Francis C. Leavins to be postmaster at Ponce de Leon, Fla., in place of F. C. Leavins. Incumbent's commission expired December 20, 1928.

Homer T. Welch to be postmaster at Sarasota, Fla., in place of H. T. Welch. Incumbent's commission expired January 8, 1928.

Amanda H. Richards to be postmaster at Wewahitchka, Fla. Office became presidential July 1, 1928.

Edward O. Sawyers to be postmaster at Zolfo Springs, Fla., in place of E. O. Sawyers. Incumbent's commission expired May 14, 1928.

IDAHO

Edwin M. Whitzel to be postmaster at Dubois, Idaho, in place of A. W. Gayle, removed.

ILLINOIS

Louis A. Willman to be postmaster at Metamora, Ill., in place of L. A. Willman. Incumbent's commission expired May 14, 1928.

INDIANA

Lois J. Gustafson to be postmaster at Chesterton, Ind., in place of A. R. Gustafson, deceased.

Orville D. Evans to be postmaster at Oolitic, Ind., in place of Lillie Robbins, removed.

IOWA

Lucy A. Moore to be postmaster at Marble Rock, Iowa, in place of E. Y. Walster. Incumbent's commission expired December 10, 1928.

Melvin A. Smith to be postmaster at Meservey, Iowa. Office became presidential July 1, 1929.

KANSAS

Allen W. Howland to be postmaster at Ludell, Kans. Office became presidential July 1, 1929.

KENTUCKY

Rex A. O'Flynn to be a postmaster at Utica, Ky., in place of R. A. O'Flynn. Incumbent's commission expired January 30, 1929.

MAINE

Marion L. Prescott to be postmaster at Hollis Center, Me., in place of I. J. Bradbury, resigned.

Louis S. Isbell to be postmaster at North Anson, Me., in place of L. S. Isbell. Incumbent's commission expired December 13, 1928.

MARYLAND

Edgar S. Wootton to be postmaster at Halethorpe, Md., in place of C. S. Houghton, removed.

MICHIGAN

Aaron E. Davis to be postmaster at Grand Rapids, Mich., in place of R. G. Hill, deceased.

MONTANA

Joseph Rorvik to be postmaster at Circle, Mont., in place of J. J. Kendig, resigned.

NEBRASKA

Earl S. Brindle to be postmaster at Belvidere, Nebr., in place of W. I. Tripp, resigned.

Bertha C. Levenburg to be postmaster at Madrid, Nebr., in place of B. L. Strauser, removed.

NEW JERSEY

George Martin to be postmaster at Stoneharbor, N. J., in place of O. F. Ferree, resigned.

NEW YORK

Fred R. Bennett to be postmaster at Water Mill, N. Y., in place of Vernon Vaughn, removed.

NORTH DAKOTA

Frances Meagher to be postmaster at Velva, N. Dak., in place of J. R. Meagher, deceased.

OKLAHOMA

John C. Ely to be postmaster at Canute, Okla., in place of E. R. Freels, resigned.

Joseph A. Godown to be postmaster at Keyes, Okla. Office became presidential July 1, 1929.

PENNSYLVANIA

Bertha M. Harter to be postmaster at Mocanaqua, Pa. Office became presidential July 1, 1929.

Ella J. Dunlap to be postmaster at West Middlesex, Pa., in place of S. F. Campman. Incumbent's commission expired March 14, 1929.

RHODE ISLAND

Kenneth E. Gardiner to be postmaster at Warwick, R. I., in place of J. A. Hazard. Incumbent's commission expired December 16, 1928.

TEXAS

Lillian L. Hodierne to be postmaster at Presidio, Tex., in place of E. L. King, resigned.

Lee R. Grigsby to be postmaster at Sanderson, Tex., in place of Tina East, removed.

Mary Featherhoff to be postmaster at Velasco, Tex., in place of Mae Woodruff, resigned.

WASHINGTON

M. Berta Start to be postmaster at Winslow, Wash. Office became presidential July 1, 1929.

SENATE

MONDAY, *October 14, 1929*

(Legislative day of Monday, September 30, 1929)

The Senate met at 11 o'clock a. m., 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	Keyes	Shortridge
Ashurst	George	King	Simmons
Barkley	Gillett	La Follette	Smith
Bingham	Glass	McKellar	Smoot
Black	Glenn	McMaster	Steck
Blaine	Goff	McNary	Steiwer
Blease	Goldsborough	Metcalf	Stephens
Borah	Gould	Norbeck	Swanson
Bratton	Greene	Norris	Thomas, Idaho
Brock	Hale	Nye	Thomas, Okla.
Brookhart	Harris	Oddie	Trammell
Capper	Harrison	Overman	Tydings
Caraway	Hastings	Patterson	Vandenberg
Connally	Hatfield	Phipps	Wagner
Copeland	Hawes	Pine	Walcott
Couzens	Hayden	Pittman	Walsh, Mass.
Cutting	Heflin	Ransdell	Walsh, Mont.
Dale	Howell	Reed	Warren
Deneen	Johnson	Robinson, Ark.	Waterman
Dill	Jones	Robinson, Ind.	Watson
Edge	Kean	Schall	Wheeler
Fess	Kendrick	Sheppard	

Mr. FESS. My colleague the junior Senator from Ohio [Mr. BURTON] is still detained from the Senate by illness. I ask that this statement may be allowed to stand for the day.

Mr. SCHALL. I desire to announce that my colleague [Mr. SHIPSTEAD] is absent because of illness. I ask that this announcement may stand for the day.

The VICE PRESIDENT. Eighty-seven Senators have answered to their names. A quorum is present.

THE PENDING TARIFF BILL

Mr. BORAH. Mr. President, I ask permission to have printed in the RECORD an article from the American Monthly for October with respect to the pending tariff bill.

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

[From the American Monthly, October, 1929]

THE PENDING TARIFF BILL

By Clifford E. Fix

The Hawley-Smoot tariff bill as passed by the House, and now pending in the Senate, embodies two important modifications of the flexible-tariff system accepted by Congress in 1922 in the Fordney-McCumber bill. The first of the amendments seeks to provide a less rigid method than that now in use by the Tariff Commission for determining whether or not particular rates of duties prescribed by Congress are subject to revision by the President. The second proposes a reorganization of the Tariff Commission in order to expedite action upon cases submitted for investigation under the flexible-tariff plan.

The first modification presents a question of fundamental importance and is being and will be most vigorously attacked. While the storm rages regarding favoritism and discrimination in certain duties, the consideration of a graver question affecting the foundations of the Constitution can not be overlooked.

The flexible tariff was originated in the Senate during consideration of the Fordney-McCumber bill. While giving the President wide discretionary power to readjust tariff rates, Congress stated explicitly in the Fordney-McCumber Act that this power should be used only to carry out a policy "equalizing" foreign and American costs of production. It was the intention of the bill that the process of equalization should be carried out scientifically, in contrast with the unsatisfactory methods which had been used in the past. It was thought possible that the

differences between costs of production in the United States and in the principal competing countries could be established accurately after thorough economic investigation. It was specified, therefore, in the Fordney-McCumber bill, that no proclamation altering a rate of duty should be issued by the President until such an investigation had been completed by the Tariff Commission. The President's discretion was further limited by provisions that increases or decreases were not to vary more than 50 per cent from the rate prescribed by Congress; that commodities could not be transferred from the free list to the dutiable list or vice versa; and that the President could make no change from the form of duty; that is, ad valorem to specific. If, however, the method of equalization prescribed by the act should for any reason prove impracticable for any particular commodity, the President was given authority to base ad valorem rates of duty not, as under ordinary circumstances, upon the value of the imported article in the foreign country exporting, but upon the "American selling price" for a similar commodity produced in the United States.

The broad outlines of this plan are being retained by the Hawley-Smoot bill. They abandon, however, the strict "cost of production" formula and substitute therefor a new policy of equalizing the "conditions of competition in the principal market or markets of the United States between domestic articles and the like or similar competitive imported articles." This, on its face, allows the President and the Tariff Commission such broad and unlimited discretion in choosing the factors to be taken into consideration in measuring the inequalities in the "conditions of competition" that it at once challenges the attention of the thinking public.

If this provision is adopted it would provide, in substance, that the President may determine whether there is any inequality in conditions of competition as between foreign and domestic producers; and if he feels that there is such an inequality, he is further authorized, within his discretion, with the aid of the Tariff Commission, to raise, lower, or suspend the duties to equalize the conditions of competition in the markets of the country. He exercises, in effect, the prerogative of imposing taxes, being authorized to change classifications and duties, and he may change the method of valuation by adopting the American market price in lieu of foreign export price. It is not an exaggeration to say that this is the most far-reaching delegation of congressional power to a President that has ever been attempted.

If the provision is adopted, it must ultimately be passed upon by the Supreme Court of the United States. What action they will take is problematical in view of recent opinions of that august body; and in view of their established policy of resolving all doubts in favor of an act of Congress. It is possible that they may even find it constitutional out of respect for the so-called "legislative will."

The question may arise: Has not the flexible provision of the tariff already received the sanction of the Supreme Court, and is there any further constitutional question involved? There is a distinct difference between the provisions of the act of 1922 and the provision now under consideration.

A brief résumé of the Supreme Court's decisions to date will be illuminating. The question was first considered under the McKinley reciprocity statute in the case of Fields *v.* Clark (143 U. S. 649). The effect of this statute was to give the President the power to impose certain duties on specified products, which Congress specifically prescribed, if any country imposed duties on certain products from the United States so that they were reciprocally unequal and unreasonable.

Although there was a question as to the amount of discretion which the President might exercise, it was defensible in that it involved no delegation of power whatever. The contingency, the passing of the foreign law, was an ascertainable fact, and the President merely discharged the ministerial duty of proclaiming the existence of that fact and by reason thereof a new duty went into effect.

In Hampton *v.* The United States (276 U. S. 394), in which, it may be said, the Supreme Court sanctioned the act of 1922, or the existing law, there arises a more difficult question and that decision has not been accepted with unanimity. These provisions were, in effect, that if the cost of production of an article manufactured abroad and the cost of production of a like article made in the United States were unequal, the President might make a change in duty of not more than 50 per cent from the prescribed rate in order to adjust the inequality of the cost of production.

It is only possible to justify this decision when one considers the conservative policy of the Supreme Court to accept, if at all possible, any legislation which Congress passes, as within the Constitution. But in rendering this decision, the Supreme Court must necessarily have accepted two basic facts; otherwise it is incredible that such a decision could be handed down. They must first have accepted as a premise that it would be possible to ascertain, mathematically, the cost of production here and abroad, and they must have accepted as a premise that it would be possible by mathematical computation to adjust the duties in order to equalize the costs of production.

The experience of the past several years unfortunately has conclusively shown that it is impossible in many cases to ascertain, with any degree of certainty, the costs of production abroad, or to make any mathematical computation of the difference between costs of production.

Why has it been impossible? Why has the flexible provision been a failure?

Commissioner Marvin, chairman of the Tariff Commission since 1922, attributed the failure of the flexible tariff to function satisfactorily to the terms of the law itself. The requirement that costs of production be ascertained, he felt, made the system unworkable. Vice Chairman Dennis, on the other hand, held that the terms of the law were broad enough, but said the plan had been "miserably administered." Commissioner Costigan asserted that the difficulties with the flexible tariff could be traced directly to the White House. He charged that the President has undermined the "impartialty of the commission's membership and the commission's judicial independence" through the selection of commissioners and the transmission of suggestions on the procedure to be followed by the commission.

But let us look at some of the economic difficulties. Thomas Walker Page, chairman of the Tariff Commission, who submitted his resignation to the President soon after the flexible plan had been adopted, said in 1925:

"Equalizing costs of production had long been a popular phrase, and, as not many Senators are trained economists or cost accountants or have given much attention to the ascertainment of costs, they took the phrase at its face value, presumed that it was practicable, and wrote it into the law. Efforts to apply it have proved what experts already knew, that such a law is absolutely impracticable."

The impossibility of discovering the elements to be taken into consideration has also been pointed out by F. W. Taussig, the first chairman of the commission. Before the act creating the commission had passed, Doctor Taussig asserted that neither the "equalization of competition" or of "costs of production" could be reduced to a scientific basis, for "there are no scientific laws applicable to economic problems in the same way as the laws of physics are applicable to engineering problems."

It is admitted, even by proponents of the flexible tariff, that the flexible provision of the Fordney-McCumber Act is a failure.

The Committee on Ways and Means in the House recognized that the two premises of the Supreme Court were unsound. It was felt by the committee that the only way it could be satisfactory was to give even a greater degree of latitude in the President's and commission's use of their discretion and so substituted in the Hawley-Smoot bill "conditions of competition" for "costs of production." In other words, the bill says not that there shall be the power of the President to increase a rate of duty to adjust an inequality in the cost of production, which are questions of fact, however difficult they may be to ascertain, but that the President shall ascertain or determine inequalities in the "conditions of competition" and adjust the rates accordingly. What are those inequalities? They may be anything—moral, spiritual, financial, political, or anything which the discretion or caprice of the President may find useful. There appears to be no definite restriction on the President.

It is easy to see the distinction between the law as it is now and the proposed amendment and to see the unconstitutional delegation of unlimited power which can only be the logical end. One has but to keep in mind the clear and undisputed words of the Constitution, which says that the legislative powers are to be invested in a Congress, and which also specifically provides that Congress shall impose taxes, and that bills to raise revenue must originate in the House of Representatives, to understand why constitutionalists are alarmed and are vigorously attacking this provision.

It will be interesting to observe the action of the Supreme Court in the event this proposal should become a law. Will they further abide by the "legislative will," or will they decide that the limit has been reached and that the delegation of essential legislative powers has been carried too far?

JAMES M. BECK, in a recent speech in which he attacked this proposal, likened the Supreme Court to Hamlet following the ghost of his father in the first act of that tragedy. The court follows that ghostly thing called the "will of Congress." It follows, as the Prince of Denmark followed the ghost, with timidity and trembling because it never knows how far Congress is going or into what abyss of unconstitutionalism the ghost may lead it. But finally there comes a time when the court sees that it is approaching some perilous cliff and it says: "Whither wilt thou lead me? Speak, I'll go no farther."

THE NATIONAL DEFENSE

The VICE PRESIDENT laid before the Senate a resolution adopted by the Wisconsin State conference of the Daughters of the American Revolution at Milwaukee, Wis., favoring the maintenance of an adequate national defense, particularly as to the Navy, which was referred to the Committee on Naval Affairs.

REPORT OF THE COMMITTEE ON CLAIMS

Mr. CAPPER, from the Committee on Claims, to which was referred the bill (S. 1250) for the relief of the Charlestown Sand & Stone Co., of Elkton, Md., reported it with an amendment and submitted a report (No. 40) thereon.

REPORT OF NOMINATIONS

Mr. SMOOT. As in open executive session, from the Finance Committee I report certain nominations for the calendar.

The VICE PRESIDENT. The nominations will be placed on the Executive Calendar.

Mr. PHIPPS, as in open executive session, from the Committee on Post Offices and Post Roads, reported sundry postal nominations, which were ordered to be placed on the Executive Calendar.

BILLS INTRODUCED

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

By Mr. COPELAND:

A bill (S. 1875) to extend the benefits of the emergency officers' retirement act of May 24, 1928, to emergency warrant officers; to the Committee on Military Affairs.

A bill (S. 1876) for the relief of the Columbia Casualty Co.;

A bill (S. 1877) for the relief of A. & M. Karagheusian (Inc.); and

A bill (S. 1878) for the relief of B. Lindner & Bro. (Inc.); to the Committee on Claims.

By Mr. TYDINGS:

A bill (S. 1879) to extend the benefits of the employees' compensation act of September 7, 1916, to Lillian A. Stecher (with accompanying papers); to the Committee on Claims.

By Mr. ROBINSON of Indiana:

A bill (S. 1881) to correct the military record of Harley O. Hacker; to the Committee on Military Affairs.

A bill (S. 1882) granting an increase of pension to Martha R. Brown (with accompanying papers); to the Committee on Pensions.

REGULATION OF AIR COMMERCE

Mr. BRATTON introduced a bill (S. 1880) to regulate interstate and foreign air commerce, which was read twice by its title.

Mr. JONES. Mr. President, I ask that the bill may lie on the table until to-morrow. I am inclined to think that the bill should go to the Committee on Commerce instead of the Committee on Interstate Commerce; but I should like to have an opportunity to examine it. I ask that it may lie on the table until to-morrow so that I can examine it.

The VICE PRESIDENT. Without objection, that course will be taken.

AMENDMENTS TO THE TARIFF BILL

Mr. JONES and Mr. KING each submitted an amendment and Mr. WALSH of Massachusetts submitted two amendments intended to be proposed by them, respectively, to House bill 2667, the tariff revision bill, which were severally ordered to lie on the table and to be printed.

PACKERS' CONSENT DECREE

Mr. COPELAND. Mr. President, on the 3d of October I had placed in the RECORD a statement by Congressman EMANUEL CELLER relating to the packers' consent decree. Armour & Co. thought that it was an unfair statement and have made an appeal to me to place in the RECORD a statement by Mr. F. Edson White, president of Armour & Co., replying to Mr. CELLER'S statement. In the interest of fairness I think that this request should be granted, so I ask unanimous consent that the statement may be printed in the RECORD.

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

The statement is as follows:

Representative EMANUEL CELLER is the author of a statement in the CONGRESSIONAL RECORD of October 3, 1929, protesting against modification of the packers' consent decree, on the ground that in years gone by the Federal Trade Commission accused the meat packers of various violations of law. Possibly Representative CELLER does not know that the commission's charges were the result of an ex parte hearing, and that every charge which resulted in a complaint failed to stand up when hearings furnished opportunity to present facts. All of the complaints were dismissed, and in all cases except one, the dismissals were by the Federal Trade Commission itself.

Representative CELLER'S statement has many other errors in it—errors which naturally lead to wrong conclusions. For example, he confuses the Armour Grain Co. with Armour & Co., whereas the two corporations had nothing in common, other than the surname "Armour."

However, the controversies of a decade or a generation ago are not important in this instance. What is passed is gone. A new day is here, and what counts now is whether or not the public—the livestock producer on the one hand and the meat consumer on the other—is entitled to the best service that can be rendered at the lowest possible charges for such service.

The rights and interests of the public are at stake and they come before the interests of those for whom Representative CELLER is attorney and with whom the packers would have the right to compete if the decree be modified in accordance with the petitions now on file in the Supreme Court of the District of Columbia.

The consent decree was entered a decade ago to cover an alleged situation not covered by existing laws. Since the entry of the decree Congress has placed comprehensive and all-embracing laws on the statute books—laws which are ample to guard against all and any of the alleged evils which seemed to furnish justification for the very unusual agreement known as the consent decree.

The difference between the decree and the law (packers and stockyards act) is that the decree seeks to prevent abuse by limiting the use of meat-packer facilities, whereas the law which followed it permits legitimate use while preventing abuse. The issue is whether the meat packers may use if they do not abuse or whether they may not even use such facilities and such equipment as exists.

It is well established that there are advantages in diversification, whether it be diversification in agriculture, in investments, or in business. Diversification makes for stability and safety.

Meat packers have facilities and equipment which can be used in the distribution of many foodstuffs other than meats. The four packers covered by the consent decree have facilities and equipment beyond their average needs on account of their traditional responsibility for maintaining a cash market for livestock producers. They must be geared for peak loads which come at irregular intervals. In the interim they can not use all of their equipment or all of their personnel and all of their facilities to best advantage. They maintain, and their contention is not an unreasonable one, that they might, through handling products other than meats, reduce their average distributive charges. Such reduction would result in savings.

Producers of livestock believe that if savings are effected in distributive charges, part of the savings will go to livestock producers in the form of better prices for livestock. Consumers have a right to believe that if savings are effected they will obtain a portion of them in the form of lower prices or improved service. In any case the savings must be effected before they can be distributed.

The real issue, then, is whether or not savings in distributive charges are to be effected wherever possible and whether or not the public policy of the Nation shall be to prevent full use of efficient distributive machinery in order to obviate a possibility of abuse.

As the matter now stands, the policy behind the consent decree is simply that of lopping off the hand if there is reason to believe that a finger may get sore.

Businesses should not resent laws clearly calculated and designed to prevent abuse, but both business and the people should resent the limitation of legitimate use of facilities such as results from the so-called packers' consent decree.

Mr. COPELAND. Mr. President, in the same connection I ask that a letter from the Oneonta Grocery Co., of Oneonta, N. Y., and a letter to me from the American Wholesale Grocers' Association, bearing on the packers' consent decree may be printed in the RECORD also.

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

The letters are as follows:

ONEONTA, N. Y., *October 9, 1929.*

Hon. ROYAL S. COPELAND,

United States Senator, Washington, D. C.

DEAR SIR: Referring to the Armour and Swift petitions to modify the consent decree, we wish to call your attention to the following:

The wholesale grocery industry did not request, nor did it obtain, the packers' consent decree or any decree restraining the packers or anyone else from engaging in the grocery business.

In 1919, after the Federal Trade Commission made its report to President Wilson respecting the vast growth of the Big Five meat packers, including their extensive operations in so-called unrelated lines, the United States Government had under consideration, and in fact pending, grand jury proceedings for the consideration of some of these matters. Shortly thereafter the packers and Attorney General Palmer arrived at a settlement to which the packers openly consented under seal of the court.

The decree has been upheld on two occasions by the Supreme Court of the United States once on March 19, 1928, in the proceeding brought by Armour and Swift to vacate the decree, and again on May 20, 1929, in the case involving the intervention of California cooperative canneries. The highest court in the land therefore has held this decree lawful in all respects. Why should the Government, having won twice in the Supreme Court after nine years, now nullify the decree by consenting to the present plea of these two packers who have thus steadily fought the Government?

By entering into the decree the packers have actually enjoyed every benefit which they could hope to receive therefrom—abandonment of any other proceedings against them by the Department of Justice or the Federal Trade Commission; favorable decision in the case before the Interstate Commerce Commission; and in 1921 favorable amendments of the packers and stockyards bill. When this law was pending in Congress both the Senate and the House made certain amendments

because of provisions which are contained in the decree. Congress felt that the decree would be permanent.

Having obtained their amendments of the packers and stockyards act and a favorable decision by the Interstate Commerce Commission, two of the packers, instead of observing the terms of the decree in good faith, have fought it in one way or another for nine years. After obtaining a number of extensions of time to dispose of their interests in unrelated lines, the Armour defendants finally were refused any further extension by the Supreme Court of the District of Columbia on February 21, 1924.

Soon after entry of the decree certain of the defendants sought to evade it, using for that purpose the California Cooperative Canneries, a concern mortgaged to Armour & Co. The attorney representing the California Cooperative Canneries, having failed in its behalf, now represents both Armour and Swift in the present proceedings.

Under these circumstances it is decidedly unfair that the defendants who have observed the decree and who have enjoyed the above-mentioned benefits from it, now should attempt to defeat all that the Government has done, and virtually to destroy all of the Government's expensive effort in successively fighting this matter through the Supreme Court of the United States.

The whole purpose of the packers' consent decree was in the interest of the public and of independent merchants in the food business.

Modification of this decree, based on economic conditions, has been considered on two occasions. In 1921 it was considered by an interdepartmental committee, and again in 1925 by the Federal Trade Commission pursuant to a Senate resolution. The interdepartmental committee concluded that the Attorney General should not consent to modification, and the Federal Trade Commission reported that the decree should not be modified.

We do not believe it would be your attitude to open the floodgates for additional distributive competition, even though you may have expressed your sentiment on the above.

Will you kindly give this matter your attention?

Yours truly,

THE ONEONTA GROCERY CO. (INC.),
W. F. EGALESTON, *President.*

WASHINGTON, D. C., *October 10, 1929.*

Hon. ROYAL S. COPELAND,
United States Senate, Washington, D. C.

DEAR SIR: I am taking the liberty of inclosing, for your perusal, a copy of the meat packer consent decree of February 27, 1920, a document with the import of which, no doubt, you are already familiar; also copies of the petitions of Armour & Co. and Swift & Co. and others to the Supreme Court of the District of Columbia to have this decree modified.

In this connection, permit me to say that the American Wholesale Grocers' Association is an intervenor in this decree for the purpose of having it protected. We are opposed to its modification, basing our opposition on the ground that it would not be in the public interest to have this decree modified.

1. This decree is the most outstanding example of the Government's consent decree policy of enforcing the Sherman and Clayton Acts. On the books of the Federal courts at the present time there are 136 decrees. Of these, 91 are consent decrees, or 67 per cent of the total. To abrogate this decree now would be to scrap the long-established consent decree of the Government.

2. Armour & Co. and Swift & Co. have never fully complied with the requirements of this decree although it is 9 years old, and although, by its own terms and by the consent of these packers it should have been fully complied with by February 27, 1922. These packers indicated to the court on July 24 that it would take at least a year of diligent activity now to comply with this 9-year-old court injunction. It is not in the public interest for a decree to be modified before the defendants have fully complied with it. That is also against the principles of equity.

3. A committee of the Senate of 1890, after a long investigation, unanimously reported that Armour & Co. and Swift & Co. and other packers were refraining from competition by agreement. In 1903 the Supreme Court of the United States issued a permanent injunction against Armour & Co., Swift & Co., and other packers. This did not seem effective, so that in 1920 these packers, along with others, had to be placed under the more stringent injunctions of the consent decree. The consent decree arose from the fact that President Wilson asked the Federal Trade Commission in 1917 to find out if there were any combinations in restraint of trade in the food business. In 1918 the Federal Trade Commission replied there were such restraints and that Armour & Co. and Swift & Co. and three others of the large meat packers were guilty of them. The Department of Justice was preparing to present a criminal indictment against these packers, but this was abandoned and, by consent, this decree was entered.

4. One of the chief purposes of the decree was to prevent these packers from becoming more of a monopoly than they already were. In order to accomplish this purpose the packers were enjoined from entering the retail meat business and from handling groceries unrelated to meat and meat products. The validity of this consent decree has been fully sustained by the Supreme Court, and on three specific points that court affirmed the lower court's action in basing the legality of the decree on the grounds that it was for the purpose of preventing future violations of the trust laws. It is not in the public interest that this safeguard against the "circumstances of danger," mentioned in Judge Brandeis's decision, should be removed.

5. These "circumstances of danger" are now more menacing than at the time of the consent decree. It is the belief of the intervening wholesale grocers, represented by our association, that if the restraints of this decree are removed from the packers, who possess many branch warehouses and the peddler system of refrigerator cars, permitting them to expedite services and low freight rates, very soon all wholesale grocers would be put out of business and not much later all independent retail grocers, leaving the entire food business of the Nation in the hands of these meat packers and the chain grocery-store systems, with the almost inevitable merging or affiliating of these two forces, thus bringing about a thorough-going monopoly of the food business of the Nation. We do not believe it is in the public interest for this state of affairs to come about or to be made possible by the modification of this decree.

6. The chief reason that the packers present to the court in their petitions for modifications is the alleged changes in economic conditions, which they say have come about by reason of the growth of the chain stores. They say that the chain stores are fast dominating the grocery field and are taking on both the packing and retail distribution of meat. This seems to be a case of one monopoly complaining about the growth and greedy tactics of another monopoly or what the packers represent to the court in the light of an imminent monopoly. It is not in the public interest for one monopoly to be unshackled to fight another. If this new force is not acting in the public interest it also should be shackled.

7. When the packers and stockyards act of 1921 was up before the Senate for discussion there was a strong insistence on the part of many Senators that this act be more stringent than it was. This insistence was overcome when the Senators were told that the consent decree covered the matters they wished to have put in the act. If this decree is modified now, the packers will go free both of the decree and the regulatory legislation that would have been put upon them except for the existence of the decree. We do not believe it is in the public interest that the legislative will of the Senate should be thus thwarted, as it would be if the consent decree is removed.

In view of the foregoing considerations we ask your support of the Nye resolution now pending in the Senate, which would refer the present status of this decree, the present petitions of these packers, the public policies involved, and the present propaganda which the packers are putting forth in the public prints favorable to modification to the Federal Trade Commission for investigation and report back to the Senate.

Respectfully yours,

AMERICAN WHOLESALE GROCERS' ASSOCIATION,
J. H. MCLAURIN, *President.*

SUMMARY OF TARIFF RATES (S. DOC. NO. 33)

Mr. SWANSON. Mr. President, those of us who are opposed to existing tariff rates being increased as proposed in the pending bill have always insisted that increased tariff rates in America always result in increased tariff rates abroad exceeding our increases. A great many of our protective-tariff friends think that under the protective tariff foreign nations do not have that right and that it can not be done without their consent. This is a mistake. Other nations always retaliate. I have had the legislative reference service of the Library of Congress prepare for me a summary of the increases in tariff rates in the various countries of the world as compared with the rates under the Fordney-McCumber Act, which carried rates higher than ever before in the history of the country. I ask permission that this summary may be printed as a Senate document.

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

COMPARISON OF TARIFF RATES (S. DOC. NO. 32)

Mr. SWANSON. Mr. President, to show the rates which we propose to fix in the pending bill as compared with the rates in other countries on an ad valorem basis, I have asked the legislative reference service of the Library of Congress to prepare a statement showing the ad valorem and specific rates of certain European countries as compared with rates in this country. This is a very valuable statement and I ask unanimous consent that it may be printed as a Senate document.

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

PREFERENTIAL TARIFF RATES TO BRITISH COLONIES (S. DOC. NO. 31)

Mr. SWANSON. Mr. President, the British Empire has a very curious and remarkable situation in connection with tariff rates. Great Britain insists that all the self-governing colonies are free and independent to make their own tariff rates, and yet under a treaty with us made many years ago all of those self-governing colonies, regardless of any discrimination they may impose upon us, have the most-favored-nation clause extended to them on account of our agreement with Great Britain.

I have asked the legislative reference service of the Library of Congress to prepare for me a statement showing the preferential rates thus given to those British self-governing colonies. It presents a most remarkable discrimination against us in a great many respects. This is a very valuable compilation. While it may not be of any use now in connection with the pending tariff bill, though we can not tell in view of the present situation with reference to the disposition of this phase of the bill at the present time, yet in the future in the making of further treaties with Great Britain and her colonies it might prove to be very valuable. It is a summary showing the situation at the commencement and the extension of the doctrine of giving preference rates to the various self-governing colonies of Great Britain. I ask unanimous consent that it may be printed as a Senate document.

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

MESSAGE FROM THE HOUSE—ENROLLED JOINT RESOLUTION SIGNED

A message from the House of Representatives by Mr. Chaffee, one of its clerks, announced that the Speaker had affixed his signature to the enrolled joint resolution (H. J. Res. 80) authorizing the postponement of the date of maturity of the principal of the indebtedness of the French Republic to the United States in respect of the purchase of surplus war supplies, and it was signed by the Vice President.

TRIAL OF ALBERT B. FALL

Mr. HEFLIN. Mr. President, I feel that some Member of this body should have something to say about the management of the Fall case, the farcical performance that is now going on at the courthouse in this city. The Washington Star of October 10 contained a statement with reference to the case, and I invite attention to the headlines of that article. The main headline reads:

Oil case mistrial seen.

The Star told us in this article that Mr. Fall had had an attack in the courthouse, in the court room, all this occurring in the presence of the jury. The case was halted, the proceedings stopped, and Mr. Fall returned to his hotel. The trial judge named Dr. Sterling Ruffin——

Mr. WALSH of Massachusetts. Mr. President——

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

Mr. HEFLIN. I yield.

Mr. WALSH of Massachusetts. I hope the Senator will pardon the interruption, but I am wondering if the Senator has considered the possibility of anything that might be said upon the floor of the Senate being a ground for the granting of a new trial?

Mr. HEFLIN. I do not think so. If this case follows the course which others have followed, it will not make any difference what is said here or elsewhere.

Mr. WALSH of Massachusetts. I hope the Senator will have in mind that possibility.

Mr. HEFLIN. The court named Dr. Sterling Ruffin to call upon this man Fall to examine him and to report to the court his physical condition. Evidently the court thought that he was able to go to trial, and named a physician of outstanding ability and reputation, one of the greatest doctors in the country, to examine him. This man Fall, this man who helped to steal the oil reserves of the United States while a Government official, comes to the Capital, and when a court of justice constituted by the law of the land to try criminals names a physician to represent the court and the country to examine this criminal and see if he is able to stand trial, the criminal, speaking from his room at the hotel, defies the court and the country, and refuses to allow the physician—the officer of the court—to come in so that he may submit a report upon Fall's physical condition.

Mr. President, if there ever was a criminal in this city who deserved no sympathy and no consideration at the hands of honest and patriotic citizens, it is this man Fall. I recall, as other Senators do, when the then ruler of this land was stricken down, suffering an affliction from which he never recovered, battling for his life upon his sick bed in the White House, that this man Fall got himself appointed on a committee to go to the White House. He went and invaded the sick man's room to find out for himself, not through a physician, the condition of President Wilson. Let me read to the Senate what the Washington Evening Star says he did when he entered the room of President Wilson:

When Senator Fall approached the sick President's bed he pulled the covers from Mr. Wilson so as to see for himself the condition of the President. Doctor Ruffin, who was present on the occasion, it was stated, protested against the act.

Think of that inhuman, brutal, and dastardly act! I have no sympathy for this man; I have a contempt for him. His coarse and criminal treatment of President Wilson was not only indecent and outrageous, but it was fraught with grave danger to the life of the President.

Now comes this hardened old criminal, having evaded trial time and time again, backed by his handy sleuths from Burns Detective Agency hounding the juries, comes into the court room and during the trial feigns an attack and pretends to faint. The proceedings are stopped, and he goes back to his hotel. Then when the court, thinking perhaps that he is about to pull off another stunt and bring about a mistrial, appoints a noted physician to call upon him, he defies the court, rejects the physician, and after the jury is affected by this feigned attack, and the report in the newspapers that probably a mistrial will be had, the Post comes out this morning with a statement that "Fall bribery trial moves ahead to-day." And another grandstand play is made and the papers tell us that Fall demands a trial, defies his doctors, wants to prove his innocence.

Mr. President, I have felt that some one in this Chamber should say something about this disgusting and miserable performance. My God, if these things continue at the Capital, if criminals can go free, as they have been going free, and murder continues rampant in our midst, it will not be a safe place in which to live very much longer. We have got a terrible condition of crime at the Capital. The President owes it to the Nation, and we will cooperate with him, to have a house cleaning here in Washington. Some of the courts need looking into. The police department needs investigation.

Now, we have this morning a suggestion from an old man whose son, a bright, fine policeman, Scrivener, was murdered in this city, and some of this same bunch that covers up crime so readily said he committed suicide. His old father comes and asks them to investigate the death of his boy, and he is told by the same group, as they told this fine Policeman Allen and the others who wanted to investigate the McPherson murder, to "forget it." It will be recalled that the Government's detectives told the witnesses who heard the screams of Mrs. McPherson on the night that she was murdered to forget it; they were ready to say that she committed suicide. Now, this policeman who was murdered—and I hope the Senator from South Carolina [Mr. BLEASE] will see that an investigation is had, and I will give him the name of a Government employee who has talked to me about the matter—that policeman was engaged to be married, and would in two or three days have been married had he not been murdered. They said they found him shot, and they said he killed himself; but it is said that he had in his hand a necktie which he had pulled off his assailant.

Mr. BLEASE. Mr. President——

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

Mr. HEFLIN. I yield.

Mr. BLEASE. I wish to say to the Senator from Alabama that I do not think anybody doubts that Scrivener was murdered except the man who murdered him, and I think there are certain people connected with the police department who absolutely know who did murder him.

Mr. HEFLIN. And it is even hinted that the man who did it is in the service.

Mr. BLEASE. I myself think so.

Mr. HEFLIN. There have been three murders in two weeks in this great city of ours, and to-day the climax of this reign of crime is reached about this old criminal, Fall, who when he was a Senator walked out of this Chamber down to the White House into the sick room of the stricken President and pulled the covers off of him, gazing on him like he would a stricken animal, a beast. He said around the corridors of the Capitol before he went, "I will be one of three to go down and pull the covers off of him and look at him for myself," and he did it. Doctor Ruffin protested against such action, fearing it might result in the death of President Wilson, but the protest had no effect upon this criminal.

and now he is engaged in his horseplay with his Burns detectives around him and his shrewd attorney to pull off these sickening, revolting stunts in the courthouse, and then go back to his room and tell the court to go to; that he will not permit Doctor Ruffin to come to examine him; and he did not! He was guilty of contempt of court. Now he comes out and says that he is going to defy his doctors and proceed to trial.

Mr. President, this whole thing is disgusting and sickening. I felt like saying what I have in the Senate, for I feel that somebody in the Senate should say something on the subject, and I want the country to know that there are those of us here who condemn such contemptible and criminal procedure and practice that is being permitted in the so-called trial of Albert Fall.

VISIT OF PREMIER MACDONALD

Mr. DILL. Mr. President, I ask unanimous consent to have inserted in the RECORD two editorials from the New York World of Saturday, October 12, one entitled "Jingoism at Bay" and the other entitled "Mr. MacDonald's Visit."

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

[From New York World of Saturday, October 12, 1929]

JINGOISM AT BAY

On the Sunday that Mr. MacDonald talked with Mr. Hoover at the Rapidan camp the Chicago Tribune published a quarter-page map which it headlined "British Islands Which Dominate American Coast." For the benefit of coastal residents who are not aware of being "dominated" it may be stated that they are Sable Island, Bermuda, Nassau, Anguilla, Barbados, Trinidad, and Jamaica. The Tribune devoted its entire editorial space to a 2,000-word editorial recounting the story of the first Hay-Pauncefote treaty, dwelling upon the view that "Hay's subservience to Pauncefote and British requirements" had caused us to be almost fatally overreached when Platt, Hawley, and other real Americans blocked the British intrigue. The news columns gave prominence to a long article by the Washington correspondent, Arthur Sears Henning, in this vein:

"The British are alarmed by the growth of American sea power. With 23 American 10,000-ton, 8-inch-gun cruisers building and provided for, Britain perceives the scepter of Neptune slipping from her grasp. * * * She would be compelled to accept the freedom of the seas. So Britain has set out to avert this consummation, to check our cruiser-building program as she checked our battleship-building program at the Washington Arms Conference in 1921–22 and prevailed upon us to accept a battleship inferiority until 1942. The British tactics now are the same as they were then. They are playing upon pacifist and pro-British sentiment in the United States not only to support but to demand a policy of scuttling the American cruiser strength under the guise of establishing parity between the two navies."

In this and the succession of alarmist news stories and editorials which have followed in the Tribune this past week there is rather more than meets the eye. The Tribune is really not so childish as to believe in its own arguments, though it counts on many childish readers who will. Its editors do not really tremble in their boots for fear that Bermuda, Jamaica, and Barbados will "dominate" New York, New Orleans, and the Panama Canal. They write about "naval bases" there, but they know that such bases are practically nonexistent; that not a single British Caribbean base is equipped to dock a battleship or battle cruiser or is fortified in any real sense of the word. They descant on the enormous advantage which the British merchant marine gives the English Navy and argue that "any consideration of parity which ignores the factor of fast merchant ships must be delusive," though they know that for an island nation having a big mercantile marine to protect in war time may be a factor of weakness, not strength. They write about that squarest and most open of diplomats, Lord Pauncefote, as a Machiavellian intriguer; Pauncefote, of whom Roosevelt said, "I loved him for his high worth as a man," and who John Hay said was "the soul of honor and of candor."

It is fair to conjecture that the Tribune and the special element it represents are not greatly worried about our being deprived of "adequate defenses" or our yielding to efforts "to pledge us to subordination," to use more of its phrases. They know well enough that Mr. MacDonald and the Labor Party leaders are fair-minded and humane gentlemen intent on ending war for the humble working masses in the British Isles, not a set of scoundrels playing a skin game. They know that Mr. Hoover is a shrewd and realistic leader who has demonstrated his capacity for protecting American interests to the utmost. They know that 120,000,000 Americans will not be pushed into a position of subordination anywhere or at any time. What the Chicago Tribune and the irreconcilable sentiment it represents are actually worried about is something else. They fear that the United States and other great nations will be led by such statesmen as Mr. MacDonald, Mr. Hoover, Monsieur Briand, and the late Herr Stresemann into a position wherein the old nationalist chants and chauvinist shibboleths that the irreconcilable crowd have poured forth will become palpably worthless. They see their special brand of arrogant touch-nothing nationalism—the brand which recoiled in horror from the league, which assailed the Washington conference, which regarded the Kellogg pact with deep suspicion the moment anyone assumed it really meant anything, which still denounces the World Court as a pitfall leading to destruction—shown up as obviously ridiculous.

Every step toward disarmament, toward the real outlawry of war, toward cooperation with other nations, breaks down this type of nationalism. Already men see that it belongs to the dead past and not the future, and the Chicago Tribune element are uneasy over each new international development lest it do something further to expose it. They know that naval agreement with England is in itself a good thing, and that the common-sense masses of both countries rise to approve it; but they fear its implications. If this spirit of mutual trust between nations, this cooperation in promoting world peace, go on, where will they end? In world courts, in conferences at Geneva, in a whole set of institutions and ideas that are as incompatible with the old frame of mind as present-day ideas are with feudalism. Hence it is that at such a meeting as Mr. Hoover's and Mr. MacDonald's they begin clutching at any objections within reach. They see bogies behind the winter playgrounds at Bermuda and Nassau; they think of the British steamships that steam into New York Harbor and the American steamships that enter Southampton as agencies of war instead of pledges of peace; they talk of Ramsay MacDonald as if he were Genghis Khan.

MR. MACDONALD'S VISIT

Since, as Mr. MacDonald said yesterday, the business part of his visit is ended, it may be in order to attempt an estimate of where the business now stands. Broadly speaking it may be said, we believe, that the visit confirmed the success of the negotiations which have been in progress since June as to the concrete meaning of naval parity, and that it inaugurated a new set of negotiations which have as their object the clarification of the respective rôles of Great Britain and the United States in the maintenance of peace throughout the world.

The agreement as to parity had been reached before Mr. MacDonald sailed from England. It provides for "a parity of fleets, category by category," and our understanding is that the trifling differences which remained unsettled have been left open. They involve only a few ships, and either country could yield to the other or could accept some compromise without sacrificing any substantial interest and without loss of prestige. The fact is that the two Governments have reached an understanding as to what exactly they will choose to regard as naval parity and that this understanding has the approval of the Lords of the Admiralty and the General Board of the Navy. The unsettled question is not what shall constitute relative parity between Britain and America, but at what absolute standard parity shall be maintained. This is not an Anglo-American question. It is essentially a question between Britain and the three other sea powers—France, Italy, and Japan. It is settled that the size of the British Navy will be determined by what France and Italy and Japan are prepared to agree to, and that the size of the American Navy will be corollary to it.

This is a great achievement. It eliminates Anglo-American naval competition. It provides as between Britain and America an agreed and objective standard for their respective fleets. The effect should be to put an end to the wrangle of big-navy and little-navy enthusiasts in this country, and thus to the poisonous propaganda which invariably attends the effort to persuade Congress to vote a navy bill. It should rationalize the naval policy of this country. As it now exists our naval officials base their plans not upon their best conception of a balanced and efficient fleet but on their notions of what Congress can in the midst of great excitement be persuaded to vote for. This is as unsound naval policy as it is dangerous to the comity of nations. With an agreed standard of construction as between Britain and America our Navy will know where it stands, what it can have and what it can not have, and it can make its plans with an eye to naval efficiency and not with an eye to propaganda, lobbying, and congressional votes.

This much, as we have said, had been accomplished before Mr. MacDonald arrived. It provided an excellent base from which to start exploring the larger questions with which both countries, owing to their size, are inevitably concerned. It is possible, we believe, to see from the statement issued by the Prime Minister and the President what this region is which they have started to explore. They say that—

"The part of each of our Governments in the promotion of world peace will be different, as one will never consent to be entangled in European diplomacy and the other is resolved to pursue a policy of active cooperation with its European neighbors; but each of our Governments will direct its thought and influence toward securing and maintaining the peace of the world."

There undoubtedly is the key to the conversations at the Rapidan camp, though no doubt it is difficult for many persons to believe that the Prime Minister and the President really concerned themselves with such general considerations. One has only to use one's imagination a little to see that what seems at first like a discussion of mere generalities is in fact a discussion which goes to the root of the world policy of the two Governments.

The British Government, it is said, is "resolved to pursue a policy of active cooperation with its European neighbors." What does this mean?

It can not mean that Britain proposes to make European alliances. As far as the Labor Government is concerned, and in so far as the Labor policy is now British policy, it can mean only cooperation with Europe within the framework of the covenant and through the agency of the League of Nations. Now at the heart of this form of cooperation there lies a conception of policy which has never been clarified; it is the conception of "sanctions" through blockades and military force against the "aggressor." Britain's European neighbors are wedded to this conception, but it is not a clear conception. There is, first of all, the almost insuperable difficulty in specific cases of determining who the aggressor is, and there is the difficulty of applying "sanctions" without the assistance of, and perhaps against the wishes of, the United States.

As a European power, therefore, Britain is part of an organized system of peace which in spite of its many incidental advantages has certain inherent difficulties. The United States, on the other hand, is sponsor for another system of peace, which centers not upon the covenant but upon the Kellogg pact. On its face this system depends merely upon self-denying ordinances not to go to war, and upon the public opinion of the world. But in fact it implies more than that. For obviously, if the Kellogg pact were violated and if the public opinion which the pact envisages actually existed, and if this public opinion were turned sharply against the violator, it would be impossible for the United States to insist upon supplying the government it had condemned with munitions of war. In some way or other, therefore, the Kellogg pact is bound to involve a revision of the old American doctrine of neutral rights.

To a certain extent, therefore, the United States, approaching the problem from the basis of the Kellogg pact, is bound to come nearer to Europe, which approaches the problem from the basis of the sanctions of the covenant, and it has been suggested frequently in recent years that the two views could be harmonized by an agreement that neutral rights of commerce should not be enforced in favor of a violator of the Kellogg pact.

This formula, attractive as it is, is not, however, wholly satisfactory, because of the inherent difficulty of determining in concrete cases who has actually violated the pledge not to start a war. We presume that the MacDonald-Hoover conversations must have involved an effort to solve this difficulty. If it were solved it would not only solve the ancient controversy about "the freedom of the seas" but it would harmonize the pact of Paris and the league, and bring the American and the European policies for maintaining peace into harmonious alignment.

The situation plainly calls for some new and constructive proposal which will meet the real difficulty that experience has revealed. That difficulty is the uncertainty and perhaps impossibility both under the league and under the pact of Paris of determining who the aggressor is. Because of this uncertainty, nations find themselves facing the threat of being blockaded and starved out on the theory that they are the aggressors. It is felt that in such matters the contemporary verdict may not be the verdict of history, that the judgments of governments and of peoples in crises may not be disinterested. The effect is to increase the desire of every country to make itself self-sufficient, to increase its armaments, and to form alliances, because there is no threat so terrible as the threat of starvation. This threat is explicit at present in the covenant; it is implicit in the pact of Paris. The salutary effect of the threat in compelling good behavior is to a very considerable extent offset by the fears it engenders.

Here lies a region, then, which calls for exploration by the two Governments which have preponderant fleets and the power of blockade and embargo. How can they at one and the same time avoid assisting aggressors by selling them munitions and yet assure the rest of the world and each other that the great power they wield will not be used to threaten the lives of noncombatant men, women, and children? That is the problem. If it could be solved it would increase security and, what is more important, it would increase the sense of security. It is, perhaps, not an extravagant hope that President Hoover, who has a greater experience than any living man of what blockade means in human lives, may yet find a solution which the people of the world will welcome with enthusiasm.

SERVICE IN THE NAVY OF SOUTH CAROLINIANS DURING WORLD WAR

Mr. BLEASE. Mr. President, I ask permission to have printed in the RECORD a letter from the Chief of the Bureau of Navigation in connection with letters published on page 4617 of the RECORD of October 9 and page 4689 of the RECORD of October 11. The letter has to do with the service of South Carolinians in the Navy during the World War. In this connection I should like to ask the Senator from Utah a question. I think possibly he made the statement some time ago that when the war records shall have been completed they will be printed as a public document or as a Senate document. Am I correct in that?

Mr. SMOOT. I understand that when the records shall have been completed the War Department as well as the Navy Department will have them printed as a governmental document. They could be printed as a public document by action of the Senate, but I am quite sure that they will be printed by the War Department and by the Navy Department as has been the case in all other wars.

Mr. BLEASE. It was my intention to ask that the names of South Carolinians who served in the Navy during the World War be printed as a document, but if the printing is to be done generally, of course I shall not ask for the exception.

The VICE PRESIDENT. Without objection, the letter referred to by the Senator from South Carolina will be printed in the RECORD.

The letter is as follows:

NAVY DEPARTMENT,
BUREAU OF NAVIGATION,
Washington, D. C., October 11, 1929.

Hon. COLE L. BLEASE,
United States Senate, Washington, D. C.

MY DEAR SENATOR: Your letter dated September 20, 1929, addressed to the Secretary of the Navy has been referred to this bureau for reply concerning a summary of the service of South Carolina members of the Navy in the World War. The following statistics show the approximate number of officers and enlisted men of the United States Navy and United States Naval Reserve Force whose World War service was accredited to the State of South Carolina:

	Enlisted		Officers
	Male	Female	
U. S. Navy	2,501	1	171
U. S. Naval Reserve	2,482	143	461
Total	4,983	144	632

During the year 1921 this bureau furnished the adjutant general of the State of South Carolina with a transcript of the war service of the officers and men whose service was accredited to that State, and it is believed that official can furnish further information, if you desire, relative to their naval service.

Very truly yours,

R. H. LEIGH, *Chief of Bureau.*

THE NAVAJO INDIANS OF NEW MEXICO

Mr. WHEELER. Mr. President, I ask leave to have printed in the RECORD an article from the March, 1929, number of Good Housekeeping entitled "We Still Get Robbed," relating to the Navajo Indians of New Mexico.

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

"WE STILL GET ROBBED"

By Vera L. Connolly

All day we had been rushing by motor through the awful grandeur of the New Mexico Desert. Now, at sunset, we were approaching the Navajo Reservation. Overhead, like a glittering bowl, arched the blue sky. Against it in the West hung incredible masses of flaming cloud. The heavens were ablaze.

Gradually the sunset faded. The hush of twilight descended. In a world of terrible, still beauty we were the only moving objects. Yet one had no sense of aloneness. For the desert was peopled with strange shapes. They thronged about us—jagged, precipitous buttes tortured into fantastic forms by centuries of wind and sun.

At last we were on the Navajo Reservation. We began to come upon evidences of human life. Flocks of sheep. And here and there a solitary Navajo hut—"hogan"—made of logs and mud, with a fire blazing before it.

Presently the Navajos commenced to pass us on horseback, in twos and threes. Some were shouting and driving their sheep. Others jogged along wearily with bridles clinking.

The men wore shabby, soft-hued blouses, silver belts, long turquoise earrings, and colored bands around their heads. The women were in faded velvet basques of once-brilliant colors, 6-yard cotton skirts of contrasting hues, and many strings of native jewelry. Bizarre as gypsies they were, yet dignified, as only Indians are dignified. And even in the dusk we sensed their dejection and their want. Their manner was that of an oppressed, disheartened people. And in every group were several who were coughing, coughing, coughing. On the desert in late summer!

The night settled more firmly down. Stars sprang out, like the eyes of dead Indians of the past gazing down bitterly on the sorrows of their descendants. On the white man's eternal, abominable game of robbing his red brother!

For a hundred and fifty years we have been about it—this slow, determined robbing of the American Indian. It is the black blot on our record as a Nation. And it is a crime not of the past alone but of the immediate present! There are still 225,000 restricted Indians in this country, and they are being looted, it is said, on a scale undreamed of in the past. Rumors to this effect had reached us on the Atlantic sea-

board; and the editor of Good Housekeeping had sent me west, to six different States, to talk to the Indians themselves. That is why I was on the Navajo Reservation that night.

Halting some of the homeward-bound Navajos, we exchanged chat with them there in the early desert starlight, one of our party acting as interpreter. We asked them how they fared.

They made discouraged replies. I can still see them sitting there, slouched forward on their ponies, their dark faces lined with patient endurance turned toward us eagerly.

"We need more land," said one. "We have not enough range for our sheep."

"But, first, we need water holes," urged another. "Our lambs are dying. We will lose many lambs this year. Water we must have."

All agreed with this. There was a chorus of "Ho!" meaning "yes."

"Maybe," said an old man, "the Government will give us better stock to build up our flocks? Our sheep are not good. We are poor. It is hard to live." (There are some 35,000 Navajos, and their total earnings amount to less than $100 a year a person.)

"We have much sickness. We need doctors. But the white people do not care," said a young man bitterly between coughs.

We assured them that many great-hearted American men, and all women who had heard anything about the Indian's plight, did care.

Leaving this hope in their hearts, we pushed on. There was a wrong being done the Navajos, greater even than lack of water or neglect of health. It was this we had come to hear about.

Turning sharply from the main road at last, we drove up the side of a hill, through a grove of stunted trees. We came out suddenly upon a little clearing where two hogans stood and two Navajo families were sojourning. The Indians were moving about a small fire and in and out of the hogans. On a rude loom, set up out of doors, was a half-finished blanket. By the light of the fire an old silversmith sat hammering out silver jewelry from Mexican dollars.

In our party was one who knew these Navajo families well, and we were ceremoniously made welcome. Every man, woman, and child arose and solemnly shook hands with each one of us. Then we settled down to talk.

As we did so the moon swam up over the hill. And two young men came driving the sheep home, the lambs bleating as they came. These sheep settled down beside us there on the hillside, with many stirrings and nuzzlings. And the two men joined us at the fire. One of them brought a bit of turquoise matrix and a homemade drill from a hogan. Squatting, he began busily to drill. He and his grandfather made silver and turquoise jewelry to sell to the traders miles away.

The old silversmith did most of the talking. He told us, the interpreter said, how the Navajos had been robbed and defrauded by the white man for almost three-quarters of a century. He spoke despairingly, but apparently without a trace of venom.

