit of the joint-stock land banks. Borrowers, stockholders, and bondholders of the banks were circularized with snooping letters suggesting that something was wrong and asking leading questions obviously tending to arouse suspicion and to destroy credit.

Since the worst of the trouble has been over, the banks have been harassed by bureaucratic domination, and have had very little cooperation. While local managements and local creditors' committees have been struggling to reorganize banks and restore their credit, little help and much embarrassment have been the board's contribution.

The result is that the securities of some of the soundest of these institutions are selling at a severe discount. The whole system is almost inoperative. The bankers can not make loans in a normal manner because their credit will not support the bond issue necessary to provide funds.

And yet the investors in these securities were invited to make their commitments in good faith, in securities which were plainly labeled "An instrumentality of the Government of the United States," under the terms of the law and by the consent and at the direction of the Federal Farm Loan Board and the Government as a whole.

There would seem to be a Government obligation here that is not being discharged.

[From the News and Courier, Charleston, S. C., Friday morning, May 17, 1929]

ASK JURISDICTION CHANGE FOR CASE—HORNE DAMAGE SUIT DEFENDANT WOULD HAVE TRIAL IN FEDERAL COURT

COLUMBIA, May 16.—The Federal Intermediate Credit Bank of Columbia, Frank H. Daniel, J. Downs Bell, and W. J. Thomas, defendants in the $1,500,000 damage suit brought by R. C. Horne, jr., who has been indicted on charges to violate the Federal farm loan act, to-day filed a petition for removal of the case to United States District Court for Eastern South Carolina.

Howard C. Arnold, also a defendant in the Horne action, is not a party to the removal, as he has not yet been served with a summons or a process of the proceedings.

The defendants—Arnold excepted—will apply Tuesday morning at the court of common pleas here for an order moving the case to the Federal court and also will move that Horne be ordered to file in the office of the clerk of court the original complaint in the action "to the end that certified copies thereof may be made and entered and filed in the District Court of the United States for the Eastern District of South Carolina.

Bond for the removal petition was also filed to-day along with the petition. The notice was signed by W. J. Thomas and D. W. Robinson, prominent Columbia attorneys.

In his original complaint filed in the court of common pleas here May 3, Horne alleges that, on three separate counts, he had been damaged by the defendants to the extent of $250,000 each. In addition, he asked for $750,000 in punitive damages.

SHOULD THEY BE LIQUIDATED?

Is the Federal intermediate credit bank of benefit to American farmers?

Is the Federal farm-loan banking system beneficial to American farmers? Has it fulfilled its design of enabling landless men, tenant farmers to buy land? It was a Democratic administration measure, but that does not make it sacred—even in South Carolina.

Are the Federal joint-stock land banks converting tenants into landlord farmers?

That a system of banks was established 14 or 15 years ago, has earned profits, has erected buildings out of them, and gives employment to thousands of persons are not in themselves reasons why the system should be perpetuated.

The pertinent question is, Have these banks fulfilled the objects of their establishment?

Are the people of Beaufort County, S. C., more prosperous by reason of the Federal intermediate credit bank?

When these banks have losses who pays them?

Is this country dotted with small farms, owned by the men who operate them, by reason of the special banks instituted for farm relief?

Granted that these banks authorized by law for the assistance of farmers are making profits, is that any reason why they should not be liquidated? Why should the Federal Government engage in money-making?

The News and Courier is not prepared to say that the Federal farm banks have failed of their purpose, but it is far from convinced that they contribute to the development and prosperity of the American farm industry.

It is time that the American people be informed about them. It is time that the whole system be investigated.

Unless it be clearly and positively proved that the Federal farm banks are of considerable and substantial assistance to agriculture, the acts of Congress under which they are chartered should be repealed and the banks liquidated.

DECENNIAL CENSUS AND APPORTIONMENT OF REPRESENTATIVES

The Senate, as in Committee of the Whole, resumed the consideration of the bill (S. 312) to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of the Representatives in Congress.

Mr. VANDENBERG obtained the floor.

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

The VICE PRESIDENT. Does the Senator from Michigan yield for that purpose?

Mr. VANDENBERG. I yield.

The VICE PRESIDENT. The clerk will call the roll.

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

Allen	Frazier	La Follette	Smith
Ashurst	George	McKellar	Smoot
Barkley	Gillett	McMaster	Steck
Bingham	Glenn	McNary	Steiwer
Black	Goff	Metcalf	Stephens
Blaine	Goldsborough	Moses	Swanson
Blease	Gould	Norbeck	Thomas, Idaho
Borah	Greene	Norris	Thomas, Okla.
Brookhart	Hale	Nye	Townsend
Broussard	Harris	Oddie	Trammell
Burton	Harrison	Overman	Tydings
Capper	Hastings	Patterson	Vandenberg
Caraway	Hatfield	Phipps	Wagner
Connally	Hawes	Pine	Walcott
Couzens	Hayden	Pittman	Walsh, Mass.
Cutting	Heflin	Ransdell	Walsh, Mont.
Dale	Howell	Reed	Warren
Deneen	Johnson	Robinson, Ind.	Waterman
Dill	Jones	Sackett	Watson
Edge	Kean	Sheppard	Wheeler
Fess	Kendrick	Shortridge	
Fletcher	King	Simmons	

The VICE PRESIDENT. Eighty-six Senators have answered to their names. A quorum is present. The Senator from Michigan will proceed.

Mr. VANDENBERG. Mr. President, I should like now to recall the Senate to the unfinished business which is presumed to be before it. I want briefly to present an explanation of the philosophy upon which the reapportionment section of the pending bill has been built. I should be very happy to submit to any interruptions at any time, but I should prefer so far as possible to be permitted the courtesy of proceeding consecutively.

In the first place it is appropriate to say that although there is but one precedent in 140 years for putting reapportionment and census legislation together—and I am referring in this connection to the law of 1850—nevertheless there is every basis in logic and reason for precisely the interwoven relationship which is established and maintained in the bill now pending at the Senate's bar. I am making that statement on the basis of the indisputable proposition that a census has but one constitutional function, namely, that of providing Congress with a basis for the reapportionment of its own membership. Since this is the obvious and exclusive relationship between the census and reapportionment in the Constitution itself, surely it follows as a matter of elementary reasoning that when the census and reapportionment appear together in the pending bill they are but appearing in harmony with the theory of the fundamental charter of government.

Mr. President, I certainly intend to take none of the time of the Senate to argue the basic proposition that a reapportionment is fundamentally vital under a correct theory of our constitutional institutions, fundamentally vital to the theory

and ongoing of representative government. Surely that now is accepted as an axiom. Regardless of whether the letter of the Constitution writes a specific mandate calling for a specific apportionment definitely every 10 years or not, I feel quite sure there will be no hostility shown to the proposition that the spirit of the Constitution does require precisely that thing, and that in this instance the spirit of the Constitution is the thing that giveth life. I submit there is no argument against such a proposition at all.

We all know that the one rock upon which the Constitutional Convention itself nearly broke in 1787 was the perplexing difficulty of resolving a formula for representation so that the inevitable quarrel between the large center of population and the small center of population could find a solution upon some rule of equity. As we all know, the solution that was found called for the establishment of a bicameral legislature, with the Senate at one end of the Capitol, representing the States, regardless of their size, and with the House of Representatives at the other end of the Capitol, representing populations, regardless of where they might be.

Without that composition in 1787 there never could have been a Constitution resultant from the deliberations of that convention, and, Mr. President, without the maintenance of the rule set down under that composition there can not be perpetuated republican institutions within the theory of the Constitution in the United States. It would do no more violence to fundamental constitutional theory and equity to change the basis of a State's representation in the Senate of the United States than it would to ignore the necessity that populations shall be honestly and accurately reflected in the apportionment of Representatives at the other end of the Capitol. So, I submit as an axiom that we do confront the decennial necessity for rectifying whatever errors in apportionment each decennial census may disclose.

I can think of no greater wrench to the whole theory upon which America is reared than to ignore this hypothesis. It is particularly true, Mr. President, because it involves not only the representation enjoyed by peoples in the House of Representatives but it also involves the organization and representation and validity of the Electoral College which chooses Presidents of the United States. Any infirmities which attach to the House of Representatives and its apportionment attach in turn with precisely relative effect to the Electoral College and its choice of Presidents. Thus we find that the reapportionment challenge involves not only the integrity and the equity of a constitutional House of Representatives but it involves precisely the same element of integrity and equity in the Electoral College and in the choice of Presidents of the United States. It is, in other words, the wellspring from which flows the entire representative genius of American institutions. It is the root source of articulating democracy. That article is rightfully Article I in the Constitution, because it is the fundamental article upon which the entire balance of the structure, not only legislative but executive, has been erected.

Mr. President, from 1790 to 1910 there never was a decade when the acknowledgment of these theories of representative and constitutional government was not prompt, precise, honest, and adequate. Until the ugly default which the country has suffered since the census of 1920, until that particular trespass, Congress theretofore never permitted more than two years to intervene between the completion of the enumeration of the people and the reflection of that enumeration in a new apportionment. From 1790 to 1920 there was a continuous, unbroken record of faithful reflection of census figures in apportionment arithmetic; and yet since 1920 it has been absolutely impossible to procure the consent of the Congress to the recognition of this fundamental responsibility. Congress has spurned its duty with contempt.

The House of Representatives acted in 1921; the Senate refused to act. The House of Representatives acted in January, 1929; the Senate again refused to act. The Senate, in other words, holds the primary responsibility for an 8-year stalemate during which time the representative genius of American institutions has been throttled.

What is the result? Is that merely an academic sort of a challenge, or is there a reality in the menace involved in the default? What is the result of the failure of Congress to do since 1920 that which every other Congress did with prompt efficiency from the founding of the Government down to 1910? Although in words it expresses great solicitude for comity in relation to the House of Representatives, the Senate's actions speak louder than its words. What is the result of the refusal of the Senate to permit the House to answer its own problem in its own way or in any other way? Here are some of the results; and I submit that these are far from academic considerations: They are considerations so fundamental in their possible effect upon American Government that they ought to have first place in the consideration of the Senate not only now but so long as there still fails to be an answer. What are some of these results?

In the first place, Mr. President, there are to-day, according to available estimates, 32,000,000 Americans robbed of their legitimate spokesmanship in the House of Representatives. This is Exhibit A. That is a rather formidable sector of the American people to be without the spokesmanship that the Constitution solemnly promises them and intends they shall have.

What is the next exhibit? The next result is that there are as a result of that disfranchisement, based upon prospective 1930 census figures, 23 misplaced seats in the House of Representatives. That again is a large margin of ugly error in our reflection of constitutional verities and in our effort to give the American people that equitable and true reflection of power in the House of Representatives which the Constitution expects them to have.

What is the third exhibit which reflects the net result of this default and lapse? Mr. President, it is not only 23 seats misplaced in the House of Representatives, but looking forward to the presidential election of 1932 it involves also 23 misplaced votes in the next presidential electoral college. Is that a condition to be contemplated with equanimity? Is there anything about that which is a joke? Is there anything about 23 misplaced presidential electoral votes that offers anything except a solemn, sober challenge to the American conscience if it is thinking in terms of tranquillity and constitutionalism?

As I said a few months ago upon the floor of the Senate—and I want to repeat it now—the late Vice President of the United States, Thomas R. Marshall, told me time and again that when he was a youth during the electoral crisis of 1876 all he wanted was just one word from Samuel J. Tilden to shoulder a gun and march on Washington. We know to what an extent popular prejudice and popular passion can be touched and aroused in presidential campaigns; we know how near to an open breach the country can come when there is just one presidential electoral vote standing in the balance, as in 1876. What would be the prospect with 23 misplaced presidential electoral votes involved in a possible conflict of that character to-morrow or the day after? The contemplation is laden with veritable dynamite.

I submit, Mr. President, that too much emphasis can not be put upon the proposition that when reapportionment involves within it such vital factors as these it becomes a problem which deserves the primary and immediate attention of Congress and as to which Congress can not possibly find an excuse to expiate its treacherous silence if it longer declines to proceed.

The result of the failure of Congress to reapportion itself as I have indicated touches the integrity of the House, the integrity of the presidential electoral college, and involves in turn, of course, the reflected measure of representation which the various States enjoy in their political national conventions; but fundamentally—and that ought to be enough all by itself—it is an outrage upon the Constitution of the United States itself. No man can deny this challenge. So much for the premises. Such was the situation in which we found ourselves a few weeks ago when we returned to Washington for the purpose of again attacking this difficulty and this default.

Now, in what manner does the proposed legislation undertake to meet this situation? Mr. President, the pending bill undertakes to propose not only a cure for 1930 but a cure for 1940 and 1950 and so long thereafter as the Congress is willing to permit this enabling act to stand. It is not a mere temporary expedient revolving around a dispute over a few seats in the lower House of Congress. It is far more than that; it lifts itself to a greater and higher vision. It undertakes for the first time since 1850 to parallel and authenticate the Constitution of the United States with an enabling act which declares that the Constitution shall mean what its spirit intends, and which proposes that Congress shall not retain an option to nullify it at will.

How would the bill work? May I say parenthetically that this is no novel contribution of my own; this is no ingenious invention of the Committee on Commerce of the Senate; this is precisely the formula, on the contrary, which the House of Representatives itself approved in its own right as its own expression of its own belief as to how its own primary problem should be handled. And what is the formula? Probably the easiest way to understand it is to personify it; so we will apply it specifically to 1930 and thereafter. We will apply it as it would apply in that particular decennium; and this is the net result:

The census would be taken in November, 1929. On the first day of the second regular session of the Seventy-first Congress,

which is December, 1930, the President of the United States would report to Congress the mathematical result obtained, first, in the census figures previously completed; second, in the mathematical calculation showing how that census would apportion a House of Representatives of the existing size by the method of apportionment obtaining in the last previous apportionment.

Now, mark you, the President is making a ministerial report. He is making it in December, 1930. He is reporting the arithmetic of a census plus the application of a mathematical formula to this census arithmetic. That is all he is doing. He sends these findings to the Congress, and he is through. Now what happens?

Congress has that entire session in which to pass its own apportionment law on any basis it wants to, with any size House it wants to erect, by any method it wants to embrace, in any fashion it seeks to indicate. It is a free agent.

