SENATE

WEDNESDAY, *April 30, 1930*

The Senate met at 12 o'clock meridian in open executive session.

Rev. James W. Morris, D. D., of the city of Washington, offered the following prayer:

Almighty and Everliving God, of whose only gift it cometh that Thy faithful people do unto Thee true and laudable service, we gratefully acknowledge the manifold evidences of Thy good hand upon us both as individuals and as a nation, and we pray Thee that our many blessings may lead us to a holy and humble walk and conversation before Thee.

Especially we invoke Thy grace and guidance upon these Thy servants, who assemble here to consider the affairs that affect the welfare of our country. Endue them with wisdom; enlighten their minds with the light of Thy Holy Spirit, so that their deliberations shall inure to the best happiness of our land and the enlargement of Thy kingdom. Through Jesus Christ our Lord. Amen.

OPERATIONS OF GRAIN EXCHANGES

As in legislative session,

The VICE PRESIDENT laid before the Senate a communication from the Omaha (Nebr.) Grain Exchange, relative to the business and operations of grain exchanges, and also transmitting two pamphlets entitled "Orderly Marketing of Grain" and "Farmers Have Profited from Speculation," which, with the accompanying papers, was referred to the Committee on Agriculture and Forestry.

CLAIM OF FRANCES MOSER HOCKER

As in legislative session,

The VICE PRESIDENT laid before the Senate a communication from Frances Moser Hocker (Mrs. Edward W. Hocker), of Germantown, Philadelphia, Pa., transmitting an additional formal statement relative to her claim against the Government, which, with the accompanying paper, was referred to the Committee on Claims.

PETITIONS

As in legislative session,

The VICE PRESIDENT laid before the Senate a resolution adopted by the Third National Conference on the Merchant Marine held at Washington, D. C., April 24, 1930, favoring the early ratification by the Senate of the International Convention on Safety of Life at Sea, as signed in London May 31, 1929, which was referred to the Committee on Foreign Relations.

He also laid before the Senate the petition of members of the Department of New Hampshire, Woman's Relief Corps, at Concord, N. H., praying for the passage of legislation granting increased pensions to veterans of the war with Spain, which was ordered to lie on the table.

He also laid before the Senate a communication from the executive committee of the Long Island (N. Y.) Chamber of Commerce, indorsing the appeal made to the President of the United States and the Congress by the National Unemployment League (Inc.), 420 Madison Avenue, New York City, favoring the passage of legislation for the development of an unemployment program and the inauguration of a system of public works, which, with the accompanying paper, was ordered to lie on the table.

REPORTS OF THE COMMITTEE ON IRRIGATION AND RECLAMATION

As in legislative session,

Mr. THOMAS of Idaho, from the Committee on Irrigation and Reclamation, to which was referred the bill (H. R. 156) to authorize the disposal of public land classified as temporarily or permanently unproductive on Federal irrigation projects, reported it without amendment and submitted a report (No. 580) thereon.

Mr. PHIPPS, from the Committee on Irrigation and Reclamation, to which was referred the bill (S. 3386) giving the consent and approval of Congress to the Rio Grande compact signed at Santa Fe, N. Mex., on February 12, 1929, reported it without amendment and submitted a report (No. 581) thereon.

ENROLLED BILL PRESENTED

As in legislative session,

Mr. GREENE, from the Committee on Enrolled Bills, reported that on to-day, April 30, 1930, that committee presented to the President of the United States the enrolled bill (S. 3441) to effect the consolidation of the Turkey Thicket Playground, Recreation and Athletic Field.

BILLS AND JOINT RESOLUTION INTRODUCED

As in legislative session,

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

By Mr. SMOOT:

A bill (S. 4317) for the relief of the H. L. Bracken Cylinder Grinding Co.; to the Committee on Claims.

By Mr. WALSH of Montana:

A bill (S. 4318) to amend the act entitled "An act to permit taxation of lands of homestead and desert-land entrymen under the reclamation act," approved April 21, 1928; to the Committee on Public Lands and Surveys.

By Mr. STECK:

A bill (S. 4319) granting a pension to George P. Hamilton (with accompanying papers); to the Committee on Pensions.

By Mr. VANDENBERG:

A bill (S. 4320) for the relief of Capt. Joseph H. Hickey, Quartermaster Corps, United States Army; to the Committee on Claims.

By Mr. PHIPPS:

A bill (S. 4321) for the relief of the Confederated Bands of Ute Indians, located in Utah, Colorado, and New Mexico; to the Committee on Indian Affairs.

By Mr. DILL:

A bill (S. 4322) for the relief of Julian Jurczyk; to the Committee on Military Affairs.

A bill (S. 4323) granting a pension to Carrie Bell; and

A bill (S. 4324) granting a pension to John Robinson; to the Committee on Pensions.

By Mr. CAPPER:

A bill (S. 4325) to amend subchapter 5 of chapter 18 of the Code of Law for the District of Columbia by adding thereto a new section to be designated section 648 a; to the Committee on the District of Columbia.

By Mr. THOMAS of Oklahoma:

A bill (S. 4326) to release to the city of Chandler, Okla., all right, title, and interest of the United States in the military target range of Lincoln County, Okla.; to the Committee on Military Affairs.

By Mr. COPELAND:

A bill (S. 4327) for the relief of Annie O'Neill; to the Committee on Claims.

A bill (S. 4328) granting an increase of pension to Helen K. Snowden; to the Committee on Pensions.

By Mr. HATFIELD:

A joint resolution (S. J. Res. 171) to amend section 5 of the joint resolution relating to the National Memorial Commission, approved March 4, 1929; to the Committee on the Library.

AMENDMENTS TO RIVER AND HARBOR BILL

As in legislative session,

Mr. WALCOTT submitted an amendment and Mr. SHEPPARD submitted four amendments intended to be proposed by them, respectively, to the bill (H. R. 11781) authorizing the construction repair, and preservation of certain public works on rivers and harbors, and for other purposes, which were severally referred to the Committee on Commerce and ordered to be printed.

EXECUTIVE MESSAGES AND APPROVAL

Sundry messages in writing were communicated to the Senate from the President of the United States by Mr. Latta, one of his secretaries, who also announced that on April 29, 1930, the President approved and signed the joint resolution (S. J. Res. 156) to pay the judgment rendered by the United States Court of Claims to the Iowa Tribe of Indians, Oklahoma.

CLAIM OF OWNERS OF DANISH MOTOR SHIP "INDIEN" (S. DOC. NO. 140)

As in legislative session,

The VICE PRESIDENT laid before the Senate the following message from the President of the United States, which was read and, with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed:

To the Congress of the United States:

I transmit herewith a report from the Secretary of State in relation to a claim presented by the Government of Denmark for the payment of compensation to the owners of the Danish motor ship *Indien* for damages sustained as a result of a collision with the U. S. Coast Guard cutter *Shawnee* at San Francisco on April 5, 1925, and I recommend that an appropriation be authorized to effect a settlement of this claim in accordance with the recommendations of the Secretary of State.

HERBERT HOOVER.

THE WHITE HOUSE, *April 30, 1930.*

CLAIM OF LI YING-TING, A CITIZEN OF CHINA (S. DOC. NO. 139)

As in legislative session,

The VICE PRESIDENT laid before the Senate the following message from the President of the United States, which was read and, with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed:

To the Congress of the United States:

I transmit herewith a report of the Acting Secretary of State requesting the submission to the Congress of a claim against the Navy Department submitted through the American consul at Nanking in behalf of Li Ying-ting, a citizen of China, for the deaths of four members of the claimant's family resulting from a collision between the claimant's junk and the United States naval vessel *Hart* on the Yangtze River on July 3, 1925.

I recommend that, as an act of grace and without reference to the question of the legal liability of the United States, an appropriation of $1,500 United States currency be authorized to effect settlement of this claim, in accordance with the recommendations of the Acting Secretary of the Navy and the Acting Secretary of State.

HERBERT HOOVER.

THE WHITE HOUSE, *April 30, 1930.*

MESSAGE FROM THE HOUSE

As in legislative session,

A message from the House of Representatives by Mr. Farrell, its enrolling clerk, announced that the House had passed a bill (H. R. 10630) to authorize the President to consolidate and coordinate governmental activities affecting war veterans, in which it requested the concurrence of the Senate.

HOUSE BILL REFERRED

As in legislative session,

The bill (H. R. 10630) to authorize the President to consolidate and coordinate government activities affecting war veterans was read twice by its title and referred to the Committee on Finance.

THE UNIVERSITY OF ARIZONA AND NATURAL RESOURCES OF THE STATE

As in legislative session,

Mr. HAYDEN. Mr. President, I ask leave to have printed in the RECORD an address delivered at the University of Arizona on April 24 by Dr. George Otis Smith, Director of the Geological Survey.

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

Arizona's greatest resource is the coming generation—the citizens of to-morrow. To these young men and women who must furnish leadership in the State this university stands as alma mater, a fostering mother in a special and particular sense. All that I have to say this morning may be summed up in the simple truism that it is only through the education of Arizona's citizens that all her other resources can and will be utilized to the best advantage. The human resource is the first concern of the State; or, as Owen Young recently put it, trained brains are a country's greatest asset, and without them natural resources are as nothing. My major premise to-day is that Arizona is blessed with both.