WE BUILD AND THEY PAY

Suddenly the young man with the drill looked up in deep, quiet anger. He had returned from compulsory Government boarding school with a tubercular infection.

"We still get robbed!" he said in broken English. "Government build bridge across Colorado River—Lees Ferry Bridge. You hear about that? Just finish! Bridge for white people! No good for us. Our tribe never say, 'Build.' Government go ahead anyhow. Charge half to us. Hundred thousand dollar! They know we going get some oil royalty. Jus' 'bout that much. We never had any oil money before. We plan to dig wells, buy sheep, make reservation better for Navajos. We very poor right now. That money, she would help. But now, we don't can. We got pay for that bridge!"

At that all the Indians around the camp fire began to discuss the bridge in quiet anger, even the women joining in. And I learned that other bridges and highways, to a total of $900,000, have been charged against the Navajos.

Little that was said came as a surprise to me. I had been hearing of all this for many months. I had heard particularly of the Lees Ferry Bridge. Friends of the Indians had been denouncing it, in Congress and out, as "infamous," as one more evidence of the mismanagement of Indian property by the Indian Bureau, which for 70 years has been the Indians' "guardian."

As I sat there listening, I recalled how certain Senators and Congressmen had hurled themselves against this bridge project the year before in Washington. One had pronounced it "highway robbery," another "iniquitous," a third "a swindle."

Congressman FREAR, of Wisconsin, especially, had protested against it, testifying that he had visited Lees Ferry himself; that no Indian lived within 25 miles of the place; and that not one Indian in a thousand would ever use the bridge. It was intended purely for white tourists who visited the canyon, he had declared. And he had pointed to the poverty of the individual Navajos and their dire needs. Practically 7,000 of them were without school facilities, and about one-third were suffering from trachoma. Yet the Interior Department, instead of spending Navajo tribal funds for doctors and schools, had approved $100,000 for a tourist bridge.

As we said good-night to our Navajo hosts that evening and drove down the hillside and out across the moonlit reservation, I thought of that other notorious bridge scandal, the Pima Bridge, built four years before, ostensibly for the Pima Indians but actually for white tourists traveling between Phoenix and Tucson, and for the business interests of those cities. This handsome stone and concrete structure, almost a quarter of a mile long, reaches across the dry bed of the Gila River, where water seldom flows and the river bed can be forded with autos almost every day in the year.

The Pima Indians did not want this bridge. They did not consent to it. They continue to cross on the old ford they have used for centuries. Their chief councilman declares that in the tribal council meetings not one hand was raised in favor of the bridge. Yet it was built—at a cost of a third of a million dollars—and was charged against the tribal funds of the Pimas, who are very poor, living on land so arid that they are barely able to wrest a living from it. After this, when a Pima dies and his estate is settled, his heirs will have to help reimburse the Government for a showy bridge built for the convenience of the whites.

Is it any wonder Charles Lummis, the famous author and student of Indian affairs, exclaimed bitterly to me last summer in Los Angeles:

"The Indians must be taken out from under the Interior Department!" (The Indian Bureau is in the Interior Department.)

When we conquered the Indians a century or more ago we seized their fertile lands and drove them relentlessly back into desert and mountain fastnesses we considered worthless. There we exiled them on "reservations," practically as prisoners of war. And there 225,000 of their descendants remain still virtually prisoners of war.

During the past 70 years tremendous changes have overtaken American life. A new and larger civilization has been born. The American negroes have been given their full liberty and have enjoyed it for 60 years. Millions of European immigrants have poured into the United States and been assimilated. Our country is known throughout the world as the refuge of the oppressed. Yet all this time our own cruel, oppressive Indian system has remained unchanged. Except that the Indian Bureau has grown to vast proportions and incredible power! To-day its acts are immune from court review!

DOES SLAVERY STILL EXIST?

Nearly a quarter of a million Indians, pent up on their reservations, are still denied any voice in the management of their property or the education of their children; still denied the right to live where and as they please; still denied virtually all privileges guaranteed under the Constitution; still treated like savages and incompetents and subjected to cruelty and injustice probably unequaled in any civilized land.

In defrauding the Indian we have been fairly shrewd on the whole. And yet there has been a certain grim humor in the situation.

Try as we would to select utterly worthless wastes to banish the Indians to, the joke has frequently turned on us. Good farm lands we did deny them. Yes. The descendants of those whom we exiled to the barren lava beds, for example, are to-day existing in miserable shelters made of sticks and rags and are dying of starvation and despair. Even the resourceful Indian could no nothing with lava! And there are many groups in the various States as pitifully situated. The majority of the Indians to-day are desperately poor!

On the whole, we accomplished our purpose. Many tribes have been obliterated. Others are threatened with extinction.

In some cases, however, our judgment erred. We drove a number of tribes up into the timbered mountains. Timber! Later it proved worth a fortune! And we did not foresee coal. Nor did it occur to us that deserts might possibly spout oil. Or that the Indians, with their ancient knowledge of irrigation, could make even a wilderness blossom—and show us what valuable water power we had thrown away.

As it gradually became evident that the Great Spirit had not permitted all his red children to be left destitute, as the value of their timber soared, as their water power became precious, as oil began to bubble from the sand of their desert wastes, the cupidity of unscrupulous white men became inflamed. And there commenced in this country a ruthless, prolonged raid on the Indian estate, which appears to be at its climax to-day. Forty-one million dollars of reimbursable debts have been saddled on the Indians for roads, bridges, irrigation systems, and other projects of benefit chiefly to whites.

Of this sum the patient Indians have paid already some eleven millions. The remainder hangs over them.

The Indian estate, meantime, has been shrinking steadily. The diminution, in four years, through 1926, was 4 per cent a year, totaling $122,000,000. (This statement takes no account of the estimated oil and mineral values, but covers all tangible, measurable, known property, both tribal and individual—that is, lands, houses, timber, cattle, and money.) It is unnecessary to point out that the dwindling of any estate at 4 per cent a year means complete annihilation in 25 years. Such has been our record as "guardian" of the Indian people!

In every section of the country the Indian problem to-day is different from that in every other. There are Indians who are in desperate want, having been denuded by the white race of all they owned. These need our immediate care. There are other tribes who, though heavily robbed, still possess assets. These should be rescued before their residue is gone. There are still others whose potential wealth in oil or water power is just being guessed at—just attracting the attention of the

predatory interests. These Indians should be given the utmost protection our civilization can afford.

THE WOMEN'S CLUBS TO THE RESCUE

One hopeful sign on the horizon is the awakening of the public interest. Especially the growing indignation of American women. It was women—the Federated Women's Clubs—who, in 1921, first launched an attack on the maladministration of Indian affairs. They fought a gorgeous battle. They made history. It was partly due to their unremitting warfare, under the leadership of Mrs. Stella M. Atwood, that the Bursum and Lenroot bills were defeated. These bills would have deprived the Pueblo Indians of the land necessary to maintain their continued existence and have handed it over without compensation to white settlers. The Indian Bureau sponsored and promoted these bills.

The women helped, too, to defeat the scandalous "Indian oil bill" of 1926, which would have destroyed the Indian ownership of 22,000,000 acres of reservation land. This bill, indorsed by the Indian Bureau, would have made a gift of 37½ per cent of the Indian oil royalties from this entire area to the States where the reservations are located. The white oil lessors would have escaped without any taxation.

Other public-spirited women are working to-day through the League of Women Voters. In several States this organization is doing a wonderful job. Leagues have been organized on some reservations; and the Indian women members are being helped to battle for better conditions for their race.

"All the Wisconsin Indians are 'plucked clean,' save the Menominees," is the sad, yet indignant statement of Mrs. O. J. Little, of Stone Lake, Wis. Mrs. Little is chairman of the department of Indian welfare of the Wisconsin League of Women Voters. "And now the Menominees are making the fight of their lives to keep their valuable timberlands from being denuded," she continued, "and to protect their water-power sites. But in spite of their fight, in spite of the assistance given them by the club women of the State and Nation, the Indian system goes right on crushing down opposition and carrying out its own plans.

"The work of that archaic, wasteful system costs the taxpayers of this country more for the mismanagement of the Indians than the expense of the entire Federal judicial system. When we as taxpayers realize just how much that statement means, we shall not be considering how to enlarge the Indian Bureau or to increase its power over the unhappy people who have struggled in vain to free themselves from its bondage. We shall be considering how to relegate it to the same place that the Freedmen's Bureau was relegated to when it was abolished."

All over the United States to-day greedy, covetous hands are reaching out to clutch at Indian property—at timber, oil, water power, grazing lands, cattle ranges, irrigation systems, and what not.

The Pueblo Indians of New Mexico, as this article goes to press, are facing a desperate crisis. Because of a contract made between the Interior Department and the middle Rio Grande conservancy district, these six tribes have just been loaded down with a charge of $825,938, for flood-control works needed by the city of Albuquerque and other towns on the Rio Grande, but of no advantage to the Pueblos—the payments to begin immediately upon completion of the project.

This raid is regarded as so outrageous by Louis Marshall, the eminent constitutional lawyer of New York, that he has thrown himself into the fight against it, contributing his services.

"It will become my duty to see that this matter shall not be railroaded through," he has recently written the Commissioner of Indian Affairs, "even if it becomes necessary to seek the protection that the Indians are entitled to * * * through arousing the conscience of the American people."

GOVERNMENT INVESTIGATION AT LAST

Last summer, as a representative of Good Housekeeping, the writer of this article visited Indian jurisdictions in Arizona, New Mexico, Colorado, Oregon, Washington, and Wisconsin. In these States and in California she heard, from the lips of Indians and prominent white men and women, more accounts of maladministration and fraud than several articles the length of this one would contain.

Besides, she obtained information from the unpublished field notes of the Institute for Government Research investigators, and from the hearings of the Senate investigating committee, comprised of Senators LYNN J. FRAZIER, of North Dakota; W. B. PINE, of Oklahoma; ROBERT M. LA FOLLETTE, Jr., of Wisconsin; BURTON K. WHEELER, of Montana; ELMER THOMAS, of Oklahoma; and of Louis R. Glavis, chief investigator. This committee has just returned from the West with a mass of startling testimony given on oath regarding the looting of the Indian estate. The report of these hearings, the writer is convinced, will horrify the American public and shock it into action.

From Mrs. Gertrude Bonnin, a distinguished Sioux Indian, the writer learned of tragic conditions among the Middle Western tribes.

On the larger Sioux Reservations in North and South Dakota, she said, over 40,000 head of cattle belonging to individual Indians were rounded up and shipped by officials of the Government without the consent of the Indians. For these cattle the Indians have not been paid.

On the Omaha and Winnebago Reservation in Nebraska, she declared, Indian lands, held in trust by the Government, with restrictions against alienation by the Indian owners, are nevertheless taxed and are rapidly being sold for nonpayment of taxes. The Indians are helpless, as their land is leased through the Government office for less than the taxes. The land is absolutely under the control of the United States Government, but it permits the lands to be sold for taxes.

On the Uintah and Ouray Reservations in Utah—she stated next—the Indians owned a beautiful valley. Five streams had their headwaters within the reservation, so they owned this water. In 1902 Congress allotted some of the land to the Indians, throwing open the balance to settlement by white people at $1.25 an acre. Automatically the State got control of the water. In 1906 Congress passed an act providing for the construction of an elaborate irrigation system at a cost of over a million dollars. When built, this destroyed the Indians' old canal systems, which had adequately met their needs, and the whole huge cost of the new system was saddled as a debt on these Indians as a tribe. Later it became a lien against their individual allotment of land.

To-day these Indians have to get permission each time they want water from these ditches, and the maintenance charges are constantly accumulating against their land. The Indians' land will thus be consumed in time and they will become homeless.

ONE INSTANCE OF INJUSTICE

Mrs. Stella M. Atwood, whom the Indians lovingly call "Mother" in gratitude for all she has done for them through 12 years of consecrated effort, told me in California last summer of the following occurrences:

"One day the Navajos wired me to come. Come on the next train! They needed help. Vast tracts of land belonging to them had been leased to a white cattleman without their consent, and the Indians' cattle were to be put off at once. When I got there I found that the captain at Fort Wingate had leased 11,000 acres of the Navajo grazing land to this white cattleman for a dollar a year! This part of the reservation had been taken over by the War Department during the war. It was still a military reservation, the officer claimed.

"He had had no right to take such a step, in any case, without competitive bids. A court-martial was possible. I kept the wires to Washington hot. The white cattleman had himself made deputy sheriff and was planning to put the Indians' cattle off in 24 hours. The Indians' distress was terrible! This land had been the grazing ground of the Navajos for generations. There was no place for them to go. Some of them were old scouts, on pension from the Government.

"They came streaming down Sunday morning to confer with me, and we were just ready to open council meeting when an Indian came galloping across the plain waving a telegram. It was from the War Department. A reprieve! 'Suspend all operations until investigation.' It was the result of my wires, as chairman of the Indian welfare division of the Federated Women's Clubs. The white cattleman swung up on his horse and rode away. He was never heard from again."

On another occasion, in 1924, just after the Indians had been made citizens, Mrs. Atwood was summoned in desperate haste to the Crow Reservation in Montana. The Indians informed her in their wires that the county authorities had come in without their approval and arranged to corral all the horses on the reservation and kill them and skin them and sell the hides for 65 cents apiece to pay the Indians' taxes.

"I happened to know," said Mrs. Atwood, "that neither a trust fund nor anything bought with trust money is taxable, and I also knew that the burden of proof would lie with the county. So I wired to the Indians to get an attorney, promising I would come at once.

"What I got to the Crow Reservation I was met by an Indian who was then Republican nominee for sheriff of Big Horn County. With him was Robert Yellowtail, a brilliant, educated Indian who had just been defeated by a very few votes in the primaries for Congress. These were highly intelligent men, educated men, able to fill public office. They took me up to their attorney. He said he had not a doubt in the world but that an injunction would be granted. The legal action was pressed and the Indians' horses were saved.

"The Indians there told me of the awful tyranny and oppression under which they were living. They described how they had tried to get a petition to Washington asking the removal of the superintendent. The petition had, of course, to go through his hands. So during a political meeting on the agency grounds the Indians called the superintendent out and presented the petition to him in the presence of the whole meeting. He was so enraged that he tore it up, then and there, and trampled it under foot.

"At which the attorney general of the State arose in deep indignation, protesting sternly against this outrage.

"'I could scarcely believe my eyes,' he said, 'when I saw the superintendent of the reservation insult this gathering as he has done this day. * * * As attorney general, one of the chief law officers of Montana, I have never before witnessed such conduct. It is cases of this kind—utter defiance of the rights of people—which cultivate violence. In tearing up that piece of paper, that petition representing your wishes, he ignores you. The right of petition by dependent people has always been recognized. It was used by our forefathers to present their grievances. The Government teaches the right of petition. He should have taken your petition, as he is your representative, and sent it, without comment, to Washington.'"

On the Bad River Reservation at Odanah, Wis., Rev. E. P. Wheeler, a white missionary who grew up on that reservation among the Chippewas, told me briefly how the Indians there had been stripped of their timber.

"The lumber companies, through connivance of the Government Indian authorities, got the privilege of cutting this Indian timber as fast as their big plants could cut it and giving the Indians a dole which did them no good and great harm, crippling their initiative and defeating the purpose of the reservation—the industrial education of the Indian. I have seen this reservation decline from wealth to pitiful poverty. The adult Indians have lost all of their lumber. Their money for it is about gone. Soon they will be left stranded. Next winter some of these Indians here will go hungry."

A FRAUD CONTEMPLATED

"One of the most outrageous examples of official robbery of the Indian estate," exclaimed John Collier, of the American Indian Defense Association, when the writer interviewed him in the Southwest several months ago, "was shoved across early in 1925. It was an act of Congress, supported by the bureau, which stripped the Flathead Indians of Montana of a power site worth at least $50,000,000, a 500,000-horsepower site. The Indian Bureau, I will repeat, supported this act. No royalties were to be granted to the Indians, no compensation was to be made them. Afterward, however, this was changed to read that 30 per cent of the royalties were to go to the Indians. The rest was to be utilized to supply water and power to white settlers. Eventually, in 1928, Congress rescinded its confiscatory action, which it had taken under the misleading of the Indian Bureau."

At Yakima, in the State of Washington, the writer of this article heard from a spirited, flashing-eyed young white woman, now the wife of a prosperous rancher but formerly lease clerk at the Yakima Indian Agency, a clear, detailed account of oppression and fraud in the leasing of Indian lands to whites in large quantities and at a low figure, certain Indians being compelled to acquiesce even when they wished to farm the land themselves. In one case irrigating water was denied an Indian to force his consent. Other methods were used.

This young woman's frank dismay at the conditions around her was reported to the Indian Bureau. And she showed me a letter of stern rebuke which accused her of putting her superiors in an "embarrassing position." At the same time she was ordered transferred to a reservation in North Dakota. Instead she resigned from the service. This young woman is Mrs. Dollie F. Woodhouse. As soon as they are printed, obtain the Senate hearings and read her account in full.

At Yakima, too, I heard a pitiful story of the "civilizing" of one Yakima Indian. This account was given to me by Lucullus V. McWhorter, lifelong student of the Indian problem. He has written extensively on the Yakimas and, although a white man, enjoys their confidence.

"Louis Mann, a Yakima now deceased," he said, "had a 30-acre field of wheat, a truck patch, and an old orchard to water. The orchard was drying up; some of the trees actually dying. He took me to his lateral head gate, and I found it as he had represented it to me—under bolts and padlocked, with a very meager flow of water under an extremely low pressure. Not enough for 10 acres of his wheat, let alone his truck patch and orchard. Yet I noticed that Louis had somehow succeeded in maturing a good crop! After dark that night he demonstrated to me how this feat was accomplished.

"Proceeding to the head gate in question, with a wrench he loosened the bolts, lifted the board, permitting the water free ingress from the main canal, and then banked the canal with an extra board, which filled his own lateral to capacity. Next morning, before daylight, I went with him and saw him restore the gates to their former state.

"When I protested, Louis declared to me with great bitterness:

"'The Indian Bureau wants me to become as a white man. You see—they are succeeding! My children must not starve. I am supposed to provide for my family. How else am I to do it but turn thief, as I find most white men do in dealing with us Indians? They compel me to steal my own water, and I must do it in darkness, while the white men below me, as you see, are given all the water they want, free from any lock. I am becoming civilized like ——!'

"When I called the reservation reclamation engineer's attention to Louis's plight, he said that there was not enough water to furnish him with more. I asked why a lock had been placed on his head gate, and the white men below him were having free access to the canal. 'We do not have locks enough for all,' was his stupid and heartless reply."

WE MUST PROTECT OUR WARDS

In the State of Oregon, located between a chain of broad lakes on the one hand, and on the other timber-clad peaks that hold Crater Lake like a deep blue jewel up to the sky, lies one of the most beautifully situated Indian jurisdictions in the country. This is the Klamath Reservation, harboring some 1,200 Klamath Indians.

The Klamaths are one of the richest groups of Indians in the United States to-day. They have been plundered, but the tribe is still worth some forty millions in property, most of which is timber.

I visited the Klamath Reservation late last summer. And, as a guest of Mr. and Mrs. Wade Crawford, highly educated, cultivated Klamath Indians, heard unofficially accounts of oppression, injustice, and mismanagement of a big estate, which no American could listen to without deep indignation.

Shortly after my brief stay at Klamath Reservation the Senate investigating committee visited that jurisdiction. And all that had been said to me unofficially, and vastly more, was stated under oath by various Klamath Indians during the Senate hearings. A copy of those hearings lies on my desk as I write this.

This Senate investigation, by the way, is an event of tremendous significance to the American Indian. He is following it eagerly, hopefully. Indian council fires are burning all over the United States to-day. And petitions are rising to the Great Spirit.

But to return to Klamath. Briefly, the conditions are these: First, the Klamaths, who have always been great cattle breeders, can no longer raise cattle. For there is no range! The range has been ruined. In spite of the protest of the entire tribe, the range was leased to white sheepmen for three years. And it has been "eaten out by sheep, clean up to the fences."

The Klamaths declare that protests, whether to the local agency or to the Indian Bureau, regarding mismanagement of their property invariably prove futile. Several years ago a courteous wire was sent by three of them to the Indian Commissioner protesting against their timber being sold at about $3 a thousand. (The timber price was then rising and is now $8.) The reply came to the superintendent's office. He summoned the Indians and read it aloud, as follows:

"You people have no voice in your timber. I will sell the timber to whom I please at any price."

ONE INJUSTICE AFTER ANOTHER

J. S. Ball, a Klamath rancher, told the investigating Senators of many injustices. One was the permitted destruction of much timber by a beetle pest. "This was discovered as far back as 1918, and there has never been any effort to subdue this pest. It has resulted in the loss of 450,920,000 feet in five years," he said.

Several Indians described a vast irrigation project, foisted on the Indians despite their protest, which was supposed to irrigate 6,000 acres of land but is irrigating less than 400. The system is defective; it lacks drainage canals; hence the water stands on the land and turns it alkaline. Another irrigation project, built wholly out of Indian tribal money, serves lands owned entirely by whites. The white people are to repay the Klamath Indians at 85 cents an acre over a period of 20 years. Good business for the whites! But for the Indians it means the lending of the money—$25,000—without interest for 20 years.

Thomas Lang described, next, how he had repeatedly examined trains of logs being removed from the reservation to the sawmills, and found in every bunch of logs four or five big logs that had not been scaled. Meaning that the Indians would get nothing for that timber. Lang hurried with his information to the superintendent, urging him to investigate.

"Those are reliable companies, and they would not do anything like that," was the evasive reply.

Finally Wade Crawford, a college-trained man and chairman of the business committee of the council, stated on the witness stand some of the injustices he and his wife had told me of in their home a few months before. He told of the building of an unwanted, unnecessary hospital from tribal funds against the protest of the tribe. He cited the building of unnecessary roads at Indian expense. He complained of the total lack of any law enforcement on the reservation, although the Klamath Indians are annually paying $4,500 for law enforcement.

At last he pointed to the extravagant, steadily increasing amount taken from their estate every year merely to administer their agency. To administer the affairs of a little group of some twelve hundred Indians! He declared it was impossible to obtain from the local superintendent or from the Indian Bureau at Washington two estimates that agreed showing how the enormous sum appropriated from their tribal funds for agency expenses was used.

"In 1922," said Crawford, "they took $75,000 of our tribal funds to administer the agency; in 1923 they took $75,000; in 1924, $100,000; in 1925, $110,000; in 1926, $149,000; in 1927, $164,000; for 1928 they took $164,000; and for 1929 the appropriation was $185,000. In addition, 8 per cent of all our timber sales is deducted each year for timber operations and maintenance of forests. In 1928 this was about $80,000. So last year we were charged $260,000 for running our reservation!"

Crawford pleaded against the continued existence of the Indian Bureau. "The Indians realize to-day the condition their estate is in. They have no voice in the management of their money; and it is being eaten up in overhead expenses that are coming right out of our principal. The Indian Bureau is taking advantage of its wards. A thing no government should permit! There are employees in the service of the bureau who have been there for a lifetime. They intend to perpetuate the bureau and stay in it. They don't intend to let the Indians have

any freedom. They don't want to educate them or put responsibility on them or teach them conservation and business methods.

"Our money is being scattered. I think the Congressmen and Senators do not realize that this thing is going on. The Indian Bureau has taken advantage of the situation. Taken advantage of these helpless people, the restricted Indians and their children, who are not able to protect themselves."

His final words were: "I want to thank this committee. I don't know how to thank them too much for giving me so much time and consideration here. I will try to repay it in some way at some time. And I wish to thank you in the name of the tribe."

Gratitude—gratitude from the heart, for even the smallest kindness! For any indication that the all-powerful, absorbed, indifferent white race cares even a little about the Indians' plight! This is typical of Indian character, as I know. It is the thing that has touched my heart most in the past months while hearing Indians' recitals of wrongs. It is the thing that would touch yours.

I have found them the gentlest of people. And they are ardent patriots. They love their flag. Thousands of them volunteered during the World War. After all, this was their country before it was ours. Yet they have seen it stolen from them ruthlessly, inch by inch.

I marvel at their sweetness of spirit.

INDIAN PATRIOTISM PERSISTS

One moving spectacle I shall never forget. It was a roomful of thin, peaked, half-clad, undernourished little Indian children at a compulsory Government boarding school—a school which has recently been severely criticized for its atrocious treatment of the pupils—engaged in a flag drill! I chanced to step in just as they broke into The Star-Spangled Banner, waving their flags as they sang. Such eager warmth in thin little voices! Such a glow on small, pinched faces! I ran from the place.

Restraint. Patience. Uncomplaining endurance. Meekness. If the "meek shall inherit the earth," surely the Indian people are laying up a great heritage for themselves.

Here is a picture I would leave with you:

One blazing hot day last summer, on the New Mexico desert, I accompanied a grave young Indian to the spot where the Government had dug an artesian well for the tribe. This had been paid for out of a small fund these Indians had just received for lands lost to them in the past through gross Government negligence.

The water was acutely, desperately needed. But so was the careful expenditure of every dollar of that precious little hoard. These were very poor Indians.

When we reached the well the Indian fell silent. And we stood looking down at a large pipe with a tiny trickle of water issuing from it futilely; a driblet so small and useless as irrigating water for a farming region that it amounted to a sardonic joke.

I turned to my companion, almost expecting invective. Something harsh, at least. Had he been a white man he would have cursed.

Instead he stood there in quiet despair, his young shoulders drooping, his face care lined.

"Much promise. Nothing done," he said huskily.

Then, as though he feared he might lose his Indian composure, he turned quickly and led the way back.

REVISION OF THE TARIFF

The Senate, as in Committee of the Whole, resumed the consideration of the bill (H. R. 2667) to provide revenue, to regulate commerce with foreign countries, to encourage the industries of the United States, to protect American labor, and for other purposes.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Wisconsin [Mr. BLAINE], which will be stated.

The CHIEF CLERK. In section 307, page 290, line 16, after the word "labor," it is proposed to insert "or/and forced labor or/and indentured labor under penal section," and at the end of the section, in line 20 of the same page, to insert "'forced labor,' as herein used, shall mean all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily," so as to make the section read:

SEC. 307. Convict-made goods—Importation prohibited: All goods, wares, articles, and merchandise mined, produced, or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited, and the Secretary of the Treasury is authorized and directed to prescribe such regulations as may be necessary for the enforcement of this provision.

"Forced labor," as herein used, shall mean all work or service which is exacted from any person under the menace of any penalty for its nonperformance and for which the worker does not offer himself voluntarily.

Mr. BLAINE. Mr. President, I desire briefly to explain the purposes of this proposed amendment.

The language used is the language in paragraph 3 of the draft questionnaire tending to the adoption of a convention embodied in an official publication entitled "First Discussion, International Labor Conference, Twelfth Session, Geneva, 1929, Forced Labor, Report and Draft Questionnaire, Item III on the Agenda."

The labor office at Geneva had brought about a discussion of the question of forced labor, and during the 11 sessions that the committee held between June 1 and June 15, 1929, it adopted and reported to the conference Item III in its draft questionnaire.

The language is well understood by the countries holding colonies and mandatories, and such language has a very definite and specific meaning.

Forced labor is, in effect, conscript labor, and as it relates to our domestic problem of production it has a direct bearing on agriculture and industry.

A large portion of the labor on plantations in so-called tropical countries is forced labor or indentured labor. Indentured labor in those countries' colonies, possessions, and mandatories is regarded as voluntary employment, but the indenture contracts embody penal sanctions, which effectually destroy free labor. Once a native of the colony, possession or mandatory, though illiterate and unlearned, joins in the contract, even sometimes a verbal contract as well as written, he subjects himself to penalties, and the contract gives sanctions for infliction of punishment.

The term "convict labor" under the language of the section does not embrace these types of labor, either forced labor or indentured labor. It is true that while the penalty is being inflicted and the punishment administered it may be regarded by the Treasury Department as "convict labor"; but that does not meet the problem. Labor and agriculture in America, aside from moral grounds, are primarily concerned about the output of forced labor and indentured labor before the penalty or punishment is imposed or inflicted.

My attention was attracted to this problem when I began an investigation of proposed changes in the tariff on tobacco, principally Sumatra and Java wrappers. I undertook a study of the cost of production of the foreign wrappers and the domestic wrappers, and I had not pursued the investigation very far until I ran into this problem of forced and indentured labor in the countries where that character of wrapper is grown.

However, tobacco is not the only product which is the output of forced labor or indentured labor. Especially is this true of indentured labor; and the coolie contract is of quite universal application in many of the so-called tropical countries.

There have been libraries of books written upon the subject, and I have not had the time to investigate the ramifications of forced and indentured labor. I think, however, it will be conceded that in practically all of the colonies and mandatories of Holland, Belgium, France, Italy, and Great Britain, and in parts of South America, forced labor, and especially indentured labor, is of general application. The fact is there are very few free workers in those areas among the native population.

The tendency of the League of Nations, according to the draft questionnaire, is not for the purpose of outlawing forced and indentured labor, but the purpose evidently is to regulate such employments and thus validate and legalize forced and indentured labor.

Mr. Kupers, the workers' delegate from the Netherlands, in an address on the proposal of the committee of the league before the International Labor Conference at its twelfth session in Geneva, made these significant observations:

The employers and also other interested parties apparently place the possibility of making virgin territory economically productive above the plight of the workers. We workers also consider the economic enrichment of the world of great importance, but we do not want to see it paid for at the price of the poverty, degeneration, and ill treatment of the socially defenseless native worker. That price is too high.

I propose the amendment to the end that America shall not give aid or comfort to those employers and planters in foreign countries whose forced and indentured labor is brought to poverty and degeneration, with the attendant inhuman treatment of the native workers, who once were a happy people under their own order of things, but who are being drawn into the maelstrom of industrialism, which means their destruction as a people.

Such situations of poverty and degeneracy involve a moral question. But, aside from that, American agriculture and the American worker, from the standpoint of our economic security, should not be placed in competition with forced and indentured labor, wherever it may be found.

Mr. President, this amendment is in conformity to a policy which has been adopted by America under the treaty-making power. It has been approved by the Senate of the United States on two occasions, one of which was in connection with the slavery convention ratified by the Senate not long since.

Under article 5 of that convention we find this:

The high contracting parties recognize that recourse to compulsory or forced labor may have grave consequences and undertake, each in respect of the territories placed under its sovereignty, jurisdiction, protection, suzerainty, or tutelage, to take all necessary measures to prevent compulsory or forced labor from developing into conditions analogous to slavery.

It is agreed that:

(1) Subject to the transitional provisions laid down in paragraph (2) below, compulsory or forced labor may only be exacted for public purposes.

(2) In territories in which compulsory or forced labor for other than public purposes still survives, the high contracting parties shall endeavor progressively and as soon as possible to put an end to the practice. So long as such forced or compulsory labor exists this labor shall invariably be of an exceptional character, shall always receive adequate remuneration, and shall not involve the removal of the laborers from their usual place of residence.

(3) In all cases the responsibility for any recourse to compulsory or forced labor shall rest with the competent central authorities of the territory concerned.

Mr. SIMMONS, Mr. BINGHAM, Mr. KEAN, and Mr. KING addressed the Chair.

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

Mr. BLAINE. Just let me finish this thought. But, Mr. President, the Senate of the United States took a much broader view of this proposition than the slavery convention adopted; and in the ratification of this convention—I think the amendment was offered as a reservation by the distinguished senior Senator from Idaho [Mr. BORAH]—the Senate used these words. I will read the portion of the resolution dealing with that matter.

After the "whereases" the Senate of the United States declared as follows:

That the Government of the United States, adhering to its policy of opposition to forced or compulsory labor, except as a punishment for crime of which the person concerned has been duly convicted, adhered to the convention except as to the first subdivision of the second paragraph of article 5.

And the Senate of the United States said that we would not adhere excepting upon this reservation. We contended that compulsory and forced labor was fundamentally wrong at all times.

Mr. SIMMONS. Mr. President——

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

Mr. BLAINE. I yield.

Mr. SIMMONS. The section which the Senator would amend prohibits the importation of the products of labor of the kind which his amendment covers, as I understand; or, at least, he wishes to prohibit the importation of the products of that character of labor.

Mr. BLAINE. Exactly.

Mr. SIMMONS. I desire to ask the Senator if he means by what he has said that this class of labor is employed only in the production of agricultural products?

Mr. BLAINE. I assume that it largely covers agricultural products, but it also includes some other products. For instance, I have no doubt but that a very large portion of the copper that is mined in Africa, in Peru, in Colombia, and in South America is mined either by forced labor or by indentured labor with penal sanctions. There is, of course, a distinction between forced labor and indentured labor with penal sanctions.

Mr. SIMMONS. The Senator has said that this kind of labor is employed in many of the manufacturing as well as agricultural countries of Europe.

Mr. BLAINE. Yes.

Mr. SIMMONS. If that be true, if the section were amended as the Senator's amendment provides, would it not give the department an opportunity to exclude the products of those countries upon the ground that they were made to some extent by forced or indentured labor; and might not that authority be of such a broad and sweeping character as to give them the right to exclude whatever they did not want to admit to our shores?

Mr. BLAINE. I will suggest to the Senator that this indentured labor or forced labor is employed, not in Europe, but on the mandatories or possessions or colonies of European countries.

Mr. SIMMONS. I understood the Senator a little while ago to say that it was employed in some of the countries of Europe.

Mr. BLAINE. Then I either misunderstood the Senator's question, or, if that was the purport of his question, I misstated my position.

Mr. SIMMONS. Then the Senator's amendment would apply only to the mandatory countries that happen to be located in Europe and other parts of the world.

Mr. BLAINE. It applies everywhere if forced labor exists.

Mr. SIMMONS. Yes; it would apply in Germany, it would apply in Italy, it would apply in Great Britain, if there was any pretext that any part of the products imported into this country from those countries were produced by forced or indentured labor?

Mr. BLAINE. It would, certainly.

Mr. SIMMONS. Does not the Senator think that would give too great an excuse for the exclusion of such things as it might be desired from some sources to exclude from the American market? I am simply suggesting this with a view to asking the Senator if he will not safeguard the situation against such a possibility as that by some additional amendment.

Mr. BLAINE. Mr. President, I am assuming that there is no forced or indentured labor on the Continent of Europe, in the British Isles. I understand that there is no forced or indentured labor in those countries.

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

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

Mr. BLAINE. I do.

Mr. REED. I am rather in sympathy with the Senator's object in this matter, but on examining his amendment I am wondering whether his definition of "forced or indentured labor" would not include labor performed by an apprentice under an indenture of apprenticeship. Certainly the Senator does not mean to strike at that.

Mr. BLAINE. My answer to the Senator is that if the indentured contract of an apprentice is enforceable by punishment or has penal sanctions, it does cover it, and it ought to cover it.

Mr. REED. The Senator's definition goes further than that. It reads "all work or service which is exacted from any person under the menace of any penalty for its nonperformance." That would cover the ordinary discipline of an apprentice.

Mr. BLAINE. That discipline is not regarded as a penalty. The language of indentured contracts with penalty sanction is well understood in the countries and the colonies in which this is applicable, and in the discussion before the labor committee it was very well understood that that was a type of contract that involved the enforcement of the contract by imposing a penalty, a punishment, by incarceration.

Mr. REED. The definition does not say so. Any apprentice mechanic is subject to a penalty for refusing to work, but the penalty is not incarceration.

Mr. BINGHAM. It might be loss of pay.

Mr. BLAINE. I have not made myself clear, I see. An indentured contract with penal sanctions is well understood in the countries where it obtains. It has a definite and specific meaning. That meaning would be adopted, of course, by the Treasury Department in the enforcement of the law. It is of common usage, just the same as a phrase or a sentence or a word in our country obtains a certain specific, definite meaning that is adopted by the courts in the construction of a statute. We do not set out the meaning of every word and every phrase when we pass a law. Words and phrases in customary use are understood by everyone to mean certain things, and it is the meaning attached to them commonly that is adopted in the courts in construing a statute. So the Treasury Department of the United States in passing on this law would ascertain what the words meant. Ordinary perusal of the debates before the labor conference indicates clearly that "indentured contract with penal sanctions" means a contract entered into by an employee the enforcement of which can be accomplished by process or penalties, not dismissal—because then, of course, there would be no contract—not in the cutting of the wage, but penalties as understood according to the usual and ordinary understanding of the word "penalty."

Mr. REED. I see the Senator's point, but the trouble is that he does not leave it to common understanding for definition of the term. He puts in an explicit definition of his own——

Mr. BLAINE. No.

Mr. REED. That is broad enough, it seems to me, to include an indenture of apprenticeship which can be accompanied by a penalty such as forfeiture of pay, or dismissal, or termination of the apprenticeship.

Mr. BLAINE. But that is not the common, ordinary meaning of the phrase as used in those countries and colonies where that type of contract prevails.

Mr. REED. I grant that, but the Senator has put in his own definition, and it is the definition which will make the trouble.

Mr. BLAINE. No, Mr. President; I simply used the language that is used in those countries in characterizing those contracts. I assure the Senator that he will be convinced of that before I finish.

Mr. BINGHAM. Mr. President——

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

Mr. BLAINE. I yield.

Mr. BINGHAM. Is there not a difference between the definition of "forced labor," as given by the Senator in his amendment, and which includes the words objected to by the Senator from Pennsylvania, and the definition of "indentured labor under penal sanctions," which has a special meaning of its own? In other words, "indentured labor under penal sanctions" would include labor of an apprentice who could be penalized by the courts for failure to perform the work called for in his indenture, whereas "forced labor," as used herein, is service for which the worker does not offer himself voluntarily, but which service "is exacted * * * under the menace of any penalty." In other words, does not the Senator grant that the phrase "menace of any penalty" is in the definition of the words "forced labor," rather than in the definition of the words "indentured labor?"

Mr. BLAINE. I will quote from the draft questionnaire submitted by the labor committee of the league, which was agreed to by the committee to be reported to the conference for adoption, and then in turn by the conference to the League of Nations for its approval. This is the question:

> No. 2. Do you agree with the following definition of forced or compulsory labor for the purposes of such a convention?

Mr. BINGHAM. But that has nothing to do with indentured labor, has it?

Mr. BLAINE. Just a moment. This is the definition:

> All work or service which is exacted under menace of any penalty for nonperformance and for which the worker concerned does not offer himself voluntarily.

It is necessary, in this amendment, to define "forced labor," because forced labor is defined by some 56 or 57 countries, the number that belong to the League of Nations. It has a definite and specific meaning, and does not include a contract where the person, the employee, the laborer, offers himself voluntarily.

Mr. BINGHAM. That is what I endeavored to show.

Mr. BLAINE. He may join in a forced contract which provides for penal sanctions; that is, the enforcement of the contract by the imposition of a penalty as we understand the word "penalty," criminal process against the employee. But if he enters into a contract of forced labor, notwithstanding it provides for penal sanctions, it is still permissible under the definition as set down by the conference.

Illiterate, unlettered natives of some countries voluntarily join in those contracts. They have no other recourse. They have no alternative. They join in those contracts notwithstanding the fact that those contracts provide for the punishment, through criminal process, of the employee if he breaches the contract. Therefore it becomes necessary, in order to take care of that situation, to have the additional provision of indentured contracts with penal sanctions included in the amendment. Otherwise the countries which permit forced labor will go on very happily with their contracts of indentured labor by reason of the fact that the working man consents, he joins in the contract, either verbally or in a written contract, and if he does that, then these countries do not regard that as forced labor. The distinction, therefore, between "forced labor," as defined by this conference, and "indentured labor with penal sanctions," as understood in those countries, is very clear, and there are two distinct classes.

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

Mr. BLAINE. I yield.

Mr. BINGHAM. The Senator will realize that there are very few countries in the world to-day where there is forced labor, involuntary labor, a kind of involuntary servitude, and where that does occur it is only, generally, for a very short period of time, usually something connected with the Government's own activities. The Senator will recognize that to be true. Whereas there are a great many countries in the world to-day, nearly all the tropical countries, and nearly all countries where there is coolie labor, where the great majority of the work performed is done under contract or an indenture with penal sanctions. Does the Senator agree to that?

Mr. BLAINE. Not wholly; but whatever purpose the Senator has, generally speaking, I would accept.

Mr. BINGHAM. I am trying to distinguish between the two conditions; that is, the condition of forced labor entered into not voluntarily, and the condition of labor entered into voluntarily through an indentured contract with penal sanctions.

Mr. BLAINE. May I say that the Senator and I do not agree as to the definition of "forced labor"? I am speaking of forced labor as defined by the convention. He is speaking of forced labor which may involve penal sanctions. They are both forced labor, but they are distinct classes. There is a great deal of forced labor prevailing in the tropical countries when we define forced labor not only as the convention defines it but as well forced labor through indentured contracts with penal sanctions.

Mr. BINGHAM. It seems to me, Mr. President, that the Senator is confusing forced labor with indentured labor, which is entered into usually voluntarily by people in the crowded parts of the world, where employment is difficult to secure, and where, by entering into a contract, they may be taken to another country, and may be used there on rubber plantations, or sugar plantations, or in mines, or in other occupations, and at the end of the contract returned to their homes, said contracts usually containing provisions for medical care, food, housing, and so forth, and said contracts also nearly always containing some penal clause.

Not to interrupt the Senator further, what I desired to point out was that, if his amendment were agreed to, it would mean that our supply of rubber as now received in the United States from Brazil and from the East Indies would be stopped at the customhouse and could not come in, for nearly all the rubber raised in the world to-day is raised by indentured labor, sometimes called coolie labor, sometimes called contract labor. Furthermore, most of the products of South America would be kept out of our ports, because under the domestic polity of most South American countries, indentured contracts with penalty clauses attached are regarded as the ordinary means of procuring labor for any definite or distinct period of time. The Senator's amendment would have an extremely serious effect on our commerce with South America, with the East Indies, and with parts of Africa, in keeping out the majority of the products of those countries, including rubber, sugar, and a large variety of other products, including those of the mines.

If the Senator would limit his amendment to forced labor such as that secured in the old days by ships that went to the South Sea Islands and landed an armed force and took on board three or four hundred laborers forcibly, and carried them away to the coast of some other country in the Pacific, where they were employed on plantations, that is a species of slavery, even though not so called, which is abhorrent to all of us, and there would be no objection to such an amendment; but when the Senator attempts to say that no foreign country shall, if it deems best to approve of contracts with penalty sanctions, have the ability to trade with the United States in the products of such labor, it seems to me he is interfering in a perfectly stupendous way with the commerce of the United States with all tropical countries, and is, furthermore, attempting to dictate to those countries what kind of labor laws they shall pass.

Mr. BLAINE. Mr. President, the Senator's suggestion is that I am confused with respect to the use of the terms "forced labor" and "indentured labor." Let me suggest that there is no confusion in my mind whatever. The confusion that exists is a creature of the lack of understanding of the two classes of labor by the Senator from Connecticut. Forced labor is defined by the convention of the nations which use forced labor as that labor "which is exacted under menace of any penalty for its nonperformance and for which the worker concerned does not offer himself voluntarily." They say a worker may join in a contract with penal sanctions and if he signs that contract then he offers himself voluntarily, of course, and it is not forced labor. That is one type of forced labor.

Mr. REED. But, Mr. President, is that correct? Does the Senator agree with that statement that if a worker offers himself voluntarily and makes a contract it is not forced labor within the meaning of the term as the Senator understands it?

Mr. BLAINE. I do not agree with that definition of forced labor. That definition of forced labor is used designedly by countries that are employing forced labor in order that they may continue a method of servitude analogous to slavery. Let me say here and now that therein lies the curse of and the objection to the League of Nations. It was set up for the purpose of legalizing that which was wrong and giving those things character through the pretense of legalizing this type of labor.

The definition is wrong. We will take, for instance, a native in any of the tropical countries. He has been in his tribal relations under the government of a chief and council. He is

unlearned. He is illiterate. He does not know a single figure in the multiplication table. He does not recognize a single letter in Arabic or any other alphabet. That man is not capable of protecting his labor. When the situation is presented to him that he must sign the contract on the dotted line, he either signs it on the dotted line by way of a mark or some character or he agrees to it verbally. That type of labor, of course, is voluntarily rendered under the definition of the covenant, but that type of labor is enforced labor. The pressure put upon the laborer is such that he can not escape that kind of contract.

Mr. REED. I understand all that. If that is the Senator's position, then why does he put in his definition the words "and for which the worker does not offer himself voluntarily"? It seems to me that his definition destroys his point.

Mr. BLAINE. I thought I had made that clear.

Mr. REED. Not to me, by any means.

Mr. BLAINE. Forced labor as the Senator from Pennsylvania would have us understand it is not forced labor as it is regarded by the countries that have possession of the mandatories and colonies in which the natives reside. They regard forced labor according to the definition which they have set forth. This is not my definition.

I copied the phrase word for word from the definition that they give of forced labor. Therefore, we have that type of forced labor. That definition may not be in general usage, as we understand it. There is another type of forced labor—indentured labor with penal sanction enforced by way of imposing criminal penalties in case of violation of the contract. It therefore becomes necessary, if we are to enforce a policy laid down only a few days ago in the Senate of the United States, for us to accept the definition of forced labor made by the several countries employing forced labor and add to that "indentured labor with penal sanction."

Mr. REED. Let me see if I understand the situation. The Senator aims his amendment at two things: First, forced labor; and, second, indentured labor.

Mr. BLAINE. Forced labor as defined by the conference.

Mr. REED. Then he puts in a definition of forced labor——

Mr. BLAINE. No; I put in "forced labor" as defined by the conference. I am accepting that wording.

Mr. REED. The Senator puts in the definition of forced labor which is copied from the definition adopted by the labor conference of the League of Nations.

Mr. BLAINE. Exactly.

Mr. REED. Then, feeling that he does not go far enough and that the rule of voluntarily offering one's self is to be taken advantage of, he puts in the second prohibition against indentured labor with penal sanction. Is that correct?

Mr. BLAINE. That is correct.

Mr. REED. So the Senator then admits that the prohibition of forced labor coupled with the League of Nations' definition does not really reach the evil?

Mr. BLAINE. It does not reach the evil about which I complain and which I think we ought to rectify.

Mr. REED. I can readily say for myself that the definition of forced labor and the prohibition of forced labor products as thus defined ought to be acceptable to anyone, because it is really convict labor or slave labor, inasmuch as the worker does not offer himself voluntarily. I do not believe that anyone in the Senate would oppose the Senator's suggestion to prohibit the entry of the products of that kind of forced labor.

Where my trouble comes is under the second prohibition of the entry of products of indentured labor. We can forget the definition the Senator has included now and we can forget all reference to forced labor. The Senator would prohibit the entry of the products of indentured labor under penal sanction. "Penal" means punishment or related to punishment, and it is broad enough, as I understand the word, to cover any kind of penalty, whether imprisonment or chastisement or any sort of bodily penalty or a money penalty or a loss of property or property rights.

Mr. NORRIS. Loss of property or property rights would not be penal.

Mr. REED. Yes; it is penal. "Penal" simply means relating to a penalty, and the penalty may be physical or it may be monetary. Every apprentice in every civilized country of the globe in his indenture of apprenticeship covenants to serve faithfully and agrees to certain penalties in the shape of loss of wages or dismissal from employment if he does not work obediently. Otherwise the apprenticeship is valueless. Every indenture of apprenticeship has such a provision. Many labor contracts properly and intelligently made contain the penalty that there shall be a forfeiture in case they are broken by either one side or the other. The law furnishes a penalty in the shape of damages, but that is not the kind of penalty I am speaking of.

Let me put my question now and then I will sit down and listen to the Senator's answer. Would not the amendment as the Senator has written it prohibit the importation into the United States of a pair of shoes in the production of which in Great Britain some apprentice had joined?

Mr. BLAINE. I think not. I have stated my reasons why I think not. I think the language "indentured labor under penal sanction" has a definite specific meaning in the countries where it is employed and that the Treasury Department would adopt that meaning.

Mr. REED. Why not define it right here in the amendment as the Senator did the other term?

Mr. BLAINE. In order to meet the suggestion of the Senator from Pennsylvania and quiet his fears I shall perfect my amendment by adding after the word "sanction" the words "enforceable through criminal process." I will add that phrase and modify my amendment accordingly.

Mr. President, I want to present part of a public document of the League of Nations, International Labor Conference, twelfth session, at Geneva, being an address made by Mr. Kupers, the workers' delegate from the Netherlands. I shall not take the time of the Senate to read it or even to read excerpts from it, but I ask that it be inserted at this point as a part of my remarks.

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

The address is as follows:

Mr. KUPERS (workers' delegate, Netherlands). Mr. President, ladies, and gentlemen, the problem of indentured labor, and particularly indentured labor with penal sanctions, in case of infringement of agreement, is to many delegates, and also in my own opinion, at least of equal importance with the subject of forced labor, which has been under discussion at this conference. There exists a close relationship between these two problems and I am fully in agreement with the pronouncement made by the joint committee of the League of Nations Union and the British Antislavery and Aborigines Protection Society appearing in the appendix of the report on forced labor. This pronouncement reads as follows: "In our opinion the two classes of labor which to-day lead to the gravest abuses are forced labor and indentured contract labor."

You will therefore understand, Mr. President, that I was greatly disappointed when I learned from the report that the problem of indentured labor could not be discussed at this conference, and that no undertaking could be given as to the time when the international labor conference would deal with this problem. In view of this fact I submitted before the opening of the conference my resolution, and I was very pleased to learn that a similar resolution had been proposed by my colleagues, the workers' delegates, and adopted in the committee which dealt with the subject of forced labor. In order to convince you of the necessity for this question of indentured labor coming up for discussion at an early date, I should like to draw your attention to two points: First of all, to the far-reaching significance of indentured labor looked upon from the point of view of the protection of native labor; and, secondly, to the close connection which exists between this problem and the problem of forced labor now under discussion.

In the questionnaire a clear distinction is made between forced labor which is imposed on the workers and indentured labor; that is, labor for which the worker binds himself voluntarily, so-called contract labor. This differentiation would be acceptable if one of the contracting parties, the worker, did not belong to an economically weak and extremely defenseless group. The worker of the West is as a rule conscious of what he is undertaking when he signs an agreement, and what is of particular interest in such cases he possesses social means of defense and resistance. He may, for instance, be a member of a trade-union, and his interests may further be safeguarded by the representatives of the workers in Parliament, etc. In a word, he has means at his disposal to defend his rights laid down in a contract should these be infringed by the employers. But how totally different, how grave becomes the position of the contract worker, and particularly of the contract worker who has signed a long-term contract with penal clauses, when the worker from the Tropics—to use a generally accepted term, the native—is the second party to such a contract. In his case all the protective factors which would safeguard such a contract of a normal character disappear almost entirely. Not only as regards social position is the native worker by far the weaker, but, furthermore, as a native he is altogether defenseless against a white party. All the normal means of resistance, all the normal protective factors to which the worker of the West might have recourse, which strengthen his hands and put him on an equal footing with the other party, the man of the poor and subject race lacks altogether, and as a consequence all the conditions which might tend to make a contract with penal sanctions a normal and admissible agreement between two parties disappear altogether.

To prove my contention I want to give you some examples of the application of penal clauses in so far as these apply to the Dutch East Indies, where the system has been legally sanctioned since 1880. On this subject there exists a very extensive literature, to which, particularly in recent years, valuable contributions have been added. The labor contract with penal provisions has been instituted in the Dutch

East Indies for the so-called Outer Provinces, and the penal clauses may be applied by the large agricultural and industrial enterprises. The greater part of the contract workers are Javanese. On January 1, 1927, they amounted to 276,572, or 78.6 per cent of the total. The coolie contract, as it is called in the Dutch East Indies, has been given legal status by the so-called coolie ordinance of 1915, which is applied particularly on the eastern coast of Sumatra. The east coast of Sumatra is by far the most important district for the application of the coolie contract, for of the total number of contract coolies who were employed during the year 1927 the number on the east coast of Sumatra was no less than 63.4 per cent (230,876 out of 263,979).

By the way, I may add that besides the coolie ordinances there exist still other legal regulations covering the coolie labor contract which permit the conclusion of labor contracts for short periods without penal provisions and with certain obligatory social provisions in favor of the worker. But hitherto very little use has been made by the employers of this latter form of contract. Out of a total of 351,939 contract coolies there were on January 1, 1927, only 63,574 with an agreement which did not contain the penal clauses (somewhat more than 18 per cent), the greater part of which were employed in the mineral-oil industry, which as a rule only employs so-called free workers. The large rubber, tobacco, and similar undertakings, however, employ very few free workers.

The coolie ordinances in the Dutch East Indies regulate the rights and duties of employers and employed, but in addition to this, there exists a so-called recruitment ordinance which contains very detailed provisions relating to the recruitment of contract coolies. The problem of penalties can not be sufficiently elucidated and one can not form an opinion upon this problem without showing the close connection existing between the contract itself and the manner in which this contract is concluded. The evils of the coolie contract may be found mainly in the method of recruitment. When reading the coolie and the recruitment ordinances, with the many official illustrations, interpretations, and prescriptions, one is bound to admit that legal provisions protect the coolie in certain respects at the time of signing the contract and afterwards. Certain minimum demands are made as regards housing, certain limits are given for working hours—10 hours per day as a maximum and overtime pay for extra hours—and compulsory medical attendance is provided for. Moreover, the coolie must at all times have an opportunity of lodging complaints with the competent authorities about improper treatment by the employer or his agents. Further, there are provisions about advances on and deductions from wages, about food, and exemption from work of female contract coolies some time before and after childbirth. Finally, the coolie and his family must be sent back after the expiry of the agreement to the place of his recruitment at the expense of the employer.