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

The PRESIDING OFFICER (Mr. FESS in the chair). Does the Senator from Michigan yield to the Senator from Mississippi?

Mr. VANDENBERG. I yield.

Mr. HARRISON. How long does that Congress last, under the law—what number of days?

Mr. VANDENBERG. The Senator is quite familiar with that. It lasts an unfortunately short time; and I have no doubt the Senator is recalling the ease with which a filibuster can be used in a short session to defeat reapportionment. He is a specialist in that respect.

Mr. HARRISON. I am very glad to hear the Senator say "an unfortunately short time." That is the very reason why some of us think that if the power of Congress is to be surrendered by it and delegated to the President, it certainly ought to be put off to a time in which the Senate can consider it, because the Senator is familiar with the fact that during the short session of Congress we have the great supply bills to pass, and there are not more than 75 days at most in which we must consider everything.

Mr. VANDENBERG. We will discuss the delegation of power in a moment. In the meantime we will examine the reality of the menace which my distinguished and amiable friend from Mississippi conjures in this particular situation. He is desperately afraid that there is not going to be time in the short session for Congress to pass a reapportionment law. He is an expert in the field of filibuster, and I can well understand what is in the back of his head. But experience is the best teacher, not only in respect of filibusters but also in respect of gainful results; and I remind my friend from Mississippi that five out of the last six reapportionment acts have been passed in precisely these very short sessions which he fears will not have time to do the job.

Now, Mr. President, proceeding with the indication of how the law will operate in 1930 for the purpose of personifying the formula:

I think we had reached the point where the President submits the arithmetic, and where Congress has that entire session in which to accomplish its own independent apportionment if it sees fit. If it does not see fit, or—as the Senator from Mississippi indicates, and I freely concede it could be possible—if it is unable to act, then, as soon as that Congress is done and adjourned, the arithmetic which had been previously reported to the Congress, indicating the count of the country and its proper mathematical apportionment under prior standards and specifications, automatically becomes the new apportionment.

The net result, as I see it, is nothing more nor less than the provision of life insurance for the Constitution. It is a warrant for the basic formula upon which the entire genius of our democracy depends.

So much for the proposed answer. I have presented very briefly the need for legislation of this character; I have presented briefly the theme of the proposed answer; and now I desire to advert briefly to the necessity for this particular automatic type of apportionment legislation.

Mr. BLACK. Mr. President——

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

Mr. VANDENBERG. I yield to the Senator from Alabama.

Mr. BLACK. Before the Senator leaves that proposition; as I understand, the President makes this report. Suppose that no filibuster is conducted, but that the Congress overrides the President's finding as to the number of Representatives. That is done, and they finally pass the bill 10 days before the Congress adjourns, and the President vetoes it, by pocket veto or otherwise. Does the apportionment that the President has made then become the law? Is that true?

Mr. VANDENBERG. I shall be glad to answer the Senator. The President has made no apportionment, to begin with; so that portion of the Senator's premise is incorrectely stated.

Mr. BLACK. Does the allotment that he has made to various States become the law by his veto?

Mr. VANDENBERG. That is correct.

Mr. BLACK. Then it places it absolutely within the President's power under those circumstances, does it not, to determine how many Representatives the States shall have?

Mr. VANDENBERG. I will respond to that question if the Senator will permit me to proceed consecutively with the answer.

Mr. BLACK. That was in line with the suggestion the Senator has just made.

Mr. VANDENBERG. That is correct.

The junior Senator from Alabama conjures many speculations as to the jeopardies which might result if a long parade of "ifs" were to intervene.

Mr. BLACK. Mr. President——

Mr. VANDENBERG. Just a moment; let me finish, and then I will gladly yield further to the Senator.

Mr. BLACK. I desire to ask the Senator——

The PRESIDING OFFICER The Senator declines to yield.

Mr. BLACK. All right.

Mr. VANDENBERG. If Congress should decide to pass an independent apportionment law in 1931, and if it should thus act by majority, and if the President should wish to defeat the will of Congress, and if the President therefore should veto the act of Congress, and if Congress could not muster a two-thirds vote to pass the legislation over the President's veto, and if the congressional apportionment were thus defeated, and if the automatic provisions of the pending proposal were thus precipitated, would not this bill tie the hands of Congress? That seems to be the Senator's question. This is the answer:

I think that every law, finally and somewhere, has to rely upon the human equation. Wise legislation can do no more than make a miscarriage of human judgment as remote as possible. It is removed to the *n*th degree in the hypothesis submitted by the Senator from Alabama. He presupposes a vicious Executive and an infirm Congress.

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

The PRESIDING OFFICER Does the Senator from Michigan yield to the Senator from Alabama?

Mr. VANDENBERG. Just a moment, and I will gladly yield.

Mr. BLACK. The Senator has made a statement that I presupposed something which I do not. I desire to correct the Senator.

Mr. VANDENBERG. I yield to the Senator.

Mr. BLACK. I presuppose a Congress which is meeting in short session, and which everybody knows can not pass a law over the presidential objection. That is exactly what I presuppose there; and I do presuppose further that any President is likely to believe that the allotment he has made for a State is the correct one, and that, therefore, in addition to having the prestige of his office to prevent changing it, he would like to veto the bill if it were changed; and I presuppose further that in that short session, if there were any possibility of getting a bill through at all, it would be too late to pass it over his veto.

Mr VANDENBERG. Now will the Senator permit me to proceed with what I conceive to be an answer to his question?

Mr. BLACK. I shall be delighted; but if the Senator makes a statement of what I presuppose, I want to have the opportunity of interpreting it for myself.

Mr. VANDENBERG. I now renew the statement that every law must ultimately depend upon a human element for its virility. I call the Senator from Alabama from his day dreams about pyramiding hypothetical "ifs" back to the reality that in the existing situation we have seen eight years of constitutional nullification which has had no "ifs" whatever in it; and as between the two exposures I submit that the hypothetical, theoretical exposure which he has described is of but casual consequence compared to the importance of reenfranchising the equivalent of 23 representative districts in the American Union.

Mr. President, I had started to discuss, when I was detoured, what I conceived to be the need for an automatic apportionment law.

I submit that the experience of the past eight years proves that this problem can not be left wholly to Congress. That is not a reflection upon the virtue of any Congresses that are to follow. That is not any attempt to arrogate to this Congress any superior virtues over those that have been or are to be. It is simply the acknowledgment that we confront a condition and not a theory. Human nature is human nature; and in these great shifts of population which are now going on in our American Republic it is going to become inevitably more and more difficult to get men to sit down and frankly and unselfishly con-

cede that the trends of population call for a penalty upon them in order that the constitutional rights of other constituencies may be recognized and acknowledged. It is constantly more and more difficult, I repeat, to hope for the type of voluntary reapportionment which we have had from 1790 to 1910.

During that period it was a very simple thing merely to increase the size of the House in order to accommodate the situation, so that every State which otherwise would lose seats could have, within the new total, ample protection, so that no State would lose. That was a very simple and easy way to meet these conflicting human elements involved in the apportionment problem. But, Mr. President, in proceeding by that routine we finally reached a House that has a total of 435 in its membership, and we finally confront a decennium in which, if that convenient and expedient formula were again to be followed, we would have to have a House of 532 Members in order to accomplish any such result.

Surely there is no difference of opinion that the time has come when the total size of the House must be limited. Surely the time is here when no longer can this former expedient formula be longer pursued. So, I repeat, because of these new and emphatic trends in population, plus these new and emphatic necessities for limiting the size of the House, we have reached the point where it no longer is safe or possible, as demonstrated during the last eight years of constitutional trespass, to leave the problem wholly to the voluntary instincts and attitudes of Congress itself.

Here is another reason, and a very important reason, why this automatic rule needs to be erected and invoked. The Federalist Papers, the oracle of the Constitution, said this:

> A power equal to every possible contingency must exist somewhere in the Government.

I think that is an axiom that can not be gainsaid. It is a dreadfully vitally important statement of a fundamentally vital and unavoidable national need. I repeat it:

> A power equal to every possible contingency must exist somewhere in the Government.

Without this legislation, Mr. President, where is the power to meet the contingency which the American Republic has confronted for the past eight defaulting years? Without an enabling act of this character, where is the power in the structure of American Government to force integrity into the representative structure?

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

Mr. VANDENBERG. I yield.

Mr. GEORGE. Is not the power in Congress at any time to pass this legislation?

Mr. VANDENBERG. The semblance of power is, Mr. President, but apparently not the inclination.

Mr. GEORGE. The Senator is quoting from some one he declares to be the oracle of the Constitution, and his language is "power." Let me ask the Senator, if his position were right, could he not make the same argument in favor of an appropriation to maintain an army and a navy, and the Post Office Department through any number of years to come?

Mr. VANDENBERG. No; I think not, Mr. President. I think that is carrying the analogy to an impossible extreme.

Mr. GEORGE. I do not think it is, Mr. President, if the Senator will pardon me, because what I am trying to say is that the power does exist in the Congress at the proper time to make the apportionment, just as it exists to make an appropriation to maintain an army or a navy. The Senator is insisting on a scheme to exercise in futuro the power, and to foreclose, in a measure, future Congresses from exercising the power. It would be just as tenable, it seems to me, to say that we should make appropriations through a long number of years in advance to support the Army.

Mr. VANDENBERG. I disagree with the Senator's hypothesis; and as perhaps amplifying the viewpoint which I have already expressed, let me quote from another point in the Federalist papers. I am not presenting the Federalist papers as sacrosanct in any sense of the word, but I think it will be generally conceded that they are a reasonably profound thesis upon American Government and not to be lightly ignored. What else do we find in the Federalist papers? I quote again:

> In framing a government which is to be administered by men over men, the greatest difficulty lies in this, you must first enable the government to control the governed, and, in the next place, you must oblige it to control itself.

That is the contemporary need, Mr. President—to oblige the Government to control itself.

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

Mr. VANDENBERG. I yield.

Mr. BLACK. The Senator is familiar with the fact, is he not, that, going back a little behind the Federalist papers, to the Constitutional Convention, an amendment was proposed such as the Senator now proposes, in the following words:

> And the legislature shall alter or augment the representation accordingly.

The argument was made there that if that did not become a part of the Constitution Congress would not alter and adjust representation, and the argument was made by Mr. Morris that that objection implied a distrust of the fidelity of Congress, and that the best course that could be taken would be to leave errors of the people to the representatives of the people.

The Senator is familiar also, is he not, with the fact that the Constitutional Convention declined to put that provision into the Constitution, which he now says, quoting from the Federalist papers, written after the Constitution was written, was implied as a part of the Constitution?

Mr. VANDENBERG. Yes; I am entirely familiar with all that and I am not trying to write it into the Constitution now, either. But I also am familiar with another quotation which my distinguished and erudite friend from Alabama used upon the floor a few days ago when he quoted Mr. Randolph, of Virginia, upon this subject. When Mr. Randolph anticipated the precise difficulty in which we now find ourselves, asked for a specific constitutional provision to meet it, and the convention refused to give it to him. The Senator would say that this foreclosed for all time the possibility of doing the precise thing which Mr. Randolph wanted to do.

Mr. BLACK. If the Senator will yield there, I did not say that at all. I say it forecloses you unless you do it in the constitutional way, which is to amend the Constitution and place that provision in the document when they have themselves declined to put it in and have expressly said that they left it in the hands of Congress. I claim that it is a violation of the spirit of the Constitution to attempt to take it out of the hands of Congress and place it in the hands of the President.

Mr. VANDENBERG. Is the Senator contending that this pending measure is unconstitutional?

Mr. BLACK. I am contending that if the Senator wanted to have the Constitution amended he would be following a natural and normal course, but that when the Senator proposes to put the power into the hands of the President he is proposing that which the Anglo-Saxon race has been fighting since its beginning.

Mr. VANDENBERG. The Senator now is attempting to quote me. He is very insistent upon being correctly quoted himself. Suppose he shows equal precision in quoting me. I am proposing to put nothing into the hands of the President except the responsibility to do a mathematical job which can come to but one result, just as two and two make four, and I shall discuss that in detail a little later. I would prefer, if that is the direction in which the Senator is trending, that he should abide a few moments until we reach that point.

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

Mr. VANDENBERG. I yield.

Mr. BLACK. The President has the power, when he is determining that calculation, to say whether that census is right or wrong; he has the right to say whether it was right in Michigan and whether it was wrong in Alabama. He has a right to use a flexible method of major fractions that will take away a Representative from Alabama, and that has taken away one in the past when the mathematics itself gave a Representative to that State.

Mr. VANDENBERG. Does the Senator object to flexible systems?

Mr. BLACK. I object to a flexible system placed in the hands of the President, which he could use to alter the representation which might be called upon to elect his successor.

Mr. VANDENBERG. Last February the Senator objected to the then pending bill because he said it was inflexible.

Mr. BLACK. No; I did not object to it because I said it was inflexible. The Senator is wrong about that.

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

Mr. VANDENBERG. I am delighted to yield.

Mr. HARRISON. Is there any difference in that respect between this bill and the bill to which the Senator now alludes?

Mr. VANDENBERG. Yes, Mr. President; I am coming to that in a moment, if the Senator will abide.

Mr. HARRISON. Did that bill include the provision refering to major fractions?

Mr. VANDENBERG. About which bill does the Senator inquire now?

Mr. HARRISON. The one to which the Senator alluded.

Mr. VANDENBERG. The bill reported in February?

Mr. HARRISON. Yes.

Mr. VANDENBERG. Yes.

Mr. HARRISON. And this bill includes the major-fraction provision?

Mr. VANDENBERG. It does not, except as Congress may again fail to do its duty in 1930.

Mr. HARRISON. The Senator wants to be fair with the Senate.

Mr. VANDENBERG. Yes; and the Senator would like to discuss that in his own time when he reaches it.

Mr. HARRISON. I know; but does not the bill the Senator is now championing provide that the method to be employed is that which was employed in 1910, and was not the method employed in 1910 that of major fractions? Is not that true?

Mr. VANDENBERG. I shall be glad to discuss major fractions with the Senator in a few moments.