I term the relationship of the University of Arizona to the youth of Arizona as primarily that of a fostering mother for the simple reason that this is a publicly endowed institution with a public purpose. Under several acts of Congress, the first of which was signed by President Lincoln nearly 70 years ago, the Federal Government cooperates with the States in a program of higher education in those arts that constitute the foundation stones of industrial life. State and Nation are logical partners in this recognition of education as both a national and a local duty simply because citizenship carries obligations to Nation as well as to State. The training of citizens is peculiarly the function of the State university, and here in Tucson is centralized the responsibility for fitting your students to be citizens of no mean State and of no mean Nation. The vision of our fathers in planning this partnership back in the dark days of Civil War was, in the words of the late President James, of Illinois, "the beginning of one of the most comprehensive, far-reaching, one might almost say grandiose, schemes for the endowment of higher education ever adopted by any civilized nation."

This broad cooperative basis for the support of citizen training is correct in principle and has proved successful in practice. As the industrial, economic, and financial structure of the Nation rises, technical education must adjust itself to meet the new specifications; with the increasing complexity of life a broader culture is demanded, lest the changing order trend toward lowering the standard of citizenship.

As I read the organic act of 1862 that joined Nation and State in a country-wide educational experiment I note that it specifies "liberal and practical education of the industrial classes." This was class legislation of the right sort—higher education for the workers, for upon this class the State depends. So it follows that, with the emphasis always kept on training for citizenship, the program of this university includes research directly related to Arizona's natural resources and teaching that will apply the truths of modern science to the tasks of modern life here in the Southwest. Privately endowed institutions of higher learning may have more general aims and follow broader paths of research, even exploring the utmost limits of the universe for new planets, but here at this public institution the star to which your wagon must be hitched is Arizona.

Here in Arizona the bond between human workers and natural resources is simple and intimate. Mining and metallurgy, agriculture and forestry, all depend directly upon Mother Earth, and no demonstration from this platform is needed to point out to those of you who may be entering upon your life work the significance of the fact that your home State is blessed with great wealth in soil and waters and in minerals hidden beneath the surface. Nature has furnished here the setting for a prosperous Commonwealth, the opportunity for successful endeavor. And be it noted that I place first the prosperity of the Commonwealth; I mention the body politic before the individual citizen.

There is a community of interest in the development of resources that transcends all that can be done for personal gain; indeed, self-interest becomes enlightened only when it sees that the whole includes the parts and that in the long run individual success is promoted by serving the public interest. In the industrial world the trend of highly competitive struggle has long been toward bigger and bigger business and larger and larger output, until mass production has seemed the open sesame with which the door to any economic secret can be made to swing wide. Yet the thoughtful observer has noted of late that this so-called rationalization of industry has gone to irrational extremes. Overabundance of such essentials as wheat and copper may become an economic liability, and both Nation and citizen can suffer from the sin of overproduction. Never before these recent years of plenty have we realized so keenly that too much can be as profitless as too little.

In similar fashion the industrial seeker for success, be that individual a citizen or a corporation, must think beyond the confines of any one business or any one industry. Our national structure has withstood the shocks of a century and a half largely because it derives strength from the economic as well as political union of many States. So in this State of yours economic vigor can persist only as your varied industries are united in a common policy. Balanced production is the industrial ideal—that happy coordination of agriculture with mining and the sane development of diversified industries that makes for economic independence of State or Nation. Many of us have watched from a distance the wisely directely coordination of Arizona's business activities, an economic movement in which so many interests have cooperated. No other State has gone further in this direction.

Conservation can be most tersely defined as taking thought for the morrow, and conservation as an economic policy has the prime purpose of serving the common interest. In its all-embracing survey of the present and its far-flung vision of the future, conservation is largely a matter of educated eyesight; in its sympathetic understanding of what democracy means in industry, conservation is a matter of twentieth century humanities. It follows that conservation broadly and specifically applied to Arizona deserves a large place in the research and teaching program at this university. As bearing upon the conversion of natural resources into contributions to the larger life of the State, conservation must be taught in your college of mines and engineering, in your college of agriculture, and, above all, in your department of economics. Such courses as "geology of Arizona," "range ecology," "agricultural economics," "principles of marketing," and "rural sociology" are among those bearing directly upon the major problem of Arizona's development. They aim straight at the target.

In her industrial development Arizona is young, and with the strength of youth feels the urge to use youth's resources, and on a scale of expenditure perhaps not altogether wise. There is reason for both pride and pause in the fact that Arizona has just experienced her best year in metal production, with an output worth more than $150,000,000. This increase of more than 6,000 tons in the annual contribution to the country's needs in those useful metals copper, lead, and zinc is a tribute to Arizona's mining industry, yet there is another side to the shield; we must not overlook the fact that the 425,000 tons of virgin metal produced from Arizona mines and smelters in 1929 represents a withdrawal of mineral assets that can never be replaced. That crop will never grow again.

Arizona has neighbors whose mining glory may be in large degree of the past, and we now realize the important part the mines have played in the building of those States. To-day their effort is to revive and restore the mining activity and thus effect a better balance in industry. Arizona, on the contrary, has not yet reached her peak, and her outlook is rosy. Yet it is not too early to ask yourselves the very pertinent question, How long can these mountains of Arizona continue to furnish the ore to our mills and smelters? And your question takes on nation-wide significance when we rephrase it to read, How long can Arizona smelters continue to furnish the metals that the Nation needs to meet the constantly changing and ever-expanding demands of civilization for

new tools, new machines, new masterpieces of art and architecture, new highways for the spoken word?

So it is that I urge those who guide the policy of this university to see the practical and immediate value of conservation to Arizona. No longer is conservation a matter of sentiment or of propaganda to be broadcast once a year in a week set apart by congressional enactment, as was recently proposed in Washington. Conservation—by which I mean use without waste—deserves to be a religion with mining engineers, not a religion to preach so much as a religion to practice. Practical conservation in a special sense belongs to the mining and metallurgical engineer. He stands as the keeper of the vaults in nature's treasury. His is the responsibility to meet the demands of civilization. Dwindling supplies call upon the mining geologist to find other deposits, the mining engineer to make them available, the metallurgist to devise improved methods for higher recovery of metal content and for profitable handling of leaner ores—theirs is the joint duty to keep up the flow of raw materials to industry.

Nor is it enough merely to respond to these demands: The mining engineer must also realize the unalterable limitations of supply. Optimism can not add one cubit to the extent of an ore body or a single ounce to nature's store of indispensable minerals, upon which we are making larger and larger inroads every year. I was glad to hear the president of a great mining company oppose those who profess unbounded faith in nature's continued generosity to America with the plain warning: "To those who state that 'America has just started' the incontrovertible answer is that so far as our natural resources are concerned America is well on its way."

Here in Arizona the years of maximum drafts upon the reserves of ore in sight should also be the time of largest activity in a well-organized search for new reserves. Geologic exploration should keep pace with mining expansion. The Arizona Bureau of Mines as a research department of this university holds a strategic position for service, but that position needs reinforcement in order to make its service adequate. A thorough survey of the State's resources under the auspices of this bureau in cooperation with Federal agencies would be the best insurance policy Arizona could buy. And we know that the best time to take out an insurance policy is in youth.

Chief among the resources on which Arizona must depend through the years to come is the water that flows in her rivers or is found stored beneath her deserts, a perennial source of energy for industry and of life for agriculture. Wise planning for the future at once raises these questions: Can more water be stored to add more fertile acres to the abiding assets of this State? Where are the largest storage basins and the best dam sites? What is the extent of the underground supply and at what rate can it be safely drawn upon? Are the forests and range tributary to the ranch lands being preserved so as to furnish the grazing lands needed? Train your graduates to answer questions such as these, and the University of Arizona will contribute generously to the permanent prosperity of your State.

The phrase "mastery of environment" well describes the larger factor in human progress, and that progress is furthered by research which looks to the conquest of natural conditions that not only try men's souls but test their inventive genius. For Arizona such research logically belongs to this university, and the logical leader in such research is your new president. Doctor Shantz traces his scientific ancestry to Prof. Charles E. Bessey, a skilled craftsman in the molding of men who have become leaders in the science of botany. Much of the notable success of the Bureau of Plant Industry in Washington can be credited to well-trained students from Professor Bessey's department of botany at the University of Nebraska, and from this productive group President Shantz has come. Homer Le Roy Shantz has a sagebrush background, and he knows the foothill and mesa atmosphere. He has traced the life history and watched the seasonal struggles of plants to live where water is a luxury. His own studies have extended from Nevada to Africa but have commonly touched the borderland of desert and semi-arid regions, where plants with the aid of man must conquer a hostile environment, and that is the type of research that this university should offer to its students.