I think I have given a faithful summary of the main social provisions. There exists a labor inspectorate which has to see that these provisions are properly observed. Anyone not belonging to the so-called subject races may be very much surprised that the system of penal sanctions based upon a voluntary agreement and surrounded by such minute precautions prescribed by the authorities on behalf of the worker, has been combated so vehemently for many years and even in this conference as a most serious evil, nay, even as a most serious danger. Still, Mr. President, the application of this coolie contract, surrounded by so many guaranties for the worker, has given rise to terrible conditions. Almost everything that has been written about the application of the penal provisions describes the bloody conflicts which have taken place so frequently that it would be a mistake to speak of individual incidents; one is bound to speak of existing conditions. On the one hand there is most cruel ill-treatment of coolies; on the other, and frequently in consequence of this ill-treatment, there are murderous attacks on the supervising European agents.

Mr. W. Middendorp, a member of the Volksraad who for many years has been a Government official in the Dutch East Indies, in a district where the penal system is applied, says in a little book which he has issued that on the east coast of Sumatra one or two murders of so-called assistants have taken place annually during the last 10 or 15 years, and there were about 30 cases of manslaughter of white superintendents. The author lays stress on the point that many cases are not reported. Those who are employed as superintendents in these districts, the author continues, for a period of say 15 years (there are there about 1,000 to 1,500 superintendents) have a 2 per cent chance of being murdered by the workers and a 30 per cent chance of being attacked. I think these figures prove conclusively that most serious abuses exist. The explanation of these abuses must in my opinion be sought, in addition to the difference in race of the contracting parties, in two other circumstances: The practices followed in recruiting the coolies and the practically complete binding of the worker to his employer for long periods. I have already stated that the method of recruitment is the principal source of the evil. Those who sign the contract in full consciousness of their actions belong as a rule to the least desirable elements of society. The great majority however, may be considered as those who are misled. These Javanese (for in the main only Javanese are concerned) are unsuspicious, credulous, and easily deceived. The men who are in charge of recruitment as a rule belong to the worst elements of European or Javanese society. Their victims can easily be intimidated because they belong to the poorest of the poor and succumb very quickly to a present of money and they are only too easily—more especially the women—deceived by specious promises. Before appearing before the authorities these workers by ruse and deceit are gradually pursuaded to sign the agreement. The efforts of the state officials to make it clear to them to what they are legally binding themselves prove in most cases fruitless.

That is the position. It is the position also, according to the opinion of the present governor of the Molucca Islands, Mr. Tideman, who, when he was engaged as assistant resident on the east coast of Sumatra, in a center where penal provisions were applied, wrote as follows in the periodical Colonies Studies in August, 1918: "There is no denying the fact that the coolies who sign a new contract—the great majority, if not all of them, do so in absolute ignorance of what they have to do and of what they have to expect." Further, he writes that in practice the coolie contract is nothing less than a trick by which the coolie, either by some direct advantage or by specious promises—often by ruse and deceit, and sometimes by force—binds himself for years to do work for which he is often altogether unfit. That is the real substance of the system, and when Prof. Nolst Trénité, of the indological faculty of the University of Utrecht (founded on the initiative and with the money of the Indian employers), declared in the forced labor committee that the coolie, voluntarily and fully conscious of his actions, just as in Europe, signs his contract, then this statement is, to use a euphemistic expression, not exactly in harmony with the facts as they actually exist. When Mr. Nolst Trénité tries to prove his thesis and refers to the many reengagements—about 70 per cent—the fact should not be lost sight of that about the time the first contract expires the native superintendents do everything they can to get the men into debt by gambling, so that the coolie at the expiration of his first term is really no longer a free man and is compelled to sign a new contract in order to pay off his debt. This is a fully recognized abuse, to remedy which efforts have been made every year, but, alas, without results.

I am referring to the so-called professional recruitment and to a method of recruitment which is analogous to this method, namely, recruitment by organizations instituted by the unions of the employers which have to compete with the professional recruiters. In addition, there also exist the so-called "laukehs," which as a rule are men who formerly worked as contract coolies and whom the employers send to Java in order to induce their compatriots in the villages to sign coolie contracts. In point of fact, there are less abuses attaching to this "laukeh" recruitment than to the other methods, and in comparison with the two other methods it is as yet of little importance. In 1926 the share of the "laukeh" recruitment only amounted to 7,858 out of a total of 83,204 coolies, or about 9.5 per cent.

There also exists an opportunity of recruiting labor on short-time contracts without penal provisions, under the supervision of the labor-inspection service, which opportunity has been in existence since 1911. The petroleum industry in particular utilizes this method of recruiting, and it is certainly significant that here there are not abuses of a serious nature to record, and, moreover, the wages are considerably higher. Not only are the wages higher and periodic increases granted but, as in enterprises covered by penal provisions, the authorities compel the employers to provide proper housing and medical attendance, besides which the employers in the petroleum industry also provide various attractions for the worker, who has more leisure time. As a consequence, conditions there are much better. Desertion hardly ever occurs, and only very exceptionally does one read anything about bloody labor conflicts. It has consequently been conclusively proved that the possibility of obtaining free labor does exist in the immediate neighborhood of districts where penal sanctions prevail.

There are some other examples. In the Handelsblad of March 29, 1929, we find a description of the colonization plans of the Dutch-American Plantation Co. On the tea plantation of the Haboko Estate 1,083 Javanese coolies are employed, 800 of whom are housed in small 2-family houses. Out of these 800, there are 420 so-called free workers, 30 have a 3-year contract, and the rest are reengagements. What strikes one particularly on this estate, the author remarks, is the Javanese character of the colonization. The coolie there lives in his own Javanese milieu, and the latter fact is of particularly great importance.

As opposed to those who again and again assert that the abolition of penal provisions in Sumatra is an impossibility, I would like to point out that penal provisions do not exist any longer in British India, in the Malay Peninsula, Molucca, the Straits Settlements, etc. The introduction of free labor has been successful and there is no lack of a sufficient labor supply. This is particularly due to the good system of recruitment. The expense of this recruitment is being defrayed out of an emigration fund to which the affiliated planters pay a certain amount per coolie employed on their estate, and which fund, moreover, receives a subsidy from the Government. This fund is managed and the recruitment is in the hands of a joint committee of private employers and Government officials. There exists consequently a free-labor contract. All the same, the agricultural undertakings—the

largest employers—are as a rule opposed to these free-labor contracts, and as a result thereof the coolie contract with penal provisions and all its inevitable evils predominates.

I would like to add that the Government of the Dutch East Indies has been devoting attention lately to obtaining a better system of recruitment, and strongly supported an attempt recently made to recruit free labor.

The other evil which accentuates the system of penalties is the fact that the coolie is, so to speak, bound hand and foot for a long period. Coolie contracts can be concluded for a maximum of 3 years—the usual term—with the option of reengagement for, as a rule, a period of 13 months. During this period the coolie is bound in every respect. If he leaves the undertakings without having obtained permission, or if he returns late, he can be brought back forcibly, not only by the police, but also on behalf of the police by agents of the employer himself. In the second place, a deserter can not find shelter or obtain work elsewhere, as the coolie ordinance provides punishment for anyone who encourages the nonobservation of the agreement or anyone who in any way abets this nonobservation. It can not be difficult for you to realize that in view of the conditions just described a contract coolie is, literally speaking, bound hand and foot to his employer. During the period of his contract he really lives in a condition of slavery. This term may not sound very pleasing to some of you, but the facts do not allow of any other conclusion being drawn.

All these circumstances go toward creating tense relations between workers and employers, and this tension is increasing because the areas under cultivation increase rapidly, whereas the number of coolies remains practically stationary. In 1919 the number of coolies on the east coast of Sumatra was 239,307; in 1927, 238,970; but in the same period, the area of land under cultivation increased from 182,701 hectares to 292,729 hectares. As a consequence, much higher demands are made on the coolies' working capacity. It is evident that this brings in its train rough handling and ill treatment of the coolies by their superiors.

The wages are also laid down in the contract, but the authorities are not concerned with the rate of wages paid. According to the compilations of the labor-inspection services, these wages do not guarantee the coolie more than the possibility of remaining in existence, and the absolute minimum for anything other than necessities.

The wages in the first contract are 42 cents (Dutch East Indies currency), or 8¼d. per day for men, and 37 cents, or 7¼d. for women, which rates are increased in case of reengagement to 47 cents and 42 cents, respectively. As a rule, the coolie receives, provided his work gives satisfaction, a premium of 1 guilder (Dutch East Indies currency) per month, or 1s. 8d. No increases of wages are granted. Considering that these wages are not excessive and that in the majority of cases they are lower than the rates usually paid in the island of Java, and much lower than the wages paid in the district itself for free labor, it is not difficult to realize that a coolie contract with penal provision is in every respect an evil. I am quite prepared to admit that obligatory medical treatment is an extenuating feature for the coolie, but at the same time it is a very good guaranty for the employer, who has every interest in maintaining the working capacity of his coolie, for whom he has paid a high recruitment fee. The advantages to the coolie are, however, out of all proportion to the disadvantages which I have enumerated.

The Dutch East Indies government on more than one occasion has considered the abolition of penal provisions. In 1918 the Governor General of the Dutch East Indies, Mr. van Limburg Stirum, made an effort to bring about the abolition of penal provisions within a period of six years. The planters' unions had already taken the necessary preparatory measures toward this end, but Mr. Fock, who succeeded Mr. van Limburg Stirum, reverted to the old system, only making slight improvements here and there.

The Second Chamber of the States General in Holland decided, however, in 1924 that every five years, commencing in 1930, the coolie ordinance had to be revised, with the express intention of bringing about gradually its entire abolition. The Government, however, only partly carried out these intentions. It instituted in 1925 a committee which would have to advise every five years as to the possibility of such revision. The gradual abolition of the system is consequently still in abeyance, though it has been possible, according to decisions taken, to abolish it since 1915. This attitude is all the more to be deplored because the employers' organizations so far have always offered stubborn resistance to abolition. I hope that the intervention of the International Labor Office will strengthen public opinion in its struggle against this great evil and that it will support every government which earnestly desires to progress in the direction of complete abolition of the system of penalties.

I will not enter into further details. The methods by which the problem can be solved are not under discussion at the moment. My intention only was, and only could be, to convince this conference that contract labor in general, and in particular contract labor enforced by penalties, when applied under colonial and semicolonial conditions, is very closely connected with forced labor. I have confined myself to depicting conditions in the Dutch East Indies, not because I am of the opinion that the evil presents itself there in its most virulent form but because I happened to have details about the conditions in that country at my disposal. Penal provisions exist equally in other colonial countries. It was even introduced in some countries not very long ago, and whoever is acquainted with the facts and figures about conditions in those parts of the world will, I am sure, also be forced to arrive at unfavorable conclusions as to the working of the system. However serious the existing abuses in the Dutch East Indies may be, I must in all fairness say that the present government in the Dutch East Indies is at least prepared to break down the system of penalties wherever possible. The director of the International Labor Office has been able to bear testimony to this in his annual report, pages 248–259.

I have tried to convince you that the system of penalties, in substance and practice, is not only closely related to forced labor but that it also leads to abuses which are not less than those of which we have heard during the discussions of the problem of forced labor. The employers, and also other interested parties, apparently place the possibility of making virgin territory economically productive above the plight of the workers. We workers also consider the economic enrichment of the world of great importance, but we do not want to see it paid for at the price of the poverty, degeneration, and ill treatment of the socially defenseless native worker. That price is too high.

I am convinced that you will realize the necessity of the discussion of the problem of indentured labor at an early moment, and trust therefore that this conference will vote unanimously for the resolution submitted.

Mr. BLAINE. Then following that in consecutive order there was a reply made by the employers' delegate from the Netherlands, Mr. Trénité. He was the employers' delegate. It is a very brief statement and I want to read a part of it. He speaks of certain indentured contracts with penal provisions:

I wish merely to state the opinion of a former inspector general of agriculture in Indo-China, who in 1927 visited the Dutch East Indies and made a report on labor conditions there.

This is a statement by the employers' delegate:

He examined the conditions on the east coast of Sumatra and concluded his report with the following statement:

"The system of contract labor and in particular the system of penal sanction for desertion and similar offenses, while applied with great moderation, has nevertheless been criticized in Holland. It has been stated that it is a kind of permanent slavery."

He is talking about indentured contacts with penal sanction. It has been said that it is a kind of permanent slavery.

All other considerations put aside, however, we find that the contracts are really the sole practical guaranty for the planters. They have been an important factor in the development of Sumatra. They contain mutual guaranties; the control is rigid, and they form the basis of improvement of labor conditions. Conditions have been evolved which have resulted in a system by which labor acquires good conditions and good reward for his services.

He is justifying indentured contracts under penal sanction.

This practical success deserves consideration and must be compared with the lamentable state of the population which is without labor.

Then the delegate went on and admitted that this labor is in general usage in his country, throughout the colonies and the mandatories, but claims it is for the benefit of the worker. That may all be true. I have no doubt that all through history many of those who enslaved human beings honestly believed that it was for the benefit of the individuals so enslaved, and that is exactly the argument of this representative.

The delegate continued, quoting from the inspector, as follows:

This evidence is confirmed in my eyes by a visit which I paid last winter to the east coast of Sumatra. I met there a magistrate who was in charge of cases arising out of the penal clauses, and I asked him for his opinion on penal sanction.

There is no misunderstanding in the East Indies of what an indentured contract with penal sanction means. It means a contract the violation of which can be enforced through criminal process.

He replied that when he came to the east coast he was strenuously opposed to the penal sanctions but now that he had seen them working in practice he had become an admirer of the system; through it the workers became used to labor. It is a system which is applied in moderation, and its success is proved by the fact that the workers reengage themselves after their period of service.

He concludes—

These remarks show the opinion of competent experts.

Experts of the Holland Government upon their own administration—

They are opinions which are different from those held by Mr. Kupers and his friends of penal sanctions.

I disagree with the delegate on that, because Mr. Kupers merely advocated that there should be no type of human labor that was analogous to human slavery, and that we can not afford to enrich civilization at the expense of degeneracy and the death of any people.

I ask that all the remarks of the employers' delegate from the Netherlands be incorporated in the RECORD at this point.

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

The matter referred to is as follows:

Mr. NOLST TRENITÉ (employers' delegate, Netherlands): The discussion in this conference has already taken a long time, but I must with all my force protest against the statements made by my fellow countryman, Mr. Kupers. I think in the first place that this resolution is unnecessary, because the International Labor Office has already begun the study of the question of contract labor. We must not risk giving any premature decision on this work. However, I will not try to correct the misstatements of Mr. Kupers, especially those in connection with the Netherland East Indies, but I must insist that the abuses to which he has alluded have no fundamental connection with the question of penal sanctions, for abuses of a similar nature arise in other districts where labor is free. I wish merely to state the opinion of a former inspector general of agriculture in Indo-China, who, in 1927, visited the Dutch East Indies and made a report on labor conditions there. He examined the conditions on the east coast of Sumatra and he concluded his report with the following statement: "The system of contract labor, and in particular the system of penal sanctions for desertion and similar offenses, while applied with great moderation, has nevertheless been criticised in Holland. It has been stated that it is a kind of permanent slavery. All other considerations put aside, however, we find that the contracts are really the sole practical guaranty for the planters. They have been an important factor in the development of Sumatra. They contain mutual guaranties; the control is rigid, and they form the basis of improvement of labor conditions. Conditions have been evolved which has resulted in a system by which labor acquires good conditions and good reward for its services. This practical success deserves consideration, and must be compared with the lamentable state of the population which is without labor."

This evidence is confirmed in my eyes by a visit which I paid last winter to the east coast of Sumatra. I met there a magistrate who was in charge of cases arising out of the penal clauses, and I asked him for his opinion on penal sanctions. He replied that when he came to the east coast he was strenuously opposed to the penal sanctions but now that he had seen them working in practice he had become an admirer of the system; through it the workers became used to labor. It is a system which is applied in moderation, and its success is proved by the fact that the workers reengage themselves after their period of service.

These remarks show the opinion of competent experts. They are opinions which are different from those held by Mr. Kupers and his friends of penal sanctions. I think if Mr. Kupers could see the conditions for himself he would be convinced, at least in the case of the instances which he mentioned, that this system is both necessary, and is carried on in the interests of the workers.

Mr. WAGNER. Mr. President, will the Senator yield right there?

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

Mr. BLAINE. I yield.

Mr. WAGNER. I was going to suggest to the Senator that perhaps by defining the real penalties to mean something which results from a criminal process, perhaps unwittingly he will limit the definition so as to make it practically innocuous. A penalty of imprisonment could be just as easily imposed by a civil process. So the countries which might be affected would substitute in place of what they may regard as imprisonment by criminal process, such as we used to have in this country for indebtedness, imprisonment under a civil process.

I should like to add that I do not think the apprehension of the Senator from Pennsylvania has any application so far as this country is concerned. I do not know of and never heard in recent years of any employment contracts which provide for a penalty. When the Senator spoke of forfeiture by way of damages for breach of contract, that is merely damages as a method of compensating the individual whose contract has been breached. We impose no penalty upon a laborer who violates his contract of employment. There are two things which may happen; either he loses his position or he may be sued for damages; but such damages are compensatory and not by way of penalty.

Mr. REED. The Senator could not have heard my suggestion, if the Senator from Wisconsin will permit me to say so.

Mr. BLAINE. Mr. President, before yielding to the Senator from Pennsylvania, I wish to express my appreciation of the suggestion made by the Senator from New York. I think the point is rather well taken, and the amendment ought to be perfected to avoid the very situation that might arise. I think the phrase "indentured contracts with penal sanctions" is broad enough and sufficient to take care of the problem.

Mr. WAGNER. I was going to suggest that I think the definition is explicit enough as it is.

Mr. BLAINE. That is my own opinion.

Mr. REED. Mr. President, will the Senator from Wisconsin yield to me?

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

Mr. BLAINE. I yield.

Mr. REED. I do not think the Senator from New York could have heard exactly what I said. I was talking about contracts of apprenticeship, indentures of apprenticeship, which are customarily accompanied by stipulated penalties. Of course, I was not talking about the ordinary contract of employment.

Mr. WAGNER. Mr. President——

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

Mr. BLAINE. I yield.

Mr. WAGNER. Can the Senator enumerate any penalties provided in apprenticeship contracts to-day of a nature such as is suggested here for punishment as violation of the contract?

Mr. REED. Certainly. Under the old English apprenticeship contracts, the power——

Mr. WAGNER. If I may interrupt the Senator, I had in mind modern times.

Mr. REED. Well, in modern times there is forfeiture of accumulated wages, which is a penalty in every sense, and not compensatory damages at all.

Mr. WAGNER. I do not know of any such case.

Mr. KING. There is the forfeiture of insurance also.

Mr. NORRIS. Mr. President——

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

Mr. BLAINE. I yield to the Senator from Nebraska, but I do not yield the floor.

Mr. NORRIS. I may be entirely wrong, but the suggestion by the Senator from Pennsylvania would not have any application in this country, at least. When a contract is made by an individual as an apprentice he can not be punished in the way suggested; he can not be penalized. If he quits his employment, he might be liable for damages, but to penalize him in the way suggected by the Senator, without regard to the damages suffered by the person who was the other signatory to the contract, certainly would not be enforced in any of our courts; and I doubt whether it would be in any civilized nation in the world.

Mr. REED. Mr. President, if the Senator will yield, I am not talking about modern American apprenticeship, of course, but the system of apprenticeship that prevails throughout Europe; and I am perfectly certain that the Senator from Wisconsin is not aiming at that.

Mr. BLAINE. Not at all.

Mr. REED. I understood that he was willing to accept an amendment which will exclude that. Now we are all agreed about that, and it seems to me that that is not the important question here.

If I may say a word further, then I will not interrupt the Senator from Wisconsin again. I think we are agreed that American labor ought to be protected from the competition of convict-made goods or slave-made goods, under whatever guise that penal servitude or slavery may appear; but we are legislating for the benefit of Americans here. Will it benefit Americans to exclude from importation into this country products which we do not make and can not make, such as tea and coffee and rubber? Will it help Americans for us in our zeal to abolish forced labor in foreign climes, to deny to all Americans the use of such articles as coffee, tea, and rubber? That is a problem that I should like to have the Senator explain to us.

Mr. GEORGE. Mr. President, may I ask the Senator from Pennsylvania if it will help Americans to exclude articles which are made abroad and which are not produced in this country, such as tea and coffee, if they come in under an American trade-mark? We adopted a trade-mark provision which has exactly the effect that the Senator from Pennsylvania is now trying to point out in regard to forced-labor-produced goods.

Mr. REED. If the Senator had suggested that as an exception when we were on that section, I think there would have been more weight to it.

Mr. GEORGE. Oh, no, Mr. President. The Senator is putting himself in the position of the chief exponent of American labor in this body, and I want to call the Senator's attention to the fact that he is now referring to excluding tea—he mentioned that commodity—which can not come in under a trade-mark registered in the United States, although tea is not made in the United States at all; but he is invoking exactly the contrary argument when prison-made goods are involved.

Mr. REED. Not at all, Mr. President. The subject of trade-marks on articles not made in this country was not mentioned in my hearing during that discussion; but if it had been I would have recognized——

Mr. GEORGE. Oh, Mr. President——

Mr. REED. The Senator will surely permit me to finish the sentence.

Mr. GEORGE. But I did make that suggestion in my argument. The Senator may not have listened to me, but I repeated it here two or three times.

Mr. REED. I am sorry I did not hear it. If I had heard it, I would have acquiesced in the suggestion that there was no reason for applying the provision to such articles. I understood the opposition from the other side of the aisle to relate to the whole policy and the whole section. We will not have the least trouble if the Senator will suggest that amendment when we get the bill into the Senate.

Mr. GEORGE. I will suggest it again, Mr. President. If the Senator from Wisconsin will permit me, I will suggest it with reference to the United States Steel Corporation mining manganese in Russia under the patent provision. If we really want to protect American labor, we should not take all the duty off manganese that is produced in 30 American States for the benefit of a producer like the United States Steel Corporation, which would like to have the importation come in free.

Mr. REED. Mr. President, will the Senator kindly explain to a waiting country what in the world the mining of manganese has to do with either trade-marks or patents? There is no patent or trade-mark question involved in the pending question. If the Senator wants to discuss the item in the metal schedule relating to the tariff on manganese, we will be glad to discuss that with him when it is reached.

Mr. GEORGE. But the Senator from Pennsylvania is the exponent of American labor, and he said that it would not do to permit expatriated capital, such as that of Mr. Ford, to go abroad and establish a plant in Ireland and then import tractors; and he invoked the principle of the protection of American labor. Now I am calling his attention to the fact that expatriated capital of the United States Steel Co. goes abroad and invests in mines in Soviet Russia and displaces American labor in 30 American States that might have produced manganese if the tariff duty had not been taken off.

Mr. REED. Labor that "might" have produced it?

Mr. GEORGE. It is producing it; it is being produced.

Mr. REED. The tariff duty is still in force.

Mr. GEORGE. But, Mr. President, it is proposed to be taken off by this bill.

Mr. REED. We have not acted on that amendment.

Mr. GEORGE. No; we have not acted on it as yet.

Mr. REED. I will be glad when we reach that point to answer the Senator, but he has mixed up five or six different subjects in one question.

Mr. GEORGE. Oh, no.

Mr. REED. And it is pretty hard to answer them all, in fairness to the Senator from Wisconsin.

Mr. GEORGE. I do not want to trespass further on the time of the Senator from Wisconsin.

Mr. BLAINE. Mr. President, I think the suggestions of the Senator from Georgia are very pertinent to the question that he was discussing, and perhaps pertinent by way of argument to this question.

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

The PRESIDING OFFICER (Mr. FESS in the chair). Does the Senator from Wisconsin yield to the Senator from New York?

Mr. BLAINE. I yield.

Mr. WAGNER. I do not wish to leave unanswered the suggestion made by the Senator from Pennsylvania a while ago, that contracts of apprenticeship now provide absolutely as a penalty, as he called it, for breach of contract of apprenticeship the forfeiture of accumulated wages under the contract. The Senator is a distinguished lawyer, though perhaps none of us know it all; but no court in this country ever enforces any provision of that kind as a penalty, and only enforces it to the extent that the damages called for under the contract represent actual compensation to the employer.

Mr. REED. Mr. President, if the Senator from Wisconsin will yield to me further, I should like to call to the attention of the Senator from New York the fact that we are not talking about the courts of this country; we are not talking about apprenticeships in this country; we are talking about apprenticeships in countries which produce the goods that are attempted to be imported into the United States. I fully agree with the statement of the Senator as to the American law, but that has no bearing whatever on this question.

Mr. WAGNER. Mr. President, may I ask the Senator from Wisconsin one more question?

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

Mr. BLAINE. I yield.

Mr. WAGNER. I want to ask the Senator whether the apprehensions of the Senator from Connecticut, and also those expressed by the Senator from Pennsylvania, were well founded, that the enforcement of this humanitarian provision might result in the deprivation to us of rubber coming from African countries? I was going to ask the Senator whether or not those particular industries would be willing to forfeit a market representing perhaps 80 per cent of their production rather than to improve their laboring conditions and put them upon a higher standard so as still to retain the American market?

Mr. BLAINE. Mr. President, fear has been expressed that this provision would bar a great amount of raw material which is not produced in America. I presume that it will bar some of that material. I do not know to what extent it will bar it. It ought to be barred to all those planters and industrialists who engage in the form of slavery which obtains under indentured contracts with penal sanctions. There are countries and there are planters and there are industries engaged in the production and manufacture of those articles with free labor who would enjoy the markets of America. As suggested by the Senator from New York, does anyone suppose for one moment that the others would not adjust themselves to a condition more compatible with the present movement of the world, as shown by the several treaties in which the countries have engaged?

I desired to read part of an address given by the government delegate from India at the international labor conference. This is part of the official record:

> I only wish to utter an emphatic protest against the statements about the seemingly intolerable conditions made by my friend, Mr. Das, a few days ago. He said that the Indian workers are vitally interested in this problem, because there are millions of workers affected by it in India, in the Malay States, in Ceylon, and in South Africa, and in other parts of the dominions, where their conditions of work are not human. I do wish that he had been more accurate in his statements; for, so far as Assam and South Africa are concerned, there are no indentures at present, and penal sanctions have been abolished for several years, and in fact there is no recruitment now; there is no long-term recruitment in South Africa at all. In the case of Ceylon and Malaya there are no indentures under penal sanctions.

The articles that probably would be prohibited are Sumatra wrappers grown by the planters of Sumatra and Java whose workers are under indentured contracts with penal sanctions, and who, if they violate those contracts, may be imprisoned, in competition with the agricultural interests of the Senator's own State of Connecticut. The farmers of Connecticut are compelled to grow their wrappers under a high cost of production as against the labor on the plantations of Sumatra, whose condition of servitude is analogous to slavery. That would bar, it is true, Sumatra wrappers. It would bar sago flour; it would bar tapioca, it is true, that is imported from Sumatra or Java, and is produced in direct competition with American agriculture. I understand that there are Members of the House who are solicitous to-day, and no doubt are soliciting the support of Members of the Senate, for an increased and prohibitive tariff on tapioca, a starchy substance that comes in competition with large quantities of food products produced in America. Yes; it would prevent that sort of thing from being imported into the United States.

There are copper mines in Peru, there is at least one copper mine in Colombia, I am informed, where forced labor is employed—not only forced labor as we understand it, but indentured labor under penal sanctions, as is understood generally by the countries that have engaged in the treaty to which I have made reference. That copper is mined and produced, not by voluntary labor but by labor of natives impressed into service under either a written or a verbal contract in competition with American labor in the copper mines of America.

This provision would not exclude all copper. It would permit copper produced by free labor to be imported into this country.

There are other raw products, such as rubber, which would be affected to some extent by this amendment. Yes; some rubber would be kept out of America. It ought to be kept out of America. I understand that in Africa the concessions that are made by the British Government have a prohibition against forced labor or indentured labor with penal sanctions; and the larger portion of the rubber production of the world is in Africa and in other territories under the jurisdiction of the British Government. That would not be excluded, if my information is correct. It would not be excluded from Brazil if that rubber is produced by free labor.

Do you suppose, if this amendment were agreed to, that those countries that are now employing this slave labor in the production of their rubber would continue to employ that type of labor? On the contrary, they would readjust themselves to meet the products of free labor.

I assume—this is not a statement of the fact—that there are certain American concessions in Central America and in South America respecting the production of lumber. Lumber operations in those territories are carried on by a system of labor such as peonage, coolie labor, indentured labor with penal sanctions, and forced labor, Certainly that type of commodity would be denied admission into the United States, and it ought to be.

Mr. KEAN. Mr. President——

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

Mr. BLAINE. I do.

Mr. KEAN. I should like to ask how the Senator expects a distinction to be made in a case like this: Where a hundred pounds of rubber is made by slave labor and a hundred pounds of rubber is made by free labor, and both are brought into the United States, how are you going to distinguish between them?

Mr. BLAINE. Mr. President, I do not want to be discourteous; but, really, the question does not justify an answer. No one would be so foolish as to import a hundred pounds of rubber into the United States in competition with another lot of a hundred pounds. Rubber is not produced in such quantities. Rubber is produced in large-scale proportions. There would be no necessity to determine whether a bag full of rubber was produced by slave labor or free labor. The countries producing rubber are well known to the State Department and to the Commerce Department. They know the production of this commodity, whether it is produced by free labor or slave labor or indentured labor or forced labor.

Mr. KEAN. Mr. President——

The PRESIDING OFFICER. Does the Senator from Wisconsin further yield to the Senator from New Jersey?

Mr. BLAINE. I do.

Mr. KEAN. I simply mentioned a hundred pounds for purposes of illustration. It might be 20 tons. What I am asking is, when the two are mixed together, how anybody could tell the difference, whether the rubber was made by slave labor or whether it was made by free labor.

Mr. BLAINE. The question answers itself, but it is not to the point.

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

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

Mr. BLAINE. I do.

Mr. BINGHAM. With all due respect to the Senator from Wisconsin, if he were a little more familiar with conditions on the Amazon and the rubber market at Para he would not make the kind of reply that he has just made to the distinguished Senator from New Jersey.

Canoes come down the Amazon to Manaos laden with rubber. No one in Manaos knows whether that rubber comes from a plantation where entirely voluntary labor is employed, or whether indentured labor is employed. Furthermore, when it gets down into the Para market, and is bought by the merchants of the world, that produced by slave labor and that produced by free labor and that produced by contract labor are so hopelessly mixed up that the Senator from New Jersey is entirely correct and within his rights in asking how the Senator from Wisconsin would distinguish between them; and the answer given by the Senator from Wisconsin is not worthy of him.

Mr. BLAINE. Mr. President, the discussion by the Senator from Connecticut is indicative of his unfamiliarity with the conditions under which rubber is produced in Brazil. I presume he has penetrated the Amazon River for several hundred miles. I suppose he has gone back into the forest and the jungles of that tropical country. I suppose he has seen the chieftain at the head of his tribe impressing the tribe into the gathering of crude rubber. I suppose that he has observed the free labor in that vast territory. I assume, from his assumption of facts, that he has followed the products of the various producers of rubber down the Amazon River and observed its mixture at the dock or upon the boat. With all due respect for the Senator from Connecticut, his assumption—and it is nothing but an assumption—is not worthy of the distinguished Senator from Connecticut, who ordinarily is so exact in his statement of facts.

Mr. President, those who think free labor ought to come into competition with slave labor can, perhaps, justify their position in their own minds by suggestions of difficulty in administration. There is difficulty, of course, in the administration of any law. No law is simple in its administration. No law automatically enforces itself, nor are there very many laws which are enforced to any full degree. They are enforced in some cases as best human ingenuity can enforce them. The Government of the United States has its diplomatic agents abroad. It has its agents in the Commerce Department. It has all the necessary and essential agents to ascertain whether commodities are produced by prohibited labor or free labor, exactly as well equipped as to determine whether or not the commodities are produced by convict labor or free labor.

Every opportunity is offered for a perfect administration of this proposal. Wherever there is any appreciable production of the commodities to which I refer, the Government authorities to-day have the record of that production; they know by what type of labor it has been produced in most instances, and I presume anyone can obtain the information from the departments here at Washington without going abroad.

Mr. President, let me call attention to another fact. The League of Nations has two paragraphs respecting mandates:

> Mandate B: The mandatory (3) shall prohibit all forms of forced or compulsory labor except for essential public works and services, and then only in return for adequate remuneration.
>
> Mandate C: The mandatory shall see that no forced labor is permitted except for essential public works and services, and then only in return for adequate remuneration.

The great organization of nations, under the League of Nations, has damned forced labor and the indentured labor having penal sanctions.

Mr. HAWES. Mr. President——

Mr. BLAINE. We offer a further condemnation in our reservation to the slavery treaty. In the treaty respecting trade in commodities, as to trade restrictions, we further condemned forced labor, no matter by what method employed.

By this amendment I propose to carry out the conscience of the world as expressed in treaties. I propose this amendment to reflect the spirit of the men and women who have sacrificed in order that slavery might be banished from the world.

The form of labor inhibited by this proposed amendment is slavery, nothing short of slavery. Are we at this moment to retrace our steps? Are we going to deny that which we have professed in the past? If so, we would better charge the Lincoln Monument with dynamite, tear down the noblest institutions in our country, and destroy the spirit of freedom.

If there is any opposition, it seems to me the opposition can come only from technical objections. I can see no reasonable, fundamental objection to this amendment.

I understand that we might suffer some economic loss, but we can not afford any economic gain at the sacrifice of the degeneracy and death of the natives amounting to millions of men and women, who should be under the guidance of a civilization that will give them an opportunity to attain the heights they may attain in the advancement of human progress.

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

Mr. BLAINE. I yield.

Mr. NORRIS. As bearing on the sincerity of those who oppose the Senator's amendment on the ground that there might be a mixture of the products made by free labor and those made by the labor he would prohibit, and therefore that it might be difficult to enforce the amendment if it should be agreed to, I would like to call the Senator's attention to the fact that he has offered his amendment, very properly, to that provision in the bill which prohibits absolutely the importation of convict-made goods. The language used in the bill is, "goods, wares, articles, and merchandise mined, produced, or manufactured, wholly or in part, in any foreign country by convict labor, shall be entitled to entry," and so forth. If those who object to the Senator's amendment are basing their objection, which seems to me to be flimsy, upon the ground of sincerity, then their objection will apply to the bill itself, which has the same weakness the Senator's amendment would have, under their theory, in other words, that we would have to look into the matter to ascertain whether the goods sought to be imported were wholly or in part produced by convict labor or labor such as the Sena-

tor would prohibit, which is, in reality, convict labor, just the same labor producing the goods the importation of which the bill itself would prohibit.

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

Mr. BLAINE. With the usual keenness of mind of the Senator from Nebraska, he points out very clearly the inconsistency of those who would object to the amendment because of that particular feature.

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

Mr. BLAINE. I beg the Senator's pardon. I meant to yield to him before.

Mr. HAWES. Mr. President, I am sorry the Senator has passed over that portion of his very interesting remarks relating to our international relations under the League of Nations. I believe the Senator is trying to stop the importation in interstate commerce of something which we are now prohibiting in the United States. I happen to know that the Customs Bureau is in the habit of ruling in a very technical way with regard to certain merchandise coming from abroad. A part of that merchandise is made in the penitentiaries by the lowest order of criminals, who are not paid for their services, and then it is sent by the penitentiaries to factories where the finishing process is put upon the merchandise, and then it is permitted to come into the United States. That is true in the matter of pearl buttons, it is true in the matter of twine, and it is true in the cases of other things.

The progressive States of the Union are now taking up and discussing this matter with regard to the States, and we have recently passed a law which, in the course of five years, I am sure will strengthen the States which desire to prohibit that practice. The Senator is reaching another side of the question, the competition of prisoners in foreign institutions. All he is trying to do, as I understand, is to make it clear, more inclusive, more certain, and to remove from the minds of the customhouse officials any technical thought regarding the subject so that they will actually and positively prohibit convict-made goods from Europe competing with American labor and American agriculture.

I came into the Chamber late, but I understand that is what the Senator is trying to do, and that that is all he is trying to do.

Mr. BLAINE. Mr. President, for the information of the Senator, my proposal is to add to the prohibition against the importation of products of convict labor, manufactured, mined, and so forth, the prohibition of goods and merchandise manufactured, and so forth, by forced labor or indentured labor with penal sanctions. It very greatly broadens the prohibition of the section.

Mr. HAWES. I may say to the Senator that I am heartily in sympathy with his amendment.

Mr. BLAINE. Mr. President, in the colloquy with the Senator from Pennsylvania [Mr. REED], just at first blush, it appeared there might be something to his suggestion in reference to the possibility of "indentured labor with penal sanctions" embracing the labor of an apprentice. But as the debate has developed I return to my original thought and original proposition, that the term "indentured labor with penal sanctions" is so well defined in the countries where that type of labor is employed, and defined as excluding apprenticeship labor, that I desire to perfect the amendment now by striking out the words I asked to have added to the amendment after the word "sanctions," and I will permit the amendment to stand exactly as I proposed it.

I do not want to involve this amendment in a great deal of phraseology. I think the simpler a law may be written the easier it is to understand it. I am of the opinion that there is no question but that the phrase "indentured contract with penal sanctions" applies to just one type of employment; that is, where the worker is employed under a contract for the violation of which he may be punished by criminal process.

Mr. BROOKHART. Mr. President, I am strongly in favor of the pending amendment and hope for prompt action upon it. However, for a few moments I wish to refer to the flexible-tariff proposition.

From accounts in the morning papers there is absolutely no section of the industrial lobby which at this moment needs the attention of the investigating committee more than that section which is trying to get the Senate to recede from its position against the flexible tariff. Some of the farm leaders thoughtlessly or designedly, I know not which, joined the industrial crowd in a demand for the flexible-tariff provision. This they did in the face of the fact that in seven years the Tariff Commission had given only 11 agricultural advances, and most of these ineffective; also in spite of the fact that the commission is now, and will in the future be, entirely controlled by the industrial crowd and the arch enemies of agricultural prosperity.

The farm organizations have asked me to offer about 100 amendments to the agricultural schedules, which on an average are equal in importance to the average of the 11 little changes made by the Tariff Commission in seven years. I shall offer these amendments, and I have great hopes that they will nearly all be adopted.

However, some of the farm organizations lose sight of the fact that nearly all these amendments as well as the advances made by the Tariff Commission are ineffective as long as there is an exportable surplus of the various commodities. It is an academic and foolish proposition to enact tariff rates either by the commission or by the Congress that are ineffective and will not protect. The farm leaders seem to lose sight of the very important point of making these rates effective. This we propose to do by debenture to the Farm Board equal to at least one-half of the tariff rate and on cotton to a specified sum. This debenture will be issued to the Farm Board only and allotted by it to the stabilizing corporations, and they will be directed to bid the price to the farmers up by the amount of the debenture, and also to buy and hold the surplus and improve the world market itself, everything the equalization fee might have done.

It is the same industrial crowd that stands for the flexible tariff that opposes this debenture plan. It has no chance except by the support of those who are against the flexible tariff; and still some farm leaders are willing to sacrifice all of this enormous advantage of the debenture for a mess of pottage called the flexible tariff. I am informed that the industrial lobby is shrewdly prompting farm organizations to pass resolutions in favor of the flexible tariff, while they forget the big and important proposition of the debenture. One great trouble with farm progress is that farm leadership has been either incompetent or grossly misled by this industrial lobby. The time is now at hand for a cleaning up of this situation, and it is high time for the farm leaders to join in this fight with their friends, and not with their enemies.

Seven years ago Congress established the Tariff Commission and gave into its hands the custody of tariff rates. This seven years is the most abject failure of tariff making in its whole history. From the standpoint of agriculture its failure is greatest of all. Of the 11 advances for agriculture, all are ineffective but two or three, while the more than twice as many advances for industry have taken from agriculture many times what the commission gave to it. The flexible tariff has not been worth one cent to the farmers of Iowa and it is high time Congress should resume its own functions.

It must be noted in this same connection that the press of the country, supported by industrial advertisements and taking its income and its profits at the expense of the farmers, is also strongly supporting the flexible tariff and opposing or ignoring the debenture. During all this seven years the action of the Tariff Commission as well as these newspapers has always served to put agriculture into a more deplorable condition, while vetoes from the White House have defeated the bills passed by Congress.

Mr. GEORGE. Mr. President, during the remarks of the Senator from Wisconsin [Mr. BLAINE] the argument was advanced by the Senator from Pennsylvania [Mr. REED] that the amendment offered by the Senator from Wisconsin would have the effect of excluding from the United States articles and materials not produced in the United States; whereupon I invited his attention to the fact that under the sections of the bill already considered, notably the section dealing with American trade-marks and American patent notices, precisely that was accomplished and all in the name of labor. But as soon as an amendment is offered here which really will benefit American labor and which really does intrench upon the rights of the industrial groups of the country, then the tune is changed entirely.

The Senator from Pennsylvania said that if the suggestion had been made when we were considering the American trade-mark section that anything would be excluded by that section which was not produced in the United States he would have readily accepted an amendment. The Senator is not unaware of the real argument that has been made not only on this floor but in the country at large on the section to which he referred. In order that the record may be complete I am going to put into the RECORD at this point a protest from the American Manufacturers Export Association—not importers; this is the Manufacturers Export Association. Here is what they say with reference to the trade-mark section, or section 526 of the tariff bill which we have already considered:

> The directors of the American Manufacturers Export Association, in behalf of its members, wish to record their stand as opposed to the enactment of paragraphs (a) and (b) of section 526 of H. R. 2667 as amended by the Finance Committee of the Senate. They request your efforts and support to have the bill modified so that there will be no change in the present law.

The directors feel that the proposed modification of section 526 is contrary to the international trade-mark and patent convention and that it is unfair and unwise to enact such proposals into law.

But this is the point:

In any case, these proposals will work irreparable damage to owners of American trade-mark and patent goods which can not be produced in the United States and yet are required for the American market. This class is by far the larger portion of goods produced abroad under American patents or trade-marks.

Not only are some goods brought in from abroad bearing American trade-marks or patent notices which can not now be brought in if the provisions of the bill stand, but the American manufacturers—not importers, not those people who would destroy the American protective system erected for the benefit of American labor, as the chief exponent of American labor upon this floor now would have us believe, but American manufacturers—say that the larger portion of goods produced abroad and brought in under American patents or trade-marks can not be produced in the United States.

Yet when the Senator from Wisconsin wishes to exclude prison-made goods, or to class as rightfully they should be classed, goods made by enforced labor of any kind, the question is at once made, "You are about to exclude some goods that are not produced in the United States at all."

Then the Senator from Pennsylvania referred to tea. That was a most unfortunate reference. Here is a brief which perhaps every Senator received from a well-known firm of patent and trade-mark lawyers—not importers, but patent and trade-mark lawyers. Let us read just briefly from this document:

Although intended to protect American labor, the bill does not apply to merchandise in competition with American labor, but to all merchandise whether it is produced in America or not.

This is, of course, with reference to the trade-mark provision.

For example, it means that Tetley's tea and Lipton's tea, although bearing a United States registered trade-mark, could be freely imported—

Because those teas are made by foreign tea processors—

Whereas White Rose tea would be absolutely barred. The provision also applies to hundreds of articles which can not and have never been made in the United States, whether they be raw materials or finished merchandise, provided they bear a registered trade-mark. A curious result of the law is that merchandise for which trade-marks sold by the Alien Property Custodian to American citizens covering foreign merchandise, such as foreign mineral waters, would now be absolutely prohibited importation into the United States. We refer to such a trade-mark as Hunyadi Janos for mineral water sold to American citizens. Similarly an important product such as salvarsan, for which the trade-mark is owned in the United States, could be confiscated if manufactured abroad.

It is understood that the amendment referring to merchandise bearing a patent notice was passed for the purpose of protecting American labor, the Senate having partly in mind the importation of Ford tractors from Ireland.

May I state right here that perhaps the great outcry against Mr. Ford is that he sent an agent to appear before the Finance Committee and say to the committee what was plain to all, that automobiles did not need any protection at all, that they ought to be on the free list. That statement irritated all the high protectionists in the country and they have been driving at Mr. Ford ever since.

It is plain this provision would not protect American labor in any sense because the same tractors could be imported, provided the patent notice was left off, and this could be affixed later without contravening the statute.

But the point of the brief is, and the point to which I have already invited attention is, that the trade-mark provision is applicable to many articles not produced in this country. According to the American manufacturers the vast majority of articles brought in under a registered trade-mark or a patent notice are articles or are products that are not made in the United States at all. But the moment the Senator from Wisconsin offers the very first amendment that really is designed to help American labor, the plea goes up on the other side of the Chamber, "Oh, you are about to exclude something that is not made in the United States at all."

Then the very estimable Senator from New Jersey [Mr. KEAN] rose and said, "How are you going to tell whether some enforced labor entered into the merchandise or not?" when under this very section it is declared to be the policy of the Congress that if any part of the goods were manufactured by convict labor, no part shall come in; and under other sections of the bill where an importer commingles merchandise that can not be imported with merchandise bearing different rates, or merchandise upon the free and dutiable list, the importer is penalized by having his imports taxed at the highest rate of any of the merchandise in the commingled mass.

But there are many reasons why no real provision for American labor ought to be written in the bill, many reasons that spring readily to the lips of those Senators on the other side of the aisle who have assumed to speak for American labor, who have become the chief exponents of American labor, Reed, Woll & Co.

Then the Senator did not see my point at all when I inivted his attention to manganese. Let me see just what the Senator did have to say when we were discussing the question of trade-marks, that particular provision intended to aid American labor. At the moment I do not find the exact language, but the Senator said that we must not let Ford and other American manufacturers accumulate their money here and take it abroad and invest it in foreign plants and import their goods bearing a registered trade-mark into the United States.

The Washington Post, frequently referred to as the official organ of the administration, simply reiterated the same thought the following morning—that is, after the vote on section 526—and I will read that because it is precisely what was in the RECORD:

In decreeing that goods manufactured in foreign factories under American patent rights and American trade-marks may not be imported into this country the Senate has struck an effective blow at the growing army of migrating industrialists. If an American manufacturer wishes to take advantage of the cheap labor of Europe and Asia he is at liberty to do so, but, if the amendment is approved by the House, he will no longer be able to ship his cheap-labor goods to the United States. The House will no doubt approve of this additional protection to American labor.

The practice of establishing American factories abroad is of comparatively recent development. The first movement seems to have been across the Canadian border. Manufacturers near the international line began establishing branches in Canada to avoid payment of duties. With the expansion of American industry and the growth of export trade, the practice grew rapidly. Some industrialists found that transportation costs, tariffs, etc., excluded exports from this country, but that goods could be manufactured abroad with American capital and methods at a profit.

At this stage there was no opposition to foreign branch factories, but it was not long before some entrepreneurs began producing abroad with cheap labor for the American market. Organized labor immediately raised the cry that the "pauper labor" of Europe might as well be allowed to migrate here as to permit American factories abroad to send goods to this country. There may be no valid argument against the branch factory which operates for foreign consumption only, but there is certainly a sound reason why the products of such factories should be barred from the United States. The action of the Senate is consistent with the fundamental American policy of protection to domestic industry and labor.

The Senate amendment will not completely protect American industry and labor from the products of emigre factories. Goods manufactured in American plants abroad might be sent into this country without their trade-mark. But their identity as American products would be lost, and American patents could not be exploited with foreign cheap labor at the expense of home producers. Attempts of the migrating industrialists to secure tariff reduction on goods they wish to import from American factories abroad must be carefully resisted.

Then the concluding sentence of the editorial reads as follows:

The domestic producer must be protected against these expatriated Americans who are trying to evade paying the American wage scale.

But when an amendment is offered that really will help American labor, the ready answer comes from these same exponents of American labor, "Oh, you are about to exclude something that is not made in America at all." Yet the Senator from Pennsylvania—I am sorry he is not here—professed to be ignorant of the purpose I had in mind when I called attention to the arguments which he had made under section 526, the very reverse of which he has made against the amendment offered by the Senator from Wisconsin. He seemed to be oblivious of the point that I made when I directed his attention to a provision of the pending bill which, if adopted, would give every user of manganese the right to buy manganese anywhere in the world that it could be found and to import it free of duty, when the United States Steel Corporation is taking its money, which has been made in this country, and is investing it in mines in Soviet Russia and is using the proceeds of cheap labor in Russia against manganese producers in the United States. It makes all the difference whose ox is gored. That is all there is to it.

Manganese is the most widely distributed mineral or alloy perhaps to be found in the United States. It is stated upon competent authority that it exists in commercial quantities in 30 of the States of the Union. It is actually being mined in many of the States of the Union under a tariff which gives it a little protection, but the United States Steel Corporation wishes it mined in Soviet Russia; the United States Steel Corporation has its mines in Soviet Russia; the Bethlehem Steel Co. has its producing properties outside of the United States. The Carnegie Steel Co. since the pending bill has been under consideration, so I am informed, has gone into South America and has invested in manganese in South American territory. Yet proponents of this measure propose to take all the duty off manganese in order that the pauper-produced mineral may come into the United States free of duty, when the United States Steel Corporation demands it, when the Bethlehem Steel Co. demands it, when the Carnegie Steel Co. demands it, when special interests demand it; and yet when the first amendment is offered on this floor in behalf of American labor that would do American labor some good the argument is advanced that those who favor it are about to exclude something that is not even produced in the United States, although the framers of this bill propose to do exactly the same thing under the trade-mark provision, under the patent-notice provision. They propose to do exactly the reverse of what they now preach and what they now try to impress upon American labor, when they propose to expose American labor to the merciless competition of Russian labor and of South American labor. At the command and demand of the United States Steel Corporation the framers of this legislation propose to allow and invite the expatriation of American capital, to leave wholly unprotected the owners of manganese in 30 States of this Union, where literally hundreds of thousands of American laborers might be profitably employed if manganese had been given a reasonable protection or if the protection in existing law had been continued.

The VICE PRESIDENT. The question is on agreeing to the amendment proposed by the Senator from Wisconsin [Mr. BLAINE].

Mr. FRAZIER. I suggest the absence of a quorum.

The VICE PRESIDENT. The Secretary will call the roll.

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

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

The VICE PRESIDENT. Eighty-seven Senators having answered to their names, a quorum is present. The question is on agreeing to the amendment offered by the Senator from Wisconsin [Mr. BLAINE].

The amendment was agreed to.

The VICE PRESIDENT. The Chair is informed that the next amendment in order is the one proposed by the Senator from Kansas [Mr. CAPPER], which the Secretary will state.

The CHIEF CLERK. On page 294, beginning with line 23, in lieu of the paragraph stricken out, it is proposed by the Senator from Kansas to insert the following:

No flour manufactured, processed, or handled in a bonded manufacturing warehouse from wheat and/or flour imported into the United States shall be withdrawn from such warehouse after 90 days after the date of the enactment of this act for exportation without the payment of a duty on such imported wheat and/or flour equal to any reduction in duty which by treaty will apply in respect of such flour in the country to which it is to be exported.

Mr. CAPPER. Mr. President, I ask unanimous consent to withdraw that amendment, the Senate having already restored the House provision of the bill, which is substantially the same as my amendment.

The VICE PRESIDENT. The amendment is withdrawn.

Mr. WALSH of Montana. Mr. President——

The VICE PRESIDENT. The Chair is informed that the next amendment is to section 311.

Mr. WAGNER. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. WAGNER. I desire to inquire what section is now before the Senate?

The VICE PRESIDENT. Section 311 is now before the Senate.

Mr. WAGNER. That has been reached in regular order, has it?

The VICE PRESIDENT. It has been reached in regular order.

Mr. WALSH of Montana. Mr. President, I have an amendment pending which is applicable to section 310.

The VICE PRESIDENT. The Chair was advised that the amendment of the Senator from Montana was to section 311. The amendment of the Senator from Montana is next in order, and the Secretary will state the amendment.

Mr. WALSH of Montana. The amendment offered by me is to that portion of section 310 to which the amendment of the Senator from Kansas was directed.

The VICE PRESIDENT. The amendment of the Senator from Montana will be stated.

The CHIEF CLERK. On page 295, line 1, after the word "of," it is proposed to strike out the article "a" and insert the article "the," and in line 2 to strike out all after the word "wheat" down to and including the end of line 4, as follows: "equal to any reduction in duty which by treaty will apply in respect of such flour in the country to which it is to be exported."

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Montana.

Mr. WALSH of Montana. Mr. President, I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

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

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

Mr. SCHALL. I desire to announce that my colleague [Mr. SHIPSTEAD] is ill.

The VICE PRESIDENT. Eighty-seven Senators have answered to their names. A quorum is present.

Mr. WALSH of Montana. Mr. President, the pending amendment contemplates the withdrawal of the privilege of exemption from the payment of duty on wheat imported and milled in bond.

The general subject had very careful consideration by the Senate in connection with the Senate committee amendment appearing at pages 294 and 295. It was my understanding at the time that the principle of the amendment had the very general approval of the Senate; and I dare say, if presented at that time, it would have been adopted by the Senate by practically the same vote by which the committee amendment was rejected.

The bill as it remained by the rejection of the Senate committee amendment left the milling-in-bond provision as it is in the present law, but required the miller who milled in bond and exported to pay a duty equal to whatever amount he was exempted from paying in exporting to a particular country by reason of a treaty; which merely meant that it was necessary for the miller to pay into the United States Treasury a duty upon the wheat used equal to whatever advantages he got in shipping into the ports of Cuba by reason of the treaty with Cuba. That amount, we were told, and doubtless accurately, to about 35 cents a bushel, which really amounts to about 9 cents per bushel of wheat used in the manufacture of a barrel of flour. In other words, in shipping to Cuba, instead of paying 42 cents for the flour used, the miller would pay but 9 cents.

So, Mr. President, the matter of the shipment of flour to Cuba became exceedingly important in the consideration that the subject has had from the Senate heretofore. It really presented itself at that time very much as a controversy between

the mills manufacturing at Buffalo and the mills manufacturing in the southwestern part of the country, or west of the Mississippi River in the Southwest, Kansas City, and mills in Oklahoma, and so forth, the Buffalo mills being able to get their wheat from Canada at very little cost for transportation, and thus being able to get into the Cuban market without any particular trouble, while these other mills, remote from the Canadian border, were at a disadvantage, and were thus unable to hold their trade as against the Buffalo millers.