Mr. HARRISON. I have not asked the Senator about that. Will not the Senator admit that this bill carries with it the major-fractions method?

Mr. VANDENBERG. The Senator will admit that this bill costs Mississippi two Representatives to begin with.

Mr. HARRISON. The Senator does not want to answer the question.

Mr. VANDENBERG. And the Senator will admit that this bill provides for major fractions——

Mr. HARRISON. That is all right, then.

Mr. VANDENBERG. Just a moment; in the event that Congress shall fail to enact its own independent apportionment law in 1930-31, and not otherwise.

Mr. President, proceeding with what I had intended to be a brief discussion, and which I suppose is inevitably controversial, and yet which I am not offering at this moment in that spirit, because I am merely at the present time presenting to the Senate a theory upon which this legislation has been built, I would like to go on with the disclosure, as I have been attempting to make it, consecutively.

I have undertaken to present, first, the unanswerable need for a decennial reapportionment; second, the formula by which this bill would undertake to meet that need; third, the particular necessity for an automatic feature to this end in this new measure.

I want to discuss briefly two or three of the objections that are urged against the bill. I probably can not satisfy my good friend across the aisle in my statement of these objections, but I am sure he will supply in vehemence at a later date anything I lack at the present moment in attempting to set up the hypothesis.

I want to ask the question of myself, first, whether this does involve, in reality, an improper delegation of congressional power. So far as I am concerned, I am bound to answer that question in the negative. I do not see how any rational analysis can come to any other conclusion. The bill delegates no power, as I see it. The bill calls upon the President to report the result of a census to the Congress. We have always depended upon somebody to report the result of a census to us. The bill calls upon the President, when he reports the result of the census, also to report the result of a problem in arithmetic. If the President did not present the answer to that problem in arithmetic, somebody else would have to do the problem in arithmetic, because, no matter what method is embraced for purposes of apportionment, there is inevitably needed a formula which, like a chemical formula, may in itself be somewhat inscrutable, and yet which always reaches the same conclusion.

I think there will be no dispute whatever of the proposition that if any mathematician be given a certain census figure and a certain size of the House of Representatives to which you want to arrive, and a specifically identified method of working the problem, whether by major fractions, or equal proportions, or minimum range, or any other method, under those circumstances every mathematician would get the same answer to what is purely a mathematical problem. If that is so, then the arithmetic which the bill asks the President of the United States to do for us is in no sense a delegation of power. It is solely and singly and simply a request for a mathematical deduction which is fixed and certain in its net results. I can see no untoward delegation of power in that part of the bill.

I might say at this point parenthetically that the President of the United States is substituted in the bill as the person who shall make the computation and report instead of the Secretary of Commerce, who was identified in the bill last February simply and solely because it was my own personal notion that if we were to accomplish a permanent end through the passage of permanent legislation it were better to name a constitutional officer rather than a statutory officer. I have quite no pride of opinion at that point and I think it makes quite no difference, because everybody will get the same answer when we undertake to do that problem in arithmetic. Therefore I submit again that there is no delegation in the terms of this act of what is properly described as power.

Mr. President, the Supreme Court has repeatedly passed upon this type of thing. I apologize for undertaking to quote law. I am no lawyer. But these quotations are so pertinent in their application that even a layman would seem to be entitled to find validity in the observation.

Mr. NORRIS. Mr. President——

The PRESIDING OFFICER (Mr. FESS in the chair). Does the Senator from Michigan yield to the Senator from Nebraska?

Mr. VANDENBERG. I yield.

Mr. NORRIS. If it will be any consolation to the Senator in his apology for quoting law because he is a layman, I would like to call his attention to a recent debate that took place behind closed doors in which it was demonstrated to the satisfaction of a majority of the Senate that there is nothing in being a lawyer in order to be made a judge or anything of that kind, but the layman does the best job after all.

Mr. VANDENBERG. Regardless of credentials I will offer these observations. In the very famous case of McCulloch against Maryland the Supreme Court has said:

> Let the end be legitimate, let it be within the scope of the Constitution; and all means which are appropriate, which are plainly adapted to that end, which are not prohibited, and consistent with the law and spirit of the Constitution, are constitutional.

It is equally settled that the delegation of a purely ministerial function by the Congress—which I submit is all that is involved in this instance—in pursuit of these ends, is beyond constitutional question.

I now quote from the opinion in Union Bridge Co. against United States, reported in Two hundred and fourth United States, page 264:

> It is not too much to say that a denial to Congress of the right, under the Constitution, to delegate the power to determine some fact of the state of things upon which the enforcement of its enactment depends would be to stop the wheels of government and to bring about confusion, if not paralysis, in the conduct of public business.

Mr. President, I can think of nothing that would bring about greater confusion in the conduct of public business, I can think of nothing which could more readily stop the wheels of Government, than a permanent default in reapportionment. Therefore it strikes me as a layman that the law itself as interpreted by its adjudicators justifies the conclusion that in a situation of this character there would be an excuse for a delegation of real power, whereas there is no delegation of real power at all in the pending bill. There is merely the delegation of a ministerial duty to apply a fixed and certain mathematical formula to fixed and certain hypotheses with a fixed and certain net result.

I submit that that takes from Congress absolutely nothing but its right of inertia. I will concede that it takes that from Congress. It does make it impossible for Congress to do what it has done during the past eight years by way of default and contempt and trespass. If that is a right that belongs to Congress, then there is some ground for protest. But that is not a right unless the Congress assumes to be greater than the Constitution itself. We are not the masters of the Constitution. We are its servants. Otherwise we live in an elective despotism. It would be well for Senators to remember that Edmund Burke was everlastingly right when he numbered some of our restraints among our greatest liberties.

Hurrying on now in what I had intended, I repeat, to be but a brief analysis of the theory upon which the bill has been built, I want to discuss the specific changes that have been made in it as compared with the so-called Fenn bill which came from the House of Representatives last February and which was talked to death on the floor of the Senate.

The changes are comparatively few. Such changes as have been made have been made upon my part in a very earnest effort to meet in some degree some of the criticism which has been leveled in the past at legislation of this kind. I think we have succeeded to some extent in meeting the criticism, although I do not concede for a moment that the criticism was justified. But we have made two or three changes, and the chief change, the one of greatest interest and concern, is a change which eliminates needless and controversial detail at that particular point in the bill which describes the size of the House of Representatives and the method by which seats shall be allocated.

I have had the vain hope that those changes might end the war of the quotients; but whether they do or not, they at least

take out of the pending measure any specific identification and leave to the serial judgment of Congress, if Congress wants to exercise that judgment, the method by which these results shall be obtained. If Congress again refuses or fails to act in 1930, then it is quite obvious that since the bill preserves the status quo as related to method and size of the House it also retains the so-called method of major fractions as the basis of the formula, but if Congress does what it is supposed to do, if Congress does what Senators upon the other side of the aisle have protested their eagerness that it shall do, if Congress does pass its own independent apportionment act in 1930 it can assess equal proportions or minimum range or any other method for handling remainders, and thereafter this measure will recognize it as an authentic system. In other words, this bill undertakes in this matter of detail to accommodate this permanent enabling act to the serial decisions of Congress.

It has been very unfortunate heretofore as I have seen it that such great emphasis has been put upon the matter of method. It has seemed to me that this emphasis reflected a search for excuses rather than reasons for opposition because, Mr. President, when we come down to the realities and the facts, the question of method would have affected but three seats out of 435 in 1920 and on the basis of the 1930 estimate it can affect but one seat out of 435. Yet in spite of that disparity we have spent hours and hours contemplating the monstrous imposition, as it has been ludicrously described, of this method or that method for handling remainders, whereas all the time the great body of the seats in the House, the great body of the seats in the electoral college, could not be affected one whit by whatever method we might choose. Camouflage never aspired to larger confusion than in this irrational effort to magnify the choice of a method.

Mr. HARRISON. Mr. President——

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

Mr. VANDENBERG. I yield.

Mr. HARRISON. May I ask the Senator if there is one seat in the House affected by a method that is not fair, does not the Senator think that the fair method should be then adopted?

Mr. VANDENBERG. Yes, indeed; I certainly do. Now, we are back to the age-old quarrel as to whether major fractions is fair or whether equal proportions is fair. I am not going to enter that field this afternoon other than to say that the dispute over the mathematical formulæ for handling remainders very largely rotates around a difference of opinion among the great mathematicians and the great political economists and the experts of the country. No man has ever yet succeeded in bringing the experts into a common agreement upon definitions. During the recess from March 4 to April 15 I thought perhaps the greatest service I could render the discussion, if I could render any, would be to procure an armistice in this war of the quotients and I did succeed in obtaining an armistice. Whereas there had been disagreement theretofore regarding the language that should be used in an apportionment bill, there is absolutely no disagreement to-day among those experts related to the Government over the language that should be used in this type of ministerial apportionment.

The language of the bill is approved by Doctor Steuart, the Director of the Census, and it is the first time he ever approved language dealing with methods of handling remainders in his life.

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

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

Mr. VANDENBERG. I yield.

Mr. HARRISON. The Senator says he has settled that war, and I congratulate him. Do Doctor Hill, Doctor Huntington, and Doctor Willcox, and all those gentlemen, who had diverse views with reference to various methods, now agree as to the best method to be employed?

Mr. VANDENBERG. Yes, Mr. President; so far as ministerial functioning is concerned; and if the Senator will bide himself in peace for just a moment, I will call the roll.

Mr. HARRISON. I just can not do so for the moment, because I want to ask the Senator a question.

Mr. VANDENBERG. I know the Senator's difficulty in keeping still.

Mr. HARRISON. Does the Senator now say that Doctor Hill thinks that the major-fractions method is the best method to be employed in apportioning the Representatives of this country?

Mr. VANDENBERG. The Senator from Michigan said nothing of the sort.

Mr. HARRISON. I know from reading the hearings that Doctor Hill has time after time, without any interruption, said that the equal-proportions method was the best and the fairest method and was consistent with the Constitution.

Mr. VANDENBERG. That is entirely correct.

Mr. HARRISON. Now, the Senator says he does not know whether Doctor Hill has come around to the major-fractions method idea or not; but just before that the Senator said that he and all the others were now together; that he had settled this great battle between the experts.

Mr. VANDENBERG. Has the Senator finished his oration?

Mr. HARRISON. Yes; I have finished.

Mr. VANDENBERG. Mr. President, I was saying that Doctor Steuart, the Director of the Census, indorses the language of the bill at the point where it provides for methods, being the first time, I believe, that he has ever indorsed any bill. I repeat to my genial friend across the aisle that Doctor Hill, the scientific expert assistant in the Bureau of the Census, who does believe in equal proportions as a primary mathematical preference, indorses the language proposed in this bill for a ministerial apportionment.

Mr. HARRISON. But may I ask the Senator——

Mr. VANDENBERG. Let me finish my reply, and I shall then be glad to yield to my friend.

Mr. HARRISON. I was merely going to say that this bill expressly names major fractions.

Mr. VANDENBERG. I beg the Senator's pardon; it does not name major fractions.

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

Mr. VANDENBERG. I shall be glad to do so.

Mr. HARRISON. The bill reads:

> By apportioning the existing number of Representatives among the several States according to the respective numbers of the several States as ascertained under such census, by the method used in the last preceding apportionment—

Which was the major-fractions method.

Mr. VANDENBERG. Is the Senator through?

Mr. HARRISON. Yes.

Mr. VANDENBERG. The Senator might also read the other portion of the bill, which gives that particular method no validity and no authority whatever except in the event that Congress fails or refuses to do its own independent duty in 1930.

Mr. HARRISON. Yes; if that Congress in about——

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

Mr. VANDENBERG. I yield.

Mr. HARRISON. If that Congress in about 60 or 75 days, in the rush of other business, can not consider the matter properly, then that method becomes the law by operation of law.

Mr. VANDENBERG. Mr. President, in addition to Doctor Steuart and Doctor Hill, the advisory council of the Census Bureau indorses the language proposed in this bill. I am now referring to Prof. Walter F. Willcox, of Cornell; Prof. George E. Barnett, of Johns Hopkins University; Prof. Robert E. Chaddock, of Columbia; Prof. W. I. King, of New York University; and Prof. George F. Warren, of Cornell. This complete committee—and that is its entire membership—met in Washington on April 13, 1929, and unanimously recommended the phraseology of the pending bill. That is not all. Three of the surviving members of the advisory committee of 1921—which was the last previous committee rendering a decision of kindred sort—joined in recommending the language of the bill.

Mr. HARRISON. Mr. President, may I ask the Senator from Michigan a question?

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

Mr. VANDENBERG. And now I am quoting Prof. Carroll W. Doten, of Massachusetts Institute of Technology; Prof. Edwin R. A. Seligman, of Columbia; and Prof. Wesley C. Mitchell, of Columbia. Now I yield to the Senator from Mississippi.

Mr. HARRISON. The Senator said that three of those who signed this statement were members of the advisory committee which reported to Congress in 1921?

Mr. VANDENBERG. Three of the surviving members.

Mr. HARRISON. Yes. Those three surviving members in that report in 1921 praised and approved the equal-proportions method as a preferential method over the major-fractions method, did they not?

Mr. VANDENBERG. That is entirely correct; but, Mr. President, regardless of whether these experts believe in equal proportions or major fractions, they unite in agreeing that a ministerial act of this character should accommodate itself to the serial decisions of Congress in these concerns of detail, and they bury their differences over formulæ for the sake of a united

recommendation that this measure as drawn shall become the law of the land.

Mr. President, I think that covers, perhaps superficially, and yet, I hope, with sufficient explanation, the general philosophy and purpose which the authors of this bill, the Members of the House of Representatives who previously have approved it, and the Commerce Committee of the Senate, which has approved it, have had in mind in urging once more that the Senate confront its constitutional duty.

So this issue, a fundamental issue, again knocks for admission to the Senate's conscience. I hope that the improved and pending proposal speedily may arm the Government with this needed power to face emergencies. Its failure could involve portentous consequences; its success will encourage a sadly needed renaissance in constitutional fidelity. We can not ignore the power of our own example. When those in high places spurn one part of the Constitution it can not be a matter of surprise if their example encourages men in other places to spurn other parts of the same Constitution.