None of us can see far enough into the future to realize what are to be the economic developments even of the morrow. Year after year on my visits to the West my imagination is stimulated as I see fields of golden grain or of green alfalfa pushing back the gray sagebrush and as I watch the trainloads of melons and lettuce and citrus fruits speeding across the continent to feed the eastern cities. It is this winning of the desert by Arizona's pioneer men and women and this conquest of distance by your railroads that together have made this youngest of States so important a member of the Federal family.

I would not wish, however, to leave with you any idea that long-haul transportation is a desirable end of itself; it is only a desirable means where necessary. The less transportation the better, and again I would commend the logic of common sense that has been applied here in Arizona in working out economies in transportation. Your State policy of seeking to be as self-sustaining as practicable is in pleasing contrast with the economic folly of long-distance shipments of foodstuffs not to our hungry cities but into agricultural regions that are devoted to a 1-crop program. It was an official of a progressive State of the Southeast who recently protested against the farmers of that State coming in from working their fertile cotton fields and sitting down to a meal of soup from Pittsburgh, bread made from Minnesota flour, meat from Chicago, vegetables from the Gulf States, and peaches canned in California, while their tired mules were eating western corn.

Arizona's resources are fairly well diversified, and their wise development should build up a Commonwealth free from the hazards of disproportionate specialization and unbalanced production. The pace is getting faster and the industrial strategy more complex, however, with the result that the call for highly trained workers in all branches of engineering, agricultural as well as mining, has become urgent. The president of the Michigan College of Mining and Technology sees a challenge to our colleges in the fact that the next generation of industrial leaders will start with industries that are already extensively developed—these new leaders can not grow up with the industries, and they must be prepared "most adequately for their tasks."

To the engineering that has contributed so largely to industrial advancement all over this western country must now be joined the social engineering that introduces factors of safety into the human equation. The health and happiness of the units that enter into the social structure must be protected and preserved, else the building is in vain. In a recently proposed social code the fifth commandment reads: "Thou shalt remember that the end product of industry is not goods or dividends but the kind of men and women whose lives are molded by that industry." The present experiment of the Soviet Government in industrializing the Russian people under forced draft is in direct violation of this commandment; it is using sweatshop methods on a nation-wide scale. The experiment may result in the sacrifice of all those personal rights which we in America regard as sacred, and if so that will be the price paid in Russia for a scrap-of-paper promise of economic freedom. All this is too much to give for the privilege of demonstrating to the rest of the world the unpardonable error of overlooking the factor of human happiness. The worker is of far greater concern to the State than his work.

And here and now I would again urge upon your attention the significant fact that the law of 1862 specifies both "liberal and practical education," for to-day the need for a liberal training has become even more impelling. Arizona has a right to demand not only engineers who can furnish the raw materials upon which civilization feeds, but men and women grounded in the fundamentals of human relationships, graduates of this university to whom has been given the broader view of life. Social progress is the natural partner of engineering advance, and a liberal training must include development of the talent for leadership in human affairs.

Russia has turned to America for engineering advice in rebuilding her wrecked industries, but we can see that the Soviet Union lacks even more grievously wise counsel in human engineering—good advice in the rebuilding of its social structure. We must admit, however, that even in our own country social and political science has lagged behind physical science and that we have abundant opportunities here at home for employing human engineering in speeding up social progress. There are large areas in our political life that call for exploration and reclamation, and in that work the same principles and talents that have given the engineer mastery over nature can help in obtaining the mastery over human nature.

This opportunity of the university to furnish leaders for the State is as broad as human life itself in this new epoch in the evolution of human society, quickened as it is by the numberless innovations in material things. In my lifetime the American citizen has increased his use of mechanical energy sixfold; that is to say, my share in the machines of industry and commerce is six times that my father had when I was born. With this rapid growth in the economic stature of our Nation have come radical changes in our social environment and in the scope of our social needs.

In the earlier years of this industrial revolution there were social consequences of serious and far-reaching extent, but those sad defects were incident to man's use of machinery, not inherent in it. Man himself, not his new machine, was chargeable with the selfish disregard of the working and living conditions of his employees. There is no alibi for the thoughtless owner in blaming his unthinking machine; human greed antedated James Watt.

The industrial revolution is well along in its second century, and now it is called the power age; yet the same demand exists for keeping the humanistic motives for protecting society in balance with the inventive genius for speeding up industry. Here in the university the rights of man as well as the power of the machine challenge attention, and diverse indeed are the new phases of the research and teaching called for by your progressive and growing State.

As a single example, the power problem engages the attention of all citizens who realize how much human progress is dependent upon harnessing the forces of nature to do man's work. Discussion of possible contacts between the public utilities and engineering schools has taken on a strong political tinge at Washington. Suggestions of cooperation have aroused criticism and the debate is on. Obviously, support of engineering research in problems of mutual interest or plans for vacation employment of engineering students are projects in which

the public-utility industry can and should reach out a helpful hand to technical schools and colleges. In such activity there need be no fear of general misunderstanding or of justified criticism of motive. But the endowment or subsidy by the industry of any chair in political economy or allied subject readily and properly exposes both industry and institution to popular condemnation. Least of all in a State university should there be the slightest suggestion of controlled opinions.

Control of academic opinion is a very practical matter, and the possibility of interference with liberty of thought and speech is admittedly not a one-sided phenomenon. Attempts to color the teaching of economics or any other subject should not be tolerated, whoever it is who seeks to apply the color. Political influence over teaching is equally obnoxious, whether the political authority favors or opposes this or that business interest. No public agency or public official—whether Federal or State, executive or legislative—has any warrant for assuming technical or economic omniscience; political heat commonly warps propaganda in spite of its bearing the "public-interest" label. The university classroom must be a sanctuary where facts are presented, regardless of what they prove, and where opinions are expressed, irrespective of their bearing upon corporate practice or Government policy. Anything short of the open mind and the open forum is antagonistic to educational ideals; any attempt to interfere with the simple task of teaching mental honesty is worse than unethical—it is unsportsmanlike.

Mr. Stanley Baldwin a few months ago in addressing a university audience in England discussed patriotism as a primitive instinct aroused by the love of early scenes but later developed into the love of serving the home land. That is a powerful motive to noble action, which here under quite different skies can mean letting the love of Arizona mountain and plain furnish a compelling incentive to service for this State. Character is the foundation upon which democracy rests.

In the Colver lectures at Brown University last year Professor Paxson, of Wisconsin, took as his topic When the West is Gone, and traced the continuing influence of the West upon the political growth of the Nation. We may follow the historian in the large credit he gives to the pioneer spirit in making and keeping the New World different from the old, and yet not subscribe to his belief that the West is gone and that with the passing of the frontier the free spirit of the western pioneer has departed from American democracy. A few years ago before a western audience I contended that the West is ever new—its spirit of the search for something new, something lost behind the ranges, is an undying spirit.

So it is that the days of the pathfinder are not past—his task continues, though it is a different task. The new West calls for the opening up of new trails. The frontier to-day is not a geographic frontier whose obstacles of deserts and mountains and rivers and forests have to be conquered. What remains is the industrial frontier, on which the problems to be surmounted are economic. Not all the sources of wealth have been discovered; not all the land has been brought into full possession of its occupants. And in this conquest the ever-new West needs leaders—keen-eyed, courageous men who can blaze new trails in development.

My vision of the resources of Arizona is not a simple picture of quick development and large profits. That would not make for permanence of communities or for security of investments. Far better is a slowly expanding industry which, when it reaches its economic size, still has reserves that promise profitable operation through a span of years sufficient to guarantee not only continued returns to the stockholders, but—what means far more to this western country—continued work for the workers, who in a sense, under our modern ideals of democratic society, should be regarded as the preferred shareholders in any enterprise.

Wise utilization of Arizona's resources must be measured by other standards than tons or carloads or acre-feet or kilowatt-hours. Whether it is in mining town or industrial town, in the city or on the ranch, more homes and better homes furnish the best measure of Arizona's progress. We need not worry about the passing of the frontier spirit if in this youngest of Western States there is pioneering in good citizenship, and in stimulating such pioneering this university should be like a perennial spring from which issue life-giving waters for all who come.

EXECUTIVE MESSAGES REFERRED

As in executive session,

The VICE PRESIDENT laid before the Senate messages from the President of the United States making nominations, which were referred to the appropriate committees.

CONFIRMATION OF POSTMASTERS

As in executive session,

Mr. PHIPPS. I ask unanimous consent that the nominations of postmasters on the Executive Calendar may be confirmed en bloc. I do not think there is objection to any of them.

The PRESIDING OFFICER (Mr. FESS in the chair). Without objection, the nominations will be confirmed en bloc, and the President will be notified.

W. BATEMAN CULLEN

Mr. PHIPPS. Mr. President, on April 28 the Senate confirmed the nomination of W. Bateman Cullen to be postmaster at Clayton, Del. I desire to enter a motion to reconsider the vote by which the nomination was confirmed and ask unanimous consent that the President be requested to return the resolution confirming the nomination to the Senate.