Mr. COPELAND. Mr. President——

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

Mr. WALSH of Montana. If the Senator will pardon me for a moment, that, however, is a matter of comparatively little consequence to the producers of wheat in the Northwest, and particularly in the State of Montana, where the very highest grade of wheat grown in this country is produced. When I say that, I mean wheat containing the very highest percentage of protein.

Toward the conclusion of the discussion, when I expressed the view that it was the sense of the Senate that the milling-in-bond provision should be withdrawn, I was interrogated by the Senator from Washington [Mr. DILL] as to whether it was my idea that the privilege should be entirely withdrawn. I then announced that that was my idea, and that at the proper time I should offer an amendment to that effect; and that discloses the real difficulty and the real contention here.

The Senator from Washington [Mr. DILL] represents a coast State where there is not produced, at least in any considerable quantity, this high-grade protein wheat. I come from a State in the interior, in the arid section, where that wheat is produced. It is transported from the interior to the coast, and is there milled in the coast mills; and it thus becomes a controversy between the coast mills on the one side and the farmer-producers upon the other.

This is the way the thing works:

The mills in Seattle, for instance, are able to get wheat from Canada at a comparatively low price as against the Montana product; and they import it under this provision, mill it into flour, send it into the oriental trade, and thus displace just so much of the wheat that would be produced in Montana.

Mr. DILL. Mr. President——

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

Mr. WALSH of Montana. I yield to the Senator.

Mr. DILL. The Senator would not have the Senate understand, however, that it is only the Pacific coast mills that are affected by his amendment?

Mr. WALSH of Montana. No; by no means.

Mr. DILL. His amendment would stop all milling in bond in all the various parts of the United States?

Mr. WALSH of Montana. Exactly; but the only mills that are particularly interested in the matter are the Buffalo mills and the mills on the coast; and I used the coast mills for the purpose of clearly illustrating just exactly what this question means.

The wheat is shipped from the Canadian Provinces to Victoria and there is transported to the mills in Seattle at comparatively little cost, and is there milled and shipped under the provisions here practically without any duty whatever upon the wheat coming in from Canada, so that so much of Montana wheat is displaced in the Seattle mills by whatever amount is introduced from Canada.

It is not so at the present time, but ordinarily and under all ordinary conditions the price of this high character of wheat is less in Canada than it is in the United States. But the Seattle mills have an additional advantage in the lower freight rates upon wheat shipped from the interior of Canada to the coast. So they have a double advantage over the growers of wheat in the State of Montana and in the State of North Dakota, from which some wheat is shipped to the coast.

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

Mr. WALSH of Montana. I yield.

Mr. DILL. The Senator, of course, does not overlook the fact that there is not a sufficient amount of high-protein wheat in the United States to supply the demand even within our own borders.

Mr. WALSH of Montana. No; we have had that matter under consideration and figures were given. The ordinary importations of wheat under the milling-in-bond provision run about eighteen or twenty million bushels. One year they went up as high as 22,000,000 bushels. That produces only four million and odd barrels of flour out of possibly seventy-five or eighty million barrels of flour manufactured in this country. The amount that is milled in bond and shipped abroad is inconsiderable in comparison with the total amount produced in this country.

Let me call attention to the advantage the coast miller has in the purchase of Canadian wheat over the purchase of Montana wheat, for instance. I spoke about the general difference arising by reason of the tariff between the price of wheat in Canada and in this country, but in addition to that the shipper, for instance, from Lewistown, Mont., to Seattle, Wash., pays an export freight rate of 32 cents a hundred, but from corresponding stations in Canada, from Amisk, Alberta, or from Cardell, Saskatchewan, the freight rate is only 24 cents, a difference of 8 cents per hundred, which amounts to about 5 cents a bushel. Wheat can be transported more cheaply from interior Canada to Victoria than from interior Montana to Seattle.

From Great Falls, Mont., to Seattle, Wash., the freight rate is 32 cents per hundred, while from Killem, Vancouver, an equal distance from the coast, the freight rate is only 23 cents.

From Havre, Mont., to Seattle, the freight rate is 32 cents, and from Sedgewick, Alberta, a corresponding distance, the freight rate is 23 cents.

From Helena, Mont., my home, to Seattle, Wash., the rate is 31.5 cents, and from Wilson, Alberta, an equal distance from Vancouver, the freight rate is 22 cents, a difference of 9½ cents a hundred, the equivalent of about 7 cents a bushel. So that it will be observed it is a simple business proposition for the Seattle mills to buy Canadian wheat rather than to buy Montana wheat for such as they need of the high-grade wheat to supply what they desire to ship to foreign ports.

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

Mr. WALSH of Montana. Just a moment. It is not only that, it is not the amount of wheat that is shipped, but the miller, knowing that he can get the wheat in Canada at this lower rate—and the cost of transportation from Vancouver to Seattle is a comparative trifle—knowing he can get it in Canada at this lower rate, he will pay no more for the Montana product, although he ships the Montana product into Seattle in order to supply his needs. In other words, the Montana farmer, under this provision, is obliged to accept the going rate in Canada for this high-protein wheat.

I yield to the Senator from New York.

Mr. WAGNER. I do not want to interrupt the Senator unless he is quite willing to be interrupted.

Mr. WALSH of Montana. Indeed, I am.

Mr. WAGNER. The Senator's figures interest me somewhat, because with the freight rate differential and the difference in the cost of an identical quality of wheat in Canada and the United States the average cost of 9 cents per bushel would represent a difference of 56 cents per barrel of flour, taking into consideration transportation and the lower price of wheat in Canada for equal quality. I wondered, with that difference in favor of the Canadian miller, how, if we do away with milling in bond and compel the American miller to use our equal quality of wheat, the high-protein wheat, we can possibly compete against the Canadian miller in the foreign market, and the Senator will concede that after all the only thing we are considering now is the foreign market, because milled-in-bond flour is exported to the foreign market.

Mr. WALSH of Montana. Mr. President, that helps to clarify the situation, and that is just exactly the proposition. The Senator wants to know how the Buffalo miller can possibly compete with the Canadian miller if he is obliged to pay this duty upon the wheat he imports into this country. I do not know how he is going to compete with him. It is simply a question of whether we will decide this matter in favor of the farmer or in favor of the miller.

I have not the slightest apprehension that the predictions will come true that if these changes are made, either as the condition exists now, or as I would have it, there is going to be any disruption of the milling business of the city of Buffalo.

Mr. WAGNER. Mr. President——

Mr. WALSH of Montana. Pardon me just a moment. As I pointed out a moment ago, the amount of flour that is made from wheat that is milled in bond and exported, compared with the total amount of flour produced in this country, is comparatively trifling, so that the mills in Buffalo will continue milling flour to supply the domestic trade, and, so far as the export trade is concerned, they will have to take their chances in that, just the same as many other lines of business do.

Mr. President, there are any number of industrial enterprises in this country that are obliged to pay a duty upon their raw material, and yet, some way or other, they manage very successfully to compete with foreign producers. Let me instance the case of the United States Steel Corporation. If it should import any pig iron into this country, if this bill should become a law, it would be obliged to pay a dollar and a half per ton on

all of the pig iron it introduced. Yet, as everybody knows, it ships unlimited quantities of its steel products to foreign countries.

Mr. President, every particular locality has its own advantages. If the mills in Buffalo suffer a disadvantage by reason of the duty upon wheat, I apprehend they have other countervailing advantages, as no doubt the mills in Seattle have.

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

Mr. WALSH of Montana. I yield.

Mr. DILL. I want, if I can, to get really the Senator's reasoning in this matter. As I understand the Senator's argument, it is that the Canadian hard wheat, when it is milled to be shipped abroad, is regularly mixed with a certain amount of lower-grade wheat.

Mr. WALSH of Montana. Yes.

Mr. DILL. And that if this milling-in-bond provision is kept out, then the high-grade wheat of Montana will be used to mix with the low-grade wheat that is now used to mix with the Canadian high-protein wheat.

Mr. WALSH of Montana. Yes.

Mr. DILL. And that therefore there will be a demand for the high-protein wheat of Montana which does not exist to-day.

Mr. WALSH of Montana. Quite so. But the Senator will bear in mind that, even if they do buy the Montana wheat, they will not pay any more for it, and would not be obliged to pay any more for it, than they would pay for the Canadian wheat, so that although they may buy Montana wheat, they buy it at a Canadian price.

Mr. DILL. But the Senator will recognize that there is not enough high-protein wheat in the United States for these purposes. It is just a question of whether we are going to mill the combination on our side of the line, or whether it is going to be milled on the Canadian side of the line.

Mr. WALSH of Montana. Exactly; the Senator has put it correctly. It is a straight question as to whether this Congress, assembled for the purpose of giving relief to the farmer, is going to deny relief to the farmer in the interest of the millers.

Mr. DILL. I want to get clear, if I can, the Senator's reasoning, namely, that if we will eliminate the milling-in-bond provision, if we will take away from the millers and the American working men the employment that comes at our ports, the work which comes from handling 4,000,000 barrels of flour now, we will help the American farmer, because there will be a demand for high-protein wheat at points that does not now exist. There is not enough here to supply the needs, and it is a question of whether we are going to import what little we have to have from Canada direct, or whether we are going to import it as we do now.

Mr. WALSH of Montana. The Senator will understand, however, that we import very large quantities of this wheat from Canada that does not come in in bond at all.

Mr. DILL. Absolutely.

Mr. WALSH of Montana. It comes in here and pays the 42-cent duty and is manufactured into flour that is sold in the American market, and the American consumer must pay for it.

Mr. DILL. And to that extent it will increase the cost of flour to the American consumer. That is the point I was leading to.

Mr. WALSH of Montana. Exactly.

Mr. DILL. So, with the hope of giving a temporary advantage—and it would be only a temporary advantage—to the farmers in this country, we will increase the cost to the people of the United States of the flour that is manufactured.

Mr. WALSH of Montana. Of course, the cost of living is increased every time a tariff is put on anything.

Mr. DILL. But the milling in bond does not increase the cost.

Mr. WALSH of Montana. Certainly not, because that is really free trade, so far as it goes.

Mr. ROBINSON of Arkansas. Mr. President——

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

Mr. WALSH of Montana. I yield.

Mr. ROBINSON of Arkansas. I was very much interested in a question the Senator from Washington [Mr. DILL] asked the Senator from Montana, namely, if this amendment did not merely involve the question of whether this milling in bond should be done in Canada or in the United States. If this is wheat of a grade that does not come in competition with American wheat, if it is a grade of wheat or a kind of wheat of which we do not produce a sufficient quantity, I can not understand how giving an opportunity to mill the wheat in the United States will oppress the American farmer. I am always in sympathy with any suggestion the Senator from Montana shall make. I know he is very clear-minded, and he is also forceful in his statement of any proposition; but it is represented to me, first, that the United States market now absorbs all the high-protein wheat produced in the United States at a premium price; second, that the domestic demand for protein wheat in the United States at most times and in most years results in prices for wheat in the United States above Canadian prices for the same grades and qualities; and third, that exports of flour made from United States wheat of comparable quality with Canadian wheat can not be sold in the export market.

If it be true that this wheat does not compete with American wheat, and can not compete with American wheat, it looks to me as if we are standing in our own light in preventing its being milled in the United States. I confess I have not given that study to the subject the Senator from Montana has given to it.

Mr. WALSH of Montana. I will try to make that clear to the Senator, but I would like to inquire, first, from what source the information came.

Mr. ROBINSON of Arkansas. It is a memorandum that has been furnished me in the course of my study of the subject. I presume it is furnished by representatives of the millers. Of course, I avail myself of all information that comes from any source that I think is fair to be considered. I would like to have the Senator from Montana state his answer to those propositions.

Mr. WALSH of Montana. I inquired because I had a call the other day from Mr. Sidney Anderson, formerly a representative from the State of Minnesota and more recently and for the last three or four years known to be the lobbyist for the milling interests here in Washington.

Mr. ROBINSON of Arkansas. This memorandum did not come from Mr. Sidney Anderson. It came from a Mr. Pillsbury, who I understand is interested in milling wheat and whose mills in the Northwest mill wheat in bond, as mills in the South do not.

Mr. WALSH of Montana. Mr. Pillsbury is one of the Big Four who own mills in Minneapolis as well as in Buffalo.

Mr. ROBINSON of Arkansas. What difference does that make if the proposition he states is correct, namely, that the wheat which is consumed in bond does not come in competition with American-produced wheat?

Mr. WALSH of Montana. It does not make the slightest difference, but the answer to it is that it does come in competition; there is no question that it does, and nobody can contend otherwise than that it does and confine himself to the facts.

Let me explain to the Senator. There is only a relatively limited quantity of high-protein wheat produced in the United States. It is essential for the manufacture of the highest grade of flour for bread-making purposes. That wheat is grown only in the northern section of the country, in the States of Minnesota, North Dakota, and Montana, except in relatively limited quantities and in particularly dry years in the Southwest. For instance, western Kansas and western Nebraska, both being semi-arid in character, produce some of this high-grade protein wheat. There is only a limited quantity of that and not enough to supply the demand in the United States even for domestic consumption, not to speak about the exports. So that the high-grade wheat coming in from Canada does not as a matter fact come into competition with the great bulk of soft wheat produced in this country, but it does come into competition with the limited quantity of high-protein wheat that is grown in those sections to which I have referred.

Mr. ROBINSON of Arkansas. And which is not sufficient to supply the demand in the United States?

Mr. WALSH of Montana. Exactly.

Mr. ROBINSON of Arkansas. I can not for the life of me understand why the Senator should insist upon denying the admission of Canadian high-grade wheat under those conditions.

Mr. WALSH of Montana. Because it displaces just so much of that high-grade wheat in this country. In other words, if it does not displace it, it compels the producer of that high-grade wheat in this country to take for it just exactly the price that that character of wheat commands in Canada.

Mr. ROBINSON of Arkansas. Manifestly it does not displace it because the Senator has admitted that the amount produced in the United States is insufficient to supply the domestic demand. It could not displace the domestically produced wheat under those conditions.

Mr. WALSH of Montana. Let us put it the other way. The domestic producer can not get any more for it than the Canadian price, notwithstanding the duty on it. Does that seem clear to the Senator? Bear in mind that the Canadian price is controlled, among other factors, by the reduced rate of transportation in Canada.

Let me remark that while I referred to the Seattle mills it was for the purpose of illustrating the situation, because ex-

actly the same fact is true when the wheat goes east to Buffalo. The Buffalo miller will pay no more for it than he would be obliged to pay if he went over to Canada to get it, because all he has to do is to go over to Canada and buy it there, so it does come in competition with the Canadian products.

The policy may be an unwise one. It may not be a wise policy to give the American farmer this advantage. It may be that there are disadvantages that ensue to other classes in this country, including the miller and including the manufacturer in the mills and including the railroads that transport the grain. But that it will inure to the benefit of the farmer there is no opportunity for cavil or controversy.

Mr. COPELAND. Mr. President——

Mr. WALSH of Montana. I yield to the Senator from New York.

Mr. COPELAND. May I ask the Senator when there was a recent reduction in freight rates by the railroads whether that benefited the Montana wheat growers?

Mr. WALSH of Montana. I did not quite understand the Senator's question.

Mr. COPELAND. Recently because of the intervention of President Hoover the railroads made some concessions in freight rates. How much, if any, did they reduce the freight rate on wheat between Montana and Duluth?

Mr. WALSH of Montana. My recollection is that it did not affect or reduce the rates in our section at all.

Mr. COPELAND. How can the Buffalo miller hope to compete with the Canadian miller in the same territory when the transportation rate on this high-protein wheat from Montana to Duluth is 44.5 cents while the rate from Saskatchewan and Alberta to the lake head is 26 cents?

Mr. WALSH of Montana. I am trying to reduce the adverse conditions under which he competes.

Mr. COPELAND. It is perfectly apparent to me that since the Buffalo miller must go to the Northwest, either in the United States or in Canada, for high-protein wheat, he can not possibly compete with the Canadian miller if the tariff rebate is destroyed.

Mr. WALSH of Montana. Again the Senator just helps to put the proposition before the Senate that this is a controversy between the northwestern farmer on the one side and the Buffalo and Seattle millers on the other.

Mr. COPELAND. Has the Senator no interest at all in the hundreds of people who are employed in the mills?

Mr. WALSH of Montana. Why, of course I have.

Mr. COPELAND. Is the Senator willing to have those mills go over to Canada to operate, bearing in mind that 75 per cent of the industries of Canada are now operated by American capital? Is he willing to send over there another industry?

Mr. WALSH of Montana. In the first place, I am not alarmed at all that the Buffalo millers are going to go out of business.

Mr. COPELAND. This is true, I am sure, that the Buffalo miller can not benefit the Montana wheat grower because he can not hope to compete with the Canadian miller across the river, and that is because the Canadian miller——

Mr. WALSH of Montana. The Senator does not, as it seems to me, appear to be very well informed about the matter. There is no end of high-protein wheat that comes into Buffalo and is milled there.

Mr. COPELAND. At present, certainly; but the Buffalo millers certainly can not compete in export trade with a wheat which will cost him 18 or 20 cents a bushel more than it costs his Canadian competitor.

Mr. WALSH of Montana. It would be a disadvantage in the competition, beyond question.

Mr. COPELAND. It would be not only a disadvantage, but it would be absolutely ruinous.

Mr. WALSH of Montana. I do not agree to that at all. But all this serves to give point to the proposition that this is a controversy between the farmers of the Northwest who produce the wheat and the millers who make it into flour.

Mr. BLACK. Mr. President——

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

Mr. WALSH of Montana. I yield.

Mr. BLACK. I know very little about the proposition and I am asking for information. As between the miller and the farmer, if I am called upon to vote, I shall vote for the farmer. But I want to understand the situation exactly. Is it the Senator's point that by reason of their shipping Canadian wheat into this country at a low price, that thereby they fix the price of Montana wheat?

Mr. WALSH of Montana. It does fix it.

Mr. BLACK. Does that apply even though the wheat that comes into this country for milling is to go out of the country in flour?

Mr. WALSH of Montana. It applies only in that case. If it is to remain here they pay the entire duty, and the domestic price can be raised to the point of the Canadian price plus the duty of 42 cents. It could go at least that high. But with respect to the flour they export, they do not have to pay any duty at all except 1 per cent. With respect to any wheat which they buy to be milled in bond, all they are required to pay is the Canadian price, and, of course, if all they are required to pay is the Canadian price they will not pay the domestic producer any higher price. That is the whole theory of the protective tariff, that it forces the domestic consumer to pay a higher price for the product; that is to say, the American producer will elevate his price to the foreign price plus the amount of the tariff.

Mr. BLACK. Is the statement correct that we could not from this country supply to the millers the same wheat that they now purchase from Canada and ship in bond?

Mr. WALSH of Montana. By no means. We can supply exactly the same grade of wheat, but we can not supply all of that particular kind of wheat that is necessary for flour consumption in the domestic trade as well as in the export trade. They would be obliged to import some from Canada.

Mr. BLACK. Does the Senator think we could supply an appreciable quantity of that which goes into the export flour?

Mr. WALSH of Montana. My recollection is that the high-grade protein wheat amounts to 20 per cent of the entire production of this country, which is about 600,000,000 bushels.

Mr. SMOOT. Mr. President——

The PRESIDING OFFICER. Does the Senator from Montana yield to the Senator from Utah?

Mr. WALSH of Montana. I yield.

Mr. SMOOT. Forty per cent of the imported Canadian wheat goes into our export trade; that is, all of the flour exported from the United States. Forty per cent of it comes from Canada.

Mr. WALSH of Montana. It is a very easy thing to figure the total imports from Canada, and from that deduct 20,000,000 in round figures. The balance of it goes into flour consumed in the United States, upon which the entire duty of 42 cents is paid.

Mr. DILL. Mr. President——

The PRESIDING OFFICER. Does the Senator from Montana yield to the Senator from Washington?

Mr. WALSH of Montana. I yield.

Mr. DILL. I think there is likely to be confusion from the argument here for the reason that whether the hard wheat of Canada is milled in American mills or in Canadian mills it will be milled and shipped abroad. We have not the hard wheat to supply to the foreign markets because we have not enough hard wheat for our own market. Whether these millions of bushels of wheat that are brought across the line in bond and milled on this side of the line with a little of our low-grade wheat and then shipped on out, are milled on this side of the line or whether they are milled on the other side of the line, that wheat is going to be shipped abroad regardless of where it is milled. It seems to me the confusion arises from the impression that Canadian hard wheat is brought over here for our own use, for milling in bond, when it is not at all and can not be so used. The minute it is used here it is no longer milled in bond. I remind the Senator again that by no possible manipulation can we change the foreign market by milling it in Canada. It will be shipped out of Canada or shipped out of the United States.

Mr. WALSH of Montana. I do not controvert that proposition at all. The foreign market will absorb so much, and it does not make any difference whether it comes from the United States or comes from Canada. But that is not the question at all. We are not concerned about the foreign markets. We are concerned about whether the miller in this country will buy upon the American basis or will buy upon the Canadian basis for that part of his purchases in Canada which goes abroad.

Mr. DILL. If he buys in the American market and the price is raised, he can not compete with the Canadian miller in the foreign market.

Mr. WALSH of Montana. Whether he can or can not depends upon many considerations. Seattle, for instance, has very valuable water power just at its doors. It is utilized in various industries in that city. I do not know whether their costs of production are greater or less than those in Vancouver or somewhere else in the East where Canadian flour is manufactured. There are many elements that enter into these competitive problems other than the mere matter of tariff, as I have demonstrated repeatedly, but that is a matter of no consequence at all. The question is, Are we going to make these mills pay the American price for this high-protein wheat or are we going to allow them to get it at the Canadian price?

Mr. SMOOT. May I say to the Senator that in 1927 there were 21,299 bushels of wheat that paid a duty coming into the United States. In 1928 there were 224,133 bushels. Those are the figures showing the amount of imported wheat into the United States outside of that which paid no duty. Of course, wheat that came here in bond was made into flour and shipped out to the foreign market and paid no duty.

Mr. WALSH of Montana. That simply means this: In a season like this there is a superabundance, if one may use the expression, of high-grade protein wheat. This has been a dry season everywhere, and that conduces to the production of wheat containing a high percentage of protein; and other conditions also combine to make high-protein wheat particularly abundant this year. So we will probably import comparatively little from Canada. But in other years, in wet seasons and seasons where other conditions obtain, our importations are, of course, very large, not only of wheat that goes into flour for the export trade, but of wheat that is consumed in the way of flour in the United States.

Mr. SMITH. Mr. President——

Mr. WALSH of Montana. I yield to the Senator from South Carolina.

Mr. SMITH. If I catch the Senator's point, he frankly admits that by charging the full duty on the importation of Canadian hard wheat the American miller may suffer a loss of some export trade; but all the millers of this country being restricted to either to pay the duty or to purchase American wheat, the American producers of hard wheat, the farmers themselves, can then be in a position to get the advantage of whatever tariff there may be on wheat?

Mr. WALSH of Montana. The Senator has very accurately stated the problem.

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

Mr. WALSH of Montana. I yield to the Senator.

Mr. WAGNER. Following up the question asked by the Senator from South Carolina, I should like to know if to-day the miller—I am not speaking of the miller in bond but the miller who mills for the American market—buys and consumes all the wheat of the high-protein type now produced in the United States and then does not get enough of it, how possibly are we going to make the miller buy more of that kind of wheat by doing away with the milling in bond? In other words, if he consumes all there is now, how can we possibly increase that consumption by doing away with milling in bond?

Mr. WALSH of Montana. We can not if it is all used; but the point is—and I am sure the Senator is not dull enough not to appreciate it——

Mr. WAGNER. I am afraid I am.

Mr. WALSH of Montana. That he will pay for the American product so far as it goes into the export trade only the Canadian price.

Mr. WAGNER. He will pay what? I did not quite understand the Senator.

Mr. WALSH of Montana. He will pay for what he uses of the American product no higher price than he could get similar wheat for in Canada. Here, for instance, is a Buffalo miller——

Mr. WAGNER. I admit to the Senator I am dull. The Senator, however, does not say that by doing away with milling in bond the American miller is going to get the Canadian wheat at the world price.

Mr. WALSH of Montana. Not at all; that is just what he is not going to get. He is going to get it by paying the duty of 42 cents a bushel; that is all. Let me state the situation to the Senator in this way. The Buffalo millers require, we will say, 20,000,000 bushels of high-grade protein wheat in order to carry on their export business. They can buy that wheat in Canada or they can buy it in the United States, whichever they see fit. If they can ship it in the export trade without paying any duty other than 1 per cent, they will buy it either in the United States or they will buy it in Canada; but they will not pay any more in the United States for it than they would have to pay in Canada. Does that seem quite plain to the Senator?

Mr. WAGNER. May I interrupt the Senator?

Mr. WALSH of Montana Certainly.

Mr. WAGNER. When the Senator says that they will have to pay as much in the United States as they will have to pay in Canada, is he speaking of American wheat?

Mr. WALSH of Montana. I am speaking of American wheat. The Buffalo miller can buy his 20,000,000 bushels of wheat in the United States or he can buy them in Canada. He can get it here if there is that much high-grade protein wheat here; but there is very much more than that in Canada; he can buy it either place; and, of course, he will not pay any more for it in the United States than he can get it for in Canada.

Mr. WAGNER. Plus the duty that he would have to pay.

Mr. WALSH of Montana. Yes; but he does not now have to pay a duty; and that is what I am endeavoring to escape from.

Mr. WAGNER. Let me see if I can understand the Senator, for we do not now seem to understand one another. Does the Senator say that an American miller can buy wheat in Canada of a quality equal to that of the wheat produced in this country for the same price that he pays for domestic wheat in the United States?

Mr. WALSH of Montana. He can buy it for less in Canada than he can in the United States.

Mr. WAGNER. Of course he can; that is the point I am making. According to the figures for the present year, he can buy it for at least 9 cents less per bushel in Canada than he can buy it in the United States.

Mr. WALSH of Montana. Yes; but he does not have to pay that for the wheat he buys for the export trade. He can buy it in Canada for 9 cents less, on the average. If he buys it there for sale in the United States he must pay 42 cents duty into the Treasury of the United States; but if it is going into the export trade, he will not have to pay that 42 cents. All he will have to pay is the Canadian price for it.

Mr. WAGNER. Does the Senator mean under the present conditions or under conditions which would prevail if his amendment should be adopted?

Mr. WALSH of Montana. Under present conditions with the milling-in-bond provision he will not pay any more to the American producer than he will pay to the Canadian producer.

Mr. WAGNER. I am talking about conditions if the Senator's amendment were adopted and milling in bond should be done away with altogether.

Mr. WALSH of Montana. Exactly. Then he will be obliged to pay the Canadian price plus 42 cents.

Mr. WAGNER. Exactly; that is what I am saying. I think the Senator ought to tell us how the American miller, having to pay that increased price for an equal quality of wheat, can possibly hold his foreign market as against the miller of Canada.

Mr. WALSH of Montana. I am not assuming any obligation of that kind. I am talking for the American producer of high-grade protein wheat, and I will let the Senator explain the other end of it.

Mr. WAGNER. If I may interject one further word, the American producer of high-grade wheat now sells all he can produce in the domestic market. So how are we possibly going to improve his condition?

Mr. WALSH of Montana. He sells it in the American market at the Canadian price.

Mr. WAGNER. No; he does not. The Senator himself has admitted that he sells it, on the average, for at least 9 cents—and in some years even more than that—more per bushel than the Canadian wheat.

Mr. WALSH of Montana. The average price in Canada as compared with the average price here is about 9 cents cheaper; and, of course, if he can buy it for 9 cents cheaper in Canada, he will not buy it here. He will pay for the American wheat only what he would have to pay in Canada.

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

Mr. WALSH of Montana. I yield to the Senator from Ohio.

Mr. FESS. Mr. President, I am somewhat confused as to this question. As I understand, every bushel of wheat milled in bond has to be exported; it can not be sold in the domestic market?

Mr. WALSH of Montana. Quite so.

Mr. FESS. It would be sold, then, at a price that would be in competition with that of the Canadian miller?

Mr. WALSH of Montana. I should have qualified my answer by saying, assuming that it does go into the export trade.

Mr. FESS. On the other hand, if the American miller pays the American price for hard wheat, which is higher than the price of similar wheat imported from Canada without duty, then he can not market the flour made out of that wheat in the open market in competition with Canada because Canada can produce flour from a cheaper-priced wheat. So it would appear to me—I am somewhat confused—that no disadvantage would result from permitting the Canadian wheat to be imported here without duty, milled into flour, and sold not here but abroad. There would be no disadvantage to the American wheat producer, because when made into flour it would not reach the American market and would be in competition with the cheaper wheat in Canada. If that is true, then I do not see any disadvantage in milling in bond.

There is another feature to which I should like to call attention. Over 80 per cent of the Canadian product, I have understood, is exported. If we prevent it being made into flour by

American mills, it will evidently be made into flour by Canadian mills, because it has to be exported. If there is no disadvantage to our producers, it seems to me that we ought to permit it to come here and thus furnish employment to American labor in the American mills. If I am wrong in that, I should like to be set right.

Mr. WALSH of Montana. Mr. President, I do not care to argue this matter at all except so far as the American producer of high-grade protein wheat is concerned. I am open to conviction from anybody that he will get just exactly as high a price for his wheat if the American miller does not have to pay the import duty as if he did have to do so. Does the Senator undertake to convince me of that?

The American miller, if my amendment should carry, would be obliged to pay the Canadian price and 42 cents duty on every bushel of wheat he imports into this country, whether it is for domestic consumption or for export. That would fix the price in the United States; that is, the price the American producer could ask for his wheat. Is the Senator going to endeavor to convince me that if the American miller can go over there and get his wheat for the export trade without paying any duty at all it will be just as good for the farmer?

Mr. FESS. Does not the Senator concede if the American miller has no right under the milling-in-bond provision to sell in the domestic market and has to pay the duty in order to sell in the foreign market, that he will not buy wheat from Canada?

Mr. WALSH of Montana. He will be obliged to buy wheat in Canada when the American production does not equal the American demand.

Mr. FESS. Would the American miller pay 42 cents more a bushel in order to compete in the flour market of Europe with the Canadian miller, who does not pay 42 cents a bushel duty?

Mr. WALSH of Montana. I imagine he would be competing under rather severe and adverse circumstances, and that is just exactly the point I am making, that it depends upon whether one considers the interest of the miller or considers the interest of the farmer in this controversy that is before us.

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

Mr. WALSH of Montana. I yield.

Mr. SMOOT. I wish to consider the interest of the farmer in this whole question, but I think if the milling-in-bond provision is done away with, the 4,300,000 barrels of flour milled in bond and shipped to foreign countries will cease to be milled in the United States and will be milled in Canada. There is no question of doubt about that; I have no more doubt about it than that I stand here on this floor; it could not be otherwise. The mills in New York and in the South can not buy wheat in Canada and pay 42 cents a bushel and mill that wheat into flour and ship that flour to foreign countries at a profit. It is an absolute impossibility. If it be desired to see that trade in the case of flour which has gone to foreign countries in the past under the milling-in-bond provision of the United States law destroyed, well and good; but that is exactly what the amendment of the Senator from Montana, if adopted, would do. It would not help the American wheat grower one cent, in my opinion.

Mr. SMITH. Why not?

Mr. SMOOT. Because of the fact that no miller of the country would buy wheat in Canada and pay 42 cents in order to export it. We have an overproduction of soft wheat in this country anyway, and there is not enough hard wheat raised in the United States to make flour that could be exported. Of course, the American hard wheat would bring about the same price as the Canadian hard wheat then, because there would be no exportation privilege. It could not be exported at all.

That is the situation as I see it.

Mr. WALSH of Montana. Mr. President, I am very thankful to the Senator from Utah for his advocacy of the interests of the farmer; but I discover that none of the opposition developed on the floor in the debate thus far has come from anybody representing a distinctly wheat-growing State, particularly a State in which this high-grade protein wheat is produced; and, of course, the Senator from Utah is entirely consistent in looking after the interests of the manufacturer always as against the producer.

Mr. SMOOT. That is uncalled for.

Mr. COPELAND. Mr. President——

Mr. WALSH of Montana. I yield now to the senior Senator from New York.

Mr. COPELAND. I should like to say in the first place, Mr. President, that while my State does not produce a tremendous amount of wheat, it is one of the great agricultural States.

Mr. WALSH of Montana. It does not raise any of the character of wheat in controversy here.

Mr. COPELAND. I want to set myself right, however. With the exception of the last vote on the farm measure, I have voted for every farm measure since I came into the Senate; so I am going to speak as a friend of the farmer. Whether the Senator from Montana thinks another Senator is a friend of the farmer or not, I contend that I am.

In this particular matter, the Senator has stated what is the fact—that there is no exportable surplus of high-protein wheat in the United States. That is true; is it not?

Mr. WALSH of Montana. That is correct.

Mr. COPELAND. So the only benefit that could possibly come from this amendment, if it were to work as the Senator hopes it will, is that the price of the high-protein wheat would be increased because of the lack of competition from the Canadian market. That is correct; is it not?

Mr. WALSH of Montana. That is correct.

Mr. COPELAND. All right. If the miller in Buffalo who now makes exportable flour, using in it 70 per cent of hard wheat, which he buys from Canada, is forced to pay 42 cents a bushel tariff on that wheat, he can not compete; neither can he afford to go to Montana or other parts of the Northwest to buy American wheat, because, as the Senator from Ohio [Mr. FESS] suggested a moment ago, Canada is a great exporter of wheat. This hard wheat which is now used in Buffalo in making export flour would be made into flour in Canada, or else it would go as hard wheat to Europe, where it would be made into flour.

So, as I see it, I may say to the Senator, that I can not see how the farmer who now raises hard wheat, high-protein wheat, would be benefited if the Senator's amendment were to prevail. It would not create a greater demand for the northwestern American wheat, for the reason that the miller in Buffalo could not pay a higher price than he now pays and compete with the Canadian miller. So what would happen would be either that this flour which is now made in the United States would be made in Canada, or else that the wheat from which such flour is now made would be sent abroad and milled there.

Therefore the Senator's amendment, as I see it, would serve to destroy the Buffalo millers without benefiting the northwestern American farmers.

Mr. WALSH of Montana. If the Senator has not been convinced by the argument I thus far have made, I despair of making any impression upon him, because I can only repeat what I have heretofore said.

With respect to the friendliness of the Senator from New York to the interest of the farmer, I do not think any issue of that character could possibly arise here. The Senator has demonstrated on innumerable occasions his liberality of view with respect to the condition of the agricultural interests of the country, and particularly of the Middle West and the Northwest.

Mr. COPELAND. I thank the Senator.

Mr. WALSH of Montana. But I can not, of course, overlook the fact that the Senator is a representative of the State of New York, and that, as I view the matter, this is a controversy between a very powerful interest in his State and the producer-farmers of the Northwest; and under those circumstances I should scarcely expect the Senator to entertain very hospitably the idea advanced.

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

Mr. WALSH of Montana. I yield.

Mr. COPELAND. It will be of interest to the Senator to know that not one single approach has been made to me, directly or indirectly, by the millers of Buffalo. I am looking at this matter wholly from the standpoint of economics.

Mr. WALSH of Montana. Of course the Senator could not possibly imagine that I had any such idea in mind.

Mr. COPELAND. Oh, no; of course not.

Mr. WALSH of Montana. The Senator is careful to look after the interests of his State and the people of his State without any suggestion whatever from them. However, a representative of these great interests of his State came to see me about the matter, as I have heretofore stated.

Mr. WAGNER. Mr. President, will the Senator yield to me? This will be my last interruption.

Mr. WALSH of Montana. I yield.

Mr. WAGNER. I hope I do not annoy the Senator.

Mr. WALSH of Montana. Oh, not at all.

Mr. WAGNER. I know that the Senator is interested in having all the facts disclosed. I am citing now from records, and not giving any opinion on my part.

To show that it is not an illusion that Canada, under the circumstances that will exist if the amendment of the Senator is adopted, will capture our foreign market, the history of our export flour business shows that from 1919 to 1921 our foreign market had steadily increased, reaching in 1921 the amount of 26,000,000 barrels. From 1919 up to 1928 it has been reduced from 26,000,000 barrels to 11,800,000 barrels. Four million barrels of that is export flour milled in bond; and

during the same period of time the export-flour business into foreign markets of the Canadian miller has increased from 6,000,000 barrels to 11,000,000 barrels. So even under present conditions they have been gradually capturing our foreign markets; and if the amendment of the Senator from Montana is adopted it will destroy our foreign market to the extent of 4,000,000 barrels per year or more.

Mr. WALSH of Montana. The Senator from New York is perfectly aware of the fact that the production of wheat in Canada has been increasing by leaps and bounds within the last 10 years; and it is the most natural thing in the world, under those circumstances, that their production of flour should increase, and, equally, that their exports of flour should increase. That is an ordinary, natural development that we have to meet.

Mr. WAGNER. The Senator is perfectly right about that; but with this increase came the capturing of our market, showing the difference there is in conditions which enabled them to capture our market. Now the Senator wants to take some more of the market away from us.

Mr. WALSH of Montana. Even under existing conditions, even under the milling-in-bond provision, even though the American miller is not obliged to pay the duty upon the flour coming in from Canada—even so, they are able to compete with us in the foreign markets, and for some of the considerations to which I have adverted, namely, that their freight rates are very much less than they are here, and therefore the Canadian miller is able to buy his flour at a lower price than the American miller in bond.

Mr. WAGNER. That is why I am at a loss to understand why the Senator wants to take away whatever is left of the foreign market in our export trade.

Mr. WALSH of Montana. I am not eager to take it away at all. I regret exceedingly that the amendment I propose should impose any other burden upon the millers in Buffalo or in Seattle; but there is a duty upon wheat of 42 cents a bushel, the benefits of which are largely imaginary by reason of this milling-in-bond provision.

Mr. WAGNER. Of course, the Senator knows what our contention is—that you are depriving the millers in bond of an export business they now have without any corresponding benefit to the farmers of this country.

Mr. WALSH of Montana. I do not agree with the latter statement, nor do any of the Senators coming from the States where this grade of wheat is produced agree with the Senator upon that issue.

I merely desire to say, Mr. President, that I have not been able to give my approval at all to the elevation of the rates on practically everything that comes into this country from Canada. I think it is a most shortsighted policy. I should like to see that trade developed rather than checked. Canada is a great consumer of our products. She is one of the very best customers we have; but the situation that is produced here is due to Canadian policies and Canadian legislation. The differences in freight rates to which I have adverted arise by reason of the way Canada treats her railroads. Away back, restrictions were placed upon those railroads in respect to the rates which they could charge for the transportation of grain from the interior points to the coast; and Canada, at least so far as some of her railroads are concerned, is obliged to make up a deficiency in their operation every year, at least in the publicly owned roads. We are simply endeavoring to overcome in part the disadvantage under which the American producer labors by reason of the competition from Canadians who are able to transport their products at a lower price than Americans.

Mr. COPELAND. Mr. President——

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

Mr. WALSH of Montana. I yield.

Mr. COPELAND. I think the Senator puts his finger on the sore point when he talks about the matter of transportation. As pointed out by my colleague [Mr. WAGNER], there has been an increased exportation from Canada; and, as the Senator has said, the reason for it is because of the tremendous increase in the production of wheat in Canada.

Twenty years ago in Canada they had under cultivation 8,000,000 acres of wheat. Now they have 25,000,000 acres; and where our number of acres under cultivation in wheat 20 years ago was 45,000,000 it is only 50,000,000 to-day. We have had practically no increase in acreage in America, while they have trebled their acreage in Canada. Why? Because the nationally owned railroads of Canada have that arrangement pinned to the contract. It can not be changed. The arrangement is there that this low rate will be made; and consequently, as I view it and I have said it before, and I say it with regret, I do not think the wheat farmer of America has a chance in the future, because in Canada they have in reserve tens of millions of acres of the very best wheat land in the world. With this low rate upon the railroads, with a loss of $60,000,000 made up out of the national treasury a year or two ago, nevertheless the Canadian wheat farmer gets the benefit of it.

So, as I view it, there is not any sort of change that can be made through legislation which will put the wheat farmer of the United States on a plane of equality with the Canadian wheat farmer.

Mr. WALSH of Montana. I might be quite willing to agree with the Senator; but I am trying to do a little to reduce the discrepancy between the situation in which the American farmer finds himself and that of the Canadian farmer.

Mr. COPELAND. But, as I see it, if the Senator will bear with me, he is proposing a plan which will destroy the mills of my State without benefiting the high-protein wheat farmer of Montana

Mr. WALSH of Montana. I will agree with half of what the Senator says.

Mr. NORRIS. Mr. President——

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

Mr. WALSH of Montana. I yield to the Senator.

Mr. NORRIS. I think the Senator from Montana and the Senator from New York both have been mistaken in one statement they have made, or, at least, that the Senator from Montana has made—that the Government of Canada has been contributing in any recent years to the deficit of the Government-owned roads on account of losses sustained in the operation of the railroads. It is not true, as I understand it, that the Canadian Government-owned road, since the Government has taken it, has not made operating expenses, something it did not make before the Government took it over. The profit has been increasing, as I understand it, every year since the Government has taken it over.

Mr. WALSH of Montana. The fact is that quite a good many years ago, when some concessions were made to the Canadian Pacific Railroad Co., they were obliged to enter into a contract with the Canadian Government limiting the prices charged for the transportation of grains, and consequently their rates have been continuously lower than the American rate, and the competing railroad, the Canadian National, of course is obliged to meet the rates of the Canadian Pacific.

Mr. NORRIS. That is what I was going to call to the attention of the Senator. The rates made by the government-owned road are met by the privately owned road; so that the rates on farm products over the two systems, which control practically all the roads of the Dominion of Canada, are just the same.

Mr. WALSH of Montana. It was my understanding that the situation was reversed, that the Canadian Pacific is limited in the rates it can charge, and, of course, the National road is obliged to meet the rates of the Canadian Pacific.

Mr. NORRIS. Whichever way it is, there is one road that is privately owned and one owned by the Government.

Mr. WALSH of Montana. Yes.

Mr. NORRIS. And the rates are just the same.

Mr. WALSH of Montana. Exactly.

Mr. NORRIS. They are both making money right now, and have been for several years.

Mr. WALSH of Montana. The Canadian Pacific is one of the best railroad stocks on the market.

Mr. NORRIS. Yes; the truth is that as to the other railroads, as with some of our railroads, particularly the transcontinental lines, there was a great deal of fraud and a great deal of dishonesty and a great deal of chicanery in the management and manipulation of the railroads; the Government over there, like the Government over here, supplied a good deal of the money, private people also supplying money and getting the first mortgage and the Government the second, and over there the Government, in order to save anything out of the wreck, took over a lot of the roads and combined them into one great system, took them over, I think it is conceded by everybody, at fabulous prices, and much more than they were worth, had to, in fact, because of the private interests having prior mortgages over them.

Mr. COPELAND. Mr. President, will the Senator yield for just one word?

Mr. WALSH of Montana. I yield.

Mr. COPELAND. As the Senator from Nebraska knows, I am not disturbed at all by the question of Government operation, but in fairness to the present discussion it should be known that in 1925—I have the figures for no later year—the deficit in the operation of these Government railroads in Canada amounted to $63,630,127. Of course, had that amount been charged against the shippers, the American wheat farmer would not be in such distress now, because of Canadian competition.

The Canadian would not have that very favorable rate he has now, creating a tremendous burden to the American wheat grower.

Mr. WALSH of Montana. Mr. President, I merely desire to say in conclusion that I used the illustration of the Seattle mills merely for the purpose of pointing my argument. Of course, I should regret if they were obliged to operate under any adverse conditions. One of the largest mills there is owned and operated by people who formerly lived in Montana and still have interests there. They are personal friends of mine. But, as I said, this is a controversy between the producer on the one hand and the miller on the other, and as this session of Congress was called for the purpose of granting relief to the farmer, I sincerely trust that this amendment will be adopted.

Mr. COPELAND. Mr. President, I have no desire to speak at any length on this subject, but I do want to add one or two words.

If I saw in this amendment a means of materially increasing the sales of American wheat and reducing the exportable surplus of American wheat, I should be for it; but I do not see that. There is a demand abroad for a high-protein flour, because every bushel of high-protein flour will make about 10 loaves more bread than the soft wheat flour. The bakers abroad know that, and they are bound to have flour made from the high-protein wheat.

If the Buffalo millers are compelled to pay 42 cents duty on every bushel of high-protein wheat taken into the United States, of course those mills can not compete with the Canadian mills, and one of two things will happen: Either the Canadians will mill this high-protein wheat, in which event we will lose the 30 per cent of American wheat which we add to this flour in its making, or else this high-protein wheat will be exported from Canada directly to foreign countries where there is a demand for it. So I can not see how there is any possibility of benefit to the American farmer by this proposed amendment, and I do know that we would destroy the operations of great mills in this country now employing American labor at high wages, with high standards of living. Therefore, Mr. President, I am compelled to vote against the amendment proposed by the Senator from Montana.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

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

The VICE PRESIDENT. Eighty-seven Senators have answered to their names. There is a quorum present.

Mr. DILL. Mr. President, I do not intend to take any considerable time to discuss this subject. I want only to call attention to the situation as I see it, even taking the statements made by the Senator from Montana as he made them.

In the first place, there is a shortage of the high-protein wheat in the United States; there is not enough for our own needs.

In the second place, the wheat coming in here in bond is mixed with our low-grade wheat, and to that extent it carries out a certain amount of low-grade surplus, which I believe, if the milling-in-bond provision is abandoned, will not be carried out. Thirty per cent of the high-grade wheat that is milled in bond here is mixed with low-grade wheat.

In the third place, if the purpose of the Senator from Montana is accomplished—namely, to raise the price of high-protein American wheat—the moment the American miller must pay more for American wheat he loses his ability to compete in the foreign markets, and the net result of the amendment would be that we would not help the American farmer, but we would transfer the milling of 4,000,000 barrels of wheat from the American to the Canadian side of the line.

That is a brief, but I believe an absolutely correct, statement of the situation, and I can not see why Congress should want to take away from the American millers the employment of men, money, and transportation facilities which now come from milling these 4,000,000 barrels of wheat in bond, when in the end the farmer will not have any benefit.

Mr. REED. The Senator spoke about the milling of 4,000,000 barrels of wheat. I think he misspoke himself. It is 20,000,000 barrels of wheat to 4,000,000 barrels of flour—bushels, I mean.

Mr. DILL. Yes.

Mr. REED. Mr. President, in my effort to correct the Senator I fell into the same error. I should have said the milling of about 20,000,000 bushels of wheat used for the production of about 4,000,000 barrels of flour.

In my own State of Pennsylvania no hard wheat is grown to any appreciable extent and there is no milling in bond. The people of the State that I represent, as far as I know, have no interest in either side of this controversy. However, we gave great attention to it in the Finance Committee and our conclusion after hearing both sides of the case was that the effect of a prohibition of milling-in-bond would be, first, to deprive of a market the American growers of a certain amount of soft wheat or low-protein wheat which could be mixed with the hard wheat.

The next effect would be to compel the Buffalo millers and the millers in Seattle to establish their industries on the other side of the Canadian line. The upshot of it would be not to increase the market for American hard wheat but to transfer the industry of milling it from the United States to Canada. We thought that as it meant nothing but injury to American interests there was no justification for changing the present practice of milling in bond.

Mr. FESS. Mr. President——

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

Mr. REED. I yield.

Mr. FESS. The principle that is involved here has been in practice for many years, has it not?

Mr. REED. It has.

Mr. FESS. And it extends to many other items than agriculture?

Mr. REED. Yes; it extends to nonferrous metals and a great many other things.

Mr. WALSH of Montana. Mr. President, I rise now to correct a misapprehension which might obtain in the minds of some with respect to the loss of the market for so much of the American soft wheat as is commingled with the high-grade protein wheat going into export trade. There is no such loss there at all. The high-grade flour consists of perhaps 20 to 30 per cent of high-grade wheat and the remainder of soft wheat. The production of the high-grade flour that goes into export trade does as a matter of fact afford a market for so much American soft wheat. But if the result obtains that is indicated, that these mills will not any longer produce in the United States but the milling business will be all transferred to Canada, then the soft wheat that would otherwise go into that flour will, of course, have to be exported.

It will be consumed either by the American mill or it will go into export. Inasmuch as that character of wheat commands only the export price anyway, which is all regulated at Liverpool, being the price less cost of transportation from the American initial point to Liverpool, it is a matter of no consequence to the American producer of soft wheat whether that wheat goes into the production of export flour or whether it is exported as wheat or as soft-wheat flour. There is no loss to him at all. His wheat finds a market either here or abroad, and finds it exactly at the same price, whether manufactured in this country or exported.

Mr. FRAZIER. Mr. President, the milling-in-bond question is a very vital one to the farmers who produce the same grade of wheat that is shipped in from Canada in bond and milled. It has been said that there is a shortage of the hard spring wheat of the high-protein quality such as is shipped in from Canada. That is very true. But in the face of the fact that there is a shortage, in the face of the fact that we do not export a single bushel of our hard spring wheat that we produce out in the central northern States, and in the face of the fact that we have a 42-cent tariff; yet the tariff is ineffective.

The reason is that the Canadian wheat, the same grade of wheat that we produce in the central northern States and the only kind that is imported into the United States, is brought in here, milled in bond, mixed with our soft winter wheat, and is supposed to be shipped out. In that way it comes in direct competition with the hard spring and winter wheat produced in the United States. The fact that we have no surplus of

hard spring and winter wheat, if the tariff were effective at all, would make it ineffective on that kind of wheat. It is not effective.

For instance, at the present time the price at Winnipeg, Canada, is a little higher than it is for the same grade of wheat at Minneapolis. There is a lower freight rate in Canada that gives them a little advantage. The freight rate in Canada is about 60 per cent of the freight rate on the same grade of wheat in the United States, generally speaking. It gives them a bit of an advantage. It gives the Buffalo mills especially an advantage. They do practically all of the milling in bond in the mills at Buffalo.

If the Canadian wheat is not allowed to come in here in bond, it would seem that the same grade of wheat produced in North Dakota, Montana, South Dakota, Minnesota, and Idaho would command a higher premium. Under the Government grain grading act we do not get the price for our hard spring wheat that we are entitled to in comparison with the amount and the quality of flour that is made from it as compared with the so-called hard winter wheat. But we are paid a little premium ordinarily. This fall the premium has gone down to nothing. Ordinarily on a wheat that contains a protein quantity of 12 or 13 per cent, the premium runs about 20 cents a bushel, and sometimes as high as 40 cents a bushel for a higher protein content. If the Canadian wheat were not brought in and milled in bond, there would be a greater demand for the hard spring and winter wheat that we grow in North Dakota and the other States I have mentioned.

In order to make a first-class grade of flour they have to have, to mix with the soft winter wheat, some of the hard wheat we produce in North Dakota, Minnesota, Montana, and the other States mentioned, and the kind that is produced in Canada. That is why the millers at Buffalo and in the State of Washington who mill this wheat are so anxious to have the milling-in-bond provision retained.

There is no question that the very fact that we have a shortage of our hard winter wheat would make a premium that would be worth while to those farmers—yes; a 42-cent premium, the amount of the tariff—if it were not for the milling-in-bond privilege.

Mr. DILL. Mr. President——

The VICE PRESIDENT. Does the Senator from North Dakota yield to the Senator from Washington?

Mr. FRAZIER. I yield.

Mr. DILL. The Senator realizes, however, that the moment the American miller must pay the increased price concerning which he is now talking, the price of his flour is so high that he can not compete with the Canadian-produced flour, and therefore the price is ineffective.

Mr. FRAZIER. As the Senator from Montana [Mr. WALSH] said, I am speaking in the interest of the farmer who grows the hard wheat and not for the miller.

Mr. DILL. But the millers could not ship out the wheat and would no longer have any use for it.

Mr. FRAZIER. Our hard spring and winter wheat flour we consume at home.

Mr. DILL. But none of the hard wheat that comes from Canada in bond is consumed here.

Mr. FRAZIER. I am not so sure about that. I will come to that in a moment. There is no question in my opinion that no man can go to one of the big mills that is bonded, if you please, and can trace that Canadian wheat from the time it comes in there in bond and is unloaded out of the car into the mill, to the time it comes out as flour to be exported. That is another reason why we are opposed to the milling-in-bond privilege.

Mr. DILL. The Senator's argument now is against enforcement of the milling-in-bond provision.

Mr. FRAZIER. I say it is impossible to enforce it.

Mr. DILL. I disagree with the Senator on that proposition.

Mr. FRAZIER. When we were discussing a similar provision in the bill the other day, the Senator from Montana [Mr. WALSH] made the statement that in the case of the freight rate on wheat from his State of Montana going west, it was proven in some cases that the wheat had not been exported, but had taken advantage of the lower freight rate to the Pacific coast and then gone into home consumption. I am not so sure but what that is the case in the milling-in-bond proposition.

Mr. COPELAND. Mr. President——

The VICE PRESIDENT. Does the Senator from North Dakota yield to the Senator from New York?

Mr. FRAZIER. I am glad to yield.

Mr. COPELAND. The Senator spoke about the premium which the farmers of the Northwest would receive on their high-protein wheat if the amendment prevailed. Of course, there would not be any such premium unless there came an increased demand for the wheat.

Mr. FRAZIER. Oh, no; we have the demand and there would be a great deal more demand if it were not for the Canadian wheat brought in and mixed with the soft wheat.

Mr. COPELAND. Will the Senator show how there would be a greater demand?

Mr. FRAZIER. Because they have to have the high-protein wheat in order to mix with the winter wheat to make a good grade of flour.

Mr. COPELAND. That is all true; but how could they compete with wheat brought in to a point opposite Buffalo over on the other side of the Canadian line at a price 18 or 20 cents less than it could come to Buffalo from the State so ably represented by the Senator?