I take a sentence from a brilliant address of the distinguished senior Senator from Idaho [Mr. BORAH] on February 18 last. I quote:

> If those who make the law live in violation of the law, the ax already has been laid at the root of the tree of representative government.

With greatest pertinence that eloquent apostrophe can address itself to the pending problem. The root of the tree of representative government is the constitutional guaranty of equal rights in the Congress, which makes the law, and in the Executive, who administers it. Apportionment controls both. The ax is indeed laid at the root of the tree when apportionment is tortured.

I take also a cogent sentence from the inaugural address of the new President of the United States.

> Our whole system—

Said Mr. Hoover—

> Our whole system of self-government will crumble if officials elect what laws they will enforce.

Self-government crumbles, Mr. President, in its very vitals if the representative structure falls out of plumb, and the tragedy is doubly appalling if its sworn watchmen in public life neglect or ignore needful corrections in prudent time. I pray that this bill may pass. The census is important; the constitutional use of the census is still more infinitely important. To those who still look doubtfully upon this proposal I recommend the warning address in our constitutional beginnings to the critics who opposed the great charter itself:

> It is a matter—

I am again quoting from the Federalist papers—

> It is a matter of both wonder and regret that those who raise so many objections against the new Constitution should never call to mind the defects of that which is to be exchanged for it.

If there be defects in this proposal to provide for apportionment in each decennium hereafter, Mr. President, I beg of the Senate to remind itself of the alternative. It is idle simply to answer again and again that the problem should be left to congressional free will. Congressional free will upon this score has had paralysis for nearly a decade. There is no warrant that to-morrow's congressional inclination will be more scrupulous. No Senator will undertake to deny that a perpetuation of existing injustice may jeopardize the institutions of the Republic. We propose by the pending legislation to save all such contingencies. That is the sum total of its objective. It is a congressional formula for constitutional good faith.

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

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

Mr. VANDENBERG. I yield to the Senator.

Mr. HARRISON. I inquire of the Senator when the last apportionment measure was passed by the State of Michigan?

Mr. VANDENBERG. I can not give the Senator the specific date, but I can say to him that it was infinitely longer ago than it should have been.

Mr. HARRISON. Can the Senator tell us whether it was 40 years ago or 2 or 3 years ago?

Mr. VANDENBERG. I should think it was probably 15 years ago. I hazard a guess.

Mr. HARRISON. Does the Senator tell us now, as a Senator from Michigan, that it has been 15 or 20 years since there was an apportionment in Michigan?

Mr. VANDENBERG. I think it was 10 years ago, Mr. President.

Mr. HARRISON. If the Senator thinks again, perhaps, he will get it down to five years.

Mr. VANDENBERG. I am giving the Senator my best recollection, assuming that he is asking the question in good faith.

Mr. HARRISON. I am. I really thought it was quite recent from the enthusiasm which the Senator is putting forth in behalf of the pending measure.

Mr. VANDENBERG. May I tell the Senator why there has not been a recent apportionment?

Mr. HARRISON. I think it would be interesting to us to hear the story.

Mr. VANDENBERG. Very well.

Mr. HARRISON. And I wish the Senator would tell us something of the editorials that he has written in his newspaper with reference to apportionment in Michigan.

Mr. VANDENBERG. I shall be delighted to do both.

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

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

Mr. VANDENBERG. I prefer to answer the Senator from Mississippi first and then I will be glad to yield to the Senator from New York.

There has been in the Legislature of the State of Michigan, Mr. President, a perfectly frank unwillingness to do its constitutional duty within the State; there is no question whatever about that. But there has not been a time during the last eight years when the Michigan Legislature could relieve the Commonwealth of Michigan from the incubus and the injustice and the inequity put upon it by the failure of Congress to do its duty. So far as the participation of the junior Senator from Michigan in those debates in Michigan is concerned, the Senator from Mississippi will find not one word from me in which I have not always insisted that the State Senate of Michigan should be apportioned precisely on the theory of the Senate under the Federal system and that the House of Representatives should absolutely reflect population equities.

I now yield to the Senator from New York.

Mr. WAGNER. Mr. President, I have admired the Senator's enthusiasm as well as his sincerity upon this question; and I have been somewhat disappointed that he has not insisted more definitely that the taking of the census is quite as important as the matter of apportionment. Is it not the Senator's view that the census should be taken in an unbiased and impartial manner, and that the agency which does the enumerating should be free from any political influence or control?

Mr. VANDENBERG. I should think that would be a fine objective; yes, Mr. President.

Mr. JOHNSON. Mr. President, if there is no Senator who wishes to engage in general debate——

Mr. BLAINE. Mr. President——

The PRESIDING OFFICER. Does the Senator from California yield to the Senator from Wisconsin?

Mr. JOHNSON. I yield.

Mr. BLAINE. I wish to inquire if the Senator from California desires to move for a recess?

Mr. JOHNSON. No; I was going to ask, if there is no desire to engage in general debate upon the bill, that we proceed to the consideration of the amendments that are pending.

Mr. NORRIS. Mr. President——

The PRESIDING OFFICER. Does the Senator from California yield to the Senator from Nebraska?

Mr. JOHNSON. I do.

Mr. NORRIS. May I say to the Senator from California that the question asked of the Senator from Michigan by the Senator from New York interests me very much; and I should like to ask the Senator from Michigan a question, if the Senator will permit me to do so.

The PRESIDING OFFICER. Does the Senator from California yield for that purpose?

Mr. JOHNSON. Yes; I yield.

Mr. NORRIS. I desire to ask the Senator from Michigan whether, in his judgment, this bill does just what was suggested by the question of the Senator from New York?

Mr. VANDENBERG. In my judgment it does it as nearly as it is humanly possible to do it.

Mr. JOHNSON. May I say to the Senator from Nebraska that I think the Senator from New York was indicating an amendment that he has by which the appointment of the supervisors, enumerators, and other employees should be placed under civil service. Am I not right, may I ask the Senator from New York?

Mr. WAGNER. Yes; the Senator is right.

Mr. JOHNSON. A perfectly appropriate matter of argument here; and for that reason I was suggesting, unless the Senator from Wisconsin desires to proceed with some discussion, a perfectly appropriate amendment, that ought to be presented as fully as it can be presented to the Senate for its determination of that subject.

Mr. NORRIS. May I further interrupt, and inquire of the Senator from New York whether he agrees with the Senator from Michigan that this bill does provide for taking the census in the manner that he has indicated by the answer to his question? Is the Senator from New York in agreement with the Senator from Michigan on that?

Mr. WAGNER. No; I am quite in disagreement with the Senator upon that subject.

Mr. NORRIS. Then it seems that there is a controversy as to whether this bill does provide for taking the census in the manner indicated by the question.

Mr. WAGNER. It does quite the contrary. A moment ago I sought the opportunity to answer the Senator's question; but the bill which is now pending goes farther than any census bill in recent years in making very certain that the field appointments are made without reference to civil service, because while heretofore the matter of the appointment of such persons has not been provided for in the legislation as to whether it was to be under the civil service law or without the civil service law, here, to make certain that no contention could be made that these field employees are to be appointed under civil service, there is a provision in the bill that all of these field appointments, 100,000 of them, are to be made without reference to civil service.

Mr. NORRIS. I should like to say that it seems to me that some provision of that kind on this bill, which is supposed to be a permanent law instead of a temporary one applying only to one census, is extremely important. From the question that the Senator from New York asked I suppose it is his object to try to put into permanent law a method of taking the census that will be free from political, or particularly partisan political, influences of any kind. If that is his object, I should like to volunteer to the Senator my weak assistance to try to carry it out. I am in entire sympathy with the proposition, more so on this kind of a bill than I would be on a bill that provided only for one census. But if this bill does not now properly safeguard the taking of the census and keeping it out of politics, and does not provide for a method by which we shall take 100,000 appointments off the political pie counter, we ought, before we pass it, to see that it does safeguard the law in that respect.

Most of the discussion so far has been upon another point in the bill; and I hope the Senator from New York, if he is contemplating an amendment that will bring about a better safeguard than now exists, will not be led astray by the more popular debate that may take place on some other points in the bill, because it seems to me he has taken hold of a vital proposition. I should like to see him succeed.

Mr. WAGNER. Mr. President, I assure the Senator that I am not going to be misled. So far as offering the amendment is concerned, I have it all prepared, ready to be offered. I did not even discuss the question with the Senator from Nebraska, because I know his advanced and progressive views on matters of government, and I knew that his support would come to this legislation without any solicitation on my part.

Mr. JOHNSON. Mr. President, may I say to the Senator from New York and to the Senator from Nebraska that I rose for the purpose of having the bill taken up now, and the amendments as they are reached in their appropriate course considered by the Senate; and of course the amendment of the Senator from New York in its due course, either immediately or at any time that he may desire, will be considered, and considered exactly as he or the Senator from Nebraska may desire. I recognize its importance; but I want it discussed, and it will be discussed upon the floor here, and the facts presented in respect to it.

Mr. BLAINE. Mr. President——

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

Mr. JOHNSON. Yes; but I desire to say to the Senator from Mississippi that I understand that the Senator from Wisconsin desires to proceed with an argument, and I was going to yield until he could make his remarks.

Mr. BLAINE obtained the floor.

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

Mr. BLAINE. Yes.

Mr. HARRISON. A parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator will state it.

Mr. HARRISON. What is the pending amendment?

The PRESIDING OFFICER. The pending amendment is the amendment offered by the Senator from Kentucky [Mr. SACKETT] in line 15, page 16, after the word "State."

Mr. HARRISON. Will the Senator from Wisconsin permit me to ask the Senator from Kentucky a question?

Mr. BLAINE. I yield.

Mr. HARRISON. Would the Senator from Kentucky object to withdrawing his amendment temporarily, so that the pending amendment and the first one would be the one that we think goes to the very heart of this proposition—namely, the one that strikes out the last provision of the bill, delegating to the President of the United States the power to make this apportionment?

Mr. SACKETT. No; I have no objection to withdrawing the amendment temporarily, for another reason also. The Senator from Tennessee [Mr. TYSON] wishes to be heard on the amendment, and he is away from the city. With the consent of the Senator in charge of the bill, I will withdraw the amendment.

Mr. JOHNSON. So far as I am concerned, there is no objection in regard to the order in which amendments may be taken up; but may I say——

Mr. HARRISON. Let us let this amendment be pending, then.

Mr. JOHNSON. May I say that there are a half a dozen amendments exactly like that of the Senator from Kentucky, and we will pass them all by if it is his desire.

Mr. SACKETT. I did not want to lose the precedence which my amendment has in that class of amendments.

Mr. JOHNSON. The prestige that comes to the Senator from Kentucky from his amendment we will readily accord him. It shall be the Senator's amendment that will be considered.

Mr. SACKETT. It has already been pending, and I want it to be considered again.

Mr. JOHNSON. There are 16 others like it, sir.

Mr. BLACK. Mr. President, will the Senator yield to me to offer the amendment to which the Senator from Mississippi refers, and which has already been printed?

Mr. JOHNSON. I do not know what the Senator is referring to.

Mr. BLACK. This is the amendment to which the Senator from Mississippi refers, which I desire to offer and have pending.

Mr. JOHNSON. Let it be offered then; all right.

Mr. PHIPPS. Mr. President, if I may be permitted, may I ask consideration of three simple amendments which I have offered and which are printed, simply for the reason that I expect to be called out of the city, and may not be here to-morrow, when they would otherwise come up? I think they can be disposed of in a very few minutes, if there is no objection.

The PRESIDING OFFICER. Is there objection?

Mr. HARRISON. What are the amendments?

Mr. JOHNSON. May I inquire of the Senator if they are any other amendments than those that relate solely to the penal clauses, and that minimize the punishments that are inflicted?

Mr. PHIPPS. No; those are the only ones.

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

Mr. HARRISON. Let the amendments be stated.

The PRESIDING OFFICER. The amendments will be stated.

Mr. PHIPPS. I send the amendments to the desk.

The LEGISLATIVE CLERK. On page 9, line 15, after the word "questions," strike out the remainder of the line.

Also, on page 9, line 17, strike out the numerals "$500" and insert "$100."

Also, on page 9, line 18, strike out "one year" and insert "60 days."

Also, on page 9, line 18, after the word "both," strike out the period and insert a comma and the following:

> And any such person who shall willfully give answers that are false shall be fined not exceeding $500, or be imprisoned not exceeding one year, or both.

Mr. JOHNSON. Mr. President, may I say to the Senator from Colorado that if these amendments are such as I apprehend them to be—that is, first, a reduction of the penalty from $500 to $100, a reduction of the imprisonment from 1 year to 60 days, and a transposition of the offense of willfully giving false answers—if those, and those alone, constitute the amendments, personally, I have no objection to them.

Mr. PHIPPS. May I say that the only purpose of the amendments is to distinguish between the man who neglects to answer a question and one who willfully gives a false answer to a question. I do not propose any reduction of the penalty as written in the bill for one who gives false information know-

ingly; but in the case where one innocently gives information that may be proved incorrect, the penalty of $100 or 60 days' imprisonment would seem to me to be ample.

Mr. NORRIS. Mr. President——

The PRESIDING OFFICER. Does the Senator from Wisconsin yield to the Senator from Nebraska?

Mr. BLAINE. I do.

Mr. NORRIS. Does the Senator mean to say that the man who gives misinformation innocently shall be punished?

Mr. PHIPPS. If he refuses to give it, he is punished.

Mr. NORRIS. That is different from the Senator's statement.

Mr. PHIPPS. If he neglects to give it——

Mr. NORRIS. The Senator used the word "innocently."

Mr. JOHNSON. No; the language is "shall refuse or willfully neglect."

Mr. NORRIS. That is a different thing from innocently giving misinformation.

Mr. PHIPPS. I understand the Senator in charge of the bill to state that he has no objection to the amendments.

Mr. JOHNSON. So far as I am personally concerned, I have none.

The PRESIDING OFFICER. The question is on agreeing to the amendments offered by the Senator from Colorado.

Mr. HARRISON. Mr. President, I really wanted to say something with reference to these amendments. It will not take very long.

The PRESIDING OFFICER. The Senator from Wisconsin has the floor. Does he yield to the Senator from Mississippi?