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

REPORT OF POSTAL NOMINATIONS

As in open executive session,

Mr. PHIPPS, from the Committee on Post Offices and Post Roads, reported sundry post-office nominations, which were placed on the Executive Calendar.

NOMINATION OF JUDGE JOHN J. PARKER

The Senate in open executive session resumed the consideration of the nomination of John J. Parker, of North Carolina, to be an Associate Justice of the Supreme Court of the United States.

Mr. HASTINGS obtained the floor.

Mr. FESS. Mr. President, will the Senator from Delaware yield to me to enable me to suggest the absence of a quorum?

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

Mr. HASTINGS. I yield.

Mr. FESS. 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	George	McCulloch	Steiwer
Ashurst	Gillett	McKellar	Stephens
Baird	Glass	McNary	Sullivan
Bingham	Glenn	Norris	Swanson
Black	Goldsborough	Nye	Thomas, Idaho
Blaine	Greene	Oddie	Thomas, Okla.
Blease	Hale	Overman	Townsend
Borah	Harris	Patterson	Trammell
Bratton	Harrison	Phipps	Tydings
Brock	Hastings	Pine	Vandenberg
Broussard	Hatfield	Pittman	Wagner
Capper	Hawes	Ransdell	Walcott
Connally	Hayden	Robinson, Ind.	Walsh, Mass.
Copeland	Hebert	Robsion, Ky.	Walsh, Mont.
Couzens	Howell	Schall	Waterman
Cutting	Johnson	Sheppard	Watson
Deneen	Jones	Shipstead	Wheeler
Dill	Kean	Shortridge	
Fess	Kendrick	Smoot	
Frazier	Keyes	Steck	

Mr. BLAINE. I desire to announce that my colleague the senior Senator from Wisconsin [Mr. LA FOLLETTE] is unavoidably absent. I ask that this announcement may stand for the day.

Mr. SHEPPARD. I announce that the Senator from Florida [Mr. FLETCHER], the Senator from Utah [Mr. KING], and the Senator from South Carolina [Mr. SMITH] are all detained from the Senate by illness.

Mr. BLACK. I desire to announce that my colleague the senior Senator from Alabama [Mr. HEFLIN] is necessarily detained in his home State on matters of public importance.

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

Mr. WALSH of Montana. Mr. President, will the Senator from Delaware yield to me for a few moments?

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

Mr. HASTINGS. I yield.

Mr. WALSH of Montana. On yesterday a suggestion was made that in view of some controversy as to what actually took place in the so-called Harness case involving the nominee, Judge Parker, it would be well to have before us the instructions of the judge in that case in which it is represented strictures were made on the conduct of counsel. I have before me this morning a copy of the instructions of the court in directing a verdict and ask that the same be printed in the RECORD. With the permission of the Senator from Delaware, I should like to advert to those parts of the instructions which seem to bear upon that question.

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

Mr. HASTINGS. I yield.

Mr. WALSH of Montana. I ought to say that this was a prosecution of one of what were known as the war fraud cases. It will be recalled that upon the incoming of the Harding administration the then Attorney General, Mr. Daugherty, appeared before the Congress and represented that gigantic frauds had occurred during or immediately following the World War, and he asked for an appropriation for the purpose of investigating

and prosecuting those guilty of such frauds. The Congress responded by making an appropriation of $500,000, which amount was placed at the disposal of the Department of Justice for the purpose of carrying on the prosecutions. It afterwards transpired that something like 105 lawyers were appointed for the purpose of conducting the work. Later it was disclosed that the Department of Justice, after some years of effort, something like six or seven years, and securing no conviction in any case, had abandoned the whole effort. This case belonged to that category.

Judge Groner in his instructions referred to political opposition to the contract which was made the basis of the prosecution, which arose over the country after it was executed. I should say that it involved the sale of harness which had been bought by the War Department. In order to effect the sale it became necessary to make a survey and inspection to determine whether there was any further need for all of that material which had been accumulated during the war. It was charged that in connection with the inspections those who were made defendants in the proceedings had corrupted officials for the purpose of securing favorable action. Some of the subordinate officers of the War Department were made defendants along with others. In the course of the instructions of the court—I read now from page 2459 of the record—occurs the following:

In this case there were originally, as I recall it, seven defendants. At the close of the Government's case I concluded that there was no evidence, not even a scintilla of evidence, against the defendants Skinner and Estes and I therefore instructed you at that point of the case to acquit them.

I should say in this connection, Mr. President, that, as I am advised, there was a serious controversy among the attorneys of the Department of Justice as to whether the facts accumulated in this case would warrant the finding of an indictment or a conviction, and that Mr. George Hoover, an eminent lawyer connected with the department at that time, took the position that the facts did not justify the prosecution at all, and he subsequently withdrew from the case; but these controversies being referred from time to time to the Attorney General, he always replied that the prosecution must go on. I read now from page 2460, as follows:

I think there can be no question of doubt, gentlemen of the jury, that not only in this case has the Government failed to establish to the satisfaction of a judge or a jury that these defendants have committed the offense for which they have been brought to this bar, but I am disposed to go further, and I think it is my duty to go further, and say that I believe that there has been affirmative evidence in this case which justifies me in saying that these defendants have proved that they are not guilty of the offense charged in the indictment.

At page 2471 I read as follows:

The other evidence is that this advertising campaign was all a fraud—

After it was determined that the harness should be sold advertisements were placed in various newspapers through the country indicating that the property was for sale, and soliciting bids.

Now, the other evidence is that this advertising campaign was all a fraud; that there wasn't any bona fides in it at all; it was a scheme, an artifice, a trick. When I saw that mass of evidence brought in here of advertising, nearly every kind of paper that would go to every kind of person that would be interested in this property—I wouldn't see it, because I don't read that sort of literature; and if I did see it, it would have made no impression on me, because I wasn't a prospective purchaser for that sort of property—but advertisements which went to the trade, from which offers to purchase property of this kind might have been expected.

What more could have been done than was done? My friends who represent the Government earnestly contend in this case for a verdict. Their conduct has been characterized by fairness; I think by great ability; but to say that because it wasn't advertised but once in each one of these papers—they are all weekly papers, gentlemen, and I think if it had been advertised more than once it would have been permissible for somebody to have said that there was a like extravagant disregard of the interests of the United States, as everybody witnessed during the war, when there was a perfect orgy of spending Government money, so much so that the very respectable and very respectful old gentleman, Mr. Campbell, was enabled out of one contract for an article for the Government to make over a million dollars. How much over, I don't know. So I say when I consider the undisputed, unanswered evidence in this case from the head of the advertising department of the Government that he had positive, unequivocal, binding instructions to do his best to advertise this property in order that he who runs may read and the world might know. No fetters were put upon him. He is not a defendant in this case; had no interest in this case; apparently a reputable member of society. He was called on by Morse, I believe, or the other man, Hanson—I have forgotten which—and instructed to broadcast this information that the Government had this property for sale, and he did his best, and when I consider all of that, plus all of the other evidence in this case of advertising—it is monstrous, monstrous that you should be asked to say that behind it all was a trick, that it was a camouflage, that it wasn't real, that it wasn't meant. What justification could you, on your oaths, in your consciences find for saying any such thing as that? I can't see it. It seems to be perfectly clear that it was a bona fide advertising campaign, but it didn't stop there.

I now read from page 2474:

To that part of this indictment which charges that these defendants conducted an untruthful campaign of advertising, if this jury by reason of anything, I don't care what, got it into their heads that that was true, I would be obliged to feel otherwise, because I can't see anything. We have to deal with cases on the evidence, gentlemen, and there isn't a single jot or tittle of evidence in this case that this was fraudulent.

I now read from page 2476, as follows:

On top of that comes the Secretary of War, a gentleman who occupied that high position at a time of greater peril than this country has ever undergone, unless it be in those dreadful days between 1861 and 1865, a gentleman whose character I have never heard questioned, who certainly can't have any interest in this case, who, I imagine, would rebel at the thought of protecting men who were traitors to their country. I didn't know him, and never saw him until he came on the witness stand except, as you know him, from his reputation, but I don't imagine a man who has been Secretary of War of this country, I don't care what party he belongs to, would debauch his high office and the character that goes with it by saying that he and his staff, charged with the administration of that particular project, conceived it and carried it into effect because it was believed to be the wise and proper thing in the division of the agencies of the Government, the Ordnance and Quartermaster Departments. And you have heard the evidence of Major General Williams, that he appointed a board and took evidence and had the matter considered and that they deliberately—the reason which they gave and which had nothing whatever to do with harness or harness contractors—concluded that was the wise thing to do. How can I submit a question to you to determine whether these defendants were conspiring to accomplish that purpose? I can't do it, it wouldn't be fair and wouldn't be decent and wouldn't be fair to you, and it would be cowardly in me.