Mr. FRAZIER. If the Buffalo mills were paying the 42 cents duty on wheat coming from Canada, it would mean that the farmers in North Dakota, South Dakota, Montana, and Idaho would get a premium of 42 cents for their wheat.

Mr. COPELAND. The Senator is entirely right, if the Buffalo mills should continue to make that kind of flour; but they insist they could not sell the flour because of the high price they would have to charge and that because of the increased cost of production they could not make it. I am convinced that it is utterly futile to assume that the mills are going to continue to buy high-protein wheat regardless of its price. They will not, because the Canadians could ship their wheat directly abroad to the mills there or they could mill it and sell it at a price 20 cents below anything the American millers could sell for. So it is not reasonable, if the Senator will permit me, to argue as he does. The argument does not hold that to adopt the amendment would insure the farmers of the Northwest increased sales for their wheat.

Mr. FRAZIER. In view of the fact that there is an assured market for the hard spring and winter wheat, that we must have it to make the quality of flour the American consumer is bound to have, I think the Senator is in error. The American consumer is bound to have that quality of flour. There is no question about it. They will not eat the other flour made from soft wheat. The genial doctor from New York would not eat it himself.

Mr. COPELAND. I am not talking about the American consumer. I am talking about wheat which is to be exported as wheat or flour. That is what we are discussing.

Mr. FRAZIER. I am not talking about the export trade. I am not so much interested in that as I am in the farmers who produce this kind of wheat in North Dakota and adjoining States. If the Buffalo mills have to buy some of the Canadian wheat and pay 42 cents duty on it in order to supply the home demand for that kind of flour, it is going to mean an increased premium on our wheat of the same kind up in North Dakota. There is no doubt about it in my mind, and I do not think there is in the mind of anyone who knows the conditions.

Mr. WAGNER. Mr. President——

The VICE PRESIDENT. Does the Senator from North Dakota yield to the junior Senator from New York?

Mr. FRAZIER. I am glad to yield.

Mr. WAGNER. I want to call attention to this fact to show that it is not a milling-in-bond proposition alone. In 1919 and 1921 wheat was on the free list and there was no milling in bond, of course. In 1919 and 1921 our foreign trade was reduced from 26,000,000 to 16,000,000 barrels a year.

Mr. FRAZIER. Mr. President, there are a number of things that enter into that situation. Before the time of which the Senator speaks they did not have the big mills at Buffalo either; they were satisfied to mill in the West, where the wheat is grown, and they milled it there; but after the milling-in-bond provision went into effect the millers went to Buffalo because they could make more money milling wheat at Buffalo. The same millers who owned mills in North Dakota, Minnesota, and even in the South, in Texas, and in Kansas, and in fact, all over the country, now own mills in Buffalo, because they can make more money milling wheat in bond there than they could where they were formerly located.

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

The VICE PRESIDENT. Does the Senator from North Dakota yield further to the Senator from New York?

Mr. FRAZIER. Yes.

Mr. WAGNER. I should like to call the Senator's attention to the fact that between 1921 and 1928 our export trade, although the practice of milling flour in bond was being carried on, was reduced from 16,000,000 to 11,000,000 barrels a year, and the markets which we lost were captured by Canada, because during that same period the Canadian export trade of flour increased from 6,000,000 barrels a year to 11,000,000 barrels a year in the markets which we had previously had.

Mr. FRAZIER. Mr. President, as has been explained, of course, the wheat acreage in Canada has been increasing very

materially during the last few years, and the milling interests in Canada have also been developing. They are putting up more mills there; they are grinding more of their own wheat, and exporting more flour, and, of course, in that way it comes into direct competition with our wheat.

I am not trying to argue, Mr. President, that the 4,000,000 barrels of flour which are milled here in bond and exported are not an advantage to the miller, but I will state that milling in bond is a detriment to the hard spring wheat producers of the Northwestern States, and that if the tariff is to be effective on wheat the only way in which it can be made effective is to eliminate milling in bond entirely. So long as wheat may be brought in here and milled in bond, in my estimation, what happens is this: They substitute other flour for the high-grade flour, and ship it abroad; the high-grade flour is sold right here for home consumption, and comes in direct competition with the flour made from wheat that we grow in my section of the United States.

Mr. DILL. Mr. President——

The VICE PRESIDENT. Does the Senator from North Dakota yield to the Senator from Washington?

Mr. FRAZIER. Yes.

Mr. DILL. The Senator has repeatedly stated that in his estimation such a thing happens. Has the Senator any evidence that that sort of thing has happened?

Mr. FRAZIER. Oh, there are some things as to which it is pretty hard to get any evidence.

Mr. DILL. It would seem to me, if what the Senator says is going on, there ought to be evidence somewhere or other as to the fact.

Mr. FRAZIER. I do not know what attempt has ever been made to secure any evidence. I talked with one of the head men of the department which has charge of this matter. He said that they had some good men at Buffalo, he thought. He further said, "I was there myself a short time ago and spent an hour or two in one of the big bonded mills." He said that it looked very good. I asked him, "Would you be willing to swear that the flour that was going out from that mill was the same flour that was made of the Canadian wheat?" He replied, "It looked all right, but it would take somebody smarter than I am to follow that wheat through the mill."

Mr. COPELAND. Mr. President——

The VICE PRESIDENT. Does the Senator from North Dakota yield to the Senator from New York?

Mr. FRAZIER. I yield.

Mr. COPELAND. There is not any difficulty about checking up on the amount of Canadian wheat brought in, is there?

Mr. FRAZIER. No, and there is no question about checking the amount of flour shipped out, either.

Mr. COPELAND. Very well. The total amount of Canadian wheat brought in is 20,000,000 bushels or about that, is it not?

Mr. FRAZIER. It is something like that; a little less than that, I think.

Mr. COPELAND. Part of it would go abroad, even if they are cheating, would it not?

Mr. FRAZIER. Yes; a part of it would.

Mr. COPELAND. Then, as a matter of fact, if they are a lot of crooks—and I deny that they are, as far as the millers in my State are concerned, because I happen to know they are honorable men——

Mr. FRAZIER. The men in the Senator's State who are in the milling business came from the Northwest.

Mr. COPELAND. Even though they came originally from the Northwest, I suppose they are honest now, because their fundamentals were good, having been laid in that section. But suppose they are "cheaters," what does that mean so far as the farmers of the Senator's section are concerned?

Mr. FRAZIER. It means that 20,000,000 bushels of wheat brought in here from Canada come in direct competition with our wheat; that is what it means.

Mr. COPELAND. Suppose they are selling 10,000,000 bushels of domestic wheat, does that rob the farmers of the Northwest of that much?

Mr. FRAZIER. It robs us of 42 cents a bushel on the whole crop which we raise up there.

Mr. COPELAND. Will that solve the farm problem? If it will, I will vote with the Senator.

Mr. FRAZIER. It would help to solve it. If the hard spring wheat producers, for instance, in North Dakota, who sell ordinarily about 100,000,000 bushels of hard spring wheat annually, could have the 42 cents duty made effective on it, it would make $42,000,000 a year on that wheat, which would be of some advantage to these farmers.

Mr. COPELAND. If the millers are cheating to the extent of 10,000,000 bushels, 42 cents would make about $4,000,000——

Mr. FRAZIER. That would help some.

Mr. COPELAND. Let me see; we appropriated $500,000,000, did we not, to relieve the farmer? What is $4,000,000 in comparison? Of course, I have not found that that vast sum has afforded relief except to relieve him from whatever prosperity he had left. I regret to say I can see no hope in the present administration of the Farm Board of having any other kind of relief than the miserable sort the farmer has been getting for the last five years.

Mr. FRAZIER. Mr. President, there has been a great deal said, especially among the advocates of the high protective tariff, to the effect that the tariff on agricultural products should be made effective. There is not a Member of this body who will try to argue that the tariff on wheat is now effective. It is stated that we have an export surplus of wheat and that it is impossible to make the tariff effective; but the only wheat that comes in the United States is that which comes from Canada; that is, of the high-protein quality, and of that we have no surplus, but we have a shortage. Still the tariff is not effective on that kind of wheat. My contention is that if milling in bond shall be done away with and the Buffalo mills and other mills shall be compelled to pay the 42 cents tariff on the wheat which they buy, it will cause the price of the same quality of wheat produced in the United States to rise practically the 42 cents. Of course, a difference in freight rates enters into the question; and that, of course, would make a little bit of difference along the border, perhaps; but it will practically make the tariff effective; and if that is what the special session was called for, especially the tariff end of it, namely, to make the tariff effective on farm products, this is one means, Mr. President, whereby the tariff can be made effective in the case of hard spring wheat by eliminating this milling-in-bond provision.

The Senator from New York is very solicitous for the honor of the gentlemen who own the big mills in Buffalo. They are very fine gentlemen, because most of them came from Minneapolis. Minneapolis, of course, used to be the big milling center until the millers moved to Buffalo. They moved to Buffalo because, I suppose, they could get a little cheaper power there, and perhaps some other considerations entered into the change; but the opportunity of securing Canadian wheat and the milling-in-bond privilege were undoubtedly the potent influences in causing the transfer.

We in the Northwest have had considerable experience with those millers, to whom we sold wheat for years and years—in fact, from the time when that section of the country was settled and began to raise wheat. In the early days, when I was only a youngster, they had what they called the Farmers' Alliance, the members of which wanted to get a better price for their wheat, and through their organization they thought they could get a better price for wheat. They had some farmers' elevators, which helped a little bit along the line of securing a little better price by cutting out commissions, and so forth, by getting somewhat better grades, and by not being robbed on the grades and on the dockage, as they had been in many instances in the past. Then some of them conceived the idea that if they could only ship their wheat directly to the mills in Minneapolis they would get a still better price than if it were sold to the regular commission companies. So they sent a committee to wait on the millers at Minneapolis to see if they could not make an arrangement to ship their hard spring wheat and sell it directly to the millers and cut out the commissions, the handling charges, and other expenses that enter into the marketing of our wheat. The committee waited on some big millers there and explained that they should like to ship their No. 1 hard wheat, as we called it at that time, direct to the mills from the farm. The millers made some excuses; they said they handled so many thousand carloads a year and they could not bother with "monkeying" with just a single car once in a while from a farmer; that it would not pay them. The committee told the millers they were prepared to ship almost any amount of wheat which the millers might want, because they were getting organized; they represented the organization and they could ship as much as the millers might want of that high-protein wheat. We did not use the word "protein" then; nothing was known about it, although, of course, protein was in the wheat, but we did not get any premium for it, although we did get a little better price for No. 1 hard wheat. The millers did not know what to say, but they backed around and finally said, "Oh, but that wheat might be mortgaged by the farmers," and they would not know as to that; it would not be safe for them to handle it in that way; they would rather buy their wheat through the regular channels from regular commission companies. So the farmer was turned down

by those eminent business men who operated the mills of Minneapolis and now operate them in Buffalo.

They are the kind of men who have always made an exorbitant profit out of the farmer's wheat; and, Mr. President, it does not hurt my feelings in the least to hear anyone call those fellows thieves or crooks or robbers, because they have robbed the farmers on the price of their wheat ever since I have been old enough to know anything about the situation; and they are still doing it.

Under the United States grain standards act, as we have it at the present time, wheat is graded in the interest of the millers instead of the interest of the farmers; there is no question about that; and anyone who is honest about the matter, and knows the farmer's end of it, will admit that to be a fact. The Department of Agriculture, which has authority to enforce the United States grain standards act, has the right under the law to change the grades; in other words, after giving notice of a certain length of time and then holding a hearing it can so administer the law as to give the farmer instead of the miller the benefit of it; but it has not been done in all these years, and the farmer is being robbed this fall worse than he has in my memory on the price of his wheat.

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

Mr. FRAZIER. I am glad to yield to the Senator from New York.

Mr. COPELAND. Why does not the Senator use his influence with the Republican Party to get this law corrected? I am happy to say that there are a number of Senators on this side of the Chamber who take exactly the same view as the Senator from North Dakota, but we have no influence. The Senator, however, is an influential member of the Republican Party. Why does he not get this law amended? It is an outrageous law.

Mr. FRAZIER. Yes; I think it is.

Mr. COPELAND. It is sending out of this country for export through Montreal and other Canadian ports about 50,000,000 bushels of American wheat. That is what is happening. If the Senator will get busy on that proposition, he will be able to do something for the United States of America; but I think he is entirely wrong about this other matter.

Mr. FRAZIER. It is not only sending a lot of our wheat across to Canadian markets to export but it is cutting down our export market here at home and putting our wheat on a lower level, at least, than the Canadian wheat because of those grades. The people who buy wheat over in the European countries know what the Canadian grades are. They know exactly what they are going to get. Under our United States grades they do not know what they are going to get, and I do not blame them at all. Under our grading system it is an impossibility for them to know what they are going to get; and so they buy Canadian wheat on the Canadian grades instead of buying ours. That is one reason why our export of wheat has decreased in the last few years.

Mr. COPELAND. Mr. President——

The VICE PRESIDENT. Does the Senator from North Dakota further yield to the Senator from New York?

Mr. FRAZIER. Yes.

Mr. COPELAND. I hope the Senator will go ahead with that matter, and help to bring about a change.

Mr. FRAZIER. I am going ahead with it.

Mr. COPELAND. The Senator can use his great influence and his ability there to the advantage of the country; and, if he will permit me to say so, I think it will be more profitable than in this matter.

Mr. FRAZIER. We are just making a start, as much as we can, on this law. We are starting out to help the farmers a little. This will help to the amount of some 20,000,000 bushels a year, the amount of Canadian wheat that comes in here in competition with our wheat, and undoubtedly will have the effect of forcing the 42-cent tariff to be effective on any wheat that is brought in here.

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

The VICE PRESIDENT. Does the Senator from North Dakota further yield to the Senator from New York?

Mr. FRAZIER. Yes; I am glad to yield.

Mr. COPELAND. I am really surprised that the Senator is now here pleading for changes in a bill for which he is largely responsible. I am surprised that a man who takes his view should have done all he could to elect the present administration.

Mr. FRAZIER. I object to a statement of that kind, because I am not responsible for it.

I neglected to answer a part of the Senator's question before as to why I did not get the Republicans to do something. The Senator undoubtedly knows that some of us on this side of the Chamber have been put in a little lower scale, if possible, than those in power here put the Members on the Democratic side, although we have been elected as Republicans. I have always been elected as a Republican. I have never run on any other ticket than the Republican ticket; but because I have tried to work for the interest of the farmer, and have tried to get legislation for the benefit of the farmer, and have not been willing to be told how to vote, or to vote a certain way, because the administration wanted us to vote that way, I have been on the blacklist a lot of the time, as the Senator knows.

Mr. COPELAND. If the Senator will yield——

The VICE PRESIDENT. Does the Senator from North Dakota further yield to the Senator from New York?

Mr. FRAZIER. Yes; I am glad to yield.

Mr. COPELAND. Mr. Hoover could not have been elected except for the very cordial support that you gentlemen gave him; and then he shaped up the kind of a bill you wanted, I assume. This special session was called to help the farmer, and the Senator always speaks for the farmer; so I take it that this bill suits him rather well.

Mr. FRAZIER. Oh, no; the Senator will remember that when the farm bill was under discussion it was the so-called progressive group on this side that offered the amendment, and voted for it and finally got it passed, to incorporate in the bill the debenture plan, which was not approved by the administration.

Mr. COPELAND. The Senator will not forget, will he, that as far as I am concerned I voted for it?

Mr. FRAZIER. We were very glad to have the Senator's vote, and he generally votes with us.

Mr. COPELAND. I am trying the best I can to support the Senator in all of his plans for the benefit of the farmer. What I am asking him is, Why does he not get the Republican Party to do something for the farmer? I can see no evidence that they are very keen to do anything for the farmer.

Mr. FRAZIER. I have been trying for a long time, and have not succeeded thus far, and am now trying, to get the Democrats to go with us and help us a little bit; and even the senior Senator from New York, who is always so willing to vote in the interest of the farmer, is apparently going back on us now.

Mr. COPELAND and Mr. WAGNER addressed the Chair.

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

Mr. FRAZIER. I yield first to the senior Senator from New York.

Mr. COPELAND. Did I understand the Senator to say that the senior Senator from New York was going back on the farmer? I did not quite understand what the Senator said.

Mr. FRAZIER. I said that the Senator apparently now is going back on what we are trying to do to help the farmer.

Mr. COPELAND. I am not aware of how I am going back on the farmer. If the Senator means that the pending amendment is going to help the farmer, I am here to say that in my opinion it will not help him one single penny's worth.

Mr. FRAZIER. And I have been trying to convince the Senator that it will, and show him how. If the Senator from New York will just lose sight for a minute of those Buffalo millers up there he can readily see how this amendment of the Senator from Montana [Mr. WALSH] will help the farmers who produce the hard spring wheat that has this high-protein content.

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

The VICE PRESIDENT. Does the Senator from North Dakota yield to the Senator from New York?

Mr. FRAZIER. Yes.

Mr. WAGNER. The Senator from New York [Mr. COPELAND] wanted to know why it was that the Republicans are not helping the farmer. I desire to suggest that past experience has encouraged them in their nonaction, and that all they have to do to gull the farmers is to make them promises each four years and the votes will go to the Republican Party.

Mr. FRAZIER. Of course we have had Democratic administrations, as the Senator knows, and the farmers did not get any more help than they have gotten under Republican administrations; and in the Democratic platforms they have always pledged themselves in recent campaigns to benefit agriculture, to put agriculture on a parity with business interests, and so have the Republican Party in their platforms pledged the same thing; but it has not worked out thus far.

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

The VICE PRESIDENT. Does the Senator from North Dakota further yield to the Senator from New York?

Mr. FRAZIER. Yes.

Mr. COPELAND. How have they voted after they got here? Have not the farmers had from the Democratic side a very much larger proportion of support than the farmers have had from the Republican side?

Let us be fair about this. I think the Senator will find that on these measures which have been pending there has been a larger proportion of Democratic votes for the measures than the Republicans have produced.

Mr. BROOKHART. Mr. President——

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

Mr. FRAZIER. Yes; I yield.

Mr. BROOKHART. On that proposition, it has always seemed to me that when we got about ready to win something, enough Democrats slipped away so that we lost.

Mr. FRAZIER. I am not so sure about the percentages, but I think without any question the majority of the Democratic Members of this body come from what might be termed agricultural States; and by all odds they should represent the farmers of their States, and other farmers throughout the Nation.

Mr. COPELAND. Mr. President——

The VICE PRESIDENT. Does the Senator from North Dakota further yield to the Senator from New York?

Mr. FRAZIER. I do.

Mr. COPELAND. Have they represented the farmer?

Mr. FRAZIER. In a lot of instances, yes. Many of you have, most of the time.

Mr. COPELAND. The great majority?

Mr. FRAZIER. I am sorry to see some of you trying to break away on this amendment, which will undoubtedly benefit the farmer.

Mr. COPELAND. If it had not been for the veto by a Republican President of measures helpful to the farmer, there might have been some relief by reason of the activity of the Democrats; but because a Republican President has seen fit to veto bills which were promising, the farmer is in his present plight; but he continues to vote the Republican ticket, which the Senator did who is speaking now.

Mr. FRAZIER. That is a matter of opinion. I never have known any particular benefit to come to the farmer from the New York and Wall Street interests; and that was a large reason why I voted the Republican ticket in the last campaign.

Mr. NORBECK. Mr. President——

The VICE PRESIDENT. Does the Senator from North Dakota yield to the Senator from South Dakota?

Mr. FRAZIER. I do.

Mr. NORBECK. We all recognize that the Senator from New York [Mr. COPELAND] has on many occasions been helpful to the farmer——

Mr. FRAZIER. He certainly has.

Mr. NORBECK. But I think he is forgetful of the fact that when the big fight was made here for an equalization fee, his candidate for President announced that in his opinion the Democratic tariff principles did not permit such a thing as an equalization fee. In other words, he threw it down the first crack, and it left us nowhere to go.

Mr. COPELAND. That is as good an excuse as can be offered, but it is really an excuse.

Mr. FRAZIER. I think the statement of the Senator from South Dakota is very correct.

Mr. President, it is argued, too, that if we make the tariff on wheat effective—and, of course, otherwise there is no use of having a tariff there; it is a joke as it is at the present time—if we make it effective, and give the farmer anything like 42 cents a bushel on the hard spring wheat more than he is getting now, it will raise the cost of living to the dear people. Mr. President, the price of wheat may go up a lot more than 42 cents a bushel and not raise the price of bread to the consumer at all. That has been proven in the past. When wheat has been more than 42 cents a bushel higher than the present price the price of flour has remained at the same figure; or, rather, the price of bread has remained at the same price that it is now, even though the price of flour generally goes up a little.

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

The VICE PRESIDENT. Does the Senator from North Dakota further yield to the Senator from New York?

Mr. FRAZIER. I do.

Mr. COPELAND. I want to say, speaking now for a consuming public, that everybody in my State, so far as I know, realizes that there can be no prosperity in the State of New York unless there is prosperity on the farm.

Mr. FRAZIER. They should recognize it.

Mr. COPELAND. Unless the farmers can buy, we can not sell. We have in New York State the greatest manufacturing State, and in New York City the greatest manufacturing city. We can not sell our products unless the farmer can buy. The Senator need not plead that because of the increased tariff the price of bread may be somewhat increased. We recognize that. You can not have a tariff upon wheat without increasing the price of bread, or the price of any product. It is sure to come. But the American Federation of Labor, and so far as I know even those people living down in the so-called slums of New York, recognize that there must be prosperity upon the farm to relieve our distress; and so far as that is concerned the Senator need not plead for a moment. But when he says that the tariff upon wheat or the tariff upon anything else will not increase its price that is mere sophistry, as I see it, because, in the very nature of things, it must increase the price to the consumer.

Mr. FRAZIER. Of course, if the 42-cent tariff were effective, the bakers might use that as an excuse for putting up the price of bread; but I made the statement that when wheat was more than 42 cents higher than the present price the bakers did not raise the price of bread. It sold for 9 cents a pound loaf then, and it still sells for 9 cents a pound loaf; and it would sell for that even if wheat were lower.

Mr. NORBECK. And when it was much lower they did not reduce the price of bread.

Mr. FRAZIER. Oh, no; when it was 42 cents lower than the present price they did not reduce the price of bread.

Mr. President, there is no question but that there is too wide a spread between the price the farmer gets for his product and the price the consumer pays for the finished product; but that does not enter into this discussion. What I am interested in, however, is in seeing the farmer who produces hard spring wheat of high-protein quality get the premium for it that he is entitled to as compared with the same milling value and bread-making value of the so-called soft winter wheat. In order to get that premium, in my estimation, we shall have to cut out this milling-in-bond provision. The amendment of the Senator from Montana will cut out the milling-in-bond provision; and I trust that anyone who is interested in the welfare of the farmer will vote for this amendment.

Mr. WHEELER. Mr. President, I do not know that I can add anything to what has already been said; but I have been interested in some of the arguments that have been made by the Senators from New York against this provision, and I have also been interested in the statement the Senator from New York has made with reference to the millers in the State of New York all being farmers. Let me point out, however, to the Senator from New York that some one has said that figures do not lie, but liars do figure.

It is a fact that can not be controverted that in the United States to-day we do not produce as much high-protein wheat as we consume. We have a tariff of 42 cents a bushel on high-protein wheat, and to-day the farmers in Montana are shipping high-protein wheat into Canada and paying a 12-cent duty on it—I think it is a 10 or 12 cent duty—and getting more for their wheat than they do in Montana. There is only one conclusion to which you can come from that state of facts, and that is, of course, that they are not getting the benefit of this 42-cent tariff upon wheat; and why not?

Mr. COPELAND. That is, the farmer is not?

Mr. WHEELER. The farmer is not. Why is not the farmer getting the benefit of that 42-cent tariff on wheat? I say to the Senator that those facts can not be controverted. I do not care what the statistics show as to how much wheat is coming in here and how much tariff is being paid; the cold facts are as I have stated them, and they can not be controverted, that the farmer is not getting the benefit of the 42-cent tariff, notwithstanding the fact that he does not produce enough for home consumption.

There can be only one conclusion you can come to, and that is that the Canadian wheat has been coming into the United States so as to break down the price the farmer gets in the United States.

I can readily understand how a Democrat who says, "I believe in free trade," should say, "I do not want to give the farmer the benefit of this 42-cent tariff"——

Mr. WAGNER. Mr. President——

Mr. WHEELER. But I am at a loss to understand how any Republican sitting on the other side who says, "I am in favor of a tariff," or any Democrat who sits on this side of the Chamber and says, "I am in favor of a tariff," can come to any other conclusion than that if we are going to put a tariff upon wheat and say to the wheat farmer in Montana and the other States in the Northwest, "We want you to have this tariff on wheat because it is going to protect you," can fail to do something to see to it that the farmer gets the benefit of the tariff.

I am not in a position to say that the millers are cheating the farmers, but I do say that you can hardly come to any other conclusion under the circumstances as I have set them forth to the Senator.

There is only one way in which to stop it, in my judgment, and that is to shut out this milling in bond altogether. The Senator from New York would say, of course, "But they will

immediately move over to Canada." I do not think that is true at all. It might possibly shut out some of our export trade, but they would, of course, still continue to manufacture the wheat for our home consumption.

This session of Congress, as has been pointed out, was called especially for the relief of agriculture. First, we were to give the farmers a farm bill, and then we were to give them a tariff bill. Now, you give them a tariff, and you do not make it effective. You met a few years ago and gave them a 42-cent tariff on wheat, if you please, and what effect did it have? The price of wheat in the United States immediately went down. You have just been fooling the farmers with reference to a tariff upon wheat.

Just think of it; Mr. McKelvie, who was appointed as the expert wheat man on the Farm Board, the other day came before the committee and said, "A tariff of 42 cents on wheat is a good thing for the farmer." I said, "How is it that you say that a 42-cent tariff on wheat is a good thing, when we produce a surplus of wheat in the United States?" He said it would shut out the surplus that they have in Canada from coming over into the United States. He is the man who has been appointed as the expert on the Farm Board to take care of the wheat interests of the United States.

I say to those on the other side of the aisle that they can not fool the farmers out West any longer by saying to them, first, that a tariff upon wheat is effective, because to-day they all know differently. There is only one grade of wheat on which it could possibly be effective, and that is this high-protein wheat, of which we do not ordinarily produce sufficient for the home consumption.

Yet to-day, under those conditions, the Montana farmers are shipping their wheat by the thousands of bushels, hauling it as far as 150 miles by truck, across the Canadian border, and selling it over there and getting more for it in Canada to-day than they are getting in the United States.

If some of these experts on wheat can explain that situation, I would like to have them do it. The representatives of the millers, and those who are so afraid that the millers of this country will have to go out of business providing we do away with this milling in bond, I would like to have explain to me how it is that we are shipping this high-protein wheat into Canada at the present time from Montana, and getting more for it in Canada than we are getting in the United States.

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

Mr. WHEELER. I will be glad to yield.

Mr. WAGNER. The Senator stated that the protective tariff does not help the wheat farmer. Perhaps it does not as much as one would hope. The only way that the protective tariff can help any domestic industry is in the domestic market.

Mr. WHEELER. Of course.

Mr. WAGNER. You can not, by a tariff law, of course, protect any exporter of commodities produced in this country. Will the Senator tell me whether there is any of the high-protein wheat of Canada that comes into this country in competition with our protein wheat?

Mr. WHEELER. Of course there is.

Mr. WAGNER. Where?

Mr. WHEELER. In Montana. But it does not make any difference whether it comes into the State of Montana or into the city of Buffalo. I just pointed out to the Senator that at the present time we are shipping across the Canadian border high-protein wheat. We are shipping it and sending it into Canada, and the farmers are getting more in Canada than they can get in the United States.

Mr. WAGNER. Mr. President, if that is true, the reason for it is the protective tariff.

Mr. WHEELER. Not at all.

Mr. WAGNER. What I am asking the Senator is, What wheat comes into this country which comes into competition with our high-protein wheat?

Mr. WHEELER. If there were not any high-protein wheat coming into this country to be used by the millers in Buffalo, then they would have to buy and pay for this wheat in Montana. Consequently, the farmers in Montana would be getting the benefit of the tariff, and they are not getting it to-day.

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

Mr. WHEELER. Just wait until I get through with the Senator's colleague.

Mr. WAGNER. The wheat which is imported and which goes to the Buffalo mills is not for the domestic trade at all.

Mr. WHEELER. It does not make any difference whether it is for the domestic trade or what it is for, if wheat comes to an American miller in competition with American wheat, it affects the price of wheat all over this country.

Mr. WAGNER. May I ask the Senator another question?

Mr. WHEELER. Certainly.

Mr. WAGNER. Does the Senator contend that the American miller can use the high-protein wheat at the price which he has to pay in the domestic market, mill that into flour, and export it in competition with the wheat of equal quality in Canada, costing, at the world price, at least 9 to 10 and sometimes 18 cents less than the American wheat? How can he? Let us confine ourselves to figures rather than generalizations. How is competition possible?

Mr. WHEELER. If the Senator were familiar with what the millers of the Northwest have done to the farmers of the Northwest, he would not be so tender about the milling interests of the country. I say without fear of contradiction that if there has ever been a crowd of people who have robbed the farmers of this country, who have robbed them by the grain-grading methods they have had, if there has ever been a crowd of people in this country who have exploited the American farmer, and, at the same time, have not given the producers of the East the benefit of it, it has been the milling interests, whose representatives, I presume, are sitting here in the galleries at this moment watching the vote upon this amendment and upon the bill.

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

Mr. WHEELER. Yes; I am glad to yield.

Mr. WAGNER. The Senator has not answered my question. I do not know whether that is true or not——

Mr. WHEELER. I know it is true.

Mr. WAGNER. But I think we would get along better if, instead of eloquence, we would use logic.

Mr. WHEELER. Very well; let us use some logic. We are called into special session at this very time for the purpose of passing relief legislation for the farmers of the United States. That is what we are here for. That is what the President of the United States called us into special session for, not to protect the millers of the country, not to protect somebody else, but he said to protect the farmers of the country. That is what we were called here for. Now, if you please, gentlemen rise and say, "We must protect the millers." I thought the millers were able to take care of themselves and that it was the farmers who needed protection; that they were the people in whom we were interested.

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

Mr. WHEELER. But it seems to me from this argument that the only people in whom we are interested are the milling interests of the country rather than the farmers of the country.

The PRESIDING OFFICER (Mr. DENEEN in the chair). To whom does the Senator yield?

Mr. WHEELER. I will yield first to the Senator from New York [Mr. WAGNER].

Mr. WAGNER. My question will take only a moment, because it is following up what I have asked before.

I am not interested in protecting anybody. What I want to find out is whether the amendment which is proposed by the senior Senator from Montana [Mr. WALSH] will help the wheat growers of the country.

Mr. WHEELER. There is no doubt about it at all.

Mr. WAGNER. It is easy enough to say there is no doubt about it, but I have offered some figures and asked for an answer.

Mr. WHEELER. I have been trying to answer the Senator for the last 15 minutes.

Mr. WAGNER. The Senator has not said a word about the question.

Mr. WHEELER. I will answer the Senator right now. I say that we do not produce enough wheat in this country for home consumption. There is a 42-cent tariff on wheat. I am speaking of high-protein wheat, of course. If the tariff were effective upon that wheat, as it should be, unless there was something radically wrong the farmers would be getting the benefit of that 42-cent tariff upon wheat. But they are not getting it. Instead of that, the farmers of Montana and the farmers of North Dakota and the farmers all along the Canadian border are hauling this same high-protein wheat, on which we are supposed to be protected by a 42-cent tariff, into Canada and getting more for their high-protein wheat over there than they are getting in the United States. I do not care what the statistics or the figures show.

In my judgment, the trouble is that the millers in Minnesota and the millers in Buffalo are bringing in this high-protein wheat under the guise that they are using it to mix with other wheat, and to ship it out of the country, but instead of that, they are not using it. If that were the only wheat that was coming in here, it would not be possible, in my judgment, for the farmers not to get the benefit of the 42-cent tariff on wheat.

It is an impossibility to trace how much of that wheat goes into this other flour, and how much of it has to be exported, unless you get some man and keep him stationed there every

minute of the time to check up on just exactly how much goes in and how much goes out.

Mr. WAGNER. Mr. President, the Senator said that the American farmer is getting no protection from the tariff. I have to rely upon statistics, however the Senator may complain, because that is getting nearest to the facts.

Mr. WHEELER. It is not getting nearest to the facts.

Mr. WAGNER. I have the figures of the Federal departments.

Mr. WHEELER. I do not care what figures the Senator has from the Federal departments——

Mr. WAGNER. Will not the Senator permit me to finish? It was conceded by the Senator's colleague, in his discussion on the floor, that for the high-protein wheat the farmer of the United States in the domestic market gets at least 9 cents more than the world price of that same wheat.

Mr. WHEELER. The Senator is quoting my colleague to contradict something I have said.

Mr. WAGNER. No; the Senator has not contradicted it; he is ignoring it.

Mr. WHEELER. I am saying to the Senator that the farmer in Montana is not getting the world price for this high-quality wheat. He is not getting 1 cent of advantage on his high-protein wheat by reason of the tariff, and the Senator can quote all the statistics he wants to. There used to be a judge out in my State who said, "It does not make any difference if a witness comes upon the witness stand and tells you that he saw an elephant climbing a telephone pole. You do not need to believe it." That is the trouble with the statistics. The fact remains that they are shipping this wheat into Canada, and they are not getting 1 cent of benefit by reason of the tariff, notwithstanding the statistics of the departments, and all the statistics of the departments.

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

Mr. WHEELER. I will be glad to.

Mr. COPELAND. I do not believe it makes a bit of difference to the farmer whether the tariff is 40 cents or $4.

Mr. WHEELER. They are giving him the benefit of it, provided he does not produce a surplus.

Mr. COPELAND. The Senator a little while ago wanted to know why I thought the situation that exists in Montana does exist. I honor the Senator and I honor his colleague for doing all they can to protect the farmers of that section.

When I discussed the farm bill I said and I repeat now that the only effective thing the Farm Board can do is to provide storage facilities. The reason why the Montana farmer has to ship his wheat to Canada, where he can get a cash market for it, is because there is no place within his reach in the United States to store it and no funds for him to use to tide over until complete sale is made. Until storage facilities are provided, the farmers of Montana and North Dakota are going to have exactly the troubles they have now. In the problem that is before us the amendment suggested by the Senator's colleague will not give the farmer of the Northwest one single penny of benefit, and I am perfectly conscientious in making that statement.

Mr. WHEELER. I have not the slightest doubt but what both of the Senators from New York are perfectly conscientious in the statements they have made. There is not the slightest bit of doubt about that. But when the Senator says that what we need is storage and that that is going to solve the farmer's problem, I am quite sure that while that might have helped this year, it is the first time that it has been a serious problem notwithstanding the farmers have had bad conditions previously.

Mr. COPELAND. It is this year the Senator said the farmers are sending their products across the line. It is in this season of large crops that they are doing it.

Mr. WHEELER. The Senator is entirely wrong. This is not the season of large crops.

Mr. COPELAND. Of this particular type of wheat?

Mr. WHEELER. No; not of this particular type of wheat. There is a larger crop of high-protein wheat, but it is not the high-protein wheat that fills and stuffs the elevators about which the Senator told us.

Mr. COPELAND. Is not the crop by and large considerably larger than it was?

Mr. WHEELER. Oh, no; not at all. We have a smaller crop this year.

Mr. COPELAND. There is more than the Senator's State has need for in home consumption?

Mr. WHEELER. Does the Senator mean in Montana?

Mr. COPELAND. Yes.

Mr. WHEELER. Of course, we always have.

Mr. COPELAND. The only way the Senator can ever have any permanent solution of the farm problem is to have a place of storage for the surplus wheat and funds to take care of the farmer until complete sale is made, and then sell out the surplus as the country needs it. That is true, certainly, of the high-protein wheat because there is no more than we need for our domestic consumption. If the farmers could have an orderly marketing of that wheat their problem would disappear.

Mr. WHEELER. Oh, I have listened to this talk about orderly marketing and orderly marketing until I am tired and sick of it, because of the fact that when we come down to ask what is meant by orderly marketing, as we asked the members of the Farm Board who appeared before our committee, there is not one of them who could tell exactly what is meant by "orderly marketing." They do not know what they mean by "orderly marketing." There was not a member of the board there who could tell us, except in the most general and hazy way, what he meant by orderly marketing. It was something they were holding out to the farmers in the future, about which they were going to do something vague and indefinite.

Let me say to the Senator that we have put a tariff of 42 cents upon wheat. We produce a surplus of all grades of wheat in the United States except high-protein wheat. The farmer is not getting the benefit of that tariff upon high-protein wheat. There is no reason in the world why he should not get the benefit of it if the wheat was not coming in from Canada in competition with his wheat or coming in from some other place, because the price of high-protein wheat, of which we do not produce a surplus, would automatically rise to the American farmer unless some place somewhere there was a leakage and the high-protein wheat was coming in from some other country. We know it is coming in from Canada. We know it is said that it comes in from Canada and is immediately shipped out again. The farmer says it is not being done that way; that he is being "gypped"; and that is the reason and the only logical reason why he views the situation as he does. Every farmer in the Northwest is thoroughly convinced that that is the situation.

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

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

Mr. WHEELER. I am glad to yield.

Mr. COPELAND. I am surprised at what the Senator said about the members of the Farm Board.

Mr. WHEELER. The Senator need not be surprised. Let him read the record.

Mr. COPELAND. It does not take any great amount of intelligence, as I view it, to make clear that if we raise in this country less of high-protein wheat than the domestic demand, and if we can hold that wheat somewhere until it can be sold in an orderly fashion—and I noticed that the Senator was a little sarcastic about that suggestion—sending it out to the people as they need it and not rushing it on the market in a bunch, as undoubtedly happened this year, they could have any price for their high-protein wheat that they cared to put upon it.

Mr. WHEELER. Of course.

Mr. COPELAND. It is simply a question of providing ample storage in order that it may be sent out as the people need it.

Mr. WHEELER. We should have had a higher price for the wheat this year, and if the Farm Board had simply issued a statement saying to the American farmer, to the farmers of the Northwest, "We are going to see to it that the farmers get a certain price for their wheat," the American farmer would not have needed any storage facilities except those which he has on his own farm. He would have held it there, and the Farm Board could have justified its existence. But, instead of that, it did not do it. In substance, it said, "We are not going to do anything in wheat," and the result was, of course, that the price of wheat has gone down so the American farmer is not getting as much for his wheat as the world market is paying for wheat.

Mr. COPELAND. Then place the fault at the door of the Farm Board and not on the shoulders of the millers of Buffalo, who have nothing to do with it.

Mr. WHEELER. I would like to have the Senator come out to Montana and try to convince the farmers out there who have been "gypped" by the millers so many times that those millers are not responsible for a large part of their troubles.

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

Mr. WHEELER. I am glad to yield.

Mr. McKELLAR. I understand from what the Senator has said that he does not believe the Farm Board as presently constituted has been of any advantage whatsoever to the farmers of the West or anywhere else in the country.

Mr. WHEELER. I can say this without fear of successful contradiction, and I will not give it as my own statement, but I will take the statement of one of the largest farmers in the United States and, indeed, in the world. "Did the Farm Board Fail?" This article does not appear in any liberal or radical

farm paper. It is in the Business Week, and the article is written, if you please, by Thomas D. Campbell. Mr. Campbell is one of the most conservative Republicans in the United States. He was mentioned for a position in the Cabinet of President Coolidge. He was mentioned as a possible member of the Cabinet of Mr. Hoover. I understand that with the idea that he was to be placed on the Farm Board he was called back from Russia, where he went at the instance of the Russian Government. He has been against practically every farm bill that has ever come before the Congress. Here is what is said in the article to which I refer:

Thomas D. Campbell, one of the greatest wheat growers in the United States, is critical of the grain situation, and, by implication, of the Farm Board. To the Business Week he said:

"During my entire farming experience I have never known of a situation as unjust and unfair to the farmer as the grain-storage situation of the past 10 weeks. What has happened emphasizes more than ever how much we need a farm board, or some such agency, with both the will and power to look out for farmers' interests. And such a board must be ready and willing to act promptly and take great responsibilities.

"Our wheat crop this year is many millions shorter than in years immediately preceding. We have had storage space for bumper crops. Why, then, is storage lacking for this year's smaller one? To be sure, good weather and speedier harvesting by combines have hastened the grain to market. All but 100,000,000 bushels of the Northwest's entire crop was marketed before the end of August. Elevators in Minneapolis, Duluth, Kansas City, and Chicago have been crowded to capacity, I admit. But wheat there is not farmers' wheat. Most of it belongs to cash grain men who control the lion's share of elevator space at the principal grain terminals. For weeks high-grade cash wheat has been selling at unheard-of discounts. The last week or two in August any man with elevator space could buy cash wheat and go short on September wheat at the same time, and make a clear 6 cents or 8 cents profit for carrying grain only a few days.

"A small amount of assistance by the Farm Board right now toward withholding from market grain still in farmers' hands would send the price up 20 cents a bushel or more. Considering that conditions in Canada have never been so serious as this year, wheat should sell 50 cents higher before another crop. Reliable experts tell me that the Government will have to furnish seed next spring for a great portion of Saskatchewan.

"I have never known the farmers of the Northwest to be in such a spirit of revolt, and I have never known of conditions which so justify it. It is a reprehensible condition when producers of wheat can not buy their portion of available storage space, etc."

Let me say to the Senator that this is the word of one of the largest producers of wheat in the United States, if not in the world. He points out that just one word from the Farm Board would have raised the price of wheat to the farmers of the country.

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

Mr. WHEELER. Gladly.

Mr. CARAWAY. The Farm Board did say a word to some people—that is, that the bonds held by certain people who were doing their farming in Wall Street would be guaranteed and paid when they were presented, did they not?

Mr. WHEELER. Yes, indeed.

Mr. CARAWAY. And that raised the price of those bonds.

Mr. WHEELER. It immediately raised the price of the bonds in Wall Street about 29 points in two days, I believe.

Mr. McKELLAR. Whose bonds were they?

Mr. WHEELER. They were the Sun Maid Raisin Co. of Delaware, a corporation engaged in selling grapes.

Mr. McKELLAR. Who are the owners of the concern?

Mr. WHEELER. The concern handling the bonds, I understand, was Dillon, Reed & Co., of New York.

Mr. SMITH. As I remember it, a member of the Farm Board also had something to say about the price of another commodity.

Mr. WHEELER. Yes; something about the price of cotton.

Mr. SMITH. How much did he say?

Mr. CARAWAY. The price of grapes was helped most, was it not? Between their saying they would guarantee the price of grapes and the prohibition enforcement officers saying that people could make wine without violating the law, they all helped the price of grapes in that way.

Mr. WHEELER. They agreed that would help the price of grapes, and it did, and they are going to protect them in the making of grape juice so that it can eventually turn into wine.

Mr. CARAWAY. If they have the time to wait.

Mr. McKELLAR. So far as I have been able to determine, the southern farmer has received absolutely no benefit from the Farm Board whatsoever; neither has that board been of any benefit or value to the cotton industry of the South. I was wondering whether it had been of any benefit to the wheat industry and to the corn industry of the West.

Mr. WHEELER. It certainly has not been one particle of help to the wheat growers of the Northwest. I have an editorial from the St. Paul Dispatch of recent date in which that conservative Republican paper of the State of Minnesota pointed out that no good had come from the Farm Board, that they could have acted and could have done some good for the farmer if they had acted promptly in the matter.

However, I did not intend to discuss the Farm Board to-day, because of the fact that when the members of that board are reported to the Senate for confirmation I expect to have something further to say with reference to the man who has been appointed to look after the wheat interests of the Northwest; but to show, first, that he is entirely out of sympathy with the wheat growers of the Northwest, let me state now that he said the prime object of the law was to try to get the farmers of the country to reduce their acreage; that that was the way he intended to help them.

Mr. McKELLAR. Mr. President——

The VICE PRESIDENT. Does the Senator from Montana yield further?

Mr. WHEELER. I yield.

Mr. McKELLAR. But what the Senator has said of this particular member of the board applies substantially to the whole board, does it not? Do they not all think that prices of farm products can not be raised in this way?

Mr. WHEELER. We obtained so many answers from different members of the board that it was difficult for some of us to determine just what they did think.

Mr. CARAWAY. May I ask the Senator a question?

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

Mr. WHEELER. Yes.

Mr. CARAWAY. If reducing the acreage—that is, driving farmers off the farms—is the purpose of the administration, why have any Federal Farm Board? The administration was succeeding rather well as it was.

Mr. WHEELER. As the Senator will remember, I suggested that I knew of no reason why we should spend $500,000,000 to get the farmers to reduce acreage, because if the administration just let them go on the way administrations in the past have been letting them go, it would soon reduce pretty nearly all the acreage that there was in the Northwest.

Mr. McKELLAR. As I understand the Senator—I believe he is on the committee?

Mr. WHEELER. Yes.

Mr. McKELLAR. He said that the only relief which had been given had been given to the Sun Maid Raisin Co., I believe.

Mr. WHEELER. Yes.

Mr. McKELLAR. How much of the $500,000,000 has been loaned out by the Farm Board?

Mr. WHEELER. I would not be able to give the Senator those figures offhand.

Mr. McKELLAR. Approximately how much?

Mr. WHEELER. I should be unable to state even approximately how much has been loaned.

Mr. THOMAS of Oklahoma. Mr. President——

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

Mr. WHEELER. The Senator from Oklahoma may be able to give the Senator from Tennessee the information he desires.

Mr. THOMAS of Oklahoma. The board has allocated and promised approximately $70,000,000.

Mr. WHEELER. That amount has merely been promised; it has not been loaned.

Mr. McKELLAR. And what proportion of it was allotted to the raisin growers?

Mr. WHEELER. I do not remember the figures. I can not tell the Senator.

Mr. McKELLAR. Did the Senator say that the board had loaned to the raisin growers on their bonds?

Mr. WHEELER. No; they did not loan them any money; they gave out a statement to the effect, as I recall—and the Senator from South Carolina or the Senator from Oklahoma will correct me if I am wrong—they gave out a statement to the effect that they were going to see to it that the bonds were protected; that there was going to be no foreclosure of the Sun Maid Raisin Co. bonds, as I recall, which were selling somewhere around $50.

Mr. SMITH. They were selling at about $60.

Mr. WHEELER. Those bonds were selling somewhere around $60. They went up in two days something like 29 or 30 points. That was the effect of the giving out of the statement of the Federal Farm Board in reference to the bonds of the Sun Maid Raisin Co.

If they had given out the same kind of a statement with reference to wheat, as Mr. Campbell points out, the price of wheat

would undoubtedly have risen. As he said, if the board had simply said, "We are going to see that the farmers get a good price for wheat," the farmers would not have thrown it on the market when the elevators were clogged but would have kept it on the farm and they would have obtained a better price for their wheat.

Mr. McKELLAR. Mr. President——

The VICE PRESIDENT. Does the Senator from Montana yield further?

Mr. WHEELER. I am glad to yield to the Senator from Tennessee.

Mr. McKELLAR. Did the board give out a statement in reference to any other farm product than raisins? If not, why did they confine it to raisins?

Mr. WHEELER. They did not give out a statement as to raisins, as I recall it. It was merely as to the bonds of the Sun Maid Raisin Co.

Mr. McKELLAR. What has the Federal Farm Board got to do with guaranteeing, expressly and impliedly, the bonds of any private company?

Mr. WHEELER. They contended, as I recall, as to the Sun Maid Raisin Co.—which is not a strictly cooperative corporation but they seemed to construe it as being in the nature of a cooperative company—that if they let its bonds be foreclosed it would put out of business this buying agency; and that if that went out of business it would indirectly affect the growers of grapes in California.

Mr. McKELLAR. The raisin company were hard pressed, and, therefore, the board wanted to protect the price of the product by guaranteeing or impliedly guaranteeing its bonds?

Mr. WHEELER. That is correct.

Mr. McKELLAR. It seems to me that is an unheard-of proceeding, and a very doubtful proceeding, so far as the powers of the board under the law are concerned. As I understand, this raisin company is a private corporation?

Mr. WHEELER. It is a private corporation.

Mr. McKELLAR. And the private bonds of this private corporation, which were selling at $60, by reason of the fact that this statement was given out by the Farm Board went up? Why was that?

Mr. WHEELER. Of course, I do not know.

Mr. McKELLAR. If those are the facts, then, it seems to me the board has acted in a very reprehensible way.

Mr. WHEELER. I do not know who made money on the bonds. However, it was not the farmers who made it, because of the fact that the farmers did not have the money with which to buy the bonds. Who it was who made money, I do not know, and the record does not disclose.

Mr. President, I wish merely to say in conclusion that I can not conceive of how anybody who favors a tariff on wheat, and says he desires to help the farmers, can do otherwise than vote for this amendment, as I feel sure, if adopted, it will materially help the growers of high-protein wheat in the United States.

Mr. WAGNER. Mr. President, I will not detain the Senate long. It is not my intention further to speak on the pending amendment except in answer to assertions made a little while ago by the senior Senator from Montana [Mr. WALSH].

To array class against class is a wholly profitless occupation. It certainly does not advance this discussion. Such tactics may appeal to the demagogue, but they certainly do not appeal to a reasoning mind. Simply to say, "This is a fight between millers and wheat growers, and, being on the side of the wheat growers, I shall vote so and so," is not an argument which persuades the mind. I think we ought to consider the question on broader and more intelligent lines. There is in this body a common devotion to the welfare of all, millers and wheat producers alike. We ought to determine by a process of reasoning, after a consideration of the facts, whether the amendment proposed will redound to the benefit of the wheat grower in the slightest degree by increasing his price to any extent or by enabling him to sell more wheat, or whether by taking the action proposed an industry will be destroyed which has been erected under the encouragement of the law and which has involved a very large investment. Shall we destroy that industry and turn over the business which it has been conducting in our borders to manufacturers in another country?

Perhaps I am more internationally minded than many men, but I would not do anything deliberately to hurt the industry of any other country unless thereby a benefit would accrue to an industry of my own country. I certainly refuse to join in inflicting an injury upon an American industry for the sake of conferring a boon upon a foreign industry. In this particular case if one will confine himself to a study of the facts and consider the justice of the situation, one will be bound to come to the conclusion that by agreeing to the pending amendment this milling industry will be transferred from the United States to Canada.

As I said when we discussed the question here on a previous occasion, I do not rely merely upon the testimony of the American millers who are interested in the business. I attach great weight to the testimony of the Canadian millers, who not so very long ago petitioned the parliament of the Dominion of Canada to impose an export tax on wheat exported from Canada into the United States to be milled in bond. The Canadian millers reasoned in their petition and appeal that if such export duty were imposed and thus milling in bond in the United States eliminated they, the Canadian millers, would secure that trade That was the basis of their appeal and upon the facts disclosed they were absolutely right. Stop milling in bond and the Canadian miller increases his business.

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

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

Mr. WAGNER. Yes.

Mr. BLACK. Who made that request?

Mr. WAGNER. The millers of Canada made the request in a petition in which they presented their grievances to the Canadian Government.

Mr. BLACK. What action was taken on it?

Mr. WAGNER. The petition was denied. I understood it was denied because it was felt that if the action suggested were taken it might cause some friction between the two countries.

May I say to the Senator from Montana that after all the difference between the United States and Canada in relation to wheat is this: In the United States none of the high-protein wheat, which is the quality of wheat we are discussing—and please let us not forget our subject and talk of other things, for we are concerned here only about the high-protein wheat—is exported from the United States.

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

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

Mr. WAGNER. Yes.

Mr. WHEELER. I am perfectly amazed to hear the Senator say that none of it is exported, because the fact is that we are exporting and shipping it out.

Mr. WAGNER. I am relying again upon statistics and upon history. There may be isolated instances of exportation. Generally, however, such wheat is not exported. In fact, it was admitted by the protagonist of this amendment, the senior Senator from Montana, that all of the high-protein wheat produced in this country is milled for the American consumer. The reason for that is plain. It brings in the United States a price higher than the world price. Is not that a complete answer? How could it possibly bring a premium in the American market if it were on an export basis?

Mr. WALSH of Montana. Mr. President——

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

Mr. WAGNER. I yield.

Mr. WALSH of Montana. The Senator has misunderstood me. High-protein wheat does not command a higher price in the United States than that particular high-protein wheat commands anywhere else so far as it goes abroad.

Mr. WAGNER. The information I have comes from the Tariff Commission. The Summary of Information makes the definite statement that high-protein wheat produced in the United States is not exported. We only export about 20 per cent of all the wheat which we produce. That surplus of 20 per cent is the semisoft wheat and the durum wheat, which is sold at the world price, because it has to be exported. The wheat which we do not have to export and which is consequently protected by the tariff, of course, sells at the price prevailing in the domestic market. According to the figures which I have before me, the average price for the last seven years of American wheat comparable in quality to Canadian wheat is 9 cents more than that of the Canadian wheat.

Mr. WALSH of Montana. What I wanted to say to the Senator is that the high-protein wheat will command a premium over the ordinary soft wheat wherever it is sold, whether it is sold in the United States or whether it is sold abroad.

Mr. WAGNER. Of course, that is so; the higher the quality the higher the price anywhere in the world. The Senator, however, has misunderstood me. What I said was that the Canadian high-protein wheat of comparable quality to the American high-protein wheat sells in the world market at a price which on the average is 9 cents per bushel less than the American farmer obtains in the American market. The reason for that is that the American farmer is protected by a 42-cent tariff. I do not think anybody will dispute that fact, because the official statistics and economic history so show.

Mr. NORBECK. Mr. President——

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from South Dakota?

Mr. WAGNER. Yes.

Mr. NORBECK. In that statement the Senator is ignoring the fact that this very fall the Canadian market has been much better than the American market.

Mr. WAGNER. There are isolated instances, Mr. President, when a short Canadian crop is accompanied by a very bountiful American crop; but those instances are very rare.

Mr. NORBECK. There has never been a shortage of crop in Canada. Canada has an exportable surplus this year, too.