Mr. PHIPPS. I beg the Senator's pardon. He was standing back of me, and I did not understand that he had obtained the floor when I asked for permission to have these amendments considered at the present time. I did not want to interfere with his remarks.

Mr. BLAINE. Mr. President, my impression is that some of these amendments have not received the consideration to which they are entitled. I think it is rather late in the afternoon to undertake to perfect these amendments; and I suggest that they go over until the time fixed for the limited debate upon the bill and the amendments.

Mr. HARRISON. If the Senator will permit——

Mr. PHIPPS. Mr. President, if the Senator refuses to yield, of course, I must submit.

Mr. HARRISON. I want to make one observation. It does seem to me that these are the most logical and appropriate amendments which have been offered to the bill, because it is proposed that we give great authority to the President and to the Secretary of Commerce to scale down figures and to encourage the boosting of figures, in various communities. So it is natural that those who direct this legislation should want to cut in half the pillars that are to be opposed to such fraud and corruption and might be practiced under this legislation.

Mr. JOHNSON. Has the Senator concluded?

Mr. HARRISON. I wanted to say a few more things, but for the present——

Mr. JOHNSON. I simply want to say that that kind of poppycock is not going to interfere with the consideration of this bill in the slightest degree. The amendments were presented by the Senator from Colorado. Personally, I do not care a thing about them, and, so far as I am concerned, I accept them. But we are going to proceed with the consideration of this bill, and we are going to proceed in as orderly a fashion as we can, and we shall go ahead as well as we can. If the Senator from Wisconsin desires to present a matter and to make some remarks, very well.

The PRESIDING OFFICER. Did the Senator from Wisconsin yield for the offering of these amendments?

OPEN EXECUTIVE SESSIONS

Mr. BLAINE. Mr. President, early in the session to-day, out of consideration for the time of the Senate, I asked unanimous consent to have printed in the RECORD a certain newspaper item. I do not want to interrupt the consideration of the pending reapportionment bill, but to those Members who are so very determined that our Government should operate in secret, behind closed doors, I suggest, with all due consideration for their feelings, that it is up to them to enforce the rule of secrecy.

Mr. BLACK. Mr. President——

The VICE PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Alabama?

Mr. BLAINE. Not at present.

The VICE PRESIDENT. The Senator declines to yield.

Mr. BLAINE. I will yield to the Senator very shortly.

We hear a great deal about law enforcement in these days, yet legislatures and Congresses continue regularly to write upon the statute books more laws, more rules, more regulations, and when they are so written, those in whose hands the enforcement rests continue to permit those same laws, those same rules, and those same regulations to be winked at. So it is with those who are determined to keep this Government under the cloak of secrecy.

There is a rule as a result of which it is alleged no Senator has a right to give information respecting that which transpires in the executive sessions of the Senate. That which is denied to Members of the Senate is apparently permitted to outsiders, and the Senators who stand for that rule have been twice challenged to enforce the rule which they regard so sacred, challenged in this Chamber on the occasion of the confirmation of the nomination of Mr. West, challenged here to-day by the public press, and on both of the occasions there has been published and broadcasted what purports to be information regarding the executive sessions of the Senate.

Whether or not the information so published is correct or not is not for me to say, because if I should so suggest then I might subject myself to the rigors of this rule, which the Senators who favor the rule by their silence refuse to enforce.

It appears to me perfectly ridiculous to undertake to enforce this rule of secrecy. It has not been done; it can not be done. Far better, therefore, that it should be wiped out of the rules of the Senate, else this body will be held in scorn, disdain, and contempt by the people of America, who believe their Government should function in the open and not in silence.

Mr. President, darkness begets secrecy, secrecy begets darkness, and it is in the dark corners of secrecy that crimes and offenses against the Government are perpetrated. That is charged in connection with the income tax law. I have no doubt but what it might be found in connection with the secret archives of the State Department. Wherever secrecy reigns there is opportunity for the vile, festering sore of corruption and debauchery.

I have been taught that this was a Government of the people, by the people, and for the people. This Government is the people's Government. If any department of this Government or any branch of this Government operates in secret and behind closed doors, then the Government ceases to be a Government of the people or by the people.

Mr. President, I propose here this afternoon to accomplish what I think ought to have been granted by unanimous consent this morning.

The Senator from Connecticut [Mr. BINGHAM] objected to permitting insertion in the RECORD of the newspaper report on the Roll Call of Senate on Lenroot Revealed, that being the title of the news item as published in the Washington Post. I did not want to continue to interrupt the Senator from Nebraska, who had the floor and who was discussing the very important question of the control of the public conscience through the control of the public press by the great power interests of this country. Therefore I could not pursue my request beyond the mere making of it. I am sorry the Senator from Connecticut [Mr. BINGHAM] is not present. Perhaps he objected to having the news item printed in the RECORD because of its source. Perhaps he objected, for aught I know, on the ground that it was contained in the Washington Post. I therefore desire to go to another source for a newspaper report on the same subject. I could go to the Washington Times, as I understand the same report was published in that paper. I choose, however, to go to the News, published in Washington, D. C., dated May 21, 1929, and read to the Senate the report appearing in it. I do not vouch for its accuracy; I do not vouch for any part of the report; but the people of this country are entitled to know that which the newspapers seem to be privileged to publish but which we, in our places here, are not privileged to affirm or deny.

It has been stated that perhaps this report is in error. I neither affirm nor deny any such suggestion. I can not, because I am not privileged to report any information regarding an executive session as coming from that session. But if the report is in error, then introducing this report into the RECORD will give the membership of this body an opportunity to set themselves right if they choose so to do.

I have no doubt but that the country may believe this report true, this roll call to be correct. The constituencies of the respective Senators may so regard it. If there is error, the Senator against whom the error is committed ought to have the right to point out the error, and I shall give such Senators that opportunity.

Reading from the News of the date which I have suggested, there is printed across the head of the issue I hold in my hand these words:

Secret Senate roll call on Lenroot revealed.

Then turning to column 1, page 1, I will read the report:

Senate secret vote on Lenroot revealed. Nine Democrats bolt——

Mr. REED. Mr. President——

The VICE PRESIDENT. Does the Senator from Wisconsin yield to the Senator from Pennsylvania?

Mr. BLAINE. I choose not to yield at this time.

Mr. REED. Mr. President, a point of order.

The VICE PRESIDENT. The Senator will state it.

Mr. REED. In Rule XXXVI, paragraph 4, it is stated that—

> Any Senator or officer of the Senate who shall disclose the secret or confidential business or proceedings of the Senate shall be liable, if a Senator, to suffer expulsion from the body.

In Rule XXXVIII, proceedings on nominations, it is said that—

> All information communicated or remarks made by a Senator when acting upon nominations concerning the character or qualifications of the person nominated, also all votes upon any nomination, shall be kept a secret.

In Rule XIX, paragraph 4, it is stated that—

> If any Senator, in speaking or otherwise, transgress the rules of the Senate, the Presiding Officer shall, or any Senator may, call him to order; and when a Senator shall be called to order he shall sit down, and not proceed without leave of the Senate.

I call the Senator from Wisconsin to order in that he is violating the rule which prescribes that votes upon any nomination shall be kept a secret.

The VICE PRESIDENT. The Senator from Wisconsin will take his seat until the Chair rules.

Mr. HEFLIN. Mr. President, I make the point of order that the Senator from Wisconsin has not said anything that has been subject to a point of order up to this time.

Mr. REED. The Senator from Wisconsin has stated that nine Democrats voted in a certain way, and on that I called the Senator to order.

The VICE PRESIDENT. The Chair is ready to rule if the Senator from Wisconsin will take his seat.

Mr. BLAINE. I submit to the jurisdiction of the Chair.

The VICE PRESIDENT. The Chair is ready to rule. The Senator from Wisconsin will take his seat.

This question was raised while the late Senator Cummins was President pro tempore of the Senate. When the point was first raised he sustained the point of order. A day or two later he voluntarily took up the question and stated that he had made a mistake in his former ruling and held that the Senator had a right to read the record. The Chair overrules the point of order.

Mr. REED. I appeal from the decision of the Chair, and 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:

Allen	Glenn	Metcalf	Steck
Bingham	Goldsborough	Moses	Steiwer
Black	Hale	Norbeck	Stephens
Blaine	Harris	Norris	Swanson
Blease	Harrison	Nye	Thomas, Idaho
Borah	Hastings	Oddie	Thomas, Okla.
Brookhart	Hatfield	Overman	Townsend
Broussard	Hawes	Patterson	Trammell
Burton	Hayden	Phipps	Vandenberg
Capper	Heflin	Pine	Wagner
Caraway	Howell	Ransdell	Walcott
Connally	Johnson	Reed	Walsh, Mont.
Couzens	Jones	Sackett	Warren
Cutting	Kean	Schall	Waterman
Dale	King	Sheppard	Watson
Fess	La Follette	Shortridge	Wheeler
Fletcher	McKellar	Simmons	
Frazier	McMaster	Smith	
George	McNary	Smoot	

The VICE PRESIDENT. Seventy-four Senators have answered to their names. A quorum is present.

Mr. REED. Mr. President, for the information of those Senators who were not in the Chamber before the quorum was called, may I state what is the situation. The junior Senator from Wisconsin [Mr. BLAINE] had commenced to read a newspaper article purporting to describe the vote of the Senate upon the confirmation of Mr. Lenroot for a place on the bench. The Senator prefaced his remarks by saying that he neither vouched for nor disavowed the accuracy of the statement, but in substance he stated that he was reading it for the information of the country, and so that any Senator who thought he was incorrectly reported might publicly state that he was incorrectly reported. The Senator then went on to begin to read the article, and he read a part of the statement, "Nine Democrats vote to aid G. O. P. put over Hoover man." At that point I called him to order under Rule XIX. The Chair did not sustain the point of order, but ruled that the Senator was proceeding in order, and from that ruling of the Chair I appealed. That is the present status of the matter.

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

The VICE PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from Alabama?

Mr. REED. I yield.

Mr. HEFLIN. Suppose an article like that were printed in the daily papers and it clearly misrepresented Senators as to what occurred, and a Senator desired to call attention to it and to read it in this body and comment on it, would he be in order?

Mr. REED. The Senator from Wisconsin did not call attention to it for the purpose of contradicting it. The Senator called attention to it for the purpose of informing the country, and so stated.

Mr. HEFLIN. But the Senator was going to read it into the RECORD.

Mr. REED. Precisely.

Mr. HEFLIN. After it had already been printed in the public press.

Mr. REED. If the Senator, by reading it into the RECORD brings it to the attention of a single person who did not see it in the paper, in my judgment he violates the rule against secrecy.

Mr. HEFLIN. One or two Senators have already stated that it is incorrect. Would not that give the opportunity to every Senator, if he wanted to do so, to state wherein it was correct? I think it is already the rule—if it is not it soon will be—that any Senator can tell how he himself voted on any of these questions so his constituents may know.

Mr. FLETCHER. Mr. President, this debate is all out of order. I do not think the subject is one for debate.

The VICE PRESIDENT. Under the rule the appeal is debatable, and the Chair thinks Senators have the right to state their views. However, the Chair desires to read, before the vote, his reasons for overruling the point of order.

Mr. REED. The debate can be stopped if any Senator wishes by moving to lay my appeal on the table. I have no disposition to protract it. I merely wish to say a few words.

Mr. CARAWAY. Mr. President——

The VICE PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from Arkansas?

Mr. REED. I yield.

Mr. CARAWAY. May I say to the Senator that I do not think the gravamen of the offense is heading what the newspaper said. Personally I do not care. I am not saying whether I am accurately or inaccurately reported. It makes no difference to me.

Mr. REED. The Senator knows I do not care either. I am willing to tell my vote from the top of the Washington Monument.

Mr. CARAWAY. I know that, but what I started to say is this: I know that somebody, either a Member of the Senate or an employee, gives out the information. I know, therefore, that we are pretending to transact confidential business while somebody for a consideration is peddling it to somebody who is willing to buy that sort of information. That is all I complain about. I wish the Senate would abolish the rule, because I want to take away from that individual the market for his own dishonor and I want to take away from those who want to buy stolen goods the opportunity to do so.

Mr. REED. Precisely.

Mr. CARAWAY. That is all I care about. The Senator from Washington [Mr. JONES] is always introducing resolutions to amend the rule, but never seeks a vote on them. I wish those in control of the Senate who have the authority would amend the rule. There is not any reason why it should not be amended so as to let the people know not how Senators vote, because that is not informative, but why they vote as they do. That is the information that ought to be given to the country. It does not make any difference what interpretation I may put upon a fact, that does not enlighten anybody; but if the facts back of what moved me to act were known, it might be enlightening. Therefore we ought to abolish the rule of secrecy. When a nomination comes before the Senate let the country know what the facts are.

Mr. REED. Mr. President, I do not entirely agree with the Senator's conclusion, but he has certainly put his finger on the sore spot. It is against the rules of the Senate to tell what happens in executive session. Those rules are law so far as we are concerned. There is some hypocrite here who prattles out loud about law enforcement and in secrecy does what he dare not do publicly and gives out information.

Mr. CARAWAY. I want to take away the market for that sort of goods; I want to remove the temptation from somebody who was born without honor, by abolishing the rule of secrecy so that he will have no occasion to display what sort of a man he happens to be.

Mr. REED. Furthermore, I call the Senator's attention to the fact that this list of names is not unaccompanied by a statement of the debate, and the same man who is without honor in divulging the names also divulges only what he wants the newspapers to print about the reasons for the votes which he says were cast. He is wholly unfair to his brother Senators, if he be a Senator, and he is wholly disloyal to the Senate which employs him, if he be one of our employees. If we can find out who he is——

Mr. CARAWAY. That should be done.

Mr. REED. And, in my judgment, we can, and we ought to try, then I for one am in favor of enforcing the rule of the Senate that provides for dismissal, if he be an employee, or of expulsion, if he be a Senator.

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

The VICE PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from Alabama?

Mr. REED. I yield.

Mr. BLACK. Why does not the Senator from Pennsylvania offer a resolution to bring about an investigation to find out who it is who has divulged this information? Why has not that been done heretofore? I am in favor of open sessions, but I should be delighted to vote for such a resolution.