Now reading at page 2478:

I think there ought to be a law which makes it a violation of law for any man who is engaged with the Government in any employment, after he goes out of the employment of the Government, to take a contract or have anything to do with any of the Government business relating to those things which he handled while he was in the Government. It makes me sick when I contemplate the crowd of people in Washington now—lawyers, all sorts of people—who are practicing in departments which they presided over a few months or a few years ago. I don't think it is right and don't think it ought to be done, but that has nothing to do with this case. That is a question of good manners, and refinement of feeling, and ethics, and has nothing to do with the guilt or innocence of these defendants, and I think it is fair to say that if ever there was, according to this evidence, justification for that sort of thing, it is shown to have existed in this case.

Mr. HASTINGS. Mr. President, I was wondering whether I might now proceed.

Mr. WALSH of Montana. If the Senator will pardon me, I will be through in just a moment. I regret, Mr. President, that I am unable at the moment to find a reference to the failure to produce evidence, but I shall come to it later. The concluding portion of the instruction of the judge is as follows:

So, gentlemen of the jury, I think, when you consider that this contract was hardly made before opposition to it developed, opposition of a political character which was brought to the attention of the Secretary of War, and he turned it over to General Chamberlain, whom I happen to know is one of the ablest officers of the United States Army, or was—I think he is retired now. I have known him for many years myself, a very able man, and Inspector General of the United States Army for many years. He made an investigation; he didn't find anything to criticize. On the contrary, he gave it his approval. Then they had a congressional investigation. I don't know what happened there. The result was not disclosed here, and should not have been. They had all kinds of other investigations, and had a lawsuit in this very court, decided by Judge Baker, involving the right of the Government to cancel the contract. Had the Tanners' Council down on them because, unquestionably, they felt that it was inimical to their best interest to have this quantity of harness dumped on the markets of the country. I say, when you consider all these things, gentlemen, and take into consideration what occurred in the meeting in Chicago, which everybody was invited to, that was supposed to have an interest and was likely to be

helpful to the United States, because the United States was the beneficiary, principally, of high prices for this harness—there was no possible interest to Byron to sell this property low—the more it sold for the more he got, and so when I heard the minutes of that meeting out in Chicago read, I never heard a fairer, apparently more ingenuous, honest disclosure of the exact facts than these men, Byron and Goetz, made to those people gathered there. He asked them to come in because it would be helpful to them and the Government. They had great selling organizations; they had salesmen on the road and were paying them big salaries. I don't know how much the combined capital of all these different concerns is, but all the facilities of all these different concerns were just brought under the control of this company for the benefit jointly of the United States and the company.

So, gentlemen of the jury, I very imperfectly reviewed all of this mass of evidence. I have thought over this question because I anticipated, of course, that this motion would be made. I have endeavored without success to find in the record something upon which I could say that it is the duty of the jury to judge as to the truth or untruth of this or that or the other particular statement upon which this case hinges. It has given me great concern, but, as I said at the outset, having determined to the best of my humble limitations what my duty is in the premises, I am impelled and compelled to instruct you to find a verdict of not guilty as to all of these defendants.

The paragraph to which I wanted to call particular attention recites that with respect to a certain feature of the case, namely, requests for clearances from the department, while there was no evidence furnished by the Government, the evidence of the facts actually taken from the Government files showed four requests for such clearances.

Now, Mr. President, that is the record.

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

The VICE PRESIDENT. Does the Senator from Delaware yield to the Senator from Ohio?

Mr. HASTINGS. I yield.

Mr. FESS. The Senator from Montana has not read the portion of the instruction which includes the comment of the judge as to the manner in which the trial was conducted.

Mr. WALSH of Montana. Yes, indeed, I did.

Mr. FESS. The Senator from Virginia [Mr. GLASS] has had his memory refreshed regarding the statement of the judge; he has been present during the reading. I am sure he knows to what I refer.

Mr. WALSH of Montana. I read that; I will be glad to read it again if the Senator cares to hear it.

Mr. FESS. I should like to have the Senator read it.

Mr. GLASS. Mr. President, let me say that I followed the Senator from Montana with great care, and he read the reference the Senator from Ohio has in mind. He distinctly read from the record the statement of Judge Groner that the action of counsel in the case had been characterized by great fairness as well as ability.

Mr. FESS. Then, I beg pardon.

Mr. WALSH of Montana. Mr. President, I have before me, if the Senator from Delaware will pardon me further, the paragraph which I overlooked, and which is as follows:

Captain Bosson says that he was delayed in getting clearances. He does not specify any particular clearances. He doesn't put his finger on any particular bid, any particular property that he had for sale or wanted to sell and say, "I went to this defendant Morse and asked him to allow me to clear this property for sale"—not one single instance, and yet the defendant in their behalf showed to my decided amazement that there were as a result of papers taken from the Government files and in the possession of the Government, at least four requests for clearances covering this harness made in the usual course from the property division to the sales division which contained Mr. Morse's visa after the receipt of these applications in his office. Bearing in mind the obligation of the Government to produce evidence of concrete, satisfactory character, in the face of positive evidence from its own files that this man Morse was not refusing clearances, it isn't enough to say he was refusing them because if he was the record was available to the Government and in its possession, and its failure to produce a single record at that time so that it became and ought to have become legal evidence, leaves no other conclusion than that there is no evidence to justify that statement.

The judge announced that he was amazed that these four documents in the possession of the Government were not produced.

Mr. FESS. Mr. President, the Senator has not as yet read the extract to which I have referred.

Mr. GLASS. Mr. President, what the Senator from Ohio directed attention to is not contained in the extract the Senator from Montana just read, but he did read it earlier, to wit:

The presiding judge said counsel in the case had conducted it with characteristic fairness as well as ability.

The Senator from Montana read that previously, but not just now.

Mr. OVERMAN. Mr. President, what the Senator from Montana is reading is from the instruction of the judge to the jury in the case. That same judge has said that the conduct of Judge Parker in that case was admirable, and that he is worthy of confirmation by the Senate.

Mr. WALSH of Montana. Mr. President, I renew my request that the entire instruction of the court to the jury may be printed in the RECORD at this point.

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

The matter referred to is as follows:

CHARGE TO THE JURY

The COURT. Gentlemen of the jury, we have been engaged in this trial for a week and a half, and it is a matter of very considerable satisfaction to me to be able to say that I have observed with interest that you have been unusually attentive to the proceedings in court, prompt in your attendance on the sessions of the court, and have discharged the duties which as citizens it is your duty to discharge with marked fidelity, and I have every confidence in you although we are complete strangers to one another, and I should be very glad to shift the responsibility of deciding this case from my shoulders to yours if that course were consistent with my conception of my duty.

I haven't any real doubt, gentlemen of the jury, how you would decide this case. Of course, as to that I may be in error, but if because I believe that you would decide this case as I have concluded it should be decided, I should have side-stepped my duty, shirked the responsibility which the oath of office I have taken places on me. I am sure you would feel that I were both unworthy of filling this high office and I would feel, gentlemen of the jury, that I had been craven and cowardly in the discharge of an important duty. So you will understand, gentlemen of the jury, in what I am now about to do I am led to it with more reluctance almost than I ever approached any other official duty, and only because I feel that it is a duty which my oath and my conscience imposes on me.

The law is well stated, gentlemen, that there is a legal presumption that every person charged with crime is innocent until he is proven guilty beyond a reasonable doubt, and under our system of criminal jurisprudence the burden of establishing the guilt of the accused is a burden which the law itself imposes upon the Government, whether it be the State or the Nation. If in the trial of a case the facts are as consistent with innocence as with guilt, the duty of the jury, and where that fact is plainly apparent, the duty of the court is to direct that the defendants be found not guilty. It is therefore my duty which the law, which I had no part in the making, imposes on me, presiding at a trial of this kind and listening to the evidence, giving proper weight to all of the testimony that is adduced by either side at the close of the case, if after reviewing it all I conclude that if a jury were to find a verdict against the accused of guilty, that I would have to set it aside; then in that case it is my duty to anticipate the action of the jury and to instruct them to find a verdict of not guilty.

I am aware, gentlemen of the jury, of the important character of this case. Nothing is more important, and particularly at this time, than that those who are guilty, and particularly those who are guilty of defrauding the Government should be made to answer for their offenses. It is of the highest importance to the integrity of the law and to the maintenance of government itself that neither court nor jury should ever hesitate to find a defendant guilty, whatever his position in social life may be, if the evidence unmistakably points to a violation by him of a statute or law on which an indictment is founded and upon which he has been brought to a bar of justice.

In this case there were originally, as I recall it, seven defendants. At the close of the Government's case I concluded that there was no evidence, not even a scintilla of evidence, against the defendants Skinner and Estes, and I therefore instructed you at that point of the case to acquit them. I was almost persuaded, gentlemen of the jury, at that stage of the case that it was my duty to instruct you to find a verdict of not guilty as to all of these defendants, but I realized that in the hurry of the trial a great deal of evidence had been adduced, and that although I had spent my nights up to 2 and half-past 2 o'clock frequently, going over this evidence as these stenographers have written it out from day to day, so that my mind would be fresh, and I wouldn't overlook any of it; that there might have been something that escaped me which presented an issue of fact which was and is, under our system, a matter exclusively within the purview and control of the jury, and so I directed the defense to proceed, in order that I might have further opportunity for examination of the evidence, the affirmative evidence adducted against them as well as any further evidence that might result as the case proceeded. I have continued to keep abreast, I think, of the evidence, but of course I don't mean to say some lapses of memory will not occur or do not occur as I undertake to summarize it in my own mind; still I think there can be no question of doubt, gentlemen of the jury, that not only in this case has the Government failed to establish to the satisfaction of a judge or a jury

that these defendants have committed the offenses for which they have been brought to this bar, but I am disposed to go further, and I think it is my duty to go further and say that I believe there has been affirmative evidence in this case which justifies me in saying that these defendants have proved that they are not guilty of the offenses charged in the indictment.