Mr. WAGNER. The fact is that Canada normally exports three-fourths of its wheat. It can only consume in its own market one-fourth of its wheat. Therefore, three-fourths of that wheat must find its way into the world markets to be sold at the world price.

Mr. NORBECK. Surely. Therefore there is no shortage in Canada this year, either.

Mr. WAGNER. None of that can enter this country to compete with the domestic high-protein wheat, because our wheat is protected by a tariff of 42 cents per bushel; and therefore, in the domestic market, the American wheat grower of high-protein wheat gets a price which is above the world price.

Mr. NORBECK. Only he does not get it.

Mr. WAGNER. The statistics show that he does. I may say to the Senator that I wish there were a way of getting more for him. I am not attempting to obstruct legislation which might give him a higher price. I wish he could get the full protection of 42 cents per bushel for his wheat, if that is needed to enable him to make a reasonable profit upon his investment. He is protected from any competition from abroad by means of the tariff wall; and the history of the wheat industry shows, the facts are right here, that the average advantage that he enjoys is 9 cents per bushel. This is conceded even by those who have been advocating this amendment; but they think that, in some mysterious way, by doing away with milling in bond, the price of wheat can be lifted.

I have appealed to the protagonists of this amendment to refrain from making demagogic assaults upon an industry, to give us facts, to indulge in logic, to tell us how the adoption of this amendment will redound to the benefit of the wheat grower; but no one has responded except with hollow generalizations.

It is claimed that if we destroyed milling in bond, the foreign market in which the miller in bond now sells would be supplied by flour made from our domestic high-protein wheat at a higher price. History contradicts that assertion.

Between 1920 and 1921 milling in bond had no commercial existence. It was authorized by statute, but wheat was on the free list; and it would therefore have served no purpose to use the bonding privilege. During that period of time our foreign exports of flour declined approximately 10,000,000 barrels. We lost our foreign market, although there was no milling in bond, because other countries were able to produce an equal quality of flour from an equal quality of wheat at a lower price. Who invaded this foreign market? The Canadian miller. Of course, he could not capture the market in its entirety. There was a reduction in the per capita consumption of flour throughout the world. The world became more prosperous; and, paradoxical as it may seem, as our prosperity increases the individual consumption of flour decreases. The Senator from North Dakota shakes his head, but that is the fact. People eat more bread when they have less money to buy more expensive things to eat. Part of the decline in exports was caused by the rehabilitation of the European countries who began to mill for their own requirements. These factors were only partially responsible for the shrinkage.

Who secured the bulk of the sales in the foreign market? Who sold the flour that we had sold in these other years? The Canadian miller. He increased his export to markets formerly supplied by us from 6,000,000 barrels per year to 11,000,000 barrels per year. It was not the milling in bond that was responsible.

Then came along the milling in bond; it came to save our foreign flour trade. Even milling in bond did not enlarge our foreign market, but it did help to stay its rapid disintegration. By taking advantage of milling in bond which is given under our statute American millers were able to compete with Canadian millers in some of the foreign markets. The competition is exceedingly keen. Step by step, year in, year out, Canadian millers are successfully invading our former markets, and our foreign sales of high-grade flour are being reduced.

The fundamental proposition is this: How can you increase the price of domestic wheat, how can you increase the consumption of high-protein domestic wheat, if all that can be produced is now consumed by our domestic market?

I do not want to bore the Senate any longer. If we will lay aside our prejudices for a moment, this simple mathematical proposition will stare us in the face as inevitable.

The Canadian miller buys his wheat for at least 10 cents, and sometimes 18 cents, less than the miller in the United States. That means that he has the advantage of the American miller to the amount of at least 40 and as high as 80 cents per barrel. When the American miller has difficulty now in retaining the market by milling in bond, how, with an additional disadvantage of between 40 and 80 cents per barrel, can he possibly hold it against an article of comparable quality produced in and imported from another country?

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

The VICE PRESIDENT. Does the Senator from New York yield to the Senator from North Dakota?

Mr. WAGNER. Yes.

Mr. FRAZIER. The Senator from New York has figures from the department to show that on the average in the past 9 or 10 years wheat has been 9 cents higher in the United States than it has in Canada. That is, the domestic market has been that much higher than the Canadian market. That is in view of a 42-cent tariff. If we had this milling-in-bond provision cut out, so that the 20,000,000 bushels of Canadian wheat that comes in here in direct competition could not come in, does not the Senator think that more than 9 cents of the 42-cent tariff would be effective?

Mr. WAGNER. Mr. President, I can not agree with the Senator's premise—namely, that the Canadian wheat comes in competition with our wheat—and the reason why it does not come in competition is because it is not sold in our domestic market at all. It can not be imported into our domestic market because of the high-tariff wall. Therefore, none of that wheat ever gets into our domestic market in competition with our own high-protein wheat. The Senator's syllogism is not perfect because he begins with an erroneous premise; and therefore I can not answer the question.

Mr. FRAZIER. The Senator will admit, if he will yield further, that undoubtedly the 20 per cent of our total wheat that is exported, which is semisoft winter wheat, as he stated, has a tendency to regulate the market price of all the wheat in the United States.

Mr. WAGNER. No; I deny that.

Mr. FRAZIER. All the economists that we have here give that as the basis of the fact that the price of wheat in the United States is so low.

Mr. WAGNER. It is true as to that portion of the wheat which we have to export. That is surplus. Of course, we have to sell that at the world price in the world markets, and such wheat will only bring the world price in this country. There is no doubt about that. But it is not true as to the wheat of high-protein content which is consumed here, of which there is not enough produced to supply the domestic market. As to that, there is no world competition; and the world price does not affect it unless the premium should soar above 42 cents a bushel which is the protective-tariff rate.

Mr. FRAZIER. Mr, President, the Senator does not understand the wheat market by any means when he makes a statement of that kind. When we have a surplus of wheat, the surplus sets the price of wheat unless it can be kept off the market; and it has not been kept off the market.

Mr. WAGNER. The fact that this high-protein wheat brings 9 cents more, on an average, and sometimes very much more, than the world price, shows that the price of that wheat is not regulated by the world price. The Senator is at liberty to judge my understanding, and all that; but that does not mean very much, Mr. President. I am stating facts and statistics, which to me are more convincing than unsupported generalizations.

Mr. FRAZIER. Mr. President, will the Senator yield further?

The VICE PRESIDENT. Does the Senator from New York further yield to the Senator from North Dakota?

Mr. WAGNER. Yes.

Mr. FRAZIER. The 9 cents is not the difference in the world market. It is the difference between the Canadian market and our domestic market; and that is largely due to the difference in the freight rates, not the difference in the tariff wall.

Mr, WAGNER. The Canadian sells his wheat at the world price because he exports three-fourths of it.

Mr. BLACK, Mr. BROOKHART, and Mr. VANDENBERG addressed the Chair.

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

Mr. WAGNER. I do not want to play favorites. I will yield first to the Senator from Alabama.

Mr. BLACK. I just want to get clear in my mind a statement made by the Senator. I understood to-day that we did not produce enough high-protein wheat in this country to supply our own domestic demand. Is that correct?

Mr. WAGNER. I shall state it in these words: All of the high-protein wheat is consumed in the domestic market at a premium, at a higher price than the world price.

Mr. BLACK. Do we import any from any source?

Mr. WAGNER. No.

Mr. BLACK. Then we do not export any, either?

Mr. WAGNER. No.

Mr. BLACK. Then the theory would be that we produce just exactly enough each year to supply our own demand?

Mr. WAGNER. The high-protein wheat is not exported.

Mr. BLACK. And is none of it imported?

Mr. WAGNER. None of it is exported. It is all consumed in the domestic market, and brings a higher price than the world price, which is evidence that it is——

Mr. BLACK. The question I was asking is, Do we import any of that quality of wheat for use in the domestic market?

Mr. WAGNER. We do not. There may be an isolated instance here and there. I think the Senator said that 23,000 bushels were imported last year.

Mr. FRAZIER. Two hundred and twenty-three thousand.

Mr. WAGNER. How much was it?

Mr. SMOOT. Twenty-one thousand two hundred and ninety-nine bushels in 1927.

Mr. WAGNER. Out of possibly 300,000,000 bushels consumed.

Mr. BROOKHART. Mr. President——

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

Mr. WAGNER. Yes.

Mr. BROOKHART. The Senator contends that we do not produce enough of this high protein wheat for our own consumption in the United States. Since we have to import part of that wheat, if we will cut out the milling in bond and tell the millers to pay the price with the tariff added, that will make the tariff effective on all that kind of wheat; will it not?

Mr. WAGNER. The difficulty is, Mr. President, that if we do that the miller who now mills in bond can not possibly compete in the markets of the world. He may produce for local consumption, but he can not, with this differential of between 40 and 80 cents per barrel against him, possibly compete.

Mr. BROOKHART. I am not talking about the portion the millers in the United States export; I am talking about what they grind for the American people, to be consumed here at home. According to the figures I have, only about 9.8 cents of this tariff has been effective, or about $17,600,000 added to the price of our farmers' wheat.

Mr. NORBECK. Where does the Senator get his figures?

Mr. BROOKHART. From the Fair Tariff League.

Mr. WAGNER. Mr. President, I can yield for a question only, because under the strict construction of the rules by the Chair if I yield for a speech I will have to yield the floor.

Mr. BROOKHART. I will take the floor in my own right when the Senator has concluded.

Mr. WAGNER. In the case of milling in bond we are not concerned with the domestic market at all. It has no relation to the domestic market, because the flour which is milled in bond is exported and goes into the foreign market. Under the law it may not be sold in domestic trade even upon payment of the duty.

Mr. BROOKHART. As to the proposition just made by the Senator from New York, it seems to me that if the wheat millers in the United States were required to buy this quality of wheat, this extra protein-content wheat, and if they were not permitted to bring it in here in bond, they would have to pay the American price plus the tariff, or 42 cents more than the farmers are getting at this time. That would make the whole tariff effective, because that quality of wheat is not on an export basis but is on an import basis, and we all concede that the tariff becomes effective when we have an import basis. But we open up this big leak, this hole, for milling in bond, and this wheat comes flooding in here without any tariff whatever, and the millers up in Buffalo can buy that wheat without paying the tariff.

I want to ask the Senator from New York this: Their whole business is not milling this wheat for bond in export, is it? That is only a small fraction of the grinding they do, is it not?

Mr. WAGNER. That is all we are concerned with in the discussion of this amendment.

Mr. BROOKHART. That is all right; but the millers in Buffalo are grinding wheat for the American people, too, that is not exported, are they not?

Mr. WAGNER. But not using Canadian wheat.

Mr. BROOKHART. But they are paying the same low price for the same protein-content wheat that is used in the United States as they are to the Canadians, which is only benefited to the extent of 9 cents under the tariff.

Mr. WAGNER. Mr. President, the simple answer to the Senator is that all of the protein wheat now produced is bought by the American miller, and it is milled by him into flour for the domestic market. There is no surplus. We can not by legislation persuade the miller to buy more than is produced. Legislation can not do the impossible.

Mr. BROOKHART. Mr. President, it seems to me that it can. Now, upon the general wheat situation, this particular kind of wheat is the only kind that is lower in Canada, or has been at any time, than it has been in the United States.

Yesterday I had a letter from the president of the First National Bank of Humboldt, Iowa, and in that letter he said this:

> I simply wish to support your statement some time since that wheat is 21 cents more in Canada than in this country.
>
> I have some land near Portal, N. Dak., and we sold our wheat in North Portal for 21 cents a bushel more than we could get in Portal, U. S. A. We had to pay 12 cents duty, so that we were only 9 cents to the good.

That is the general wheat situation along the Canadian line. I am in favor of stopping up all these leaks and giving the American farmer a chance. When we are on an import basis crops like this must be on the free list, or, like hides, with only a 10 per cent duty, because that duty will be effective.

When we come to wheat, when we get the portion of wheat that is on the import basis, not the export basis, then it is argued we must open up a big hole and let it in to the mills for their benefit, so that they can buy it without paying any tariff duty.

If the industries of this country expect protection from the Government so that they can pile up the profits they are taking from the people of the United States, they must give protection all along the line to the farmers of the United States.

Mr. NORBECK. Mr. President, if the speakers have been correct this afternoon in their statements that we do not produce enough high-protein wheat for our own demands—and I think they have been correct—then somebody has failed to explain why that high-protein wheat does not sell at 42 cents a bushel more in this country.

A few years ago the Tariff Commission went into the matter of comparative costs in Canada and this country, and they found that wheat could be produced for 42 cents less on the other side of the border; hence the 42 cents duty. Why have we not been gettting the benefit of the 42 cents duty?

We do not believe Canadian wheat is smuggled in here to fill the gap. We believe it has come in in bond. We believe this bond provision has been juggled by some of the millers in such a way as to deprive us of the greater benefit of the tariff.

I for one regret voting against the American millers. I would rather they would prosper, I would rather they would grind all the wheat of the world, rather than to see any industry languish. But there should be a spirit of fairness toward the American farmer. The loss to the American farmer has been about 33 cents a bushel in the high-protein wheat that has been produced in this country.

The VICE PRESIDENT. The question is on agreeing to the amendment offered by the Senator from Montana [Mr. WALSH], which will be stated.

The CHIEF CLERK. On page 295, line 1, strike out the word "a" and substitute in lieu thereof the word "the"; and strike out, after the word "wheat" in line 2, the words "wheat equal to any reduction in duty which by treaty will apply in respect of such flour in the country to which it is to be exported," so as to make the paragraph read:

> No flour, manufactured in a bonded manufacturing warehouse from wheat imported after 90 days after the date of the enactment of this act, shall be withdrawn from such warehouse for exportation without payment of the duty on such imported wheat.

Mr. WALSH of Montana. I ask for the yeas and nays.

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

Mr. BRATTON (when his name was called). I have a pair with the Senator from Pennsylvania [Mr. REED], who is necessarily absent from the Chamber. I transfer that pair to the senior Senator from Nevada [Mr. PITTMAN] and vote "yea."

If the Senator from Pennsylvania were present, he would vote "nay."

Mr. HALE (when his name was called). On this matter I have a pair with the senior Senator from Virginia [Mr. SWANSON]. Not knowing how he would vote, I withhold my vote.

Mr. KING (when his name was called). On this vote I am paired with the Senior Senator from Maryland [Mr. TYDINGS]. In his absence I withhold my vote.

Mr. McKELLAR (when his name was called). On this vote I am paired with the junior Senator from Delaware [Mr. TOWNSEND]. I transfer that pair to the senior Senator from Florida [Mr. FLETCHER] and vote "yea."

Mr. SIMMONS (when his name was called). I have a pair with the junior Senator from Ohio [Mr. BURTON]. In his absence I withhold my vote.

Mr. WALSH of Massachusetts (when his name was called). During the temporary absence from the Senate of the junior Senator from Rhode Island [Mr. HEBERT] I have a pair with him. I understand on this question he would vote as I desire to vote, and therefore I ask to be recorded as voting "nay."

The roll call was concluded.

Mr. ROBINSON of Indiana (after having voted in the negative). I transfer my general pair with the Senator from Mississippi [Mr. STEPHENS] to the Senator from Connecticut [Mr. WALCOTT] and allow my vote to stand.

Mr. FESS. I desire to announce the following general pairs:

The Senator from New Hampshire [Mr. MOSES] with the Senator from Louisiana [Mr. BROUSSARD];

The Senator from Connecticut [Mr. BINGHAM] with the Senator from Virginia [Mr. GLASS];

The Senator from Oregon [Mr. McNARY] with the Senator from Mississippi [Mr. HARRISON]; and

The Senator from California [Mr. JOHNSON] with the Senator from Arkansas [Mr. ROBINSON].

Mr. BLEASE. I have a pair with the Senator from Kentucky [Mr. SACKETT]. I transfer that pair to the Senator from Arizona [Mr. ASHURST] and vote "yea."

Mr. SHEPPARD. I wish to announce that the Senator from Nevada [Mr. PITTMAN], the Senator from Georgia [Mr. HARRIS], and the Senator from Maryland [Mr. TYDINGS] are necessarily detained on official business.

The result was announced—yeas 25, nays 39, as follows:

YEAS—25

Blaine	Frazier	Norbeck	Thomas, Idaho
Blease	Hawes	Norris	Trammell
Borah	Howell	Nye	Walsh, Mont.
Bratton	Kendrick	Overman	Wheeler
Brookhart	La Follette	Pine	
Caraway	McKellar	Sheppard	
Cutting	McMaster	Smith	

NAYS—39

Allen	Edge	Hayden	Smoot
Barkley	Fess	Jones	Steck
Black	Gillett	Kean	Steiwer
Brock	Glenn	Keyes	Vendenberg
Capper	Goff	Metcalf	Wagner
Connally	Goldsborough	Patterson	Walsh, Mass.
Copeland	Gould	Phipps	Warren
Couzens	Greene	Ransdell	Waterman
Deneen	Hastings	Robinson, Ind.	Watson
Dill	Hatfield	Schall	

NOT VOTING—31

Ashurst	Hale	Moses	Simmons
Bingham	Harris	Oddie	Stephens
Broussard	Harrison	Pittman	Swanson
Burton	Hebert	Reed	Thomas, Okla.
Dale	Heflin	Robinson, Ark.	Townsend
Fletcher	Johnson	Sackett	Tydings
George	King	Shipstead	Walcott
Glass	McNary	Shortridge	

So the amendment of Mr. WALSH of Montana was rejected.

Mr. WALSH of Massachusetts. Mr. President, I present two amendments to be offered by me at the appropriate time to the administrative provisions of the pending bill. I ask that the amendments may be printed and lie on the table. With respect to one of them I ask that a brief memorandum explanatory be printed in the RECORD.

The amendments were ordered to be printed and lie on the table and the explanatory statement was ordered to be printed in the RECORD, as follows:

COMMENT BY SENATOR WALSH OF MASSACHUSETTS ON PROPOSED AMENDMENT (REWRITING) OF SECTION 642—INVESTIGATION OF METHODS OF VALUATION

The terms of reference of section 642 of the House bill providing for an investigation of the subject of valuation were too narrow and circumscribed to insure the making of an investigation comprehensive enough to be of the maximum informative service to the Congress. The House provision discards any study of the experience under the present basis of valuation and provides for no investigation into the advantages or disadvantages of the present method of fixing valuation. In fact, the nature of the investigation to be made was outlined in such a way as to direct it solely toward securing information bearing upon a proposed shift either to a reconstructed "United States value" basis of valuation (as in sec. 402, subdivision (d), of the House bill); or to what is elsewhere called in the Senate amendment of the bill (sec. 340) the "domestic value" basis, which is something wholly new—since the compromise tariff act of 1833; or to what is technically known as the "American selling price" (of comparable domestic articles) basis of valuation. The words used in this section of the House bill were, "a survey to be made particularly with a view to determining the extent to which values in the United States may properly be used as a basis for the assessment of customs duties." Surely the carrying out of this restricted mandate would not afford the full information respecting the essential features of the subject of valuation, and especially the facts as to the alleged undervaluation, that the Congress requires for its guidance in untrammeled and unprejudged legislation respecting valuation.

Section 642, as written in the House bill, has been rewritten by my amendment and made at the same time more comprehensive and more explicit. It provides for a thorough investigation into the whole subject of valuation bases. The greater part of the work of making the investigation provided for has been assigned to the United States Tariff Commission as the evidently best prepared and best equipped agency of the Government for doing the work; but, for reasons that scarcely call for explanation, the particular task of investigation and report upon the important and much disputed subject of undervaluation, together with recommendations of appropriate remedial legislation, has been assigned to the Treasury Department.

It is considered that with the results of both subdivisions of the investigation proposed in this revision of this section before it, the Congress will be in a far better position than it ever has been, since the rise of modern complications of tariff making and tariff administration, not only to withstand misleading proposals for changes respecting bases of valuation that will not bring needed improvement and improvement in the public interest but also to make a constructive advance in legislation that will be of far-reaching consequence both in safeguarding the revenue and in making the enforcement of the tariff laws more equitable and less obstructive and time consuming. It is believed, in short, that much unnecessary expense incurred by the Government in collecting customs taxes, and perhaps some preventable failure to collect, can be eliminated and at the same time a necessary part of the business of the trading community be expedited.

TABLING OF AMENDMENTS

Mr. JONES. Mr. President, a few days ago an amendment was pending which had been offered to the tariff bill by the committee. To that amendment there was offered another amendment, which amendment was directly before the Senate. A motion was made to lay on the table the original amendment. The Chair held that if that should be done it would carry with it the pending amendment proposed to the committee amendment. There was considerable discussion with reference to the matter. One precedent was cited which apparently upheld the rule. By request, the parliamentarian of this body has investigated to see whether or not there were any additional precedents. I have a statement of what he has found. I ask that it may be printed in the RECORD, so that it may be available to Presiding Officers in the future.

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

The statement is as follows:

On February 1, 1881, the Senate had under consideration H. R. 6532, a pension bill, which had been reported from the Committee of the Whole to the Senate, and the pending question was on an amendment proposed by Mr. Hoar, of Massachusetts, to an amendment made in the Committee of the Whole, originally proposed by Mr. Plumb, of Kansas, upon which a separate vote had been reserved in the Senate.

Mr. Booth moved to lay on the table the amendment made in the Committee of the Whole, to which Mr. Hoar's amendment had been proposed.

Mr. Edmunds, of Vermont, made the point of order that that could not be done with an amendment made in the Committee of the Whole.

The Presiding Officer (Mr. Garland, of Arkansas) held that it was an amendment subject to all the rules applying to amendments, and overruled the point of order.

Mr. Edmunds, stating that the Chair might be right, took an appeal so as to establish a precedent on the question.

The decision of the Chair was sustained on a viva voce vote. (CONGRESSIONAL RECORD, 46th Cong., 3d sess., p. 1376.)

On May 8, 1906, the Senate was considering the bill (H. R. 12987) to regulate railroad rates, and the pending question was on a substitute amendment proposed by Mr. McLaurin, of Mississippi, to an amendment of Mr. Elkins, of West Virginia.

Mr. Dryden, of New Jersey, proposed an amendment to perfect the part proposed to be stricken out.

Pending debate,

Mr. Tillman, of South Carolina, moved "to lay the pending amendment [proposed by Mr. Elkins] and all amendments thereto and substitutes therefor on the table."

Mr. Culberson, of Texas, made the point of order that the motion to lay all of the amendments on the table at one time could not be made and that there were different amendments pending.

The Vice President (Mr. Fairbanks) submitted to the Senate the question, "Is the motion of the Senator from South Carolina [Mr. Tillman] in order?" and

It was determined in the affirmative—yeas 51, nays 29.

(The motion to lay on the table, however, was rejected by a vote of yeas 29, nays 49.) (CONGRESSIONAL RECORD, 59th Cong., 1st sess., pp. 6511, 6512.)

On March 17, 1920, the treaty of peace with Germany was under consideration, the question being on an amendment proposed by Mr. Thomas, of Colorado, to an amendment of Mr. Shields, of Tennessee, to a reservation of Mr. Owen, of Oklahoma.

Mr. Kellogg, of Minnesota, moved to lay the reservation proposed by Mr. Owen on the table.

Mr. Reed, of Missouri, made the following point of order: "I make the point of order that when there is a motion pending followed by a motion to amend, a motion can not be made to lay the original motion on the table; that a motion to lay on the table must be directed to the pending motion, which is a motion to amend."

The President pro tempore (Mr. Cummins, of Iowa) said: "The Chair finds upon examination of the precedents upon that question that the Senate has ruled that a motion of that kind can be made." (Citing the precedent of January 16, 1891.) No appeal was taken from the decision. (CONGRESSIONAL RECORD, 66th Cong., 2d sess., p. 4443.)

On January 31, 1922, a bill (H. R. 8762) for the adjustment for foreign loans was under consideration under a unanimous-consent agreement limiting debate by a Senator on any amendment to 10 minutes.

Mr. SIMMONS proposed an amendment, to which an amendment was subsequently proposed by Mr. PITTMAN.

Pending debate,

Mr. WATSON moved to lay Mr. SIMMONS's amendment on the table.

Mr. ASHURST made a point of order that the unanimous-consent agreement specifically gave every Senator 10 minutes on every amendment.

The point of order was debated, during which reference was made to the precedent of the Senate on May 8, 1906, wherein the Senate decided that a motion to lay on the table an amendment under a similar unanimous-consent agreement was in order.

Mr. WATSON, of Indiana, modified his motion by moving to lay on the table Mr. SIMMONS's proposed amendment, together with the amendment proposed thereto by Mr. PITTMAN.

No point of order was made as to the right of the Senator from Indiana to make a motion to lay on the table, but such right was conceded.

The Vice President (Calvin Coolidge) said: "The Chair will rule in accordance with the former decision of the Senate, that it is not a violation of the unanimous consent agreement to make a motion to lay an amendment on the table."

The amendments were subsequently laid on the table. (CONGRESSIONAL RECORD, 67th Cong., 2d sess., pp. 1972, 1973.)

BURIAL IN EUROPE OF WORLD WAR MARINES FROM TEXAS

Mr. SHEPPARD. Mr. President, I present for incorporation in the RECORD a statement prepared at my request by Major General Neville, of the Marine Corps, giving the names of Texas members of the Marine Corps who lost their lives overseas while serving during the World War, a statement as to the disposition of their remains and where buried overseas, the location of the burial place, and a list of the officers and enlisted men in the Marine Corps, including the total number of officers and enlisted men, number of those who served overseas, and the names of those who were decorated. I ask unanimous concent that the lists may be printed in the RECORD.

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

The lists are as follows:

OFFICERS AND ENLISTED MEN FROM THE STATE OF TEXAS WHO LOST THEIR LIVES OVERSEAS WHILE SERVING IN THE UNITED STATES MARINE CORPS DURING THE WORLD WAR, INCLUDING DISPOSITION OF REMAINS

Thomas R. Brailsford, first lieutenant, Ninety-sixth Company, Sixth Regiment, died of wounds July 29, 1918, received in Aisne-Marne (Soissons) offensive. Remains permanently buried in grave 36, block A, row 8, Aisne-Marne Cemetery, No. 1764, Belleau Wood, France. Former residence: Houston, Tex. Next of kin: Mrs. Thomas R. Brailsford, wife, Apartment 4, 1202 Smith and Dallas, Houston, Tex.

Edmund L. Reisner, first lieutenant, Seventy-ninth Company, Sixth Regiment, killed in action June 14, 1918, in the Chateau-Thierry sector. Remains returned to Mr. B. A. Reisner, father, 61 Young Avenue, Houston, Tex. Former residence: Houston, Tex.

Robert E. Acuff, corporal, Sixty-seventh Company, Fifth Regiment, died of wounds June 10, 1918, received in the Chateau-Thierry sector. Remains returned to the United States and interred in grave 1304, European section, Arlington National Cemetery, Fort Myer, Va. Former residence: Houston, Tex. Next of kin: Mrs. Blanche Berner, sister, 3401 Stonewall Street, Houston, Tex.

Norman D. Acuff, private, Seventy-fifth Company, Sixth Regiment, died of wounds November 20, 1918, received in the Meuse-Argonne offensive. Remains returned to the United States and interred in grave 1324, European section, Arlington National Cemetery, Fort Myer, Va. Former residence: Houston, Tex. Next of kin: Mrs. Blanche Berner, sister, 3401 Stonewall Street, Houston, Tex.

Charles C. Allen, corporal, Seventy-fifth Company, Sixth Regiment, killed in action October 9, 1918, in the Meuse-Argonne (Champagne) sector. Remains returned to the United States and shipped to Mrs. A. A. Allen, mother, Bremond, Tex. Former residence: Bremond, Tex.

Simon D. Barber, first sergeant, Seventy-ninth Company, Sixth Regiment, died of wounds June 27, 1918, received in the Chateau-Thierry sector. Remains returned to the United States and shipped to Edgar F. Barber, father, Aransas Pass, Tex. Former residence: Houston, Tex.

Lawrence H. Bean, private, Headquarters Company, Thirteenth Regiment, died of disease September 26, 1918, at Brest, France. Remains returned to the United States and shipped to Mrs. Henry T. Bean, mother, Newport, Vt. Former residence: Kingsville, Tex.

Rolley E. Boggess, private, Seventy-eighth Company, Sixth Regiment, killed in action June 14, 1918, in the Chateau-Thierry sector. Remains returned to John B. Boggess, father, 1516 Pecos Street, Dallas, Tex. Former residence: Dallas, Tex.

Carl G. Booth, private, Fifteenth Company, Sixth Machine Gun Battalion, killed in action October 4, 1918, in the Champagne offensive. Remains returned to Samuel I. Booth, father, Eolian, Tex. Former residence: Eolian, Tex.

Foy Boyd, private, Eighty-second Company, Sixth Regiment, died of wounds June 24, 1918, received in the Chateau-Thierry sector. Remains returned to Mrs. Lou Boyd, mother, Abbott, Tex. Former residence: Abbott, Tex.

William H. Boyle, private, Seventy-sixth Company, Sixth Regiment, killed in action June 2, 1918, in the Aisne defensive. Remains returned to Mrs. J. R. Nicoll, sister, 803 Boundry Street, Houston, Tex. Former residence: Houston, Tex.

Hogey Brown, private, Seventeenth Company, Fifth Regiment, died of wounds June 16, 1918, received in Chateau-Thierry sector. Remains returned to Mrs. Joe Brown, mother, R. F. D. No. 3, box 198, Waco, Tex. Former residence: Rockcreek, Tex.

William H. Brown, private, killed in action June 2, 1918, in Aisne defensive, while serving with Seventy-ninth Company, Sixth Regiment. Remains returned to Mrs. May T. Ruenbuhl, mother, 1102 Thirty-third Street, Galveston, Tex. Former residence: Galveston, Tex.

David L. Buford, gunnery sergeant, Fifty-fifth Company, Fifth Regiment, killed in action June 13, 1918, in Chateau-Thierry sector. Remains returned to Decatur J. Buford, father, Frankston, Tex. Former residence: Frankston, Tex.

Arthur L. Bullard, sergeant, Seventy-fifth Company, Sixth Regiment, killed in action October 9, 1918, in Meuse-Argonne (Champagne) offensive. Remains interred in grave No. 2894, European section, Arlington National Cemetery, Fort Myer, Va. Former residence: McGregor, Tex. Next of kin: Andrew J. Bullard, father, South Bosque, Tex.

Homer W. Burkett, private, Company L, Thirteenth Regiment, died of disease October 1, 1918, at Brest, France. Remains returned to Mrs. Laura Burkett, mother, Nineteenth and Beach Streets, Abilene, Tex. Former residence: Abilene, Tex.

Frank P. Burkhart, private, Company B, Thirteenth Regiment, died of disease October 4, 1918, in France. Remains returned to Mrs. J. J. Murbach, mother, 1119 Patterson Street, Houston, Tex. Former residence: Houston, Tex.

Myrtis B. Cargill, private, Seventy-fourth Company, Sixth Regiment, died of wounds April 24, 1918, received in Toulon sector. Remains interred in grave No. 1, block F, row 31, Meuse-Argonne Cemetery No. 1232, Romagne, France. Former residence: Italy, Tex. Next of kin: Elzar C. Cargill, father, Italy, Tex.

Joseph B. Caylor, private, Forty-seventh Company, Fifth Regiment, killed in action June 15, 1918, in Chateau-Thierry sector. Remains returned to Mrs. Selina Caylor, mother, route No. 2, box 331, Houston, Tex. Former residence: Mount Houston, Tex.

William H. Cherry, private, Ninety-seventh Company, Sixth Regiment, died of disease February 13, 1919, in France. Remains returned to Mrs. Helen Cherry, mother, Eagle Lake, Tex. Former residence: Bay City, Tex.

Victor T. Christian, private, Headquarters Company, Thirteenth Regiment, died of disease October 3, 1918, in France. Remains returned to Mrs. Sarah Christian, mother, La Pryor, Tex. Former residence: La Pryor, Tex.

Charles I. Coffin, jr., private, Headquarters Company, Sixth Regiment, killed in action July 19, 1918, in Aisne-Marne offensive. Remains interred in grave No. 90, block A, row 1, Aisne-Marne Cemetery No. 1764,

at Belleau, France. Former residence: Itasca, Tex. Next of kin: Charles I. Coffin, sr., father, Itasca, Tex.

Arnet B. Coleman, private, Twentieth Company, Fifth Regiment, died of wounds June 14, 1918, received in Chateau-Thierry sector. Remains returned to J. H. Coleman, Mart, Tex. Former residence: Mart, Tex. Next of kin: Lily M. Coleman, mother, R. F. D. No. 1, Astell, Tex.

Marion M. Collier, corporal, Eighty-third Company, Sixth Regiment, killed in action June 6, 1918, in Chateau-Thierry sector. Remains interred in grave 36, block A, row 5, Aisne-Marne Cemetery No. 1764, at Belleau, France. Former residence: Fort Worth, Tex. Next of kin: Boyd T. Collier, brother, 1804 Austin Street, Houston, Tex.

Sandy A. Coor, private, Company L, Thirteenth Regiment, died of disease February 1, 1919, in France. Remains returned to Sandy A. Coor, father, R. F. D. No. 2, Glendale, Ariz. Former residence: Eola, Tex.

Walter L. Davis, private, Eighty-fourth Company, Sixth Regiment, died of wounds November 6, 1918, received in the Meuse-Argonne offensive. Remains permanently buried in grave 5, block F, row 28, Meuse-Argonne Cemetery No. 1232, Romagne, France. Former residence: Fort Worth, Tex. Next of kin: Mrs. Anna F. Davis, mother, R. R. No. 3, Munda, Tex.

Claude M. Dey, corporal, Forty-ninth Company, Fifth Regiment, died of wounds June 16, 1918, received in the Chateau-Thierry sector. Remains returned to the United States and shipped to Mr. Richard H. Dey, father, R. F. D. No. 4, Youngstown, Ohio. Former residence: Aldine, Tex.

Justin D. Dorbandt, private, Fourth Squadron, First Marine Aviation Force, died of disease October 3, 1918, at Liverpool, England. Remains returned to the United States and shipped to Mrs. Daisy D. Dorbandt, wife, Lampasas, Tex. Former residence: Houston, Tex.

Baxter C. Duncan, corporal, Seventy-eighth Company, Sixth Regiment, killed in action September 15, 1918, in the St. Mihiel offensive. Remains returned to the United States and shipped to Mr. Thomas W. Duncan, father, Nacogdoches, Tex. Former residence: Nacogdoches, Tex.

Herbert D. Dunlavy, private, Ninety-sixth Company, Sixth Regiment, killed in action June 8, 1918, in the Chateau-Thierry sector. Remains returned to the United States and interred in grave 2723, European section, Arlington National Cemetery, Fort Myer, Va. Former residence: Houston, Tex. Next of kin: Mrs. Hattie Hall, mother, Goose Creek, Tex.

Houston B. Farmer, corporal, Seventeenth Company, Fifth Regiment, killed in action October 4, 1918, in the Meuse-Argonne (Champagne) offensive. Remains permanently buried in grave 22, block B, row 42, Meuse-Argonne Cemetery No. 1232, Romagne, France. Former residence: Dallas, Tex. Next of kin: Mrs. Maggie M. Weaver, mother, 1208 Cane Street, Dallas, Tex.

Terry L. Fisher, private, Twentieth Company, Fifth Regiment, killed in action April 22, 1918, in the Toul sector. Remains returned to the United States and interred in grave 2129, European section, Arlington National Cemetery, Fort Myer, Va. Former residence: Royce City, Tex. Next of kin: W. J. Fisher, father, Royce City, Tex.

John E. Flinn, sergeant, Forty-seventh Company, Fifth Regiment, killed in action October 4, 1918, in the Meuse-Argonne (Champagne) sector. Remains returned to the United States and shipped to John W. Flinn, father, Taft, Tex. Former residence: Georgetown, Tex.

Tullie Florence, private, Ninety-fifth Company, Sixth Regiment, died of disease February 16, 1919, in France. Remains returned to the United States and shipped to Mr. Major Florence, father, R. F. D. No. 3, Fate, Tex. Former residence: Hillsboro, Tex.

Louie Floyd, private, Ninety-fifth Company, Sixth Regiment, died of disease September 23, 1918, in France. Remains returned to the United States and shipped to Mrs. Elizabeth Floyd, mother, Kerrville, Tex. Former residence: Houston, Tex.

William L. Ford, private, Fifty-fifth Company, Fifth Regiment, killed in action November 10, 1918, in the Meuse-Argonne offensive. Remains returned to the United States and interred in the national cemetery, San Antonio, Tex. Former residence: Laredo, Tex. Next of kin: Adelaide Ford, mother, 1212 Scott Street, Laredo, Tex.

Floyd A. Forse, corporal, Ninety-seventh Company, Sixth Regiment, died of wounds October 3, 1918, received in the Meuse-Argonne (Champagne) sector. Remains returned to the United States and shipped to Nacogdoches, Tex. Former residence: Newton, Tex. Next of kin: Thomas B. Berton, brother, Orange, Tex.

Thomas E. Garrett, jr., private, Ninety-sixth Company, Sixth Regiment, killed in action July 19, 1918, in the Aisne-Marne (Soissons) offensive. Remains returned to the United States and shipped to Mrs. D. A. Garrett, mother, Teague, Tex. Former residence: Houston, Tex.

Eric A. Goldbeck, private, Sixty-seventh Company, Fifth Regiment, killed in action June 6, 1918, in the Chateau-Thierry sector. Remains returned to the United States and shipped to G. R. Goldbeck, father, Fort Worth, Tex. Former residence: Galveston, Tex.

Bert Gordon, private, Ninety-fifth Company, Sixth Regiment, died of wounds June 4, 1918, received in the Aisne defensive. Remains were returned to the United States and interred in grave 1337, section G, national cemetery, San Antonio, Tex. Former residence: Houston, Tex. Next of kin: E. B. Gordon, father, R. F. D. No. 1, Joaquin, Tex.

Edwin M. Gorman, private, Fifty-fifth Company, Fifth Regiment, killed in action July 18, 1918, in Aisne-Marne offensive. Remains interred in grave 35, block A, row 15, Oise-Aisne Cemetery No. 608, at Seringes-et-Nesles, France. Former residence: Palestine, Tex. Next of kin: William C. Gorman, father, Oakwood, Tex.

Roy B. Graham, private, Seventy-fifth Company, Sixth Regiment, died of wounds July 19, 1918, received in Aisne-Marne offensive. Remains interred in grave 2, block C, row 16, Oise-Aisne Cemetery No. 608, at Seringes-et-Nesles, France. Former residence: Rogers, Tex. Next of kin: Lucille Graham, mother, Rogers, Tex.

John W. Gratehouse, private, Seventy-ninth Company, Sixth Regiment, died of disease September 30, 1918, in France. Remains returned to J. W. Redman, Humble, Tex. Next of kin: Mrs. Jane Gratehouse, mother, Humble, Tex. Former residence: Humble, Tex.

Enoch R. Hale, private, Sixty-seventh Company, Fifth Regiment, killed in action June 6, 1918, in Chateau-Thierry sector. Remains returned to R. O. Hale, father, Dodge, Tex. Former residence: Corrigan, Tex.

Alexander Halpain, private, Eightieth Company, Sixth Regiment, killed in action June 3, 1918, in Aisne defensive. Remains interred in national cemetery, San Antonio, Tex. Former residence: Hamilton, Tex. Next of kin: W. M. Halpain, father, 828 Exposition Avenue, Dallas, Tex.

James C. Hamrick, private, Eighty-fourth Company, Sixth Regiment, killed in action November 1, 1918, in Meuse-Argonne offensive. Remains returned to Louisa Hamrick, mother, Barksdale, Tex. Former residence: Barksdale, Tex.

Joseph J. Harris, private, Eighty-second Company, Sixth Regiment, killed in action June 12, 1918, in Chateau-Thierry sector. Remains shipped to C. H. Carlisle, care of Gulf Refining Co., Brenham, Tex. Next of kin: Moses H. Harris, brother, 2512 Jackson Street, Houston, Tex. Former residence: Houston, Tex.

William O. Jarnagin, private, Company D, Thirteenth Regiment, died of disease September 21, 1918, in France. Remains shipped to William F. Jarnagin, father, Bridgeport, Tex. Former residence: Dallas, Tex.

Lawrence G. Jensen, private, Eighty-third Company, Sixth Regiment, killed in action June 4, 1918, in Aisne defensive. Remains shipped to Mrs. Elsie Jensen, mother, 3509 Clark Street, Houston, Tex. Former residence: Houston, Tex.

Lemuel L. Johnston, jr., private, Forty-third Company, Fifth Regiment, died of wounds September 16, 1918, in St. Mihiel offensive. Remains shipped to San Antonio, Tex., for private burial. Next of kin: Mrs. Reden Johnston, mother, Wallace, Tex. Former residence: Wallace, Tex.

Jack H. Jones, private, Seventy-fourth Company, Sixth Regiment, died of wounds October 8, 1918, received in Meuse-Argonne (Champagne) offensive. Remains shipped to William F. Jones, father, Moscow, Tex. Former residence: Moscow, Tex.

Willie G. Judkins, private, Company G, Thirteenth Regiment, died of disease September 27, 1918, in France. Remains shipped to the national cemetery, San Antonio, Tex. Former residence: Waco, Tex. Next of kin: Mrs. Laura V. Judkins, mother, rural route No. 6, Waco, Tex.

John S. Kirk, private, Company L, Thirteenth Regiment, died of disease November 11, 1918, in France. Remains shipped to Mrs. Parlee F. Kirk, mother, 5417 East Side Avenue, Dallas, Tex. Former residence: Dallas, Tex.

Sidney E. Kornegay, private, Ninety-fifth Company, Sixth Regiment, killed in action November 1, 1918, in the Meuse-Argonne offensive. Remains shipped to Mrs. Carry F. Kornegay, mother, general delivery, Malone, Tex. Former residence: Fort Worth, Tex.

Henry N. Lacy, sergeant, Seventy-sixth Company, Sixth Regiment, killed in action July 19, 1918, in the Aisne-Marne (Soissons) offensive. Remains returned to the United States and interred in grave 4520, European section, Arlington National Cemetery, Fort Myer, Va. Former residence: Lancaster, Tex. Next of kin: Mrs. Samuel A. Lacy, mother, Lancaster, Tex.

Roy B. Lange, private, Forty-seventh Company, Fifth Regiment, died of disease October 12, 1918, in France. Remains shipped to Dorothy H. Lange, mother, 2500 Homon Avenue, Waco, Tex. Former residence: Waco, Tex.

James L. Laster, jr., private, Ninety-seventh Company, Sixth Regiment, killed in action September 15, 1918, in the St. Mihiel offensive. Remains permanently buried in grave 5, block B, row 19, St. Mihiel Cemetery, No. 1233, Thiaucourt, France. Former residence: Waco, Tex. Next of kin: James L. Laster, father, 514 North Eleventh Street, Waco, Tex.

Valentine Lawson, private, Eighteenth Company, Fifth Regiment, killed in action June 11, 1918, in the Chateau-Thierry sector. Remains permanently buried in grave 60, block B, row 6, Aisne-Marne Cemetery, No. 1764, Belleau Wood, France. Former residence: Blanco, Tex. Next of kin: Henry Lawson, father, Blanco, Tex.

Raymond R. Leonard, private, Seventy-fourth Company, Sixth Regiment, died of wounds October 9, 1918, received in the Meuse-Argonne (Champagne) offensive. Remains returned to the United States and interred in grave 2014, European section, Arlington National Cemetery,

Fort Meyer, Va. Former residence: Fort Worth, Tex. Next of kin: Della Leonard, mother, 1630 Worth Street, Fort Worth, Tex.

Joe W. Ligon, private, Sixty-seventh Company, Fifth Regiment, killed in action June 6, 1918, in the Chateau-Thierry sector. Remains shipped to Mrs. Minty Ligon, mother, Loving, Tex. Former residence: Loving, Tex.

Clinton S. Lindsey, private, Eighty-second Company, Sixth Regiment, killed in action June 8, 1918, in the Chateau-Thierry sector. Remains shipped to Felix W. Lindsey, father, San Marcos, Tex. Former residence: San Marcos, Tex.

Austin R. Lowery, corporal, Eighty-second Company, Sixth Regiment, died of wounds July 19, 1918, in the Aisne-Marne (Soissons) offensive. Remains returned to the United States and interred in grave 1762, European section, Arlington National Cemetery, Fort Myer, Va. Former residence: San Marcos, Tex. Next of kin: Jenny Lynch, aunt, San Marcos, Tex.

Padgett A. McBeth, private, Eighty-third Company, Sixth Regiment, died of wounds September 13, 1918, in the St. Mihiel offensive. Remains shipped to Mrs. Marry McBeth, mother, Gatesville, Tex. Former residence: Harper, Tex.

William L. McWhirter, private, Twentieth Company, Fifth Regiment, died of wounds June 12, 1918, received in the Chateau-Thierry sector. The grave of Private McWhirter has not been found. Former residence: San Antonio, Tex. Next of kin: Emma Harbin, sister, rural route No. 2, Glen Allen, Ala.

Robert G. Moffett, private, Forty-ninth Company, Fifth Regiment, killed in action November 2, 1918, in the Meuse-Argonne offensive. Remains shipped to S. L. Randlett, Lancaster, Tex. Former residence: Dallas, Tex. Next of kin: Robert G. Moffett, father, 3215 Commerce Street, Dallas, Tex.

John W. Mofield, corporal, Seventy-sixth Company, Sixth Regiment, killed in action June 13, 1918, in the Chateau-Thierry sector. Remains shipped to Mrs. Mary Mofield, mother, Hondo, Tex. Former residence: Hondo, Tex.

Daniel L. Morrel, private, Seventy-sixth Company, Sixth Regiment, killed in action July 19, 1918, in the Aisne-Marne (Soissons) offensive. Remains shipped to John R. Morrel, father, Milford, Tex. Former residence: Milford, Tex.

John W. Murphy, private, Seventy-ninth Company, Sixth Regiment, killed in action October 7, 1918, in Meuse-Argonne (Champagne) offensive. Remains shipped to Mrs. Lotta M. Allen, mother, 1124 Latham Street, Memphis, Tenn. Former residence: Houston, Tex.

Ernest A. Neil, corporal, Fifteenth Company, Sixth Machine Gun Battalion, killed in action June 10, 1918, in Chateau-Thierry sector. Remains shipped to Munsel Neil, mother, 727 Ringsby Avenue, San Antonio, Tex. Former residence: San Antonio, Tex.

Augustus C. Oliver, private, Eightieth Company, Sixth Regiment, killed in action September 15, 1918, in St. Mihiel offensive. Remains shipped to Eunice Oliver, mother, Belton, Tex. Former residence: Belton, Tex.

Wallace M. O'Reilly, private, Seventy-ninth Company, Sixth Regiment, killed in action July 17, 1918, in Aisne-Marne offensive. Remains shipped to Kate O'Reilly, mother, 1528 Kane Street, Houston, Tex. Former residence: Houston, Tex.

Jesse A. Palmer, private, Seventy-fourth Company, Sixth Regiment, killed in action July 19, 1918, in Aisne-Marne offensive. Remains interred in grave 7, block C, row 23, Oise-Aisne Cemetery No. 608, Seringes-et-Nesles, France. Former residence: Huntsville, Tex. Next of kin: Jessie Palmer, mother, Huntsville, Tex.

Abner B. Partain, private, Company A, Thirteenth Regiment, died of disease September 24, 1918, in France. Remains shipped to Ella Partain, mother, Cuero, Tex. Former residence: Tide Haven, Tex.

William E. Pennington, private, Eightieth Company, Sixth Regiment, killed in action September 15, 1918, in St. Mihiel offensive. Remains shipped to Allen R. Pennington, father, Gatesville, Tex. Former residence: Gatesville, Tex.

Dewey L. Pittman, private, Eighty-third Company, Sixth Regiment, killed in action July 19, 1918, in Aisne-Marne offensive. Remains interred in national cemetery, San Antonio, Tex. Former residence: San Antonio, Tex. Next of kin: Maude Pittman, mother, 2417 Wyoming Street, San Antonio, Tex.

Nathan L. Pizer, private, Seventy-ninth Company, Sixth Regiment, killed in action June 8, 1918, in Chateau-Thierry sector. Remains shipped to Sam Pizer, father, 111 Bryan Street, Houston, Tex. Former residence: Houston, Tex.

Roy E. Raynor, sergeant, Seventy-sixth Company, Sixth Regiment, killed in action September 12, 1918, in St. Mihiel offensive. Remains interred in grave 2683, European section, Arlington National Cemetery, Fort Myer, Va. Former residence: Houston, Tex. Next of kin: Sarah L. Watts, mother, Houston, Mo.

Pete Reedy, private, Seventy-fourth Company, Sixth Regiment, died of wounds July 22, 1918, received in Aisne-Marne offensive. Remains interred in grave 8, block B, row 1, Suresnes Cemetery No. 34, Suresnes, France. Former residence: Crowley, Tex. Next of kin: Surrieda Reedy, mother, 2620 Travers Street, Fort Worth, Tex.

Walter F. Reuter, corporal, Company G, Thirteenth Regiment, died of disease October 5, 1918, in France. Remains shipped to Carl Reuter, father, Gonzales, Tex. Former residence: Gonzales, Tex.

Ben H. Rogers, private, Ninety-fifth Company, Sixth Regiment, killed in action November 5, 1918, in Meuse-Argonne offensive. Remains interred in grave No. 3473, European section, Arlington National Cemetery, Fort Myer, Va. Former residence: Edna, Tex. Next of kin: Rufus H. Rogers, father, Edna, Tex.

Horace E. Rowold, corporal, Sixty-sixth Company, Fifth Regiment, died of wounds July 21, 1918, received in Aisne-Marne offensive. Remains shipped to Emil H. Rowold, father, Wharton, Tex. Former residence: Wharton, Tex.

Arthur B. Sawyer, private, Eighth Company, Fifth Regiment, killed in action June 8, 1918, in Chateau-Thierry sector. Remains shipped to Lula Sawyer, mother, 326 Williams Street, Key West, Fla. Former residence: Houston, Tex.

Leslie B. Scott, private, Eightieth Company, Sixth Regiment, died of wounds September 16, 1918, received in St. Mihiel offensive. Remains shipped to Pearl Scott, mother, League City, Tex. Former residence: League City, Tex.

George B. Sellars, private, Twentieth Company, Fifth Regiment, died of wounds June 7, 1918, received in Chateau-Thierry sector. Remains interred in grave No. 1338, section G, national cemetery, San Antonio, Tex. Former residence: Moscow, Tex. Next of kin: George W. Sellars, father, Moscow, Tex.

Gale B. Shauberger, private, Sixteenth Company, Fifth Regiment, killed in action November 2, 1918, in Meuse-Argonne offensive. Remains interred in grave No. 3470, European section, Arlington National Cemetery, Fort Myer, Va. Former residence: Walter, Tex. Next of kin: Rebecca Shauberger, mother, Albion, Pa.

Clarence E. Smith, private, Eighth Company, Fifth Regiment, killed in action November 2, 1918, in Meuse-Argonne offensive. Remains interred in grave 2456, European section, Arlington National Cemetery, Fort Myer, Va. Former residence: Victoria, Tex. Next of kin: H. E. Smith, father, Victoria, Tex.

Jacob W. Spake, private, Ninety-sixth Company, Sixth Regiment, died of wounds June 21, 1918, received in Chateau-Thierry sector. Remains interred in grave 35, block B, row 3, Aisne-Marne Cemetery No. 1764, Belleau Wood, France. Former residence: Dallas, Tex. Next of kin: Jacob W. Spake, 4703 Bryan Street, Dallas, Tex.

William L. Speake, sergeant, Ninety-fifth Company, Sixth Regiment, died of wounds September 12, 1918, received in St. Mihiel offensive. Remains interred in grave 2135, European section, Arlington National Cemetery, Fort Myer, Va. Former residence: Bowie, Tex. Next of kin: William H. Speake, father, Bowie, Tex.

Malcolm M. Stagg, private, Ninety-fifth Company, Sixth Regiment, killed in action September 13, 1918, in St. Mihiel offensive. Remains unlocated. Next of kin: Ola Stagg, mother, Churchpoint, La. Former residence: Palacios, Tex.

Maurice T. Suttles, private, Eighty-fourth Company, Sixth Regiment, killed in action June 6, 1918, in Chateau-Thierry sector. Remains shipped to L. D. Thompson, Leona, Tex. Next of kin: Thomas E. Suttles, father, San Marcos, Tex. Former residence: San Marcos, Tex.

James P. Tharp, private, Eighteenth Company, Fifth Regiment, killed in action June 9, 1918, in Chateau-Thierry sector. Remains interred in grave 3475, European section, Arlington National Cemetery, Fort Myer, Va. Former residence: Eagle Lake, Tex. Next of kin: James A. Carroll, uncle, Walthall, Miss.

John P. S. Thompson, private, Ninety-sixth Company, Sixth Regiment, killed in action June 3, 1918, in Aisne defensive. Remains shipped to Joe H. Thompson, brother, 1208 Clay Avenue, Houston, Tex. Former residence: Houston, Tex.

Robert W. Tompkins, private, Seventy-fifth Company, Sixth Regiment, died of wounds September 14, 1918, received in St. Mihiel offensive. Remains interred in grave 1639, European section, Arlington National Cemetery, Fort Myer, Va. Former residence: Houston, Tex. Next of kin: Mrs. A. T. Tompkins, mother, 2315 Bagby Street, Houston, Tex.

Roy A. Trow, private, Seventy-ninth Company, Sixth Regiment, died of wounds June 7, 1918, received in Chateau-Thierry sector. Remains shipped to Edwin Trow, father, Trinity, Tex. Former residence: Trinity, Tex.

Ammon Turnbow, private, Forty-ninth Company, Fifth Regiment, killed in action November 2, 1918, in Meuse-Argonne offensive. Remains shipped to Sam Hendrix, Stephenville, Tex. Next of kin: James T. Turnbow, father, Stephenville, Tex. Former residence: Stephenville, Tex.