Mr. REED. The Senator will be interested and glad to know that a meeting of the Committee on Rules has been called to inquire into this matter to-morrow afternoon at 1 o'clock.

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

The VICE PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from Mississippi?

Mr. REED. I yield to the Senator from Mississippi.

Mr. HARRISON. Why is it that the Rules Committee is calling a meeting to investigate this matter when some time ago a roll call of Senators purporting to be in executive session was published but nothing was done about it?

Mr. REED. I do not remember why nothing was done about it.

Mr. HARRISON. It seems to me that both cases ought to be investigated.

Mr. REED. I agree with the Senator that any case of this sort ought to be investigated and run down so far as we can run it down.

Mr. HEFLIN. Mr. President, I want to ask the Senator another question.

The VICE PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from Alabama?

Mr. REED. I do not yield for the moment. We all know, to face the facts, that the newspapers flaunt the rule of secrecy and brag about it. A couple of years ago I introduced a resolution to deny the privileges of the press gallery to any newspaper man who conspired with some traitor in the Chamber to divulge information against the rules of the Senate, and I was made the butt of a considerable amount of ridicule among the newspaper paragraphers who have the privilege of attacking without responsibility. That does not matter in the least; they will do it again to-morrow.

However, I want to call the attention to the fact that there is a particular offense in this case, because Mr. Mallon who flaunts his name at the head of this article, the discoverer of this roll call, is one of the four reporters, as I understand, who have the courtesy of the Senate in that he is permitted to come on the floor of the Senate itself. Yet, enjoying that uncommon privilege, he puts his name at the head of this article in defiance of the rules of the body whose guest he is when he comes on this floor.

Mr. GLENN and Mr. HEFLIN addressed the Chair.

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

Mr. REED. I yield first to the Senator from Illinois.

Mr. GLENN. Can the Senator inform us whether he is the same newspaper correspondent who ended the World War 24 hours in advance of the armistice or whether he represents the press organization which did that? [Laughter.]

Mr. REED. I do not know; I can not answer the Senator's question. I was not here at that time.

Mr. HEFLIN. Mr. President——

The VICE PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from Alabama?

Mr. REED. I yield.

Mr. HEFLIN. I wish to ask the Senator if he thinks that a Senator has the right to state how he voted on a particular matter, such as the confirmation of a nomination for public office of the United States? Has he a right to tell his constituents how he voted?

Mr. REED. Mr. President, the rule says that all votes—and that includes each Senator's—shall be kept secret. I never have had any doubt about that being the meaning of the rule, although I have often wanted to be able to announce my own vote.

Mr. HEFLIN. The Senator thinks, then, if a Senator is a candidate for reelection, and is accused of voting for the confirmation of some man when he voted to the contrary he is not at liberty to tell his constitutents how he voted?

Mr. REED. In my judgment he is not.

Mr. HEFLIN. Then, Mr. President, I am in favor of abolishing that rule.

Mr. REED. Mr. President, that is the way to correct the evil. If the rule is wrong, let us change the rule, but let us not abrogate it by sneaking to some newspaper reporter in secrecy and divulging information of what happened in executive session. We hear about the crime of secrecy, but how about the Senator who in secret divulges what he is in honor bound not to divulge? How about the Senator who in secret tells a reporter in whispers his idea of what transpired in debate in executive session?

Mr. BLAINE. Mr. President, I rise to a point of order.

The VICE PRESIDENT. The Senator from Wisconsin will state his point of order.

Mr. BLAINE. I want to inquire of the Senator from Pennsylvania if his remarks are applicable to a specific Senator?

Mr. REED. Mr. President, they are applicable to that Senator who gives out this secret information. I would to heaven that I knew who he is, but I do not.

Mr. BLAINE. Does the Senator suggest that in requesting to have the roll call as published in the newspaper printed in the RECORD I am giving out any secret information that I obtained?

Mr. REED. I do not suggest that the Senator from Wisconsin is the person who gave the information to the newspaper man; I do not mean to intimate that even indirectly; but I do say that to read the newspaper statement for the information of the country is a violation of the Senate's rules.

Mr. McKELLAR. Mr. President, I rise to a point of order.

The VICE PRESIDENT. The Senator from Tennessee will state the point of order.

Mr. McKELLAR. Rule XX of the rules of the Senate provides, among other things:

* * * and every appeal therefrom—

Namely, from the ruling of the Chair—

shall be decided at once, and without debate.

I make the point of order that debate is out of order.

The VICE PRESIDENT. That rule does not apply to this case. The Chair holds that the question is debatable and the appeal is debatable.

Mr. BLAINE. Mr. President——

The VICE PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from Wisconsin?

Mr. REED. I yield.

Mr. BLAINE. The Senator gave the name of Mr. Mallon. As I understand, however, other newspapers, including the Washington Times, had articles along the same or similar lines and to the same purport. So did the Washington Star, but the articles were not by the same reporter. So evidently the whole responsibility should not be charged to one newspaper man.

Mr. REED. I have seen such an article in only two newspapers. One was the Washington Post and the other was the Washington Daily News, a tabloid newspaper, and both of those articles bore Mr. Mallon's name.

Mr. BLAINE. I think the Senator will find the article in the Washington Times was by some one else.

Mr. REED. If that was by somebody else, then my remarks should include him. The point I wish to make is that it is high time the Senate took a self-respecting position in its attitude toward the newspapers that flaunt its rules. I do not see any particular reason why we should be afraid to enforce our rules against them, and I hope we will do so. If we are afraid, then there is not much use in having rules.

Mr. BORAH. Mr. President——

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

Mr. REED. I yield.

Mr. BORAH. If we can succeed in enforcing the rules against ourselves, we will not have any trouble with the newspapers.

Mr. REED. I think that is true, but we all know that if any one of the newspaper reporters is called on to testify before a committee as to the sources of his information, then, in accordance with the so-called ethics of that so-called pro-

fession, he will decline to say where he got his information, and I for one——

Mr. NORRIS. Mr. President——

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

Mr. REED. I will yield at the end of the sentence. I for one would enforce the proceedings against him that are appropriate for a contempt of the Senate. I think if we would show a little determination we would find out where the leak is. I now yield to the Senator from Nebraska.

Mr. NORRIS. Mr. President, apropos of the question which the Senator from Idaho asked and which also has been asked in substance by the Senator from Alabama and the answer of the Senator from Pennsylvania, I want to preface my question by a statement of just a sentence. I entirely agree with the Senator from Pennsylvania that, under the rules of the Senate, no Senator has a right to state how he voted either here or anywhere else, neither in Washington nor at home. Regardless of how he may be attacked, how wrongful may be any charge against him, he must remain silent. I agree with the Senator as to that. Now, the question is this: Has not the Senator heard on the floor of the Senate repeated announcements by Senators that they would tell whenever they saw fit, and that they had done it in the past, just how they voted on any question; that they would conceal no vote from their constituents?

Mr. REED. Since I have come to the Senate I have known, I think every one of its rules to be broken, and broken flagrantly, and that rule among them.

Mr. NORRIS. I wanted that statement to go in the RECORD, because there are Senators who in good faith have obeyed and followed the rules and suffered from it, and yet they hear other Senators who have been here longer than I have been openly say to the Senate, right in its teeth, that they reserve the right to tell anybody how they voted.

Mr. REED. I have heard that; yes.

Mr. NORRIS. With the understanding that a large number of Senators claim that right, and that the Senate has no right by rule to circumscribe their privilege and their right to do that, how can we get away from the proposition, if some Senators claim that right and exercise it, that it should be claimed and exercised by all Senators?

Mr. REED. Whether they exercise it or not I have no means of knowing. I have heard them claim the right, but I have never known them to exercise it.

Mr. FLETCHER and Mr. SMITH addressed the Chair.

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

Mr. REED. I yield next to the Senator from Florida.

Mr. FLETCHER. The question here is as to a violation of the rules by the effort made by the Senator from Wisconsin. What he is proceeding to do is to read from an article published in a newspaper without saying it is true or saying it is false, without specifying what is true or what is false. Is that divulging any secret on his part of what occurred in executive session? He is merely trying to put in the RECORD what some newspaper reporter has stated.

Mr. REED. Precisely. Rising in his place in the Senate he is repeating publicly a statement of fact by another man on a matter which is supposed to remain secret, and he says he is doing it for the information of the country, and he begins with the statement that nine Democrats bolted to vote for Lenroot.

Mr. BLAINE. Mr. President——

The VICE PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from Wisconsin?

Mr. REED. Just a moment. How can any sane person construe that except as an intimation that the statements in the newspaper article are substantially correct, or otherwise the Senator would not make them, even if he does not formally vouch for their accuracy?

I now yield to the Senator from Wisconsin.

Mr. BLAINE. I think the Senator is reading from some other newspaper than the one I was reading from.

Mr. REED. I was reading from the Washington Daily News. If the Senator will lend me the paper, I shall be glad to read from his copy.

Mr. BLAINE. Then the Senator was divulging information in regard to the executive session which I had not suggested. [Laughter.]

Mr. REED. What was it that the Senator read about the Democrats bolting?

Mr. BLAINE. I said this: I was proceeding to read an article entitled:

> Senate's secret vote on Lenroot revealed. Nine Democrats bolt.

Mr. REED. Well, that is what I read, is it not?

Mr. BLAINE. The Senator said "bolted to vote for Lenroot."

Mr. REED. Will the Senator permit me to read from his paper?

Mr. BLAINE. I have read it all.

Mr. COUZENS. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. COUZENS. Is not the Senator from Pennsylvania out of order because he said the nine Democrats voted for Lenroot?

The VICE PRESIDENT. The Chair has held that the article may be read, so the Chair thinks the Senator from Pennsylvania is in order.

Mr. LA FOLLETTE. Mr. President, is the Senator from Pennsylvania in order if he reads something that is not in the article?

Mr. REED. If it so happens that I read the concluding words of the sentence, it was quite unintentional. I had understood the Senator—but what is the use of quibbling over that?

I am not going to take any more of the Senate's time. If a majority of the Senate wish to enforce this rule about secrecy, then, in justice to the dignity of the Senate, let us do so. If a majority of the Senate do not approve of the rule, then let us, in a dignified way, change the rule. I think——

Mr. HARRISON. Mr. President——

The VICE PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from Mississippi?

Mr. REED. At the end of the sentence. I think we stultify ourselves in maintaining a rule which is flouted in secret and ignored publicly. That is my position, and that is why I think the action of the Senator in reading this article is a violation of the rule against secrecy, and it is our duty, however unpleasant it may be and however it may expose us to newspaper ridicule, to sustain the appeal and uphold the rule.

Mr. HARRISON. Mr. President——

The VICE PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from Mississippi?

Mr. REED. I yield.

Mr. HARRISON. I agree with what the Senator says with reference to upholding the rule; but he is taking an appeal from the decision of the Chair, and, whatever the vote may be, the country will construe it one way or the other.

Mr. REED. Yes.

Mr. HARRISON. It does not truly reflect the sentiment of the Senate here with reference to that question. I expect to vote to sustain the Chair, because the Chair heretofore has ruled that a Senator has the right to read from a newspaper what happened in executive session.

Mr. REED. Ah! I thank the Senator for reminding me of that ruling. It is true that when the late Senator Cummins was President pro tempore of the Senate he ruled both ways. First, he ruled that to read a newspaper account of this sort under these circumstances was a violation of the rule; then, after a couple of days' meditation and prayer upon the subject, he ruled the contrary. So, for whatever value that precedent has, the Senate has it before it.

Mr. SWANSON. Mr. President, I should like to ask the Senator a question.

The VICE PRESIDENT. Does the Senator from Pennsylvania yield to the Senator from Virginia?

Mr. REED. I do.

Mr. SWANSON. If we were going to have an investigation of this matter to ascertain whether a Senator or an employee gave out this information or whether it was a guess on the part of the newspapers, we would have to preface the resolution with—

> Whereas so-and-so has been stated and printed in the papers.

Would the Senator hold that it was contrary to the rules to state that when he asked for a special investigation?

Mr. REED. We will tackle this case now and the moot case later.

Mr. SWANSON. But, as I understand, the Senator's position is that we can not read from the papers anything that appertains to an executive session. It seems to me that we could not have an investigation unless we were to have a resolution stating that the newspapers state so and so, give such and such information, state such and such facts, and ask to have the matter investigated. Would that be subject to a point of order?

Mr. REED. We can write a resolution without a "whereas."

Mr. SWANSON. But we have to state what we want to investigate, whether this occurred or not.

Mr. HEFLIN. Mr. President, just one word.

If the Chair is overruled, this body is denied the right to do what the public has done to-day all over the country—to read this article. This body is not permitted to read and comment on a thing which attacks the body itself and purports to give a vote which was taken in secret executive session.

Of course the Chair is right. The Senator from Wisconsin [Mr. BLAINE] is involved. He could rise to a question of personal privilege and read it if he wanted to; and if we overrule the Chair we in effect say to the Senate and the country that no Senator can even make reference to a secret executive session. His hands are tied, his lips are sealed, and nobody is to know what he does behind closed doors.

I do not want to be tied so that I can not tell the people of my State how I vote on every question, in secret session and out of it; and the sooner the Senate abandons that practice and tells the people of the States how its Members vote on all questions the better it will be for this Government.

Mr. NORRIS. Mr. President, the real question before the Senate is not whether we ought to have this rule or whether we ought not to have it. The Senate ought not to vote on this appeal on the basis of their belief or disbelief in the propriety of the rule. It must be conceded that we have the rule. The question involved in this decision of the Chair is whether or not a Member of the Senate, in making a speech, can read a newspaper article which purports to give the action of the Senate in executive session.

I remember, only a few days ago, what great respect the Senate had to its precedents, in executive session it is true; but precedent overruled and overrode the plain statement of fact in a rule, and, although that question had been ruled on both ways, the last time it had been ruled on was the time the Senate followed it.

The Chair has referred to a decision by the late Senator Cummins. The Senator from Pennsylvania has said that Senator Cummins ruled both ways. That is true. He first ruled contrary to the way that the present Presiding Officer has ruled; but after deliberation, after further thought and investigation, he changed his ruling, and held that it was proper to read from a newspaper the proceedings claiming to be the proceedings of an executive session.