Feeling that way, gentlemen of the jury, I am sure you will sympathize with me in my conclusion that I ought not, under such circumstances, to adopt the easiest way, the way in which I could always say that I had submitted the case to the jury, but that you will realize, as much as I regret, that it is my duty to act myself rather than to impose that duty on you, that since it is my duty I ought to do it.

Now, gentlemen, I am not going to summarize the evidence because I have told you my conclusion, except just in a very casual way in order that you may understand as laymen, perhaps not acquainted with how these questions present themselves, my point of view. This indictment has but one count. It is very lengthy, has not been read to you, but as intelligent men so much has been said about it that I am sure you are familiar with it. In substance it charges that these defendants desired to procure from the United States a contract whereby they and their corporation—a corporation to be formed by them in which they would be the principal stockholders and the principal beneficiaries—would be given the right to sell the horse equipment belonging to the Government on a commission basis at an excessive rate and that they would also be able, the indictment charges, to sell the equipment at inadequate prices to favored corporations in which they were interested or which they would organize themselves, to purchase the equipment; that to this end, that is, in order that they might procure this contract they would represent to the officers of the Government whose duty it was to sell the harness, that its condition was unfit for use and thereby induce these officers and people who might otherwise become purchasers of the Government's property to believe that it was unfit for use and thereby not to bid and become competitors of theirs in the seeking by them of this contract. Then there are a number of specifications in the indictment.

One is that they represented to Mr. Bosson, whose duty it was to find purchasers for this property, that the equipment was in bad condition and worthless and misled him; that they persuaded the chief of the surplus property division and persons working under his division to reject bids and delay action on advantageous bids by other purchasers, prospective purchasers; that they corruptly seduced the Government sales manager, Morse, to refuse clearances and permits for the sale of this harness; that they caused advertisements to be made of the sale of the harness, which were not in good faith, which were frauds, weren't intended to be what they purported to be, a real invitation to people to bid; that they persuaded responsible officers of the Government by false representations to conceal from the public that the harness was for sale; that in order to destroy the opportunity on the part of the Government for conversion of harness into commercial harness they planned and carried on the campaign whereby the Government's factory or one of its factories at Rock Island, Ill., was dismantled; that by bribes and offers of employment they induced various Government officials, including Morse and Yates and Hanson and Skinner, to violate their duty in connection with the sale of Government property; that by bribes and promises they induced Morse to join their conspiracy and to enter into a contract on behalf of the United States with them whereby they got an unconscionable bargain that nobody else would have gotten, and that was in fraud of the rights of the Government; and that after the formation of the contract, further in confederation with Morse, they obtained additional Government property, and that after all of this was accomplished they handled the property in such a way as to increase their own emoluments or profit and to deprive the Government of money and property which justly and honestly and in good conscience it was entitled to. That, gentlemen of the jury, in substance, is the charge upon which these defendants have been brought to bar. The evidence that the Government has adduced in this case in order to satisfy the minds of the jury, which must be satisfied beyond a reasonable doubt that these defendants have been guilty of these things, consists, I think I may say, almost exclusively, so far as direct evidence is concerned, in the testimony of Captain Bosson that when he applied to Goetz for assistance and information, Goetz told him that the H. T. G. harness was of no value except as to the bridles and reins, or maybe he said as to the bridles—I have forgotten which—and that Goetz told him when he asked him to help him plan the campaign to get rid of it and to use his influence to give him an opportunity to go out in the country and sell it, he would see if it could be done and that thereafter Goetz had a talk with Morse, and I believe he replied to him that it was not advisable to do anything for the present until some definite policy was determined as to what would be done about the sale of surplus harness. He also testified that he could have sold harness if he had gotten clearances for it.

I think the evidence in this case unmistakably is that there couldn't be any advertisement of harness until there had been a clearance of it. He says that was the rule, but that it didn't apply in this case, and yet the fact is, gentlemen, that the uncontradicted evidence is that there were five separate offers for Government surplus harness extending over a period of 5, 6, or 7 months, or 4 or 5 months, beginning early in that year and extending up into August, and that the harness was advertised and was sold at each one of these sales. It is also a fact that on the fourth sale this particular kind of harness was advertised, and that a month or so later there was a fifth sale at which it was again advertised. There isn't any evidence in the case on behalf of the Government that anybody ever bid for any of this breast collar H T G and Artillery harness except that Mr. Boyt made a bid—at a lower figure, by the way, than that of the return by these people in the final wind-up of their transactions with the Government. However that may be, he did make a bid, and he said that he left it with Mr. Bosson, and Mr. Morse testifies that he never saw it, and there is no evidence that Mr. Bosson ever passed it on down the line.

It would have been Mr. Bosson's duty to have given that bid to his superior officer, who was Colonel Yates. Colonel Yates, I think it is fair to say, was subpœnaed as a witness in this case, was brought here, and was here in the court room and was not interrogated, so I think it is not only fair, gentlemen of the jury, but I think it is perfectly apparent that that bid was never brought to the attention of Mr. Morse; but whether it was or not, the evidence of Boyt given on behalf of the Government, who vouched for him as a credible, reliable witness, because that is the obligation which they assume when they put a witness on the stand unless they put him on as an adverse witness—the evidence of Boyt is that he withdrew his bid on the 19th day of August. I was curious to know because it was the essence of this case, whether he was induced to withdraw his bid by any of these defendants, because if such evidence as that had been adduced you would be trying this case now, gentlemen, and I would not be deciding it. If he had been the defendants' witness and he had stated that he withdrew his bid without any procurement on their part, I would have drawn no conclusion from it. But he was a Government's witness, and it is their evidence, therefore, which they vouch to this jury and to this court that he had not seen any single one of these defendants at the time he withdrew his bid.

I don't know whether that is true or not, but I do know that it isn't within your scope or power or mine to conclude that the evidence upon which the Government asks for affirmative action at your hands and which negatives its own position is untrue. There isn't anything to suggest that it is untrue. There isn't any inference from which this jury may conclude that it is untrue and so, gentlemen of the jury, I say with that exception and the bid of the man from Greenville, S. C., who had a million and odd dollars to bid on Government property, who came in on the 7th and made his bid after he was advised of what had occurred, went back to his hotel and made his bid and submitted it after this agreement had been made when it was not within the power of the Government to deal with him, there isn't any other evidence of any bid ever having been made or ever having been received by any officer of the United States Government for any of this H T G and Artillery harness advertised in these lists 4 and 5. If there was, the Government, of course, would have adduced evidence to that effect so that I don't think this jury can draw any proper inference, I don't think they can come to any conclusion that there was any demand which would have justified anybody in saying this property then was readily marketable.

Captain Bosson says that he was delayed in getting clearances. He does not specify any particular clearances. He doesn't put his finger on any particular bid, any particular property that he had for sale or wanted to sell and say, "I went to this defendant Morse and asked him to allow me to clear this property for sale," not one single instance; and yet the defendants on their behalf showed to my decided amazement that there were as a result of papers taken from the Government files and in the possession of the Government at least four requests for clearances covering this harness made in the usual course from the property division to the sales division which contained Mr. Morse's visa within a few days after the receipt of these applications in his office. Bearing in mind the obligation of the Government to produce evidence of concrete, satisfactory character in the face of positive evidence from its own files that this man Morse was not refusing clearances, it isn't enough to say he was refusing them because if he was, the record was available to the Government and in its possession, and its failure to produce a single record of that kind so that it became and ought to have become legal evidence leaves no other conclusion than that there is no evidence to justify that statement.

In addition to the evidence of Captain Bosson there is the evidence of a Captain or Major Hume, who testified as to the incident (I speak of it as the incident) of May 7, in which there were some bids received for some component parts of harness and in which the price is apparently satisfactory, because it is so stated in the memorandum and nobody disputes it, but which, nevertheless, were recommended for rejection. The only connection that these defendants have with that incident is that Mr. Hume says that he saw Mr. Goetz bring that paper, the yellow paper that you saw introduced in evidence, down to Mr. Skinner's office and obtain Mr. Skinner's initialing of that paper, with the recommendation that the bids be not accepted, and the reason given

was that until it was determined what the policy would be as to all the harness it was unwise to accept the bids. There are a great many things, gentlemen, in connection with that incident which open very wide the door of doubt as to the accuracy of evidence as to Goetz's connection with it, but if I thought that the question was decisive of this case, that it was an incident which would justify you in finding a verdict in this case and would justify me in refusing to interfere with that verdict if you found it, I would submit that question as between Goetz and Hume, whether it was true or not, because, as I said before, you are the judges of the facts. You have a right to determine who is telling the truth and who is not telling the truth, to winnow the true from the untrue. That is your job; but if I concede that that is true, I say it is just as consistent with innocence as it is with guilt. There isn't any reason, there isn't any justification, and there wouldn't be and couldn't be any justification on your part in finding that there was a conspiracy, as the Government alleges, beginning way back yonder when the country was rejoicing in the return to peace, the cessation of the war, and going right up to the day at Elkins, W. Va., that this indictment was found, from that incident alone, nor could it justify you or me in saying that there was a conspiracy in which this man Morse and in which Skinner and Estes and Byron and Benke and the others of them were concerned to strangle the efforts of the Government to dispose of its property.