Benjamin F. Turner, corporal, Sixteenth Company, Fifth Regiment, killed in action June 23, 1918, in Chateau-Thierry sector. Remains unlocated. Lizzie Turner, mother, Waco, Tex. Former residence: Waco, Tex.

Andrew J. Van Cleve, private, Ninety-sixth Company, Sixth Regiment, killed in action October 2, 1918, in Meuse-Argonne (Champagne) offensive. Remains shipped to Willie Van Cleve, Crystal City, Tex. Next of kin: Lillie Cooner, sister, 222 Dallas Street, San Antonio, Tex. Former residence: Cometa, Tex.

Clyde C. Voorhies, private, Eighty-second Company, Sixth Regiment, killed in action June 6, 1918, in Chateau-Thierry sector. Remains interred in grave 82, block A, row 2, Aisne-Marne Cemetery, No. 1764, Belleau Wood, France. Yancy D. Voorhies, father, Midlothian, Tex. Former residence: Midlothian, Tex.

Tom T. Waugh, private, Seventy-third Company, Sixth Regiment, killed in action October 8, 1918, in Meuse-Argonne (Champagne) offensive. Remains shipped to Annie Bell Waugh, mother, 4309 Wilmer Street, Houston, Tex. Former residence: Houston, Tex.

Joe C. Weber, sergeant, Seventy-fourth Company, Sixth Regiment, died of disease October 29, 1918, in France. Remains interred in national cemetery, San Antonio, Tex. Next of kin: Arthur Weber, brother, 1919 North Main Street, Houston, Tex. Former residence: San Antonio, Tex.

Leonard Weiler, corporal, Ninety-fifth Company, Sixth Regiment, died of wounds November 12, 1918, received in Meuse-Argonne offensive. Remains interred in grave 1290, European section, Arlington National Cemetery, Fort Myer, Va. Former residence: Handley, Tex. Next of kin: Hattie Weiler, mother, Handley, Tex.

Asa C. York, private, Fifty-first Company, Fifth Regiment, died of wounds October 21, 1918, received in Meuse-Argonne (Champagne) offensive. Remains shipped to Mrs. Annie York, mother, Giddings, Tex. Former residence: Giddings, Tex.

Dewey O. Young, private, Sixty-seventh Company, Fifth Regiment, killed in action June 6, 1918, in Chateau-Thierry sector. Remains unlocated. Next of kin: Ellen Young, mother, New Castle, Tex. Former residence: Thurber, Tex.

SOLDIERS FROM THE STATE OF TEXAS WHO DIED IN THE UNITED STATES AND POSSESSIONS WHILE SERVING IN THE UNITED STATES MARINE CORPS DURING THE WORLD WAR, INCLUDING DISPOSITION OF REMAINS

Walter F. Caster, private, first class, Depot of Supplies, United States Marine Corps, Philadelphia, Pa., died of disease September 25, 1918, at Philadelphia, Pa. Remains interred in Mount Moriah Cemetery, Philadelphia, Pa. Former residence: El Paso, Tex. Next of kin: Mrs. Laura E. Moran, mother, 214 South Stanton Street, El Paso, Tex.

James P. Crandall, private, Marine Barracks, New Orleans, La., died of disease October 10, 1918, at New Orleans, La. Remains shipped to William P. Crandall, father, Childress, Tex. Former residence: Kirkland, Tex.

Johnie E. Davidson, private, Company H, Eleventh Regiment, Marine Barracks, Quantico, Va., died of disease October 4, 1918, at Quantico, Va. Remains returned to Estella B. James, mother, Vernon, Tex. Former residence: Vernon, Tex.

Calvin J. Edwards, jr., private, Marine Barracks, Norfolk, Va., died of disease March 13, 1918, at Norfolk, Va. Remains shipped to C. J. Edwards, sr., father, Crawford, Tex. Former residence: Crawford, Tex.

Oran Edwards, private, Marine Barracks, Quantico, Va., died of disease October 5, 1918, at Quantico, Va. Remains shipped to Mrs. West Edwards, mother, Merkel, Tex. Former residence: Midland, Tex.

Willie B. Hall, apprentice musician, Marine Barracks, Parris Island, S. C., died September 8, 1918, of disease, at Parris Island, S. C. Remains shipped to Lou Hall, mother, Houston Harbor, Houston, Tex. Former residence: Houston, Tex.

Frederick A. Hammond, private, died July 21, 1918, while serving at Marine Barracks, Quantico, Va. Remains shipped to Emma Hammond, mother, Medina, Tex. Former residence: Medina, Tex.

Tom M. Lynch, private, Company G, Eleventh Regiment, Marine Barracks, Quantico, Va., died of disease October 7, 1918, at Quantico, Va. Remains shipped to Mrs. Charlie L. Lynch, wife, 4716 Ross Avenue, Dallas, Tex., and interred at Lake Charles, La. Former residence: Dallas, Tex.

Melvin A. Nesbitt, private, Marine Barracks, Quantico, Va., died of disease November 8, 1918, at Quantico, Va. Remains shipped to Mrs. Kate Reed, mother-in-law, 12 North Harvey Street, Oklahoma City, Okla. Next of kin: Mrs. M. A. Nesbitt, wife, same address. Former residence: Fort Worth, Tex.

James C. Pickle, private, Company A, Eleventh Regiment, Marine Barracks, Quantico, Va., died September 28, 1918, of disease, at Quantico, Va. Remains shipped to Ellen Pickle, mother, 432 Sunset Street, Dallas, Tex. Former residence: Leander, Tex.

Roy St. V. Plummer, private, Marine Barracks, Norfolk, Va., died October 15, 1918, of disease, at Norfolk, Va. Remains shipped to Mrs. James C. Plummer, mother, 711 Austin Street, Houston, Tex. Former residence: Houston, Tex.

Carl G. Schmidt, private, Company H, Eleventh Regiment, Marine Barracks, Quantico, Va., died October 8, 1918, of disease, at Quantico, Va. Remains shipped to Minnie Schmidt, mother, Beaumont, Tex. Former residence: Houston, Tex.

Ira South, sergeant, Marine Barracks, Norfolk, Va., died October 11, 1918, of disease, at Norfolk, Va. Remains shipped to Mrs. H. W. South, mother, 3002 Travis, Houston, Tex. Former residence: Houston, Tex.

Charles W. Start, private, Marine Barracks, Parris Island, S. C., died October 30, 1918, of disease, at Parris Island, S. C. Remains shipped to George L. Start, father, 1814 Twenty-seventh Street, Galveston, Tex. Former residence: Galveston, Tex.

Chester V. Stoddard, private, Marine Barracks, Parris Island, S. C., died November 4, 1918, of disease, at Parris Island, S. C. Remains shipped to Mrs. Ola Stoddard, mother, Plainview, Tex. Former residence: Plainview, Tex.

James L. Wales, private, Company H, Eleventh Regiment, Marine Barracks, Quantico, Va., died September 30, 1918, of disease, at Quantico, Va. Remains shipped to James M. Wales, father, Glen Rose, Tex., and interred at Walnut Springs, Tex. Former residence: Glen Rose, Tex.

Monroe P. Wilcox, private, Seventy-ninth Company, Sixth Regiment, Marine Barracks, Quantico, Va., died December 30, 1917, at Corsicana, Tex. Remains buried by mother, Nora Wilcox, R. F. D. No. 3, Corsicana, Tex. Former residence: Corsicana, Tex.

James K. Winn, private, Marine Barracks, Quantico, Va., died September 29, 1918, of disease, at Quantico, Va. Remains shipped to Mrs. Martha Winn, mother, Rocksprings, Tex., and buried at Uvelda, Tex. Former residence: Rocksprings, Tex.

Texas had 92 officers and 3,108 enlisted men in the United States Marine Corps during the World War, of whom 54 officers and 1,290 enlisted men saw service in France during the war. Twenty of the officers and 239 enlisted men were decorated, as follows:

OFFICERS DECORATED

[C. de G., croix de guerre; P., palm; B. S., bronze star; S. S., silver star; G. S., gold star]

Capt. Clyde N. Bates, Navy cross.

Capt. Percy D. Cornell, distinguished service cross; Navy cross; C. de G. (P.); citation in General Order No. 88; citation in American Expeditionary Forces, fourragère.

Capt. Durant S. Buchanan, C. de G. (B. S.); C. de G. (S. S.); citation in General Order No. 64; fourragère.

First Lieut. Lee Bowley Cox, C. de G. (S. S.); citation in General Order No. 88; citation in American Expeditionary Forces; fourragère.

First Lieut. Edwin J. Davenport, C. de G. (G. S.); two citations in General Order No. 88; two citations in American Expeditionary Forces (General Orders Nos. 1 and 7).

Capt. Walter Scott Fant, jr., C. de G. (G. S.); C. de G. (P.); three citations; also fourragère.

Capt. Walter T. H. Galliford, Navy cross; meritorious certificate American Expeditionary Forces; two citations in General Order No. 88; fourragère.

Capt. Max D. Gilfillan, C. de G. (S. S.); citation in General Order No. 35; C. de G. (P.); citation in General Order No. 40.

First Lieut. Henry M. Goode, C. de G. (S. S.); citation in General Order No. 88; citation in General Order No. 64; citation in American Expeditionary Forces No. 2.

First Lieut. Joseph C. Grayson, C. de G. (S. S.); citation in General Orders Nos. 40 and 88; citation in American Expeditionary Forces No. 2; fourragère.

Capt. Jack Sims Hart, distinguished service cross; Navy cross; C. de G. (G. S.); citation in General Orders, 64, No. 53, No. 88, Second Division; citation in American Expeditionary Forces; fourragère.

Capt. Frederick Impy Hicks, fourragère.

Capt. John Laury Hunt, citation in General Order No. 88, Second Division; fourragère.

Capt. Gillis Augustus Johnson, distinguished service cross; Navy cross; citation in General Order No. 64; fourragère.

Capt. Louis Estine McDonald, fourragère.

Capt. Hugh McFarland, C. de G. (P.); citation in General Order No. 68; citation in American Expeditionary Forces, General Orders No. 3; fourragère.

Capt. Drinkard B. Milner, citation in General Orders No. 88, Second Division; citation in American Expeditionary Forces, General Orders No. 3; fourragère.

Capt. Pink Holt Stone, citation in General Order No. 88, Second Division.

Capt. John W. Thomason, fourragère.

ENLISTED MEN

Max Leo Ackerman (private, first class), fourragère.

Norman Douglas Acuff (private), fourragère.

Charles Carroll Allen (corporal), fourragère.

Edward Jefferies Allgor (corporal), C. de G. (G. S.); citation, General Order No. 44; fourragère.

Erie Will Alpers (private, first class), citation, General Order No. 44; fourragère.

Mile Henry Anderson (private), fourragère.

William Olaf Anderson (private), fourragère.

Robert Woodville Angell (private, first class), fourragère.

Sam Otto Aston (private), fourragère.

Amory Earl Austin (sergeant), citation, General Order No. 44; fourragère.

Ernest Lawrence Baccinelli (private), fourragère.

Marcus Aurelius Bacher (private), fourragère.

Simon David Barber (first sergeant), fourragère.

Charlie Hermann Barnes (sergeant), fourragère.

Thomas Jefferson Barrentine (corporal), fourragère.

William Erwin Barron (private), fourragère.
James Thomas Battle (private, first class), fourragère.
Wirt Lafayette Baucom (corporal), fourragère.
Alfred Grover Beyer (private), C. de G. (S. S.); citation, General Order No. 35.
Frank Hunter Bickham (private), fourragère.
Quiley Blankinship (gunnery sergeant), fourragère.
Gordon Lee Bledsoe (sergeant), fourragère.
Sam Myers Buchanan (corporal), citation, General Order No. 88; citation, American Expeditionary Forces 1; fourragère.
Fred John Bowers (private), C. de G. (B. S.); citation, General Order No. 40; fourragère.
Alexander Hamilton Bowman (corporal), Navy cross.
Ralph Eugene Boykin (private, first class), fourragère.
Clarence Dande Bradford (sergeant), C. de G. (B. S.); citation, General Order No. 88; citation, American Expeditionary Force No. 8; fourragère.
Carl Andrew Brannen (private, first class), fourragère.
Wilson Ross Bridges (private), fourragère.
Charles Simes Brooks (private), C. de G. (B. S.); citation, General Order No. 64; fourragère.
Irl Webb Brown (private), fourragère.
John Henry Bruggen (corporal), fourragère.
James Richard Brummett (private), distinguished-service cross; Navy cross; citation, General Order No. 88; fourragère.
Harvie Bruton (private), fourragère.
Fred Theodore Bucholz (private), fourragère.
David Lambert Buford (gunnery sergeant), distinguished-service cross; Navy cross; C. de G. (G. S.); citation, General Order No. 44.
Peter Joseph John Cady (private), fourragère.
Henry Harvey Cameron (private), C. de G. (B. S.); fourragère.
Aldridge Preston Campbell (corporal), fourragère.
Hugh Lester Cantrell (private), fourragère.
Henry Ward Carlton (corporal), C. de G. (B. S.); citation, General Order No. 64; also fourragère.
James Claud Carpenter (corporal), fourragère.
Jesse Bordeaux Carroll (corporal), fourragère.
Samuel Hutchings Carter (sergeant), fourragère.
Carey Tom Caston (private, first class), fourragère.
Grederick Hudson Cederburg (private), fourragère.
Andrew Champion (private), C. de G. (G. S.); citation, General Order No. 64; fourragère.
John Jay Chaney (private), fourragère.
Charlie Morris Chandler (sergeant), C. de G. (S. S.), citation, General Order No. 64; fourragère.
Ramsey Battle Chapman (corporal), fourragère.
Grover Mathizes Chatman (private), distinguished-service cross; Navy cross; C. de G. (P.); citation, General Order No. 88; Med. Militaire.
William Richard Cherry (private, first class), fourragère.
Allen McKeen Clapp (gunnery sergeant), C. de G. (S. S.); citation, General Order No. 53; fourragère.
John Wesley Clark (gunnery sergeant), fourragère.
Norman Valentine Clark (sergeant), C. de G. (2 with B. S.; 1 with S. S.); citation, General Order No. 40 and citation, General Order No. 64; also fourragère.
William Murphy Clutter (sergeant), fourragère.
Earl Clyburn (sergeant), fourragère.
Edward Napolean Coats (corporal), fourragère.
James Richard Cobb (private), fourragère.
Charles Ignatius Coffin, jr. (private), fourragère.
George Hubert Cogdill (private), fourragère.
Virgil James Conaway (private), fourragère.
Russell B. Cope (corporal), fourragère.
Lewis Oats Cox (corporal), fourragère.
William Otto Cunningham (corporal), C. de G. (G. S.); citation, General Order No. 88; citation, American Expeditionary Forces; fourragère.
Harold Eugene Curtis (first sergeant), C. de G. (B. S.) (S. S.); citation, General Order No. 40; citation, General Order No. 88; citation, American Expeditionary Forces; fourragère.
Theodore Delleney (private), fourragère.
Sam Houston Dickerson (private), fourragère.
Cebe Walter Donold (sergeant), C. de G. (B. S.); citation, General Order No. 40; citation, General Order No. 88; also fourragère.
Frank Eliphalet Drake (sergeant), fourragère.
Walter Dudziak (private, first class), fourragère.
Herbert Dilard Dunlavy (private), distinguished-service cross; Navy cross; citation, General Order No. 40.
Henry Marcus Dyer (sergeant), fourragère.
William Lansdale Dyser (corporal), citation, October 3, 1918, Blanc Mont, General Order No. 64, Second Division.
Frank Alexander Ellis (corporal), C. de G. (S. S.); citation, General Order No. 44.
Jesse William Emery (private), fourragère.
Houston Burleson Farmer (corporal), fourragère.
Jay Bryan Farr (private), fourragère.
Rogers George Farrow (private, first class), C. de G. (S. S.); citation, General Order Second Division, No. 53; also fourragère.
William Martin Feigle (sergeant), distinguished-service cross; Navy cross; C. de G. (B. S.); citation, in General Order No. 40; citation, General Order No. 64; citation in General Order No. 88; fourragère.
John Evan Flinn (sergeant), fourragère.
William Lawrence Ford (private first class), fourragère.
James Gaines Forrest (private first class), fourragère.
Floyd Arthur Forse (corporal), fourragère.
Richard Selkirk Fowler (private), fourragère.
Harris Lester Fox (private), fourragère.
William Alexander Francis (private first class), fourragère.
Opal Morgan Gandy (private), fourragère.
William Hill Gardner, jr. (private, first class), fourragère.
Francis Edward Giesen (private), fourragère.
Gary Gillis (corporal), fourragère.
Tom Girolamo (private, first class), fourragère.
Adelphas Lee Goddard (private), fourragère.
Ira Jessie Gothard (corporal), fourragère; citation in General Order No. 64, Second Division.
Eddie Steel Gowen (corporal), fourragère; citation in General Order No. 44.
Claude Burton Gray (private), fourragère.
John Griffin (private, first class), fourragère.
Joseph Guyton (corporal), fourragère.
Charles Leonard Haasis (corporal), citation in General Order No. 64, Second Division. Citation in American Expeditionary Forces.
Arthur Leonard Hale (corporal), fourragère.
Jerry Frank Hale (corporal), C. de G. (2) (2 S. S.); citation in General Order No. 44; citation in General Order No. 53; fourragère.
John Jerry Hale (corporal), C. de G. (S. S.); citation in General Order No. 53, Second Division, fourragère.
Albert Sidney Hammack (private), 3 C. de G. (2 B. S. & 1 S. S.); citation in General Order No. 40; fourragère.
Willie Hampton (sergeant), fourragère; C. de G. (P.); citation in General Order No. 88; citation, American Expeditionary Forces.
Willie Walter Hanz (private), fourragère.
Maurice Stanley Hardin (corporal), fourragère; citation in General Order No. 88, Second Division; citation in American Expeditionary Forces, General Order No. 2.
Charles Gus Hawkins (sergeant), fourragère; citation in American Expeditionary Forces.
Gardiner Hawkins (private), citation in General Order No. 88; C. de G. (S. S.).
Emmett Thames Hensley (private), fourragère.
Albert Ernest Herzog (corporal), fourragère.
William Douward Hicks (sergeant), C. de G. (S. S.); citation in General Order No. 53; fourragère.
Clyde Powell Higgins (private), 2 citations in General Order No. 88; 2 citations in American Expeditionary Forces; fourragère.
Earl Travis Hill (private), fourragère.
Harry Garvis Hobbs (private), C. de G. (B. S.); citation in General Order No. 40; fourragère.
James Willis Hobbs (corporal), fourragère.
Robert Lee Hoecker (corporal), C. de G. (B. S.); citation in General Order No. 53; fourragère.
Otho Clarence Holland (corporal), C. de G. (P.); citation in General Order No. 88; citation in American Expeditionary Forces; fourragère.
Ross Holloway (private), fourragère.
Glenn Hollingsworth (sergeant), fourragère.
John Wilbanks Hufsmith (private), fourragère.
Warren Richard Jackson (corporal), C. de G. (S. S.); citation in General Order 88; citation in American Expeditionary Forces General Order No. 3; fourragère.
Henry Grady James (sergeant), C. de G. (S. S.); citation in General Order No. 53; fourragère.
Willie Ross Jeffres (sergeant), citation in General Order No. 40; fourragère.
Walter William Johnson (private), first class), fourragère.
Lemuel Linder Johnston, jr. (private), fourragère.
Oral Dotrage Johnston (private, first class), fourragère.
Elmer Ernest Jones (private, first class), fourragère.
Jack Hodge Jones (private), fourragère.
Jack Jordan (sergeant), distinguished service cross; Navy cross; C. de G. (G. S.); citation in General Order No. 64; fourragère.
Travis Houston Jossy (corporal), fourragère.
Marvin Gilford Justice (first sergeant), C. de G. (G. S.); C. de G. (P.); citation in General Order No. 44; citation in General Order No. 88; citation in General Order No. 64; citation in American Expeditionary Forces, General Order No. 3; fourragère.
James Ingram Kaigler (private, first class), fourragère.
Clarence Hines Kelly (private), fourragère; C. de G. (B. S.); citation in General Order No. 64.
Troy Dee King (private), fourragère.
Leonard William Kirchman (private), fourragère.
Samuel Byrne Jenkins (sergeant), fourragère.

James Lambert (sergeant), fourragère.
Walter Averillo Lane (private), fourragère.
Jefferson Davis Lauderdale (private), citation in General Order No. 44.
William Henderson Lee (sergeant), distinguished service cross; C. de G.; Navy cross; also fourragère.
Charles Wilcox Leigh (private), fourragère.
Clinton Steven Lindsey (private), fourragère.
Wilbur Ticknor Love (private), citation in General Order No. 88; citation in American Expeditionary Forces; fourragère.
Sykes Sanford McClane (corporal), fourragère.
James Albert McCloskey (private), fourragère.
Robert Dewey McMillan (private, first class), fourragère.
William Sherman McWhorter (corporal), fourragère.
Paul Raymond Mahan (corporal), citation in General Order No. 64; citation in General Order No. 88; citation in American Expeditionary Forces, General Order No. 3.
Jack Harry Marold (corporal), fourragère.
Robert Evan Martin (private, first class), fourragère.
Lawrence Arthur Millican (private, first class), C. de G. (B. S.); citation in General Order No. 40; fourragère.
Jesse John Mims (private), C. de G. (S. S.); citation in General Order No. 53.
Thomas Jeptha Mitchell (private, first class), fourragère.
Charlie William Mitchell (sergeant), C. de G. (B. S.); citation in General Order No. 40.
James Thornton Murrell (private), fourragère.
Robert Z. Necessary (private), fourragère.
Thomas Burkett Necessary (private), fourragère.
George Elmer O'Neill (gunnery sergeant), C. de G. (G. S.); citation in General Order No. 44; fourragère.
Wallace Michael O'Reilly (private), C. de G. (S. S.); citation in General Order No. 40.
Thomas Jefferson Pace (corporal), fourragère.
Homer Seral Pankhurst (private), fourragère.
Pleas Parker (private), citation in American Expeditionary Forces; fourragère.
Curtis Henry Parson (private), citation in General Order No. 44; fourragère.
Floyd Miller Patterson (private), fourragère.
Lee Patton (corporal), C. de G. (G. S.); citation in General Order No. 44; fourragère.
Wayne Dewey Paul (corporal), fourragère.
Frank Pavelka (corporal), fourragère.
Dock Peel (corporal), fourragère.
Leonard Perkins (private), fourragère.
Daniel Glind Pinkston (corporal), fourragère.
Dewey Lawrence Pittman (private), fourragère.
Nathan Louis Pizer (private), C. de G. (B. S.); citation, General Order No. 40.
Dread Dawson Pressley (private, first class), fourragère.
Joseph Austin Presswood (private), fourragère.
Gilbert Roland Quinney (private, first class), C. de G. (B. S.); citation, General Order No. 88; citation, American Expeditionary Forces; fourragère.
John Boyd Rainbolt (private), fourragère.
Charlie Hendrickson Rankin (corporal), fourragère.
Earl Madison Ray (private), fourragère.
Alfred Franklin Rea (private), fourragère.
Nicholas John Retza (private), fourragère.
Herbert John Reuwer (private), fourragère.
Oby Victor Rhoads (corporal), fourragère.
Norval Joshua Rich (private), fourragère.
Jessie Ray Roark (corporal), fourragère.
Henry Ector Roberts (private), fourragère.
Samuel Gurlie Robinson (private), fourragère.
Ben Hadden Rogers (private), fourragère.
Charles Rogoski (private), fourragère.
Winston Rutledge Roper (sergeant), C. de G. (S. S.); citation, General Order No. 53; fourragère.
Raymond Ross (private), C. de G. (G. S.); citation, General Order No. 40.
Horace Enus Rowold, Med. Militaire; C. de G. (P.); fourragère.
John Edward Ryan (sergeant), distinguished-service cross; Navy cross; C. de G. (G. S.); citation in General Order No. 88; fourragère.
Joe Albert Riha (corporal), citation, General Order No. 44; fourragère.
Robert Louis Robertson, jr. (corporal), fourragère.
Max Christian Schilling (corporal), fourragère.
Dewey Schmidt (private), fourragère.
John Henry Schmidtz (private), fourragère.
Leslie Bryan Scott (private), fourragère.
Walter Herbert Scott (corporal), fourragère.
William Scruggs (sergeant), fourragère.
John Seselja (corporal), fourragère.
Donald Ransey Sheaff (sergeant), distinguished-service cross; Navy cross; citation, General Order No. 40; fourragère.
John T. Sheffield (gunnery sergeant), C. de G. (G. S.); citation, General Order No. 64, Second Division; appointed second lieutenant, MCR December 13, 1918.
Charles Dillon Shepherd (private), fourragère.
Royal Hamilton C. Shepherd (corporal), distinguished-service cross; Navy cross; C. de G. (B. S.); citation, General Orders Nos. 44 and 53; fourragère.
August Slack (corporal), fourragère.
Charles Rufus Smith (private, first class), fourragère.
F. Griffin Smith (private), fourragère; citation in General Order No. 88); citation in American Expeditionary Forces.
Clyde Douglas Smith (private), C. de G. (B. S.); citation in General Order No. 64, Second Division; also fourragère.
Jack Allen Sneed (sergeant), fourragère.
Edward Richard Spell (corporal), fourragère.
Leslie Spindler (corporal), fourragère; citation in General Order No. 64, Second Division.
Walter Lee Sprinkles (private, first class), fourragère.
John Francis Stasky (private), C. de G. (B. S.); citation in General Order No. 44; fourragère.
Guy Jacob Stroup (corporal), citation in General Order No. 88; fourragère.
Earl Vernon Stubblefield (corporal), fourragère.
Bishop Taylor (private), fourragère.
Lawrence Tedesco (corporal), fourragère.
Martin Andrew Teer (corporal), fourragère.
Randall A. Tharp (private), C. de G.; citation in General Order No. 88; citation in American Expeditionary Force General Order No. 4.
Cortez Loy Thompson (gunnery sergeant), citation in General Order No. 88; fourragère.
George Thomas Tipps (private), C. de G. (S. S.); citation in General Order No. 53.
Jessie Glenn Tompkins (private), fourragère.
Herbert Henry Townsend (corporal), fourragère.
Reagan Tubb (corporal), fourragère.
James Albert Tucker (corporal), C. de G. (S. S.); citation in General Order No. 40, Second Division; also fourragère.
Ben Tillman Turner (corporal), fourragère.
Locke Paul Tuttle (private), fourragère.
Andrew Jackson Van Cleve (private), fourragère.
Charles Jonas Vanek (private, first class), fourragère.
Uzell D. Walker (corporal), fourragère.
John Luther Wallace (corporal), fourragère.
Allen Webster (private, first class), fourragère.
Leonard Weiler (corporal), fourragère.
Oscar Weiss (corporal), fourragère.
Fred Williams (private), fourragère.
Wilbur Alexander Woods (sergeant), fourragère; citation in General Order No. 88; citation in American Expeditionary Forces.
John May Worrell (private), distinguished-service cross; Navy cross; citation in General Order No. 40.
Judson Wyche (private), fourragère.

Casualties suffered by officers and enlisted men from the State of Texas while serving in the United States Marine Corps during the World War

CASUALTIES (OVERSEAS)

	Killed in action	Died of wounds	Wounded in action	Battle casualties	Died of other causes	Total casualties
Officers	1	1	15	17		17
Enlisted men	56	28	335	419	17	436
Total	57	29	350	436	17	* 453

DEATHS IN UNITED STATES AND POSSESSIONS

Officers	0
Enlisted men	18

DISPOSITION OF OVERSEAS DEAD

Returned to United States	87
Permanently buried in Europe	14
Unlocated	2

CONDUCT OF INDIAN AFFAIRS

Mr. FRAZIER. Mr. President, a few days ago the junior Senator from Montana [Mr. WHEELER] made a speech over the radio on the Indian question. The junior Senator from Montana is a member of the subcommittee of the Committee on Indian Affairs that has been investigating the Indian question. I should like very much to have an article from the Washington Star containing his address incorporated in the RECORD, and I ask unanimous consent to that end.

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

The address is as follows:

WHEELER DEPLORES INDIAN TREATMENT—SENATOR IN RADIO FORUM SPEECH ARRAIGNS BUREAU AND CONGRESS

Severely arraigning the Indian Bureau and Congress for their treatment of "the only 100 per cent Americans in the United States," Senator BURTON K. WHEELER, Democrat of Montana, made a plea for an honest, humane, and businesslike supervision of Indian affairs last night in the National Radio Forum sponsored by the Star over a nation-wide hook-up of Columbia Broadcasting System stations.

Just returned from an extended investigation on which he visited reservations in five Western States in his capacity as a member of the Senate Committee on Indian Affairs, Senator WHEELER declared that after 70 years under the tutelage of the Indian Bureau, the American Indian has paid his political debts "to his moral, physical, and economic ruin." The National Radio Forum, arranged by the Evening Star, is broadcast each week through Station WMAL.

Senator WHEELER, referring to a report that Secretary of the Interior Wilbur had said something to the effect that the Indians should be given a "pickle," made this statement: "The trouble is the Indians have had too many pickles. It isn't pickles that they need, but an honest, efficient, businesslike administration of their affairs. They have been exploited and plundered by Indian traders, lumber concerns, oil companies, etc., until they have little of their resources intact."

CHARGES BROKEN PLEDGES

Reviewing the broken pledges of the Government and his treatment at its hands over a period of many years, Senator WHEELER said it was apparent that the Indian Bureau and Congress were still in accord with the old phrase that "the only good Indian is a dead Indian."

"In 70 years we have not taught the Indian to be self-supporting," he said. "He is less so to-day than he was at the beginning."

His investigations in the West, Senator WHEELER pointed out, have led him to hope that the new Commissioner of Indian Affairs would relegate to the "political scrap heap" many of the incompetent superintendents of reservations, and that in their place and stead "we will have men who are not just seeking a job, but who are anxious and willing to render a service to the Indians and to all mankind as well."

As a remedy for many of the conditions which he declared have made the Indian to-day "hungry and sick and poor," Senator WHEELER recommended that the Indians be given a voice in the leasing of trust property as well as his tribal property.

MAKES PLEA FOR HOSPITALIZATION

"They are anxious for an education, and should be given it," he said, "I am convinced that the education should be turned over to the several States. They should attend public schools."

"Proper hospitalization should be provided all tribes," he urged, in citing the fact that tuberculosis is rampant and uncared for on the Indian reservations. In consideration of the fact that the worth of property belonging to approximately 225,000 Indian wards, Senator WHEELER declared that a businesslike accounting system should be established and the Indians rendered an itemized quarterly statement of their personal and tribal funds in the hands of the Indian Office, something which, he stressed, has never been rendered them.

Senator WHEELER'S speech, in full, follows:

TEXT OF WHEELER SPEECH

"Ladies and gentlemen of the radio audience, I am glad to say a word to you this evening regarding the plight of the American Indian, the only 100 per cent American in the United States, but who seldom parades the fact either in private or public gatherings.

"There is a saying with which some of you are familiar, namely, 'The only good Indian is a dead Indian.' This phrase was coined when the Indians were still a menace.

"I am quite sure that when I have finished this evening you will feel that the Indian Bureau, and perhaps Congress, is in thorough accord with the sentiment expressed in the foregoing statement.

"I shall, in the limited time at my command, deal with the problems of the Indians at the present time and endeavor to point out what I deem to be some of the things that should be done to correct, as far as possible, the mistakes which have been made in the past.

"First, let us for a moment go back to the period beginning 1824 and ending about 1874. It was during the administration of President Pierce that we entered into treaties with many of the nations or tribes of the American Indians. We had driven the Indians from the Atlantic coast, and thence from the fertile fields of the Ohio and Mississippi Valleys, until they were now located in the far West.

RELATIONSHIP OF TRUST CREATED

"They resisted as best they could at every step. Our ways of living were not theirs. They knew nothing of manufacturing and little of farming. They lived principally by fishing and hunting, and the forest, the stream, and the plains, with the roving buffalo herds, furnished them their food. This very briefly was the life the Indians led when we entered into treaties with them, by the terms of which the Chief Executives of this Nation and the Congresses of the United States solemnly pledged that they would protect them in their person and their property. They were to be our wards, we their guardians. A relationship of trust was created not only as to their property but as to their persons.

"We prohibited the sale or giving of liquor to them or the introduction of the same onto their reservations. These reservations were set aside for their sole and exclusive benefit. We were to exclude undesirable persons from entering upon the same. We were to guard their property as faithfully as the father or guardian protects his son's or his ward's.

"Realizing his limitations, his lack of training, his unfitness for farming, we in some instances gave him the exclusive right to hunt large areas of forest lands. The land on the reservation was his, to be held in trust by the Government for the exclusive benefit of the Indian nation. The treaty was as solemnly entered into as was the treaty between Belgium and Germany, and just as unceremoniously broken, not once, not twice, but many times, and by the Congresses of the United States and by the Chief Executives of the United States. Not by one President or by one Congress, but by successive Presidents and by successive Congresses, and when the Indian came to Congress and complained and asked that he be permitted to go into court and sue the Government for violation of his treaties, he was told, in some instances at least, that it was against the 'economy program' of the administration. And this in face of the fact that he was not seeking to go into an Indian court, but into the white man's court and seeking to recover only what the white man's court might adjudge was justly due and owing to him.

FINALLY GRANTED PRIVILEGE

"After years of agitation the Indian, in most instances, has at last been granted this privilege. But the Indian Bureau fought against granting his request for years.

"What have we done for the Indian? How have we fulfilled our obligation to him? Whose fault has it been and can we do anything to rectify the wrong, if wrongs have been committed? These are the questions you ask and want to have answered. I can not answer all of them, but I will try to answer some.

"As a member of the Subcommittee on Indian Affairs I have been making a survey of conditions upon the Indian reservations of this country. We have listened to the Indians, to the superintendents, and to other employees. I am not going to relate to you anything told us by Indians, unless the same has been corroborated by white people. Most of the statements are from testimony of whites and matters of record.

"There are approximately 225,000 Indians in the United States under the domination of the Indian Bureau, and the bureau has under its control over $1,000,000,000 of Indian property.

"Health conditions: The health conditions among the Indians are extremely bad. Almost without exception we found that 25 per cent of the Indians were affected with tuberculosis. On one reservation we were told that 50 per cent of them were affected. This means that, on an average, more than one person in every family is affected. The family invariably lived in a 1-room shack. There would be little, if any, ventilation and little, if any, heat in winter. The large percentage of tuberculosis among the Indians is caused by malnutrition and improper housing conditions.

POOR SERVICE RENDERED INDIANS

"Without going into the details, we found no proper facilities for the treatment of this dread disease on the Indian reservations and generally no attempt being made to treat patients affected with it. The doctors on the reservations are underpaid, and there are entirely too few of them, and the service rendered to the Indian is poor.

"There are exceptions to the rule. Some doctors and nurses, where they have them, are doing good work, although they lack equipment.

"Trachoma is rampant among the Indians. Some headway is being made by the Indian Bureau in eradicating this disease.

"Social diseases are spreading rapidly among them, particularly on those reservations that are situated near white settlements. Very little, if anything, is being done either to prevent or to cure conditions.

"The superintendents admit health conditions as I have described them, but claim they are helpless. They claim that they have appealed to the bureau in Washington, but were told they could get no help because of lack of funds.

"In any event, it is a disgrace to think that this, the wealthiest of all governments, should permit such a sordid conditions as this to exist among our wards.

"The economic condition: Time does not permit me to tell of the way Indian tribal funds have been squandered by gross carelessness and inefficiency. Many of the reservations look as if they were being managed by some aged widow who could not make the simplest kind of repairs and who was too poor or too parsimonious to hire some one to make them.

"Practically all of the Indians of the Middle West and Northwest are very poor. They formerly had tribal herds of cattle. These have been dissipated, not through any fault of the Indians but through the gross incompetence of the white men who have been intrusted with them. No Indian knows what became of his tribal herd excepting that it was disposed of by the Government. He does not know how much the cattle

brought or whether they were sold at a profit or loss or how much of the money was placed to his credit. Strange as it may seem, no itemized account has ever been rendered to any Indian tribe, so far as any Indian superintendent knew or could find out.

NEVER WERE GIVEN STATEMENTS

"For 70 years or more the Government has been handling the moneys of the Indian tribes derived from the leases and the sales of land, from the sale of valuable timber, oils, and other minerals, from the sale of tribal cattle, and yet this guardian has never given his wards an itemized statement showing how much he received or how much was paid out or what for. Not only that, but no itemized statement has ever been rendered any individual Indian showing how his account stood. If there are cases where it has been done no superintendent knew of the same.

"The bureau says they can come to the office and they will tell them if they want to know. The Indian says, 'When we go to the office we can't get in or we are told to get out.' This is bureaucracy run mad.

"The Indian is not a farmer and we have made little progress in teaching him how to farm. We have not established schools where farming has been taught in a systematic way. On the contrary we have allotted him land, and expected him to make a living on it while the best-equipped farmers of our land are unable to do so.

"We have in many instances taken his land in violation of his treaty rights. One example of this will suffice. In 1855 the Government entered into a treaty with the Flathead and other tribes of Indians. By the terms of this treaty they were to give up all their rights, title, and interest to one of the most fertile valleys in Montana, known as the Bitter Root Valley. In return for that we declared they should have all the lands embraced in what became known as the Flathead Indian Reservation, that the Government would hold the title to the same in trust for them, that we would protect them in their lands, and that we would establish schools.

LOST WATER RIGHTS

"In the year 1904, by an act of Congress, this reservation was thrown open to settlement by the whites. They were permitted to buy the Indian land at a small price, not agreed to by the Indians, but fixed arbitrarily by the Government. Also Congress passed an act creating a reclamation project on the reservation. By the terms of the act it took away from the Indians valuable water rights. It appropriated their land for the building of hundreds of miles of irrigation ditches, and it took large areas of their land for reservoir sites.

"The Indians were not consulted, nor were they paid for the land so taken by the Reclamation Service. The Government then spent millions of dollars building this project and every Indian who had been allotted lands on this reservation, which the Reclamation Service said could be irrigated, was charged for a share of the construction of this project and for maintenance and operations. In some instances this amounted to as much as $125 per acre, and this regardless of whether the Indian's land was suitable for irrigation or whether he wanted his land to be irrigated, and he has been charged with the maintenance and operation whether he wanted the water or used it. These sums have been made a lien upon his property.

"It was a plain violation of the treaty—it was a plain violation of every rule of decent conduct among men and would not be tolerated among nations.

"Education: We have Government boarding schools on many of the reservations. We give the children a sixth-grade education, which, I would say, in most instances is comparable to the fourth grade in our public schools.

"After receiving this schooling a few are sent away to schools of higher learning, but this number is inconsequential. We have not taught the Indians to farm and have not attempted to do so, notwithstanding the claims of the Indian Bureau. We have so-called farmers on these reservations, but none attempts to show the Indian how to plant or raise his crop. They are acting as lease clerks, subagents, and as officers to suppress the liquor traffic. In 70 years we have not taught the Indian to be self-supporting.

LAZINESS IS ENCOURAGED

"He is less so to-day than he was at the beginning. We have not taught him to work as a mechanic. We are encouraging him to be lazy and shiftless rather than a self-sustaining, self-respecting citizen.

"The boarding schools should be done away with and the education of the Indians should be turned over to the States. Where Indians have attended our public schools they have come out better prepared to meet the present-day problems of our civilization. Where they have attended boarding schools they have come out with little education and no knowledge of the ways of the white man. They are anxious for an education and should be given it. I am convinced that the education should be turned over to the several States. They should attend public schools.

"Several years ago I introduced into Congress a bill providing that the education of the Indians in Montana should be under the supervision of the State. The citizens of Montana are interested in the Indians and the legislature passed a law agreeing to assume the responsibility.

"For over 70 years the Indians have been under the tutelage of the Indian Bureau. When we took them over we said to them, 'You are uncivilized; we are civilized.' There was little, if any, crime among the Indians; divorces were unheard of; they were happy and had plenty of food. To-day they are hungry and sick and poor.

"Most Indians are not farmers. Many of them are mechanically inclined. They should be given a vocational education on the reservation and taught to follow some useful occupation.

"The school system is archaic. The schools are old fire traps, plumbing poor, ventilation poor, and until recently corporal punishment was inflicted—and it was corporal punishment.

"The superintendent on one reservation admitted he took six girls, ages ranging around 16 to 18 years, made them bend over a chair while he held their dresses tightly around their bodies and beat them with a strap—the Indians said it was a piece of a harness tug. One boy, so his parents said, was beaten across his bare back until it bled.

"The tales of brutality told by the Indians, and in some instances admitted by the agents, resembled the stories of the dark days of slavery. Many of these school-teachers and agents asked the question, 'What are you going to do with them when they won't mind, if we can't inflict corporal punishment?'

"That's the same question some slave owners asked. That's the same question husbands ask when charged with assault upon their wives. But our present enlightened civilization believes there is a better way than brute force. But many Indian agents don't belong to our present civilization. They are living in a civilization that is passed. They are politicians, most of them, who hold their jobs through the influence of some Senator or Representative. They are appointed to pay some political debt. The Indian has paid political debts for, lo, these many years. He has paid them to his sorrow and to his moral, physical, and economic ruin.

"Secretary Wilbur was quoted in the newspapers as saying something to the effect that the Indians should be given a 'pickle.' The trouble is, Mr. Secretary, that the Indians have had too many pickles. It isn't pickles they need but an honest, efficient businesslike administration of their affairs. They have been exploited and plundered by Indian traders, lumber concerns, oil companies, etc., until they have little of their resources intact.

LISTS RECOMMENDATIONS

"Rations: You have heard how the Indian Bureau fed the old indigent Indians. Well, they have given them rations—$1.06 every two weeks. They have fed some of them horse meat and rancid pork until one old Indian said he had eaten horse meat until he whinnied in his sleep.

"Conclusions.—The old and indigent Indians should be cared for by the Government.

"Proper hospitals should be established to care for tuberculosis victims.

"The young should receive an education that would make useful citizens out of them, and, in my judgment, it should be handled by the State.

"A businesslike accounting system should be established and the Indians rendered an itemized quarterly statement of their personal and tribal funds in the hands of the Indian Office.

"The Indians should be given a voice in the leasing of this trust property as well as his tribal property.

"We have a new Commissioner of Indian Affairs, a new Assistant Commissioner of Indian Affairs, and it is the hope of those interested in the Indians that many of the incompetent superintendents will be relegated to the political scrap heap and in their place and stead we will have men who are not just seeking a job, but who are anxious and willing to render a service to the Indians and to all mankind as well."

RECESS

Mr. SMOOT. I move that the Senate take a recess until 11 o'clock to-morrow morning.

The motion was agreed to; and the Senate (at 5 o'clock and 5 minutes p. m.) took a recess until to-morrow, Tuesday, October 15, 1929, at 11 o'clock a. m.

HOUSE OF REPRESENTATIVES

MONDAY, *October 14, 1929*

The House met at 12 o'clock noon and was called to order by the Speaker.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Hear us, our Father, we pray. We thank Thee that the quality of Thy mercy is not strained. As the light from the skies and the rain from the heavens, it is like the finest of the wheat and the honey out of the rock. Prepare us, blessed Heavenly Father, for our work. There is no higher attainment than service, there is no more desirable gift than power couched in love, and no better prayer than "Thy will be done." Take our wills and make them Thine. Stimulate them with a consuming desire to be our noblest and to do our best in return for

the unmerited love of our Savior and for the honor our country has bestowed upon us. In the name of the Master. Amen.

The Journal of Thursday, October 10, 1929, was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Craven, its principal clerk, announced that the Senate had passed the following resolutions:

Senate Resolution 116 (passed September 12, 1929)

Resolved, That the Senate has heard with deep regret of the announcement of the death of O. J. KVALE, late a Representative from the State of Minnesota.

Resolved, That a committee of six Senators be appointed by the Vice President to attend the funeral of Mr. KVALE.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect to the memory of the late O. J. KVALE the Senate do now stand in recess until Friday, September 13, at 12 o'clock noon.

Senate Resolution 122 (passed September 23, 1929)

Resolved, That the Senate has heard with profound sorrow of the death of the Hon. LAWRENCE D. TYSON, late a Senator from the State of Tennessee.

Resolved, That as a mark of respect to the memory of the deceased the business of the Senate be now suspended to enable his associates to pay tribute to his high character and distinguished public service.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

SWEARING IN OF MEMBERS

The SPEAKER. Members desiring to take the oath of office will kindly appear in the well of the House.

Mr. NOLAN and Mr. MONTET appeared before the Speaker's rostrum.

Mr. SANDLIN. Mr. MONTET, of Louisiana, is here. He takes the place of the late Mr. Martin.

The oath was administered by the Speaker to Mr. W. I. NOLAN, of the fifth congressional district of Minnesota, and to Mr. NUMA F. MONTET, of the third congressional district of Louisiana.

ENROLLED BILLS SIGNED

Mr. CAMPBELL of Pennsylvania, from the Committee on Enrolled Bills, reported that that committee had examined and found truly enrolled a joint resolution of the House of the following title, which was thereupon signed by the Speaker:

H. J. Res. 80. Joint resolution authorizing the postponement of the date of maturity of the principal of the indebtedness of the French Republic to the United States in respect of the purchase of surplus war supplies.

PERISHABLE FARM PRODUCTS

Mr. SUMMERS of Washington. Mr. Speaker, I ask unanimous consent to address the House for five minutes in order to ask a few questions.

The SPEAKER. Is there objection to the request of the gentleman from Washington?

There was no objection.

Mr. SUMMERS of Washington. Mr. Speaker, I have discussed with the leadership on both sides of the aisle at different times certain farm bills which concern growers of fruits and vegetables in every State in the Union. The subject involves about $2,000,000,000 worth of agricultural products. One bill was introduced in the House by myself and the other is a companion bill introduced in the Senate by Senator BORAH, of Idaho. They affect fruits and vegetables moved in interstate ond foreign commerce.

The House bill has been considered more or less by the House Committee on Agriculture. The Senate bill was reported favorably by the Committee on Agriculture of the Senate and passed the Senate in the early part of last June.

The need of this legislation was referred to—I do not mean to say by specific bill number—by the President in his special message last spring. The Secretary of Agriculture in his testimony before the Senate Committee on Agriculture and the House Committee on Agriculture specifically referred to the necessity of such legislation. So far as I have been able to learn in the course of several months, through wide correspondence, there is no objection to it of any consequence anywhere in the United States. On the other hand, there is an insistent demand that we pass this legislation.

It provides a plan similar to what was in effect during the war, which handlers of perishable farm products agree gave them the most satisfactory arrangements they ever had and practically eliminated fraud. The bill provides for a licensing period of six months after the bill is enacted before it goes into effect; so if it is enacted at this special session the six months' licensing period will be running during the winter and the law would be in full effect during the 1930 marketing season. Almost positive assurance during the regular session last spring was given that the bill would be considered during the special session; that is, we had assurance from members of the Committee on Agriculture that it was to be included in the farm relief program. If it goes over until the regular session it will probably not be reached on the calendar till next spring, and we shall have lost 12 months of opportunity of serving the producers of $2,000,000,000 worth of agricultural products.

In view of the fact that the House is doing nothing now except adjourning from time to time, and in view of the fact that the bill has passed the Senate and is not contested, I ask that it be taken up soon. I have seen requests from a few concerns asking that the scope of the bill be made broader and that it include more commodities. The Department of Agriculture has considered the matter for months, and they believe it best to enact the bill in its present form, and if it should appear desirable a little later on, then to include other commodities.

The bill in its present form is practically without opposition. However, it does concern hundreds of thousands, yes, a million people on the farms; and many have written to me that this legislation means more to them than any farm relief bill that you are going to enact.

The purpose of the bill I am discussing—H. R. 2—is well set out in the title, "An act to suppress unfair and fraudulent practices in the marketing of perishable agricultural commodities in interstate and foreign commerce." The meat of the bill is found in the definition of—

UNFAIR CONDUCT

SEC. 3. It shall be unlawful—

(1) For any commission merchant or broker to make any fraudulent charge in respect of any perishable agricultural commodity received in interstate or foreign commerce.

(2) For any dealer to reject or fail to deliver in accordance with the terms of the contract without reasonable cause any perishable agricultural commodity bought or sold or contracted to be bought or sold in interstate or foreign commerce by such dealer.

(3) For any commission merchant to discard, dump, or destroy without reasonable cause any perishable agricultural commodity received by such commission merchant in interstate or foreign commerce.

(4) For any commission merchant, dealer, or broker to make, for a fraudulent purpose, any false or misleading statement concerning the condition, quality, quantity, or disposition of, or the condition of the market for, any perishable agricultural commodity which is received in interstate or foreign commerce by such commission merchant, or bought or sold or contracted to be bought or sold in such commerce by such dealer; or the purchase or sale of which in such commerce is negotiated by such broker; or to fail or refuse truly and correctly to account promptly in respect of any such transaction in any such commodity to the person with whom such transaction is had.

Of course, fraudulent losses are reflected back to the place from which the car started and are indirectly reflected back to the producer of the product.

The SPEAKER. The time of the gentleman from Washington has expired.

Mr. SUMMERS of Washington. Mr. Speaker, I ask unanimous consent to proceed for two more minutes.

The SPEAKER. Without objection, it is so ordered.

There was no objection.

Mr. SUMMERS of Washington. I desire to ask the floor leaders on both sides of the House—there is no politics in this measure—if we can not have some consideration of this measure and some arrangement made to pass this bill during the special session. I do not care what time in the special session, but I do feel it should be enacted so that the six months' period will be running during the winter instead of consuming all of next summer.

Mr. TILSON. Mr. Speaker, considering the comparatively small attendance of the House, I do not think the gentleman from Washington should press the matter to-day.

Mr. SUMMERS of Washington. I can make the point of order of no quorum, and that may result in bringing in more Members.

Mr. TILSON. That will probably not bring a quorum, because the gentleman understands that by agreement we have been adjourning for three days at a time and it was not expected that we should meet in daily session for at least two weeks longer. A notice to this effect has been sent out to Members and they are not here. Doubtless the gentleman has brought up a very important bill, a bill that ought to be considered and will be considered as soon as the membership have returned and the Committee on Agriculture, which is already formed, begins to

function. I assure the gentleman that I shall aid him in any way I can to bring his bill to early consideration. I am not saying anything about the merits of the bill, but it is probably a bill that should receive consideration.

Mr. GREENWOOD. Mr. Speaker, will the gentleman yield?

Mr. SUMMERS of Washington. Yes.

Mr. GREENWOOD. I would like to ask whether the bill has been referred to the Agricultural Committee and reported by that committee for consideration by the House?

Mr. SUMMERS of Washington. It has been before that committee for months. It was before the committee during the regular session.

Mr. GREENWOOD. And the proposition is to consider it after the committee reports on it? Is that the idea?

Mr. TILSON. It has not been reported by the committee as yet.

Mr. GARNER. If the gentleman will permit, why does not the gentleman press his query not so much as to the passage of this bill at the special session but as to getting the assurance of the gentleman from Connecticut that he will give him early consideration of that bill either through the steering committee or the Rules Committee if the bill is favorably reported by the Agricultural Committee? In that way the gentleman will get early action on his bill, whereas if he does not get that kind of a promise now he may not get it at all.

Mr. RAMSEYER. Mr. Speaker, will the gentleman yield?

Mr. SUMMERS of Washington. Yes.

Mr. RAMSEYER. I do not know whether I just understand the status of this proposed legislation. Do I understand the gentleman to say that the Agricultural Committee of the House has held hearings on the bill?

Mr. SUMMERS of Washington. They have considered the bill two or three times but adjourned before taking final action, except that during the closing days of the regular session in executive meeting—and this report came to me—it was agreed around the table that it would be made a part of the farm-relief program.

Mr. RAMSEYER. That is what table? The Agricultural Committee table?

Mr. SUMMERS of Washington. Yes.

Mr. RAMSEYER. But the Agricultural Committee has taken no action on it.

Mr. SUMMERS of Washington. No; they have taken no final action on it, but the bill has passed the Senate. The House committee will probably take no action while we are in recess unless it becomes a part of the House program.

Mr. RAMSEYER. I was just coming to that. When was the Senate bill messaged over to the House?

Mr. SUMMERS of Washington. The 4th of June.

Mr. RAMSEYER. And was it referred to the Agricultural Committee?

Mr. SUMMERS of Washington. It was held on the Speaker's table because of the difficulty we were having in getting the similar bill out of the committee.

Mr. RAMSEYER. The gentleman is hardly in a position to press the bill until the Agricultural Committee makes a report. I have heard of the bill but I have never read it. However, I have no doubt it is a good bill and has provisions which will aid the marketing of agricultural products, but a bill of such far-reaching consequences, involving $2,000,000,000 worth of farm products should not, in the interest of orderly procedure, be considered until acted upon by the House Agricultural Committee. We are not in a position to undertake the consideration of the bill on the floor of the House until the Agricultural Committee has made a report. I think the thing the gentleman should seek now is to get the Agricultural Committee together and get a report from the Agricultural Committee so we will have the bill before us and the benefit of the judgment of the Agricultural Committee. Then those who are in favor of the bill—and probably everybody will be—can press for its consideration.

The SPEAKER. The time of the gentleman from Washington has again expired.

Mr. SUMMERS of Washington. Mr. Speaker, again I ask for two additional minutes.

The SPEAKER. Without objection, it will be so ordered.

There was no objection.

Mr. SUMMERS of Washington. Mr. Speaker, I am bringing this up for the purpose of seeking some sort of an understanding before we continue the 3-day adjournments, a majority of the Members remaining out of the city, with no possibility of getting the Agricultural Committee together. I do not know what my floor leader means, whether he is going to give my request earnest consideration and try to get action on this bill during the special session on the basis of my statement. I am willing to have it considered on its merits, but I do not like to have it held back and strangled in committee when it is just as important and even more important to many farmers than the legislation we have already enacted.