We all knew the late Senator Cummins. I think all of us who knew him, whether we agreed with him on matters of public policy or not, must unite in saying that he had one of the most logical legal minds of any man of his day. He had a more analytical mind than most men who live and who even rise to prominence in the legal profession. I would have great respect for a legal opinion rendered by Senator Cummins after he had given time and deliberation to the question; and I assume that he gave it to this one, and that after he had given it he reached the conclusion that it seems to me is inevitable, if we follow the logic of it—the conclusion that a Senator has the right to read, in open session, a newspaper article such as the one that the Senator from Wisconsin was attempting to read when he was interrupted.

I desire to say that that is not the only decision. There is another precedent on the matter.

The VICE PRESIDENT. The Chair may state that there are two other precedents.

Mr. NORRIS. Yes; and I am going to read them. One of them happened when the Senator from Idaho [Mr. BORAH] was reading from a newspaper, in open session, from testimony relating to the nomination of Thomas D. Jones to be a member of the Federal Reserve Board, pending in executive session.

Mr. FESS rose.

Mr. NORRIS. The Senator from Idaho undertook to read from a newspaper what that testimony was.

Mr. LEE of Maryland. Mr. President, I rise to a point of order. The Vice President decided this morning that proceedings in a committee which was charged to investigate a matter pending in executive session were proceedings within executive session.

I think there is some reason in holding that way. That is not this case, however. That was not that case. The Senator from Idaho was reading from a newspaper. He was not pretending to read from the executive proceedings.

Now, the Senator from Idaho is reading from the proceedings within an executive session of the Senate here in open session and in obvious violation of its rules. Under these circumstances I raise the point of order as to whether the Senator from Idaho has a right openly to violate the rules of the Senate as the Vice President this morning construed them.

The PRESIDING OFFICER (Mr. Lea of Tennessee).—

He was presiding—

The Senator from Idaho is reading what purports to be from a newspaper and is commenting on it. The point of order made by the Senator from Maryland does not appear to the Chair to be within the precedents of the Senate and the point of order is overruled.

Now, please bear in mind the distinction. The question might properly and with some logic be raised if the Senator from Wisconsin were reading from the testimony taken before a subcommittee of the Judiciary Committee regarding this particular appointment; but he is not doing that. He is reading from a newspaper—a public newspaper.

Mr. FESS. That was the question I wanted to ask.

Mr. NORRIS. I yield now. I beg the Senator's pardon for making him wait so long.

Mr. FESS. The inquiry I wanted to propound was whether the reading was to be from a report of what took place in secret session, or merely a statement of a newspaper, without the Senator vouching that that is what took place.

Mr. NORRIS. Oh, the Senator does not vouch for it. He stated explicitly that he did not vouch for it. He made no comment as to whether it was correct or incorrect.

Mr. FESS. That is the distinction that it seems to me must be taken into consideration. If it is a mere rumor, without one who was in the secret session vouching that that is what took place, that is not the same as testimony before the committee.

Mr. NORRIS. I agree with the Senator. It seems to me that is a perfectly logical distinction. I call attention again to the fact that it is a newspaper article from which the Senator is reading. In the case I read, the Senator from Idaho [Mr. BORAH] was reading from a newspaper article the decision referred to by the Senator from Maryland when he called the Senator from Idaho to order, and referred to a decision of the Chair in which he held that the proceedings before a committee on a nomination in executive session were likewise charged with the same condition and the same secrecy as though they had occurred in the Senate instead of before a committee.

Mr. President, as I look at it, an overruling of the Chair and the following of that ruling in the future would bring a great deal of grief to the Senate, not as to this particular matter, but if we followed that kind of a precedent, we would find ourselves in difficulty continually. A Senator often finds it necessary in self-defense to read from a newspaper. He often reads from a newspaper for the purpose of calling attention to an error in the newspaper. No one can question his right to do that. If we can not read a newspaper comment on what took place in an executive session, we can not read an editorial about it; and I dare say that in the last 24 hours there have been 500 editorials written all over the United States in which the writers have indirectly given information about what took place in an executive session. It is known how some Senators voted, and I do not think it would be at all difficult to find out about how all voted, because a newspaper man who has been observing the Senate for the last six or seven years can take a roll call and pretty nearly tell in advance, without hearing the debate, how Senators will vote on most questions. But the question now is, Do we violate the rule of secrecy when we undertake to read something from a newspaper which everybody must concede has the right to publish the information?

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

Mr. NORRIS. I yield.

Mr. BINGHAM. While I agree with a great deal that my distinguished friend, the able Senator from Nebraska, has said about the desire of a Senator to protect himself by reading from a newspaper, does he not think that this particular case is on a little different footing, for the reason that this is clearly an effort, by hocus-pocus, to get around the fact that the Senate refused to divulge the vote in this matter, and that vote, or what purports to be that vote, having been published, to put it into the CONGRESSIONAL RECORD for the information of the public, for them to draw what conclusions they like, and for Senators to draw what conclusions they like in that regard; that that is nothing more nor less than an effort to get around the rule and do something which the Senate itself has decided it will not allow?

Mr. LA FOLLETTE. Mr. President, I would like to call attention to the fact that the Senator from Connecticut is divulging what occurred in executive session. He just stated here that this was an effort by hocus-pocus to get around something which the Senate refused to do, and that refusal to remove the ban of secrecy took place in executive session. I think Senators ought to be very careful about what they say here, because the first thing we know the entire debate will be in the RECORD.

Mr. NORRIS. Mr. President, as I said before, the question before us is one of sustaining the Chair.

I am going to say something now I did not intend to say, but it has been mentioned by several Senators, and it has been referred to again by the Senator from Connecticut, and I will not be traveling farther from the point in referring to it than we all do on a good many occasions.

Just for a moment I want to discuss a right which has been referred to, if there is such a right—it was included in the

question I asked the Senator from Pennsylvania—whether a Senator has a right to tell his constituents how he voted on a nomination passed on in executive session, which means that he can tell it to a newspaper correspondent in Washington if he wants to or put it in a telegram or letter.

Mr. WATSON. Mr. President——

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

Mr. NORRIS. Let me finish this thought, and then I will yield.

Mr. WATSON. Certainly.

Mr. NORRIS. I think the Senator from Pennsylvania stated the law correctly. I have taken the same position many a time in executive session. Nevertheless, I do not want to put my opinion against the opinion of everybody else, my judgment against everybody else's judgment. I have obeyed the rule in the past and suffered from it. I told the Senate once in executive session what I am going to tell them now in open session.

(Mr. SMOOT addressed a remark to the Senator from Nebraska from his seat.)

Mr. NORRIS. No; I am not telling any secrets. I could have told this even if I had not mentioned it in executive session. The fact that I told it in executive session would not prevent me from telling it now, because I did not get the idea in executive session.

Mr. LA FOLLETTE. Mr. President, this is a very important point the Senator raises. Assuming that one has the right to say something previous to an executive session and that one has also said it in executive session, is one prohibited from restating it following the adjournment of the executive session?

Mr. NORRIS. Mr. President——

Mr. LA FOLLETTE. I trust the Senator will not transgress the rule, because this is a very serious situation, it seems to me.

Mr. NORRIS. Yes; I think it is very serious. I participated in a campaign in my own State when my colleague was running for reelection. I was traveling around over the State somewhat, making some speeches as best I could, and I read in one of the newspapers of the State a criticism of me. It was a criticism in a paper opposed to my colleague's renomination. It was a statement criticizing me and, among other things, to show that I should not be believed, they told that I voted against a certain person nominated for a very high office. The truth was—and if the records of the secret session were taken down they would bear me out—that I did not vote against that particular person. I not only voted for him but to the best of my ability I advocated the approval of his nomination when President Coolidge sent it to us. I was for him. I voted for him. I talked for him in the executive session. But I was charged in the newspaper with voting against him. Their idea was that that position probably was unpopular in my State.

I was up against the necessity of defending myself and indirectly of defending the position I was taking in trying to secure the renomination of my colleague. I felt that if I told the truth about the matter I would violate the rule of the Senate, and I kept still; I said nothing. I suffered what I thought was an injustice. I believed so then, and I believe so now. But I thought it was my duty to keep the rule, even though I considered it an obnoxious rule. But I have heard Senators, older in the service than I, say that they reserved the right to tell their constituents how they voted on anything. I think when they do that in the case of nominations they violate the rule.

One of the oldest Senators in this body stated emphatically, with regard to a certain nomination, that he read an article in the newspaper charging him with voting so and so, and that it was not true, and he sent a telegram from Washington to the newspaper telling them how he did vote. He made no bones of it. My idea is that that Senator violated the rule. He thinks that his personal obligation to his people and his right to represent them properly is superior even to the rule.

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

Mr. NORRIS. In just a moment. I do not doubt the sincerity of the Senator to whom I referred. I have heard it stated here by Senators that they will tell their people how they voted, and nobody has ever done anything about it; the Senate has taken no action about it. Senators have heard such statements made and have remained silent about it, and by their silence have given acquiescence to it.

I confess, after my experience, that I have come to the conclusion that if some Senators tell how they vote, regardless of this rule, and the Senate knows it, and by its silence indicates that it regards the rule as a dead rule, I will do the same thing myself. I have not done it yet, but I am liable to at any time.

The fact is that in the particular case we are discussing everybody knew where I stood and how I voted. If I had told I had voted the other way, I would not have been believed; so this does not apply to me. That may be apart from the particular question we are now to vote on—I think it is myself—but it is at least fair to say that Senators ought, if they are going to ask me to obey the rule in the spirit in which the Senator from Pennsylvania says it should be obeyed, to apply it to everybody, and if some Senators are going to violate the rule, and tell the Senate they are doing it, and the Senate is going to do nothing, has not every Senator the right to say, "That rule is violated; it is a dead letter, and I will not pay any attention to it"?

I now yield to the Senator from Alabama.

Mr. HEFLIN. Mr. President, if the Senator should tell how he voted when he is called upon by the people of his State, as I was called upon by the people of mine, under the position taken by the Senator from Pennsylvania he would be expelled from the Senate.

Mr. NORRIS. Yes; that is the punishment. There is no other punishment.

Mr. REED. There might be some dry eyes at that.

Mr. NORRIS. Yes; there might be. There is no other punishment for a violation of the rules; the punishment is expulsion under the rules. A Senator can not be fined or suspended or sent to jail; he is simply expelled.

Mr. President, just one more word about the real question that is before us, as I see it.

Mr. WHEELER. Mr. President——

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

Mr. NORRIS. I yield.

Mr. WHEELER. I merely wish to point out that the case to which the Senator referred awhile ago was the Woodlock case, and the absurdity of the situation there was this, that the committee having charge of the matter had open hearings, every member of the committee in the Woodlock case voted in the open, hearings were held in the open, and everybody knew and it was public how they were going to vote. Afterwards the matter came into executive session, and then the same Senators who had voted in the open were forbidden in the Senate from telling how they voted, notwithstanding the fact that they voted the same way in the open sessions of the committee. It seemed to me then extremely unfair to the Senators who voted in the open, when everybody knew how they voted, for part of the Senators who voted in secret to have their votes kept secret, and it was on that occasion, I think, that several Senators rose and stated that they intended to tell their constituents or the newspapers how they voted in that particular case.

As the Senator said a moment ago, anyone can read the list of Senators and guess how they vote. A newspaper man would not have needed to ask me how I voted; he could have known how I voted, and he could have known how every other Senator voted if he just attended the sessions of the Senate and was familiar with the way they usually voted.

Mr. NORRIS. He could come within four or five of the vote, and there would only be a few about whom he would have to make inquiry.

The question involved here is, Is a Senator allowed to read from a newspaper? If the Senator had said, when he started to read this newspaper, "This is correct; this newspaper tells the truth about what happened in executive session," then there would be some weight to the Senator's objection.

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

Mr. NORRIS. I yield.

Mr. REED. The Senator will recall that the Senator from Wisconsin stated that he was reading this for the information of the country.

Mr. NORRIS. That is what we generally do here; everything we do along that line is for the information of the country.

Mr. SMOOT. Right or wrong?

Mr. NORRIS. Yes; right or wrong, and that is how we are judged by the country. If we are going to say that a Senator shall not read a newspaper article or a magazine article or an editorial because it has reference to or pertains to something that happened in executive session, then we are going to get into more trouble than anybody here has any idea of.

Mr. BLEASE. Mr. President——

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

Mr. NORRIS. I yield.

Mr. BLEASE. I would like to ask the Senator a question. When a matter takes place in executive session and some reference is made to it here on the floor, and three Senators get up and state that that is not an accurate statement, that they know personally it is not the truth, does the Senator then think that

such a record should be placed in the CONGRESSIONAL RECORD for the sole purpose of making those Senators who are misrepresented violate a rule of the Senate by saying that the record is false? The Senator said that "a Senator should not tell how he voted; if he does tell he is liable to be expelled." There may be some Senators who, if they did not tell how they voted, might also be expelled.

Mr. NORRIS. By their people.

Mr. BLEASE. Yes. So far as I am concerned, I do not care who knows how I vote on any subject; but there is one false statement in that paper that I know of, and that is not with reference to the secret session. It says nine Democrats voted for Mr. Hoover's nominee. If I voted for Mr. Lenroot, I voted for Calvin Coolidge's nominee. And if I voted for him and he was brought back here again and I was told he was Hoover's nominee, I would not vote for him.

However, if I voted for his confirmation, it was not because he was a Coolidge or a Hoover appointee, but because, from my service here with him I knew him to be thoroughly qualified, and I did not know of anything reflecting upon his personal integrity.

Mr. REED. Mr. President, I have no intention of detaining the Senate more than a moment. In passing on this question it is said that there have been previous rulings and there were, as has been explained, one by Senator Luke Lea, of Tennessee, one by Senator Cummins in favor of the appeal and one against it. I would like to submit this for the thought of those Senators who are lawyers, that the question of the construction of the rule, as to whether it is violated by reading some one else's statement of what happened in secret session, is in some sense like that question in the law of libel as to whether a libel was committed if a statement written or printed by some third person was read or published by the person charged with the libel. It has been held always since the question first arose that the repetition of a libelous statement was of itself libel. So here it seems very clear to me that the repetition of a statement purporting to violate the rule is in itself a violation. I think perhaps the lawyers of the Senate may see some parallel between those two cases.