But I don't think when I review the facts in this case that this jury would be justified in accepting that evidence. Skinner testified to the contrary, and he was no longer a defendant when he testified. The strong arm of the Government could not extend to destroy his peace of mind or to fetter his liberty at the time he was a witness in this case. Goetz testified the same thing.

The young lady who was the stenographer in the office said that that particular form, that particular kind of paper that this particular memorandum was written on was used exclusively in Skinner's office and, therefore, my conclusion is that it must have been written there unless somebody had borrowed the paper and taken it away for that purpose, which is almost an inconceivable situation where the Government had reams of paper on every man's desk—that it must have been written there and therefore that it couldn't have been brought down to Skinner in the way in which Mr. Hume says it was. In addition to that, Mr. Hume testified that when the bids were opened the recommendation of rejection was made, the note was written, Goetz came right down and got Skinner's visa or O. K. The facts are that the bids were opened three days before that note was dated and, therefore, that in that respect, at least, he was mistaken because if the bids were opened on the 4th and the letter was written simultaneously, coincidentally with the opening of the bids, it follows that it would not have been dated fhe 7th, but the 4th. I am not surprised that people are mistaken about things of this kind but could any jury in this free land of ours undertake to stigmatize as traitors four or five of their fellow citizens upon such evidence as that, and could any court, gentlemen of the jury, with courage—and when courts lose courage the foundation stone of our Government is in peril—allow a verdict based upon evidence of that kind to stand? I think not; and that is why, gentlemen, I am impelled to do what I do.

Now, the other evidence is that this advertising campaign was all a fraud, that there wasn't any bona fides in it at all, it was a scheme, an artifice, a trick. When I saw that mass of evidence brought in here of advertising, nearly every kind of paper that would go to every kind of person that would be interested in this property—I wouldn't see it, because I don't read that sort of literature, and if I did see it it would have made no impression on me because I wasn't a prospective purchaser for that sort of property—but advertisements which went to the trade from which offers to purchase property of this kind might have been expected.

What more could have been done than was done? My friends who represent the Government earnestly contend in this case for a verdict. Their conduct has been characterized by fairness; I think by great ability, but to say that because it wasn't advertised but once in each one of these papers, they are all weekly papers, gentlemen, and I think if it had been advertised more than once it would have been permissible for somebody to have said that there was a like extravagant disregard of the interests of the United States as everybody witnessed during the war when there was a perfect orgy of spending Government money, so much so that the very respectable and very respectful old gentleman, Mr. Campbell, was enabled out of one contract for one article for the Government to make over a million dollars. How much over, I don't know. So I say when I consider the undisputed, unanswered evidence in this case from the head of the advertising department of the Government that he had positive, unequivocal binding instructions to do his best to advertise this property in order that he who runs may read and the world might know. No fetters were put on him. He is not a defendant in this case, had no interest in this case, apparently a reputable member of society. He was called on by Morse, I believe, or the other man Hanson—I have forgotten which—and instructed to broadcast this information that the Government had this property for sale and he did his best, and when I consider all of that, plus all of the other evidence in this case of advertising, it is monstrous, monstrous that you should be asked to say that behind it all was a trick, that it was a camouflage, that it wasn't real, that it wasn't meant. What justification could you, on your oaths, in your consciences find for saying any such thing as that? I can't see it. It seems to be perfectly clear that it was a bona fide advertising campaign, but it didn't stop there. This man Morse testifies, and his testimony is undisputed, uncontradicted—and he is entitled to testify in a criminal case, and his testimony is entitled to just as much weight at the hands of the jury as that of any other person who testifies, considering his interest in the case—he wrote to Montgomery Ward & Co. and to Sears, Roebuck. I don't know anything about Montgomery Ward & Co., but there isn't anybody who doesn't know something about Sears, Roebuck. They sell anything from a pin to a palace, and I believe one of them, I have forgotten which, said they did over $2,000,000 of business in harness a year. Is there anything that impresses your minds with the taint of fraud about that correspondence? I don't see where it is. I don't see what this man could have done that he didn't do in those letters. He said, "Here is what we have got. I am appealing to you, a great big commercial and industrial concern, having an interest in the Government and wanting to make money for yourselves, to take advantage of this opportunity and make us any kind of a proposition that you think is advantageous to you and that will be acceptable to the Government for handling this property," and the same letter to the other men, and those men have been brought here and they have corroborated it. They didn't think it was a fake. They didn't think that Morse was camouflaging, that it was an unlawful conspiracy which he had hatched with these men and which was smoldering in his mind and heart and conscience at that time. They didn't think anything of that kind, because, gentlemen of the jury, they took it up seriously and they concluded there was nothing in it and they couldn't make anything out of it for themselves, and they didn't want to handle it.

To that part of this indictment which charges that these defendants conducted an untruthful campaign of advertising, if this jury by reason of anything, I don't care what, got it into their heads that that was true, I would be obliged to feel otherwise, because I can't see anything. We have to deal with cases on the evidence, gentlemen, and there isn't a single jot or tittle of evidence in this case that this was fraudulent. You have got to infer from it that it is fraudulent. You have got to, somehow or other, penetrate into the conscience of Morse and determine from that that this was a fraudulent scheme. And so likewise, gentlemen, the Government says that these defendants conspired about this Rock Island business. The thought that kept running through my mind as I listened to that evidence was, What on earth advantage is it to conspirators who wanted to destroy the opportunity of the Government, the means to the Government of converting its harness and put it in a position to have to knock at every man's door that is engaged in that business for terms to convert its harness; what on earth is the advantage to them of destroying Rock Island when Jeffersonville was still doing business and all the harness that was converted, either before this contract was thought of or since this contract was terminated, was at Jeffersonville. There hasn't been any evidence here of what the capacity of Jeffersonville is. I don't know, and I don't suppose you do, but if it hadn't been sufficiently capacious to do this work and hadn't had paraphernalia, labor, and all that sort of thing, I assume the Government would have shown it to you, because the Government bears, as I have told you many times, the burden of proof in a case of this kind, so that it just occurred to me, as I sat here and listened, what a senseless thing it was for smart men—these are smart men, able men—the evidence shows that conclusively—what a perfectly idle, fooling thing, what a silly thing it was to render themselves liable to the charge of conspiracy in destroying something that didn't do them a bit of good under the sun, because the Government could still have converted, as it did convert under the direction of this gentleman, Colonel Warfield, its harness at a later date, so in my opinion, gentlemen, it is a question which I couldn't submit to you. I could ask you to find, if there had been evidence of it—but what is the evidence of it—that Byron wrote a letter, I believe, recommending that the property be converted and suggesting that it be done at the Rock Island or Jeffersonville (I have forgotten the details), and that Goetz wrote a letter suggesting, in 1919 I believe, that the property at Rock Island be moved to Jeffersonville and either used or stored there. That is all the evidence.

On top of that comes the Secretary of War, a gentleman who occupied that high position at a time of greater peril than this country has ever undergone—unless it be in those dreadful days between '61 and '65—a gentleman whose character I have never heard questioned, who certainly can't have any interest in this case, who, I imagine, would rebel at the thought of protecting men who were traitors to their country. I didn't know him, and never saw him until he came on the witness stand except, as you know him, from his reputation, but I don't imagine a man who has been Secretary of War of this country, I don't care what party he belongs to, would debauch his high office and the character that goes with it by saying that he and his staff, charged with the administration of that particular project, conceived it and carried it into effect because it was believed to be the wise and proper thing in the division of the agencies of the Government, the

Ordnance, and Quartermaster Departments. And you have heard the evidence of Major General Williams, that he appointed a board and took evidence and had the matter considered and that they deliberately—the reason which they gave and which had nothing whatever to do with harness or harness contractors—concluded that was the wise thing to do. How can I submit a question to you to determine whether these defendants were conspiring to accomplish that purpose? I can't do it, it wouldn't be fair and wouldn't be decent and wouldn't be fair to you, and it would be cowardly in me.

Now I think that about runs the gamut. What a wealth of other evidence there has been in this case for defense, but I don't want you, gentlemen of the jury, to understand from what I have said, and I would like to have it thoroughly understood, and I don't want it to be understood from what I have said, as approving men who have been employed by the Government entering into contracts with the Government.