Mr. RAMSEYER. Of course, the last remarks are addressed to the floor leader, and I am not answering for him; but it does seem to me, as one interested in farm legislation, that the action which should be obtained first is from the Committee on Agriculture. The House is in session and the Committee on Agriculture can convene at any time to consider this proposed legislation.

Mr. SUMMERS of Washington. If we agree upon two weeks or 30 days' more of recessing, except for coming together in a perfunctory way every three days, and adjourning, certainly that will be a loss of the next 30 days.

Mr. RAMSEYER. That will not prevent the Committee on Agriculture from meeting. The Ways and Means Committee is organized and the Ways and Means Committee could convene now and hold hearings and could make a report on any day that the House is in session. Of course, if the understanding goes on, as we have had it since September 23, we would not consider a report from the Ways and Means Committee or the Committee on Agriculture until the House decides to meet regularly for business.

The SPEAKER. The time of the gentleman from Washington has again expired.

Mr. RAMSEYER. The thing to do is to get the Committee on Agriculture in session to consider and to report out this bill.

Mr. SUMMERS of Washington. I am hoping the floor leader will give us some definite assurance in regard to this matter.

Mr. TILSON. Mr. Speaker, if I may proceed for one minute, of course the gentleman from Iowa is entirely right. We should not proceed to give assurances or anything else with respect to the consideration of a bill before it is reported by one of our committees.

Mr. SUMMERS of Washington. What I have stated was said with reference to the reporting of the bill by the committee, as well as its consideration.

Mr. TILSON. When the Committee on Agriculture meets and reports this bill to the House, then if it appears that it should be considered, it will receive consideration. As the gentleman from Texas [Mr. GARNER] has suggested, if the Committee on Agriculture exercises a little bit of pressure it will undoubtedly have its weight with the membership of the House and I have no doubt that the gentleman will have reasonably early consideration of his bill when the Committee on Agriculture has reported it.

COMMERCIAL AIR TRANSPORTATION

Mr. CABLE. Mr. Speaker, on the 27th of last month I introduced a bill providing for the issuance of certificates of convenience and necessity to commercial air transportation companies. Senator WALSH of Massachusetts has introduced a similar bill in the Senate. A few days ago I received a brief on the subject written by Thomas H. Kennedy, and I ask unanimous consent to insert that brief in the RECORD.

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

There was no objection.

Mr. CABLE. Mr. Speaker, under leave to extend my remarks in the RECORD I include the following brief on the subject of the issuance of certificates of convenience and necessity to commercial air transportation companies, written by Thomas H. Kennedy.

The brief is as follows:

THE CERTIFICATE OF CONVENIENCE AND NECESSITY APPLIED TO AIR TRANSPORTATION

I.—INTRODUCTION

Air transportation [1] in the United States has grown from nothing to a system flying over 50,000 miles daily within the last decade. The legal aspects of this new development have received considerable thought. Soon after the war a committee of the American Bar Association undertook the study of proper air legislation. Full consideration over a period of years convinced the committee on aviation law that it would be unnecessary to amend the Federal Constitution in order to give the General Government power to regulate flying. The commerce clause, together with the treaty-making power, were believed sufficient authority

[1] Air transportation is here used to identify air operations by established concerns flying on regular schedule between fixed termini over an announced route. This article does not purport to treat of the other great class of air operations, viz, aerial-service operators. This last class, consisting of flying school, air taxi, and air-photographic services, includes by far the largest number of used aircraft. Records of the Department of Commerce for 1927 show 128 airplanes in air transportation service and 3,150 planes in either private or aerial-service use. For 1928, 6,320 planes are listed not of air transportation classification. Possibly less than 500 are now in air-transportation work. See Domestic Air News, Department of Commerce, Washington, No. 50, Apr. 15, 1929.

on which to ground legislation controlling not merely interstate and foreign air commerce but all flying within the United States. In May, 1926, "the air commerce act of 1926"[2] was approved. This statute, now in force, provides for the regulation of aircraft and airmen engaged in interstate and foreign commerce, and, according to a declaration by Assistant Secretary of Commerce MacCracken, who is charged with air affairs under the act, the air-traffic rules promulgated under the act apply to all flying within the United States, regardless of whether the operation is intrastate, interstate, or foreign, and it is said by this official that these regulations are exclusive in character, prohibiting any air traffic laws from being enacted by a State.[3]

The soundness of this sweeping contention may be questioned, and it is doubtful if the courts will uphold an attempt on the part of Federal officials to regulate a flight wholly within one State where the aircraft in question has no possibility of contact with other craft flying in interstate commerce. It is thought by some that before long the skies will be so saturated with aircraft operating in interstate commerce that the courts will find as a matter of fact that all flying does affect interstate commerce, and so exclusive Federal regulation will be sustained.

Air-mail operators under the Kelly law[4] fly in 38 States, the District of Columbia, and to several foreign countries. Although air-passenger service is rapidly coming into its own, carrying the air mail forms the backbone of American commerce, and any consideration of air law problems must be concerned to a great extent with conditions encountered by the air-mail carriers. With one or two unimportant exceptions the air-mail operators engage in either interstate or foreign flying. Of the strictly passenger lines some operate wholly in intrastate commerce, or at least particular divisions of their operations are confined to one State. California has been the scene of such a development. Between Los Angeles and San Francisco there are at this writing four strictly passenger-carrying air lines. The air-mail operator carries passengers incidentally in one direction. Two of the strictly passenger lines are divisions of interstate carriers, using terminal airports in common with interstate air lines. The air-mail operator carries the mail between these two points as a part of an interstate operation. As to strictly intrastate business undoubtedly the State possesses some regulatory authority even over interstate air lines or lines connecting with interstate carriers "in the absence of Federal legislation" on the subject.[5] However, with the expansion of the air-transport business interstate business becomes more and more important and the rôle of the strictly intrastate operator less commanding. Federal occupation of the field of regulation may be expected at any time, and with the assertive action of the dominant authority much of the regulatory power of the States will pass out of existence. We may justifiably concern ourselves mostly with considerations of Federal jurisdiction in this inquiry.

Lawyers whose task it may be to construct the regulatory law of the air may be thankful that the motor-surface carrier has just emerged from a stage of evolvement and that it has caused to be solved many interesting legal questions. Motor stage law should serve as an excellent model for the shaping of air transport law. The law of carriers generally will no doubt be drawn on greatly by the courts in their efforts to fix liability for damage caused by air operations. However, the law of regulation worked out for the railroads, based on social and economic conditions of half a century or more past, may be found only partially adequate as a guide to present-day needs of public control over air transport, the regulatory principles developed for the motor stage within the last 10 years may prove to be much better suited to adoption for the air carrier. It behooves us then to attend some of these recently announced rules.

As to motor surface carriers it has been held that the denial by a State of a certificate of convenience and necessity[6] to an exclusively interstate carrier is an undue and unreasonable burden on interstate commerce, and as such is unconstitutional.[7] However, States may require an interstate operator to procure a certificate covering intrastate operations unless such a requirement amounts to an unreasonable burden upon interstate commerce.[8] There is little reason to believe that these rulings will not be applied to air transport. An aircraft operated from point to point, carrying passengers or goods is certainly engaged in the same business as a motor stage running along the highways between the same or similar points carrying similar cargo. It is inconceivable that different sets of rules of liability and regulation will be set up for the air line than for the stage line merely because a different instrumentality is used in carrying out the purpose of the business. In fact to regulate one form of transportation and to leave untouched a rival raises the very interesting constitutional question of equal protection under the law.[9]

II.—THE NATURE OF THE CERTIFICATE

The certificate of convenience and necessity was unknown to the common law. It is purely a statutory creation. "In the meager light which the courts have shed upon the legal position of the certificate * * * it seems to be revealed as sui generis standing somewhere between a franchise on the one extreme and a mere license on the other."[10] As a statutory creation the certificate in form and effect varies with each statute. An interesting observation in this connection is that a regulatory statute worded to give a commission or officer power to do certain specified things by means of a certificate can not be considered authority for giving the regulatory authority any other power than that expressly stated within the statute. To illustrate: If a statute gave the Interstate Commerce Commission power to restrict competition between interstate air carriers and required all such carriers to obtain a certificate of convenience and necessity before engaging in interstate air commerce, by no possible authority could the commission control the involved carriers in any other manner, as, for example, by requiring them to procure a certificate before issuing securities.[11] The law of most jurisdictions creating regulatory commissions provides for control by the commission over public utilities by means of a certificate of convenience and necessity.[12] The certificate in its most prominent form is an order permitting the construction, operation, or discontinuance of a public utility. There are various other matters which the regulator may control by the certificate or by order. For example, issuance of securities, compelling the construction of facilities, or the operation of certain services.

III.—HISTORY

Massachusetts was the first State to adopt a public utility act. The purpose of the statute was to control public utilities and to protect the public from the evils of competition and monopoly.[13]

In Idaho Power & Light Co. *v.* Blomquist[14] the court traces the development of certification in the following language:

"The first general steps taken by the legislatures in their attempts to correct existing difficulties between public-service companies and the communities which they served were to provide for rate regulation in order that the consumer might be protected in cases where there was no competition. Competition was looked upon as a regulator and rate regulation was accepted as a protection to the public. Competition between public-utility corporations led to rate wars in which each company tried to get the advantage or destroy the other and usually re-

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[2] 44 Stat. L. 568; U. S. C., title 49, ch. 6; Williams, Federal Legislation Concerning Civil Aeronautics, University of Pennsylvania Law Review, May, 1928, p. 798.

[3] Aviation Magazine (New York), Mar. 14, 1927, Mr. MacCracken is quoted as follows: "* * * The air-traffic rules promulgated pursuant to authority contained in the air commerce act of 1926" (reference is here made to Air Commerce Regulations, Department of Commerce, Dec. 31, 1926, as amended Mar. 22, 1927, and June 1, 1928) "apply equally to all air navigation, both civil and military, commercial and noncommercial, and therefore there is no jurisdiction in any State or local authority to enact any air-traffic rules."

[4] Contract air mail act, Feb. 2, 1925; amended June 3, 1926, and May 17, 1928, 43 Stat. L. 805; 44 Stat. L. 692; part 1, Stat. U. S., 70th Cong., 1st sess., p. 594; U. S. C., title 39, ch. 13.

[5] Morris *v.* Duby (1927), 274 U. S. 135, 47 S. Ct. 548.

[6] The nature of the certificate of convenience and necessity is discussed later in this article.

[7] D. E. Lilienthal and I. S. Rosenbaum, Motor Carrier Regulation, 36 Yale Law Journal 163, 179, and cases cited. This article treats the regulatory problems of stage operators and as the material can so easily be applied to the very similar problems of air transport companies all interested in air transport regulation are urged to study it with care. D. E. Lilienthal and I. S. Rosenbaum, Motor Carrier Regulation in Illinois, 22 Illinois Law Review 47. Gustavus H. Robinson, The Interacting Area of Regulatory Authority in Public Utilities, University of Pennsylvania Law Review, February, 1928, 394, March, 1928, p. 548.

[8] Motor Carrier Regulation, p. 180, see note 7 supra. This rule obtains in the absence of Federal occupation of the field. See note 5 supra and Napier *v.* Atlantic Coast Line Railroad (1926), 47 S. Ct. 207.

[9] For the tendency of the courts to include within the scope of regulation all possible types of carriers, see Western Association of Short Line Railroads *v.* The Railroad Commission of California (1916), 173 Calif. 802. At page 806 the court says: "And moreover it is not only a matter of common knowledge, but it is presented in these cases that in many instances these unregulated companies interfere seriously with the revenues of controlled public utilities, a percentage of whose revenues goes by way of taxes to the support of the State."

[10] Motor Carrier Regulation, p. 169; see note 7, supra.

[11] See note 35, infra.

[12] Collier, Public Service Companies (1918), p. 462.

[13] Rev. Laws Mass., ch. 121, sec. 33, amending Stats. 1903, p. 125, ch. 164.

Knowlton, C. J.: "Our statutes are founded on the assumption that to have two or more competing companies running lines of gas pipe and conduits for electric wires through the same streets would often greatly increase the necessary cost of furnishing light, as well as cause great inconvenience to the public and to individuals from the unnecessary digging up of the streets from time to time and the interference with pavements, street-railway tracks, water pipes, and other structures." (Weld *v.* Gas and Electric Light Commissioners (1908), 197 Mass. 556, 84 N. E. 101.)

Holmes, J.: "The legislature may think that a business like that of transmitting electricity through the streets of a city necessitate transaction of that business by a regulated monopoly and that free competition between as many companies and persons as may be minded to put up wires in the street and try their luck is impractical." (Attorney General *v.* Walworth Light & Power Co. (1892), 157 Mass. 87, 31 N. E. 482.)

"Experience proved that business rivalry in the public-utility field was bad both for the companies and the public, so the policy of discouraging rather than encouraging competition between public-service companies was adopted." (Spurr, Guiding Principles of Public Service Regulation (1924), p. 31.)

[14] (1914) 26 Idaho 222, 141, p. 1083. "That case was decided in 1837. Then 'competition is the life of trade' was accepted as a guiding maxim of economics. That maxim has long since been rejected so far as it applies to public utilities. Uncontrolled competition is now regarded as destructive of such utilities." (Baltimore & Ohio Railroad Co. *v.* Road Commission of West Virginia (1927), 104 W. Va. 188.)

sulted in the destruction of one of the competing corporations or a division of the territory between them (or) in the consolidation of such corporations. Statutes to prevent such consolidations and to prevent the division of the territory have been enacted * * * and experience shows that there can never be competition in matters of this kind."

Some authorities on public utility law have attempted to make a distinction between public utilities which are "natural monopolies" and those not "naturally monopolistic." For the first class they advocate public regulation limiting competition while for the last class they hold that public convenience and necessity does not require service by one or a few operators but rather that the open field is desirable. The line of demarcation between the so-called natural monopolies and their antithesis is not altogether clear. Perhaps physical characteristics of the utilities to be classified determine their status. If a telephone company is involved it is a "natural monopoly" because it must have a large and easily recognized physical plant in the form of pole lines and cables in the streets. A railroad would be a "natural monopoly" because of its right of way, rails, buildings, etc. The physical plant is great and the public convenience and necessity will not permit of its needless duplication. However the adherents of the natural-unnatural division say that tugboats are not of the natural-monopoly class. The reason supposedly is because no large capital outlay is represented in fixed plant of a tugboat system. Following this "what appears to the eye" test a telegraph company would be classed as "natural monopoly" while a radio operator paralleling the telegraph company and rendering exactly the same kind of service would very probably be classified as "unnatural monopoly." The wire company would be protected from competition by other telegraph companies but not from identical competition from one or many radio companies. The radio carrier would receive no protection from competition from the few or single telegraph companies nor from all radio operators choosing to enter the field. The air-transport operator likewise would fail to receive public protection from competition because no examining board would be able to see a very great fixed plant. However the railroad from which the paralleling air operator was drawing considerable business would be protected from undue rail competition but not from air competition. The fallacy behind the "natural-unnatural monopoly" theory is the assumption that the public has an interest in its own protection from the evils of duplication of facilities of public utilities when the facilites are composed greatly of quickly discernable fixed physical plant and it has no interest in its own protection from the evils of duplication when the plant is not extensive, apparent, or immovable. Surely the public must pay for the waste attendant on duplication of a comparatively small $1,000,000 radio apparatus, just as much as it must pay for waste accruing from the duplication of a rambling, comparatively large street railway valued at $1,000,000. If the public has an interest in eliminating competitive waste in businesses affected with a public interest then actually it matters not what kind of a physical plant the business employs.

The theory underlying limiting of competition between public utilities is that competition results in duplication of investment, which in turn is transmitted to the public in the form of higher rates. In order to secure to the public minimum rates and to provide a stabilized public service public policy has dictated monopoly or quasi monopoly regulated by the State. Regulation of the respondent industries is carried out by the regulating authority by means of the certificate of convenience and necessity, as well as by other forms of orders.

"Although common enough in State public-utility legislation, until the transportation act, 1920, amending the interstate commerce act, this expedient (the certificate of convenience and necessity) had apparently not been employed in the regulation of interstate commerce. By paragraphs 18, 19, and 20 of section 1 of that act Congress required all carriers under the jurisdiction of the act to secure such a certificate before extending their old lines or constructing new ones, or before acquiring or operating a railroad or extension; the same requirement was laid down before any carrier might abandon any part of its line."[15]

The air commerce act of 1926[16] requires no certificate of convenience and necessity for operation over a Federal airway, but on the other hand specifically provides: "The Secretary of Commerce shall grant no exclusive right for the use of any civil airway, airport, emergency landing field, or other air-navigation facility under his jurisdiction."[17] This provision seems to state the policy of the Federal Government in the case of air navigation as directly opposed to its policy toward interstate railroads, and the general policy of the States with regard to public utilities and some other businesses subject to monopoly enforcing regulation. As to air transportation competition is to be encouraged, while as to other regulated enterprises competition is either restricted or banned in toto. The reason Congress made this exception to the general rule is evident, viz, its desire to give free rein to the development of this new industry. However, once air transportation is securely established there is every reason to believe that the National Legislature will reverse itself and fix for air transportation the general rule applied to regulated business, the rule of controlled monopoly or quasi monopoly. It is admittedly the policy of the United States to encourage aviation, and if history can be trusted to repeat itself, it will soon become evident that by permitting ruinous competition between air-transport companies aviation is not being encouraged but is rather being devitalized and stunted in growth.[18]

IV.—REGULATING AIR TRANSPORT BY THE CERTIFICATE

The present policy of American governments tends to restrict unlimited competition between public utilities.[19] If the air transportation business is a public utility, it can be reasonably supposed that sooner or later the restrictive force of government will be exercised to limit the number of air lines and reduce to some extent competition in this field of endeavor. If such regulation is inevitable—and for the sake of argument it will be assumed so—what kind of regulation will best serve the public, which also asks the question, What kind of regulation will best serve the industry, for the public wants a strong and flourishing aeronautical industry?

Is the air transportation business a public utility and subject to regulation as such? In the case of carriers, if the carrier holds itself out to accept for transport all comers to the limit of its facilities, then it is classified a common carrier,[20] the most easily recognized public utility, and is subject to the most rigorous forms of regulation.

Air-mail operators are, of course, subject to regulation by the Federal Government under the constitutional authority of Congress to establish post offices and post roads. As a practical matter, the Post Office Department can and does regulate air-mail contractors by the terms of the contract. The air-transport operators engaged in interstate commerce have been regulated by the air commerce act,[21] and this regulation is imposed upon the theory that they are engaged in an operation comprehended by the commerce clause of the Constitution.[22]

However, if the business is in fact that of a private carrier the legislature can not by mere declaration nor definition transform the private carrier into a common carrier; and it is settled law that a private carrier can not be regulated as a public utility by the States, for to do so would amount to a transposition of the private carrier into the class of common carriers, amounting to a violation of the fourteenth amend-

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[15] Motor Carrier Regulation, p. 167, see note 7, supra. "Certificates of convenience and necessity were required in the case of railroads before the necessity of providing against competition was appreciated. The commissions were supposed to grant the certificate if certain requirements with respect to safety of operation and sufficiency of equipment were complied with * * *. The present commissions may refuse certificates if they conclude that the public convenience and necessity do not require the new enterprises. They may grant them if they determine that the public will be benefited by such action." Guiding Principles of Public Service Regulation, p. 34, see note 13, supra.

[16] See note 2, supra.

[17] 44 Stats. at L., 568, sec. 5 (d).

[18] One of the first examples of direct competition in American air transportation is that on the airway between San Francisco and Los Angeles, Calif. During the summer season of 1929 there were in operation over this route one mail, passenger, and express operator and four passenger operators; five operators giving almost identical service. The tendency to undercut each other's rates early became manifest. During the summer season of 1928 the 1-way fare between San Francisco and Los Angeles ranged from $45 to $50. During the summer season of 1929 the air fare between these two points ranged from $22 to $32.50. During 1928 and 1929 some interests proposed State legislation, giving the Railroad Commission of California authority to require certificates of convenience and necessity for air common carriers operating on fixed schedules over established routes. On account of the vigorous protests against such legislation on the part of some of the interested carriers the proposal was dropped. The railroad commission now has authority to regulate rates of "railroads and other transportation companies" by a constitutional provision. California constitution, art. 12, secs. 20–22.

Speaking of proposed Federal legislation seeking to regulate motor surface transportation, Attorney Examiner Leo J. Flynn, for the Interstate Commerce Commission, says: "The public interest and national welfare are fundamental in legislation affecting transportation. In the administration of regulatory laws when there is conflict between public interest and private interest, the former is paramount and the latter must give way. Railroads have no more economic right to any traffic than had canals and stage coaches which opposed the construction of railways on the ground that they would take traffic already being carried on the canals and highways. *But economically wasteful rivalries which marked the past should be avoided, for, in the end, the public must pay.*" (Italics ours.) Examiner's Report on Motor Transport, 84 Railway Age, 269, 274 (Jan 28, 1928).

[19] Thomas P. Hardman, "The Changing Law of Competition in Public Service"; W. Va. Law Quarterly, April, 1927, p. 219.

[20] Civil Code of California, sec. 2168; Michigan Public Utilities Commission *v.* Duke (1925), 266 U. S. 570, 45 Supreme Court, 191 (see Note 23, infra); Terminal Taxicab Co. *v.* Kutz (1915), 241 U. S. 252; Wolff *v.* Industrial Court (1922), 262 U. S. 522; "The Public-Utility Concept in American Law." Gustavus H. Robinson, Harvard Law Review, January, 1927, p. 277.

[21] See note 2, supra.

[22] "The power of Congress to regulate the instrumentalities or agencies of transportation grows out of its power to regulate commerce and is not limited to commerce by a common carrier, private carrier, or by an individual for his own purpose," Examiner's Report on Motor Transport, p. 276, supra, note 18.

ment of the United States Constitution as a taking of private property without due process of law.[23]

Neither can the Federal Government by legislative fiat convert a private carrier into a common carrier without violating the due-process clause of the fifth amendment.[24] Therefore an air line operating in interstate commerce, if it restricts its business to that of a private carrier, may not be regulated to the extent of a common carrier.

There is, however, some reason to believe that a strictly speaking nonpublic utility may be regulated[25] by a certificate similar to one of convenience and necessity. For example, a bank commissioner may prohibit the opening of a bank by withholding his approval if he believes the public convenience and advantage will not be served by such opening.[26] The business of banking may be distinguished from that of private carrier as to its public aspects, however, for banking affects the business structure of the whole community,[27] while that of private carrier does not of necessity.

If a community should become so dependent upon the operations of a private carrier that irregular operations or abandonment of its services would work serious harm on the public welfare, it might be held that the carrier was so affected with a public interest as to be subject to some kind of regulation, at least as to sufficiency of service. Such a carrier would be put to it to maintain that its character was "private" rather than public, however. The regulation of insurance companies[28] and grain elevators[29] while not public utilities in the strict sense has received judicial sanction.

There is no case to be found holding that a carrier otherwise private becomes public or a common carrier by operating under a contract with the United States Government to carry the mails. In fact, in A. T. & S. F. Ry. *v.* United States (1911), 225 U. S. 640 at 649, it is held that a carrier of mails is not, as such, a common carrier but is "an agency of the Government."

In view of Michigan Public Utilities Commission *v.* Duke[30] and Hissem *v.* Guram[31] it may easily be held that an air mail contractor engaged in no other type of carriage, confining his activities entirely to carrying the mails, is a private carrier. Such an operator would carry for one party only and could in no way meet the test of a common carrier, viz, one holding himself out to carry for all comers to the extent of his capacity.

Once established as a common carrier, the operator's obligations are far-reaching. Earnings above a fixed rate of return may be impounded by the Government.[32] Once the obligation to serve all is incurred, it is not to be given up at will, but the service entered into may be restricted,

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[23] Michigan Public Utilities Commission *v.* Duke (1925), 266 U. S. 570; 45 Sup. Ct. 191. See note 20, supra. The plaintiff was engaged in the operation of motor trucks between Detroit, Mich., and Toledo, Ohio. He had three contracts to haul automobile bodies between the two cities. He did not accept any other shipments from any other shippers, confining his business entirely to that derived from the three contracts. The Michigan statute sought to define such an operator a common carrier and to subject him to the authority of the Michigan Public Utilities Commission. The United States Supreme Court held the act void. Butler, J.: "Plaintiff is a private carrier. * * * He does not undertake to carry for the public and does not devote his property to any public use. (The act) would make him a common carrier and subject him to all the duties and burdens of that calling and would require him to furnish bond for (that purpose). * * * It is beyond the power of the State by legislative fiat to convert property used exclusively in the business of a private carrier into a public utility, or to make the owner a public carrier, for that would be taking property for the public use without just compensation, which no State can do consistently with the due-process clause of the fourteenth amendment."

In Frost *v.* R. R. Commission (1926), 271 U. S. 583; 46 Sup. Ct. 605, 610, the Supreme Court of the United States reversed the holding of the Supreme Court of California. The State court had held that all of the conditions precedent to operation imposed upon common carriers might also be imposed upon private carriers. Such an imposition was held by the court of last resort to be merely one way of converting private carriers into public utilities.

In Motor Carrier Regulation, pp. 176, 177, 178, supra, note 7, the authors point out that although the decisions in the Duke and Frost cases prohibit the States from imposing all of the regulations of public utilities upon private carriers, still there is no holding that a requirement of a certificate of convenience and necessity for a private carrier would of itself amount to a conversion of a private carrier into a common carrier. It is argued that if a certificate of convenience and necessity were required of private carriers in order that the highways might be kept clear of irresponsible machines and drivers, such a requirement would be a valid exercise of the State police power and could not do violence to the fourteenth amendment. However if the reason for the imposition of certification were to protect established common carriers in their business, to guard them from unregulated competition, it is to be doubted that such regulation would be sustained. The State can go far in protecting the public's safety and health, but when it seeks to impose regulation upon a business purely to protect another business, or the public, from competitive evils, its regulatory authority is definitely limited and it must confine its prohibitions to businesses quasi public in nature or at least affected with a public interest. Private carriers are not of this group. See also Washington *v.* Kuykendall (1927), 275 U. S. 207; 48 Sup. Ct. 41; and Haynes *v.* MacFarlane (1929), 78 Calif. Dec. 92.

[24] In the Pipe Line cases (1914), 234 U. S. 548; 34 Sup. Ct. 956; 58 L. ed. 1459; esp. U. S. *v.* Uncle Sam Oil Co., the oil company had a refinery in Kansas and oil wells in Oklahoma with a pipe line connecting the two which it used to the exclusion of all others. Holmes, J.: "By act of Congress of June 29, 1906, c. 3591, 34 Stat. 584, the act to regulate commerce was amended so that the first section reads in part as follows: 'That the provisions of this act shall apply to any corporation or any person engaged in the transportation of oil or other commodities except water and except natural or artificial gas by means of pipe lines or partly by pipe lines and partly by railroads, or partly by pipe lines and partly by water, who shall be considered and held to be common carriers within the meaning and purpose of this act.' Thereafter the Interstate Commerce Commission issued an order requiring the appellees * * * being parties in control of pipe lines, to file with the commission, schedules of their rates and charges for the transportation of oil."

The court, speaking through the same justice, held: "The control of Congress over commerce among the States can not be made a means of exercising powers not intrusted to it by the Constitution. * * * It would be a perversion of language considering the sense in which it is used in the statute, to say that a man was engaged in the transportation of water whenever he pumped a pail of water from his well to his house. So as to oil. When, as in this case, a company is simply drawing oil from its own wells across a State line to its own refinery for its own use and that is all; we do not regard it as falling within the description of the act, the transportation being merely an incident to its use at the end." The Chief Justice in a concurring opinion states his views on the subject as follows: "The view which leads the court to exclude—the Uncle Sam Oil Co. from the operation of the act—is that the company was not engaged in transportation under the statute, a conclusion to which I do not assent. It seems to me that the business carried on is transportation in interstate commerce within the statute. But despite this, I think the company is not embraced by the statute because it would be impossible to make the statute applicable to it without violating the due process clause of the fifth amendment, since to apply it would amount to a taking of the property of the company without compensation."

In the Tap Line Cases (1914), 234 U. S. 1; 58 L. ed. 1185, the question of the right of the Federal Government to regulate certain railroads was raised. The test laid down by the Supreme Court was: Are the roads common carriers? If so, regulation was proper; otherwise not.

In United States *v.* Union Stock Yards (1912), 226 U. S. 286, the Chicago Union Stockyards were held subject to regulation because they were a part of a system of common carriers.

In Wolff Packing Co. *v.* Court of Industrial Relations (1923), 262 U. S. 522; 67 L. ed. 756; 43 Sup. Ct. 630, the Supreme Court, speaking through Chief Justice Taft, laid down the general rule: "The mere declaration by a legislature that a business is affected with a public interest is not conclusive of the question whether its attempted regulation is justified."

In cases cited in note 23, supra, and in other cases, the United States Supreme Court has held that States are limited by the fourteenth amendment from converting a private carrier into a common carrier, and as the fifth amendment is a similar restriction on the Federal Government as to due process of law, it is only logical to assume that a similar limitation will be held to control Congress whenever a test case arises.

Attorney Examiner Flynn introduces the interesting term "contract carriers" as a companion of common carriers and private carriers in his very able report to the Interstate Commerce Commission on motor transport regulation, Examiner's Report on Motor Transport, supra, note 18, page 271.

[25] "Congress has the power to regulate interstate commerce by private carrier or contract carrier," Examiners Report on Motor Transport, page 276, supra, note 18, and see note 22, supra, as the basis for this statement. The point may be conceded that Congress has this power but the extent of this power is not unlimited. Regarding varying degrees of regulation permissible, see Wolff Packing Co. *v.* Court of Industrial Relations, not 22, supra. Tyson *v.* Banton (1926) 273 U. S. 431, and comment thereon in Morris Finkelstein. From Munn *v.* Illinois to Tyson *v.* Banton, Columbia Law Review (November, 1927, p. 769). In the late case of Liggett *v.* Baldrich (1928) 49 Sup. Ct. 57, the United States Supreme Court held that a statute of Pennsylvania requiring ownership in pharmacies not already established to be vested in licensed pharmacies was void as an unwarranted invasion of property rights guaranteed by the fourteenth amendment. Holmes and Brandeis, J. J., mildly dissented.

A State statute regulating the price of gasoline is invalid. Williams *v.* Standard Oil Co. (1928) 49 Sup. Ct. 115; Fairmount *v.* Minnesota (1926), 274 U. S. 1.

In Ribnik *v.* McBride (1928), 277 U. S. 350, a majority held that legislation of the State of New Jersey providing for regulation of fees to be charged by an employment agent was unconstitutional.

An employment agent was held to be a broker and as in the case of Tyson *v.* Banton (1926), 273 U. S. 43, the court had held a ticket broker exempt from rate regulation, the same rule was applied here. In his dissent Mr. Justice Stone laid down his idea of the true test of a "business affected with a public interest," page 360. "Such regulation is within a State's power whenever any combination of circumstances seriously curtails the regulative force of competition so that buyers or sellers are placed at such a disadvantage in the bargaining struggle that a legislature might reasonably anticipate serious consequences to the community as a whole." Holmes and Brandeis, J. J., concur in this dissent.

[26] Bank of Italy *v.* Johnson (1927), 200 Cal. 1; 251 Pac. 784.

[27] "The business of banking is a proper subject of regulation under the police power of the State because of its nature and the relation it bears to the fiscal affairs of the people and the revenues of the State and the police power of a State extends even to the prohibiting of engaging in the business of banking except upon such conditions as the State may prescribe." 7 Corpus Juris. 480; acc. Noble State Bank *v.* Haskell (1911), 219 U. S. 104; 31 Sup. Ct. 186; 55 L. ed. 112.

[28] In Merchants Mutual Liability Insurance Co. *v.* Smart (1925), 267 U. S. 126; 69 L. ed. 538, it was held that a State could regulate insurance companies at least so far as to prevent them from committing wrongs or injustices in the exercise of their corporate functions. See also German Alliance Insurance Co. *v.* Kansas, 233 U. S. 89, and comment thereon in Tyson *v.* Banton, supra, note 25.

[29] Munn *v.* Illinois (1876), 94 U. S. 113; 24 L. ed. 77; Budd *v.* New York (1892), 143 U. S. 517; Brass *v.* North Dakota (1894), 153 U. S. 391.

[30] See note 23, supra.

[31] Hissem *v.* Guram (1925), 112 Ohio State 59; 146 N. E. 808. An Ohio statute defined as common carriers all operators of motor vehicles using public highways who transported persons or property or both as a business. The defendants were regular operators of motor trucks over certain routes, carrying dairy products destined to certain dairies, consigned by regular shippers. These operations were based on certain contracts with the dairy companies and no other business was handled. The operators did not hold themselves out to haul for all comers. The court held the operators were private carriers and that they could not be regulated by the State as common carriers.

[32] "Control of a business 'affected with a public use' may include * * * control by 'recapturing' excess earnings." Robert Hale-Noncost Standards in Rate-making, 36 Yale Law Journal, 66; Dayton-Goosecreek Ry. Co. *v.* United States (1923), 263 U. S. 456; 44 Sup. Ct. 169.

extended, or abolished by the State. Air-mail contractors who have not already subjected themselves to comprehensive regulation may well consider if it would not be to their advantage to limit their business to flying the mails under their Government contract, thereby laying the foundation of a classification as a private carrier, which, in turn, would secure for them the probabilities of minimum regulation. Engaging in general freight, express, or passenger business apart from or in conjunction with mail carrying will constitute the carrier a public utility if passengers and goods are accepted indiscriminately. Operating under a contract with an express company would undoubtedly be taken by the courts as evidence of a service similar to that rendered where only a mail contract was employed.

Assuming that most air-transport operators have already committed themselves to common carriage, what type of regulation by means of the certificate should be imposed? As the policy of the Government appears to discourage competition between public utilities, the first step might be taken in the direction of limiting or prohibiting the direct paralleling of air lines.[33]

To date there is no Federal legislation limiting competition between air carriers by certification or by any other means.[34] There is no authority for a regulatory commission to regulate beyond the expressed provisions of statute.[35] The Federal rule is enunciated with regard to the scope of the power of the Interstate Commerce Commission. That body has no right to control any enterprise not expressly and constitutionally placed under its administration by statute. And in controlling such designated callings its regulation must be strictly in accordance with the provisions of the statute.[36]

The interests of the air-transport owners would be adequately protected, and no doubt enhanced, by the enactment of a statute giving the Federal Government, through some administrative body, authority to issue to some common carrier interstate air line a certificate of convenience and necessity for exclusive operation over a given route. If the statute were carefully framed, the regulatory power could not legally extend its control in any other manner over the certified (or noncertified) concerns. With this protection, the established and governmentally protected lines would be permitted to freely develop without ruinous inroads being made upon their resources by uncontrolled competitors, which unhappy condition may be expected if the present policy of laissez faire is continued.

It may be said confidently that the public interest demands regulation of air transportation seeking to eliminate wasteful competition. Speaking of the similar subject of regulating motor-surface transport, Attorney Examiner Flynn says:

"It is not a question of whether any particular transportation agency shall prevail or be given advantage. Ruthless, inexorable economic laws will eventually determine that, no matter what attempts may be made to impede or interfere with natural progress. The readjustment or readaptation of transportation facilities should be made with the least possible economic waste. Regulatory legislation and administration should have the single purpose of improving transportation."[37]

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[33] The legislature of a jurisdiction has the authority necessary to restrict competition between corporations clothed with rights, powers, and franchises to serve the public. Sullivan, J.: "All property is held subject to the power of the State to regulate or control its use in order to secure the general safety, health, and public welfare of the people. There is nothing in the constitution (of Idaho) that prohibits the legislature from enacting laws prohibiting competition between public utility corporations." Idaho Power & Light Co. *v.* Blomquist, see note 14, supra—"the power of the legislature to regulate the services of public utilities may be exercised through a commission, although the constitution is silent on the subject." People *v.* Colorado Title & Trust Co. (1918) (Colo.), 178 Pac. 6; Pur. 1918–A, p. 546.

[34] See note 17, supra.

Recently several States have exercised regulatory powers over common carriers by air, among which are Nevada, Arizona, and Pennsylvania. The California Railroad Commission has authority to regulate rates of air transport common carriers by constitutional grant. Art. 12, secs. 20, 22, constitution of California. The Illinois Commerce Commission act gives that body authority to regulate operators of "property used for or in connection with the transportation of persons or property." Commerce commission act of June 29, 1921. See David E. Lilientahl and I. S. Rosenbaum, Motor Carrier Regulation in Illinois, 22 Ill. L. Rev. 47, 52; see note 7, supra.

[35] Guiding Principles of Public Service Regulation, p. 17, supra, note 13, at p. 18: "If a commission is given jurisdiction over common carriers, this does not mean it may regulate all common-law carriers but only those lines of business (constitutionally) designated common carriers in the statute creating the commission."

[36] In American Sugar Refining Co. *v.* Delaware, etc., R. R. Co. (1913), 207 F. 733, the court said: "So far as carriers are subjected by the (interstate commerce) act to the administrative authority of the (Interstate Commerce) Commission, which it establishes, that authority must be strictly pursued. In other words, acts of the commission in exercise of its administrative functions must, in order to be effective, be strictly (in accordance with) those provisions and requirements of the act by which its authority is prescribed and defined." Acc.: Hoover *v.* D. R. and G. W. R. R. (1927), 17 F. (2) 881; N. Y. C. R. R. *v.* United States (1925), 13 F. (2) 200. (Reversed on other grounds by U. S. *v.* N. Y. C. (1926), 272 U. S. 451.)

[37] The attorney-examiner closes his consideration with the following generalization: "There should be a wise and far-sighted coordination of all existing transportation agencies—land, water, and air. The Nation's transportation machine must be kept at its highest efficiency so as to advance the prosperity of the country and promote the happiness and welfare of its citizens in peace, in order that it may be prepared to respond as a tremendous factor in the national defense in time of war." (P. 276.) See note 18 supra.

The Interstate Commerce Commission is undoubtedly in as good a position as any arm of the Government to administer control over interstate air lines. However, there is nothing to prevent the lodgment of this authority in any other Federal agency.

THOMAS H. KENNEDY.

LOS ANGELES, *August 14, 1929.*

ORDER OF BUSINESS

Mr. TILSON. Mr. Speaker, I offer the following resolution and ask for its immediate consideration.

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

The Clerk read as follows:

House Resolution 59

Resolved, That after October 14, 1929, the House shall meet only on Mondays and Thursdays of each week until November 11, 1929: *Provided,* That if in the discretion of the Speaker legislative expediency shall warrant it, he may designate a date prior to November 11, 1929, on which the business of the House shall be resumed, in which case he shall cause the Clerk of the House to issue notice to Members of the House not later than one week prior to the date set by him.

Mr. TILSON. Mr. Speaker, I shall only state that the resolution just read is precisely the same resolution, the dates being changed, as the original recess resolution passed by the House last June.

Mr. GARNER. Will the gentleman yield for a question?

Mr. TILSON. Yes.

Mr. GARNER. I think it would be well for the gentleman to explain, for the benefit of the absent Members as well as the gentlemen who are here, his program with reference to the balance of this session; and let me see if I undertsand it as the gentleman has explained it to me. For the balance of this session of Congress, as I understand, no business will be transacted except such consideration as may be necessary on the tariff bill, including sending the bill to conference; is that correct?

Mr. TILSON. The gentleman states the situation properly, so far as legislation is concerned, unless some emergency may arise that he would agree with me was a matter that should be attended to.

Mr. GARNER. Then the absent Members, as well as the Members who are here, can understand that it is not the purpose of the majority party to do anything other than to consider the tariff bill when it passes the Senate, and that they need not come back here until that time, except for the purpose of sending the tariff bill to conference?

Mr. TILSON. I think the Speaker would so interpret the "expediency" referred to in the resolution.

Mr. GARNER. Suppose we get back here on the 11th of November and the tariff bill has not passed the Senate—and it does not look like it is going to pass the Senate during this session—is it the gentleman's purpose to do any other business except to adjourn?

Mr. TILSON. I now know of no business on the legislative program.

Mr. RAMSEYER. Will the gentleman yield?

Mr. TILSON. Yes.

Mr. RAMSEYER. I do not know just what right we have to enter into agreements now beyond the life of the resolution now pending before the House.

Mr. TILSON. We are not. The gentleman is simply asking what we have in mind in the way of a program.

Mr. RAMSEYER. When we reconvene on November 11 the Committee on Agriculture may be here and may have the bill of the gentleman from Washington [Mr. SUMMERS] ready for consideration.

Mr. TILSON. The Committee on Agriculture may have something further in the way of farm relief; no one knows; and I suppose that would come under the original agreement or the original purpose for which we met—to enact agricultural relief legislation, among other things; but nothing of this kind is now on the program.

Mr. SIMMONS. Will the gentleman yield further?

Mr. TILSON. Yes.

Mr. SIMMONS. Does the statement the gentleman has made preclude the possibility of the organization of the Committee on Appropriations?

Mr. TILSON. No; it does not preclude that.

Mr. SIMMONS. Or prevent that committee from going into action if it wants to?

Mr. TILSON. That committee has usually met whether it was organized or not and has gone on with its work and has had its work ready when we met in December. I hope the same thing will be done now whether the committee is organized or not.

Mr. SIMMONS. The reason I asked the question is that I am under the impression that possibly the Committee on Appropriations might begin to function on several of its bills during the special session.

Mr. TILSON. I doubt whether the regular appropriation bills should come up for consideration before the regular session and the receipt of the President's message.

Mr. SUMMERS of Washington. Mr. Speaker, will the floor leader yield to me?

Mr. TILSON. Yes.

Mr. SUMMERS of Washington. Since we were called in session to enact farm relief legislation, and the President of the United States and the Secretary of Agriculture and three-fourths of the members of the Committee on Agriculture—at least those three agencies—are agreed that this proposed legislation comes under that category, and we now have the time, why should we not before this special session closes rather strongly encourage the Committee on Agriculture to take action on this bill and give us a chance to pass on it one way or the other.

Mr. TILSON. The bill of the gentleman from Washington is not precluded from consideration under the original farm-relief program.

Mr. SUMMERS of Washington. But the floor leader on the Democratic side has suggested that we are not going to consider anything but the tariff, and that would preclude it.

Mr. TILSON. The gentleman from Texas was speaking of the program of the organization. The gentleman well understands that farm relief is a part of the program for the special session, and this bill might come under the head of farm relief.

Mr. GARNER. I tried to suggest to the gentleman from Washington a moment ago that the quickest way to get the legislation which he desires—and I am frank to say that I am in favor of it for it will be in the interest of the fruit growers—the thing to do is to get a promise out of the majority floor leader that he will give consideration to the bill when the report from the Agricultural Committee comes in.

Mr. SUMMERS of Washington. The gentleman from Texas knows the elasticity of the word "consideration." He said he would "give it consideration."

Mr. GARNER. Sometimes when a fellow wants to create a rough house to get a promise he can do it; it is a question how far the gentleman wants to go in the effort to get such a promise.

Mr. DOWELL. I would like to ask the gentleman from Connecticut if it is the purpose of the majority to organize the committees at this special session before we adjourn?

Mr. TILSON. I will say that the original intention was that we might make selection of the committees at the end of this session, but even that was not agreed upon.

Mr. DOWELL. That is one of the things that may come up when we meet on November 11.

The SPEAKER. The question is on the resolution offered by the gentleman from Connecticut.

The resolution was agreed to.

APPOINTMENT OF SPEAKER PRO TEMPORE

Mr. TILSON. Mr. Speaker, I offer a further resolution.

The Clerk read as follows:

House Resolution 60

Resolved, That the Speaker may at any time during the months of October and November designate any Member to perform the duties of the Chair, notwithstanding the provisions of clause 7 of Rule I.

The resolution was agreed to.

DEATH OF SENATOR LAWRENCE DAVIS TYSON

Mr. GARNER. Mr. Speaker, I offer the following resolution.

The Clerk read as follows:

House Resolution 61

Resolved, That the House has heard with profound sorrow of the death of Hon. LAWRENCE DAVIS TYSON, a Senator from the State of Tennessee.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

The resolution was agreed to.

DEATH OF THE LATE REPRESENTATIVE LESLIE JASPER STEELE

Mr. TARVER. Mr. Speaker, I offer the following resolution.

The Clerk read as follows:

House Resolution 62

Resolved, That the House has heard with profound sorrow of the death of Hon. LESLIE JASPER STEELE, a Representative from the State of Georgia.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

The resolution was agreed to.

DEATH OF THE LATE REPRESENTATIVE O. J. KVALE

Mr. NOLAN. Mr. Speaker, I offer the following resolution.

The Clerk read as follows:

House Resolution 63

Resolved, That the House has heard with profound sorrow of the death of Hon. O. J. KVALE, a Representative from the State of Minnesota.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

The resolution was agreed to.

ADJOURNMENT

Mr. TILSON. Mr. Speaker, as a further mark of respect for the deceased Senator and late Members of the House, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 28 minutes p. m.) the House, under the terms of House Resolution 59, adjourned until Thursday, October 17, 1929, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

64. A letter from the Secretary of War, transmitting report from the Chief of Engineers on preliminary examination of Colorado River, Tex.; to the Committee on Rivers and Harbors.

65. A letter from the Secretary of the Treasury, transmitting draft of a proposed joint resolution for the relief of C. N. Hildreth, jr., former collector of customs for District No. 18; to the Committee on Claims.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. ALLEN: A bill (H. R. 4613), granting a pension to Austin Mondon; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4614) granting an increase of pension to Agnes Blakeley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4615) granting an increase of pension to Jennie P. McClanahan; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4616) granting an increase of pension to Amanda E. Tate; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4617) granting a pension to Milton Frits; to the Committee on Pensions.

By Mr. ARNOLD: A bill (H. R. 4618) granting a pension to Richard Clinton Shultz; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4619) granting a pension to Mary F. Besly; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4620) granting an increase of pension to Elvira Poston; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4621) granting an increase of pension to Nancy J. Johnson; to the Committee on Invalid Pensions.

By Mr. BACON: A bill (H. R. 4622) granting a pension to Josephine Connell; to the Committee on Pensions.

By Mr. BOWMAN: A bill (H. R. 4623) granting a pension to Nora Amanda Combs; to the Committee on Invalid Pensions.

By Mr. BRAND of Ohio: A bill (H. R. 4624) granting an increase of pension to Phena Knaggs; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4625) granting an increase of pension to Mary J. Coulson; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4626) granting an increase of pension to Anna B. Miller; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4627) granting an increase of pension to Hattie L. Maley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4628) granting an increase of pension to Louisa A. Ballinger; to the Committee on Invalid Pensions.

By Mr. CANFIELD: A bill (H. R. 4629) granting a pension to Mitchell Day; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4630) granting a pension to Mary F. Stewart; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4631) granting a pension to Robert Long; to the Committee on Invalid Pensions.

By Mr. EATON of Colorado: A bill (H. R. 4632) granting a pension to Bessie M. Segerstrom; to the Committee on Pensions.

Also, a bill (H. R. 4633) granting a pension to Harriet E. Carter; to the Committee on Invalid Pensions.

By Mr. ELLIOTT: A bill (H. R. 4634) granting a pension to Robert McQueen; to the Committee on Pensions.

Also, a bill (H. R. 4635) granting a pension to Mary E. Ridenour; to the Committee on Invalid Pensions.

By Mr. EVANS of Montana: A bill (H. R. 4636) granting an increase of pension to Edward L. Schniedemann; to the Committee on Pensions.

By Mr. FITZGERALD: A bill (H. R. 4637) granting a pension to William E. Gossett; to the Committee on Pensions.

Also, a bill (H. R. 4638) granting a pension to Isaiah Lightfoot; to the Committee on Pensions.

By Mr. FREAR: A bill (H. R. 4639) granting an increase of pension to Wilhelmine Ulrich; to the Committee on Invalid Pensions.

By Mr. GAMBRILL: A bill (H. R. 4640) granting a pension to Olive B. Beall; to the Committee on Pensions.

By Mr. GREENWOOD: A bill (H. R. 4641) granting a pension to David Edgar Ellis; to the Committee on Invalid Pensions.

By Mr. HOFFMAN: A bill (H. R. 4642) granting a pension to Jennie L. Cranmer; to the Committee on Invalid Pensions.

By Mr. JAMES: A bill (H. R. 4643) for the relief of Louis Vauthier and Francis Dohs; to the Committee on Military Affairs.

By Mr. JENKINS: A bill (H. R. 4644) granting an increase of pension to Mary A. Barnes; to the Committee on Invalid Pensions.

By Mr. PALMER: A bill (H. R. 4645) granting a pension to Cannie Reavis; to the Committee on Invalid Pensions.

By Mr. SHORT of Missouri: A bill (H. R. 4646) granting a pension to Pleas (Pleasant) Godall; to the Committee on Invalid Pensions.

By Mr. SOMERS of New York: A bill (H. R. 4647) granting an increase of pension to Mary F. Perrin; to the Committee on Pensions.

By Mr. THOMPSON: A bill (H. R. 4648) granting a pension to Mary Trumbull; to the Committee on Invalid Pensions.

By Mr. UNDERWOOD: A bill (H. R. 4649) granting an increase of pension to Leva Raymond; to the Committee on Pensions.

Also, a bill (H. R. 4650) granting an increase of pension to Frances Irene Fowler; to the Committee on Invalid Pensions.

By Mr. WALKER: A bill (H. R. 4651) granting an increase of pension to Louisa Squires; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4652) granting a pension to Montra Sanders; to the Committee on Invalid Pensions.

Also, a bill (H. R. 4653) granting an increase of pension to Martha E. Gaines; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

750. By Mr. HADLEY: Petition of residents of Everett, Wash., urging increases of pension for Civil War veterans and widows of veterans; to the Committee on Invalid Pensions.

SENATE

TUESDAY, *October 15, 1929*

(Legislative day of Monday, September 30, 1929)

The Senate met at 11 o'clock a. m., 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:

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

Mr. FESS. My colleague the junior Senator from Ohio [Mr. BURTON] is still detained from the Senate by illness. I ask that this statement may be allowed to stand for the day.

Mr. BORAH. I desire to announce the necessary absence of the Senator from Arkansas [Mr. CARAWAY], the Senator from Indiana [Mr. ROBINSON], the Senator from Wisconsin [Mr. BLAINE], and the Senator from Montana [Mr. WALSH], who are engaged in committee work.

Mr. SCHALL. I desire to announce that my colleague [Mr. SHIPSTEAD] is absent because of illness. I ask that this announcement may stand for the day.

The VICE PRESIDENT. Eighty Senators have answered to their names. A quorum is present.

PETITION

The VICE PRESIDENT laid before the Senate a supplemental petition of the Immigrants' Legal Aid Society (Inc.), of Chicago, Ill., signed by its president and general counsel, praying an investigation of certain alleged corrupt or criminal activities and conditions in the city of Chicago and Cook County, Ill., which was referred to the Committee on the Judiciary.

BILLS INTRODUCED

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

By Mr. REED:

A bill (S. 1883) to amend the national defense act of June 3, 1916, as amended; to the Committee on Military Affairs.

By Mr. METCALF:

A bill (S. 1884) granting an increase of pension to Mary M. Thompson (with accompanying papers); to the Committee on Pensions.

AMENDMENTS TO THE TARIFF BILL

Mr. GOFF, Mr. GEORGE, and Mr. BROOKHART each submitted an amendment and Mr. WALSH of Massachusetts submitted two amendments, intended to be proposed by them, respectively, to House bill 2667, the tariff revision bill, which were severally ordered to lie on the table and to be printed.

JAMES H. DAVIS

Mr. JONES submitted the following resolution (S. Res. 133), which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay out of the appropriation for miscellaneous items, contingent fund of the Senate, fiscal year 1929, to James H. Davis, widower of Lulu F. Davis, late an assistant clerk to the Committee on Commerce of the Senate, a sum equal to six months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Chaffee, one of its clerks, communicated to the Senate the resolutions of the House adopted as a tribute to the memory of Hon. LAWRENCE DAVIS TYSON, late a Senator from the State of Tennessee.

The message also communicated to the Senate the resolutions of the House adopted as a tribute to the memory of Hon. O. J. KVALE, late a Representative from the State of Minnesota.

The message further communicated to the Senate the intelligence of the death of Hon. LESLIE JASPER STEELE, late a Representative from the State of Georgia, and transmitted the resolutions of the House thereon.

ADDRESS BY SENATOR HAWES ENTITLED "AMERICANS PROTEST THE JEWISH MASSACRES"

Mr. WALSH of Massachusetts. Mr. President, I ask unanimous consent to have inserted in the CONGRESSIONAL RECORD a very able and eloquent speech by the senior Senator from Missouri [Mr. HAWES] entitled "Americans Protest the Jewish Massacres," delivered in St. Louis on September 8.

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

The matter referred to is here printed, as follows:

No better day than the Christian Sabbath could have been selected for this meeting of sympathy and protest.

Casper S. Yost, in his new but lasting work, the Quest of God, expresses the spirit that should guide our deliberations here, when he said:

"The golden finger of divinity reaches out and touches me; it reaches out and touches you; I clasp your hand and the circle is complete.

"Herein is expressed the relations between man and man, and between man and God.

"You are my brother; I am yours; He is our Father.

"In the recognition of these facts lies the essentials of religion.

"When one of the Scribes came to Jesus and asked which is the first commandment of all, Jesus answered: 'The first of all the commandments is, "Hear, O Israel; the Lord our God is one Lord. And thou shalt love the Lord thy God with all thy heart and with all thy soul and with all thy mind and with all thy strength." This is the first commandment.

"'And the second is like, namely, "Thou shalt love thy neighbor as thyself." There is none other commandment greater than these.'"

Palestine, a land of three faiths, is known as the Holy Land. It is "the Holy Land" for the Jew, "the Holy Land" for the Christian, and "the Holy Land" for the Moslem. For thousands of years pious pilgrims have knelt before the sacred shrines of these three faiths.