The VICE PRESIDENT. The Chair had intended to read the opinion delivered by former Senator Lea overruling a similar point of order, but as it has been read I take it it is not necessary to read it again. I do desire, however, to read what former Senator Cummins said in reference to the decision he rendered on the 26th of January, 1925:

> The Chair desires to make a statement. On Saturday a point of order was raised against remarks being made by the junior Senator from Alabama [Mr. HEFLIN]. The Chair sustained the point of order. A further study of the rule invoked in behalf of the point of order has convinced the Chair that he misinterpreted that section in its application to the remarks being made by the Senator from Alabama, and the point of order should have been overruled instead of sustained. The Chair deems it his duty to make this statement for the RECORD as well as for the information of Senators.

The Chair also desires to call attention to the fact that in 1919 the Senator from Idaho [Mr. BORAH] read or began to read a newspaper report of the Versailles treaty. The point of order was made that it was a matter for executive session. The question was submitted to the Senate and by a vote of 42 to 24 it was held to be in order.

The question is, Shall the decision of the Chair stand as the judgment of the Senate? The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. REED (when his name was called). I have a pair with the Senator from New Mexico [Mr. BRATTON]. I transfer that pair to the Senator from Vermont [Mr. GREENE] and vote "nay."

The roll call was concluded.

Mr. BINGHAM (after having voted in the negative). I have a general pair with the junior Senator from Virginia [Mr. GLASS]. Not knowing how he would vote, and being unable to obtain a transfer, I withdraw my vote.

Mr. FESS. I desire to announce the following general pairs:

The Senator from New Hampshire [Mr. KEYES] with the Senator from Arkansas [Mr. ROBINSON];

The Senator from Maine [Mr. GOULD] with the Senator from Tennessee [Mr. TYSON];

The Senator from Rhode Island [Mr. HEBERT] with the Senator from New York [Mr. COPELAND];

The Senator from New Jersey [Mr. EDGE] with the Senator from Massachusetts [Mr. WALSH];

The Senator from Indiana [Mr. ROBINSON] with the Senator from Washington [Mr. DILL]; and

The Senator from Massachusetts [Mr. GILLETT] with the Senator from Kentucky [Mr. BARKLEY].

I am not informed how any of these Senators would vote on this question.

Mr. SHEPPARD. I desire to announce the unavoidable and necessary absence from the city of the Senator from Arkansas [Mr. ROBINSON], the Senator from New York [Mr. COPELAND], the Senator from Tennessee [Mr. TYSON], the Senator from Kentucky [Mr. BARKLEY], the Senator from Washington [Mr. DILL], and the Senator from Massachusetts [Mr. WALSH].

The result was announced—yeas 63, nays 9, as follows:

YEAS—63

Allen	George	McMaster	Simmons
Ashurst	Glenn	McNary	Smith
Black	Goldsborough	Metcalf	Smoot
Blaine	Hale	Moses	Steck
Borah	Harris	Norbeck	Stephens
Brookhart	Harrison	Norris	Swanson
Broussard	Hatfield	Nye	Thomas, Idaho
Burton	Hawes	Oddie	Thomas, Okla.
Capper	Hayden	Overman	Townsend
Caraway	Heflin	Patterson	Trammell
Connally	Howell	Pine	Vandenberg
Couzens	Johnson	Ransdell	Wagner
Cutting	Jones	Sackett	Walsh, Mont.
Fess	King	Schall	Watson
Fletcher	La Follette	Sheppard	Wheeler
Frazier	McKellar	Shortridge	

NAYS—9

Dale	Phipps	Steiwer	Warren
Hastings	Reed	Walcott	Waterman
Kean			

NOT VOTING—23

Barkley	Dill	Greene	Robinson, Ind.
Bingham	Edge	Hebert	Shipstead
Blease	Gillett	Kendrick	Tydings
Bratton	Glass	Keyes	Tyson
Copeland	Goff	Pittman	Walsh, Mass.
Deneen	Gould	Robinson, Ark.	

So the decision of the Chair stood as the judgment of the Senate.

Mr. SMITH. Mr. President——

The VICE PRESIDENT. The Senator from Wisconsin [Mr. BLAINE] has the floor. Does he yield to the Senator from South Carolina?

Mr. BLAINE. I yield.

Mr. SMITH. I want to ask the majority leader if any action is contemplated on the publication of the article which has been under discussion. It will be recalled that the statement was made by the author of the article that he got it from "authoritative" sources. For one I want to have the matter thoroughly investigated to find out whether or not some one who has been extended the courtesy and privilege of the floor or any Member of this body has been guilty of doing that which a majority of us, at least, think should not be done.

Mr. WATSON. Mr. President, replying to the Senator from South Carolina I will say that I am informed by the chairman of the Committee on Rules [Mr. MOSES] that he has called a meeting of that committee for to-morrow at 1 o'clock for the purpose of considering the very question to which the Senator has alluded.

Mr. SMITH. Some of us had contemplated offering a resolution with reference to the matter, but we prefer that the majority in the body should take action through the proper sources, and I am now informed that that will be done.

Mr. BLAINE. Mr. President, when I was interrupted by the question raised by the Senator from Pennsylvania [Mr. REED] I had just started to read the article in the News, a daily published in Washington, D. C., being the issue of Tuesday, May 21, 1929. Preceding the main body of the article is the statement:

> Senate secret vote on Lenroot revealed. Nine Democrats bolt.

I am going to ask unanimous consent that the balance of the article be printed in the RECORD as a part of my remarks.

The VICE PRESIDENT. Is there objection?

Mr. BINGHAM. Mr. President, reserving the right to object, I should like to ask the Senator from Wisconsin whether I am correctly informed that one of his objects in asking that this be printed in the RECORD is to permit any Senator whose position has been misrepresented by reference to the RECORD to correct his position and state just how he did vote, or whether he was present and voted, or not?

Mr. BLAINE. Mr. President, what other Senators may do is not within my power to direct, but it is quite inconsequential what my purposes may be or what my motives may be.

Mr. BINGHAM. No, Mr. President——

Mr. BLAINE. That is, Mr. President, I did not assume that a Senator would be under cross-examination as to his motives on any particular subject by another Member of this body.

Mr. BINGHAM. A Senator's motives may not be questioned in any way reflecting upon him as a Senator, but I never heard it maintained on this floor that a Senator might not be asked what his motives were, and I again ask the Senator whether it

is his motive in putting the article in the RECORD to permit a Senator to correct any error that may be made regarding his position?

Mr. BLAINE. I think if I were to ask the Senator from Connecticut [Mr. BINGHAM] that question when he was debating a proposition he would regard it as a very offensive question.

Mr. BINGHAM. I am sorry——

Mr. BLAINE. I do not understand that my motives are under investigation. I understand very clearly that the Senate by an overwhelming vote has sustained the Chair. If I must be subjected to an inquisition by the Senator from Connecticut, I desire first that he be clothed with the authority to conduct that inquisition.

Mr. BINGHAM. If the Senator from Wisconsin takes the attitude that the asking of a simple question of that kind without any reflection on his motives is in the nature of an inquisition, then I must of necessity draw the inference from it that his motives in doing so are such that he does not care to disclose them and he stands on his constitutional rights——

Mr. NORRIS. Now, Mr. President, I call the Senator to order. Under the rules of the Senate no Senator has a right to question the motives of another Senator, and I submit that that is what the Senator from Connecticut is now doing.

Mr. BLAINE. Mr. President, I desire to proceed with my remarks.

The VICE PRESIDENT. Is there objection to the request of the Senator from Wisconsin to print in the RECORD the article to which he has referred?

Mr. BINGHAM. Mr. President, out of respect to my brethren here, who I know are anxious to get back to their offices, I will not do as I think I ought to do—object—and I will make no further effort to prevent what I think ought never to have been done.

The VICE PRESIDENT. The Chair hears no objection, and the article will be printed in the RECORD.

The article is as follows:

[From The Washington Daily News, Tuesday, May 21, 1929]

SENATE'S SECRET VOTE ON LENROOT REVEALED; NINE DEMOCRATS BOLT—BREAKING OF PARTY TIES GIVES FORMER SENATOR MAJORITY OF 42 TO 27; SECRECY IS FOUGHT—RULE IS 150 YEARS OLD—BOTH SENATORS JONES AND ROBINSON HAVE OFFERED RESOLUTIONS TO ABOLISH EXECUTIVE SESSIONS

(Editor's note: In the following story Paul R. Mallon, head of the Senate staff of the United Press, reveals the Senate roll call on confirmation of the nomination of former Senator Lenroot, of Wisconsin, to the United States Court of Customs Appeals. This vote was taken in secret executive session, and attempts to make it public failed. Mallon won commendation for his enterprise in revealing another roll call a few months ago, that on confirmation of Roy O. West to be Secretary of Interior.)

By Paul R. Mallon

The secret roll call by which the Senate in executive session last Friday confirmed the nomination of Irvine L. Lenroot, of Wisconsin, to be a customs judge was obtained for publication to-day by the United Press.

The roll call was doubly significant because of the fight now being led by Senators JONES, of Washington, assistant Republican leader, ROBINSON of Arkansas, Democratic floor leader, and others for abolition of the 150-year-old rule by which the Senate confirms nominees in executive session.

The vote shows 9 Democrats bolted party ranks and voted with 33 Republicans to confirm President Hoover's selection, while 11 western Republicans and 16 Democrats voted against him.

JONES and ROBINSON of Arkansas introduced amendments to abolish the old rule following publication last January of the vote by which the Senate confirmed Roy O. West, of Illinois, to be Secretary of the Interior.

Before the Lenroot vote was taken the Senate voted 38 to 36 in favor of publishing a preliminary roll call, but Vice President Curtis ruled a two-thirds majority was necessary for publication.

The Lenroot roll call follows:

FOR LENROOT, 42

Republicans, 33: Allen, Bingham, Burton, Capper, Dale, Deneen, Edge, Fess, Gillett, Glenn, Goff, Gould, Greene, Hale, Hastings, Hatfield, Hebert, Jones, Kean, McNary, Metcalf, Moses, Oddie, Phipps, Reed, Robinson of Indiana, Shortridge, Smoot, Steiwer, Townsend, Vandenberg, Waterman, and Watson.

Democrats, 9: Ashurst, Blease, Hayden, King, Overman, Ransdell, Steck, Stephens, and Walsh of Massachusetts.

AGAINST LENROOT, 27

Republicans, 11: Blaine, Cutting, Frazier, Howell, Johnson, La Follette, McMaster, Norbeck, Norris, Nye, and Pine.

Democrats, 16: Barkley, Black, Caraway, Connally, Dill, Fletcher, Harris, Heflin, McKellar, Sheppard, Walsh of Montana, Thomas of Oklahoma, Smith, Trammell, Wagner, and Wheeler.

PAIRED

Brookhart (for) with Borah (against).

ABSENT AND NOT VOTING

Republicans, 9: Couzens, Goldsborough, Keyes, Patterson, Sackett, Schall, Thomas of Idaho, Walcott, and Warren.

Democrats, 14: Bratton, Broussard, Copeland, George, Glass, Harrison, Hawes, Kendrick, Pittman, Robinson of Arkansas, Simmons, Swanson, Tydings, and Tyson.

Farmer-Labor, 1: Shipstead.

Mr. BLAINE. Mr. President, in concluding my remarks, I desire to extend to the Senator from Connecticut my deep and sincere appreciation for his consideration of this body. [Laughter.]

RECESS

Mr. WATSON. I move that the Senate take a recess until to-morrow at 12 o'clock noon.

The motion was agreed to; and (at 5 o'clock and 20 minutes p. m.) the Senate took a recess until to-morrow, Wednesday, May 22, 1929, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES

TUESDAY, *May 21, 1929*

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Almighty God, breathe upon us, and any depression we may have will pass away like a morning cloud. Take away from our minds any strain and stress and let them confess the wonder of Thy peace. We need more receptiveness, and we pray that Thy Holy Spirit may manifest the assurance of a calm and fruitful faith. Employ our gifts, our powers, and all material forces in the promotion of good will throughout the Republic. Convince us, dear Father, that the man who is intelligently and intimately related to Thee is a tremendous force, from which issue the currents of wisdom and righteousness. Through Jesus Christ our Savior. Amen.

The Journal of the proceedings of yesterday was read and approved.

BILL PRESENTED TO THE PRESIDENT

Mr. CAMPBELL of Pennsylvania, from the Committee on Enrolled Bills, reported that that committee did on May 18, 1929, present to the President, for his approval, a bill of the House of the following title:

H. R. 22. An act to provide for the study, investigation, and survey, for commemorative purposes, of battle fields in the vicinity of Richmond, Va.

DEATH OF A FORMER MEMBER

Mr. DARROW. Mr. Speaker, I ask unanimous consent to proceed for three minutes.

The SPEAKER. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. DARROW. Mr. Speaker, it is with deep regret that I announce the death of a former colleague, Hon. Aaron S. Kreider, at his home in Annville, Pa., on Sunday, May 19. Mr. Kreider represented what was then the eighteenth congressional district of Pennsylvania, comprised of Cumberland, Dauphin, and Lebanon Counties, for a period of 10 years, from the Sixty-third to the Sixty-seventh Congresses. During that service he was a member of the Committee on Rules and the Committee on Public Buildings and Grounds and took a prominent part in the work of those committees as well as the interests of his constituency, by whom he was dearly beloved.

He had been ill since the death of his son, Ammon H. Kreider, president of the Kreider-Reisner Aircraft Co., who was killed in an airplane crash above Ford Field, Detroit, April 13. His widow, three daughters, and five sons survive.

From 1913 to 1916 Mr. Kreider was president of the National Association of Shoe Manufacturers. He operated shoe factories at Annville, Elizabethtown, Palmyra, Middletown, and Lebanon. He was president of the Farmers National Bank of Lebanon. He was president of the board of trustees of Lebanon Valley College.

It is with profound regret that Pennsylvania loses this distinguished son and former colleague of ours in Congress.