We have got a law on the statute books that a Member of Congress shall not be appointed to any office created during his term of office until after another term has elapsed. I think that is the correct statement of the law. I think there ought to be a law which makes it a violation of law for any man who is engaged with the Government in any employment, after he goes out of the employment of the Government, to take a contract or have anything to do with any of the Government business relating to those things which he handled while he was in the Government. It makes me sick when I contemplate the crowd of people in Washington now—lawyers, all sorts of people—who are practicing in departments which they presided over a few months or a few years ago. I don't think it is right and don't think it ought to be done, but that has nothing to do with this case. That is a question of good manners and refinement of feeling and ethics and has nothing to do with the guilt or innocence of these defendants, and I think it is fair to say that if ever there was, according to this evidence, justification for that sort of thing, it is shown to have existed in this case, because I think the evidence overwhelmingly shows that this contract was not instigated by Byron or any of his codefendants. I think that by reason of the fact that he had established himself in the regard and esteem of the people connected with the sale of this surplus Government property, and particularly this harness, as a man of character and a man of ability, that instinctively they turned to him as the person who would be most likely to do best for the Government in this transaction; and if he had said to the Government, "Under the circumstances I am perfectly willing to serve you without any compensation," then nobody, of course, could have criticized him. But the general in charge, General Burr, I believe his name was, seems to have picked him as the man to do this job. The colonel who is his assistant testified here yesterday—I have forgotten his name, but he had a handkerchief around his neck; you gentlemen will remember him—that after a conference with his chief he concluded Byron was the man. Colonel Yates apparently thought that Byron was the man, and they all went to him, and I think it is fair to say in his behalf that when he concluded to enter into this contract there wasn't any secrecy about it, wasn't anything hidden about it. He wrote a letter; you could judge by—I don't think it is fair to say the letter is disingenuous; I don't think it is fair to say he had any ulterior purpose in this letter of building up his character or establishing himself. I don't think there is anything in that letter by which any conclusion of that kind can be reached. He says, "I am willing to do this thing; I expect to be paid; I expect to make a profit, and I believe I can make a profit for the Government; and if I do, the following persons will be associated with me," and he names them all and mails that to his superior officer, so that the Government was forewarned; and I think if there is any criticism of Byron and his associates for entering into this contract, the criticism is equally applicable to the officers of the United States Government, from the highest to the lowest, who entered into it with him.

After he had gotten the contract I haven't heard any evidence, gentlemen, which would justify you in saying there had been maladministration of his trust as an agent of the Government; but if there was, that isn't the question which can be tried in this case. The question here is, Was there an evil and corrupt conspiracy to obtain the contract? And if there was not, and they got the contract legitimately, although he administered it illegitimately, that would be the subject of an accounting between him and the Government in some other kind of action than that which we are trying here to-day, but I think it is fair to him to say that I haven't heard any evidence which would justify the conclusion that he had abused his trust. It is true that he sold these component parts, and didn't do much converting, but that was the way the thing ought to have been done, apparently. The best results were accomplished that way. Ultimately the harness had to be converted, but before that time arrived to any considerable extent the contract was terminated by the action of the Government. He did make a large profit, that is to say, he got $25,000. I don't know how much Major Byron is worth. I don't know whether he is a $25,000 a year man or not. You can't judge by the salary he got when he was in the Government service, because the Government pays everybody very little, and men were serving for a dollar a year with professional and business incomes frequently of $500,000 a year—Schwab, and men of that character, who make all kinds of money—down there for a dollar a year, so I don't think you can fix upon what his value as a business man is by the salary he was getting from the Government; but he did make a good contract, apparently, but when you consider the amount of property that they handled—nearly $2,000,000 worth—and the fact that after deducting the proper charges, to which no question is raised, and after putting in hotch potch the salaries which they got it is still less than 10 per cent on the amount of sales; that doesn't strike me as such a contract as would shock the conscience; but even if he had got an unconscionable contract unless, as I say, he got it by fraud, by seducing this man Morse, by concealing the facts from other bidders, by misrepresenting the property of the Government, it wouldn't make any difference, because the Government makes many improvident contracts.

So, gentlemen of the jury, I think, when you consider that this contract was hardly made before opposition to it developed, opposition of a political character, which was brought to the attention of the Secretary of War, and he turned it over to General Chamberlain, whom I happen to know is one of the ablest officers in the United States Army, or was—I think he is retired now. I have known him for many years myself, a very able man, and Inspector General of the United States Army for many years. He made an investigation; he didn't find anything to criticize. On the contrary, he gave it his approval. Then they had a congressional investigation. I don't know what happened there. The result was not disclosed here and should not have been. They had all kinds of other investigations, and had a lawsuit in this very court, decided by Judge Baker, involving the right of the Government to cancel the contract. Had the Tanners' Council down on them because, unquestionably, they felt that it was inimical to their best interests to have this quantity of harness dumped on the markets of the country. I say, when you consider all these things, gentlemen, and take into consideration what occurred in the meeting in Chicago, which everybody was invited to, that was supposed to have an interest and was likely to be helpful to the United States, because the United States was the beneficiary, principally, of high prices for this harness—there was no possible interest to Byron to sell this property low—the more it sold for the more he got; and so, when I heard the minutes of that meeting out in Chicago read, I never heard a fairer, apparently more ingenuous, honest disclosure of the exact facts than these men, Byron and Goetz, made to those people gathered there. He asked them to come in because it was mutually helpful to them and the Government. They had great selling organizations; they had salesmen on the road and were paying them big salaries. I don't know how much the combined capital of all these different concerns is, but all the facilities of all these different concerns were just brought under the control of this company for the benefit jointly of the United States and the company.

So, gentlemen of the jury, I very imperfectly reviewed all of this mass of evidence. I have thought over this question because I anticipated, of course, that this motion would be made. I have endeavored without success to find in the record something upon which I could say that it is the duty of the jury to judge as to the truth or untruth of this or that or the other particular statement upon which this case hinges. It has given me great concern, but, as I said at the outset, having determined to the best of my humble limitations what my duty is in the premises, I am impelled and compelled to instruct you to find a verdict of not guilty as to all of these defendants.

Mr. GLASS. Here is the one sentence to which the Senator from Ohio refers, and which the Senator from Montana originally read, but did not read just a moment ago, to wit:

My friends who represent the Government earnestly contend in this case for a verdict. Their conduct has been characterized by fairness; I think by great ability.

Mr. HASTINGS. Mr. President, I think it well in the first place for us to consider for a moment just what the issue is that is before the Senate. I think the discussion in the last day and a little more clearly indicates that up to this time there is much more involved than the confirmation of Judge Parker.

The Senator from Idaho [Mr. BORAH], who was a member of the subcommittee that had this matter in charge, addressed the Senate at length upon this subject; and I desire to quote from that speech three paragraphs, as follows:

I am opposed to the confirmation of Judge Parker because I think he is committed to principles and propositions to which I am very thoroughly opposed. If these were matters which related to a single lawsuit, or the determination of a principle relating alone to the rights of individuals, it would be one thing. But, as I see the propositions here involved, they are fundamental, they relate to matters of grave public concern.

The nomination of Judge Parker for the Supreme Bench of the United States has brought up for consideration a contract popularly, and not without cause and not without reason, styled the "yellow dog" contract. I doubt if there is another name among lawyers or judges so

well calculated to bring up for discussion and to accentuate the issues surrounding that contract as the name of Judge Parker. He is peculiarly identified with this kind of a contract.

He was asked by the Senator from Virginia this question:

And we have sat here all of these years and permitted that to remain the law?

Having been asked the date of the decision, which was stated to be December 10, 1917.

The Senator from Idaho answered:

No; we have tried by an act of Congress to repudiate that principle, but the Supreme Court of the United States said that our action was null and void. Mr. President, that is what makes this matter so very important. They pass upon what we do. Therefore, it is exceedingly important that we pass upon them before they decide upon all of these matters. I say this in great sincerity. We declare a national policy. They reject it. I feel I am well justified in inquiring of men on their way to the Supreme Bench something of their views on these questions.

A little later in his speech he stated:

So, Mr. President, we are not discussing to-day a contract which is finally and definitely settled; it has not fortunately been finally incorporated in our system of jurisprudence. We are fighting over a contract which is yet to receive final approval or condemnation at the hands of the American judiciary, and that, in my opinion, is an important item here for consideration. If the question had been settled beyond peradventure, if it were entirely at rest, it would be a different question; but we are discussing a question which is in formation of a conclusion as a matter of law.

On yesterday the Senator from Ohio [Mr. FESS], in giving his idea of what was before the Senate, made this statement:

Some would change the Supreme Court by making the judgeships elective and fixing the terms. That would be un-American. That would be a violation of every fundamental principle announced in the Constitutional Convention. The mere fact that this third department, weakest of the three, is independent of pressure from any source and is permitted to exercise its judgment with little respect to manufactured clamor from whatever body or whatever source, brings it into the criticism of certain groups of people. When the nomination of Justice Hughes was presented to this body there was universal concession that his integrity, ability, honesty, fairness, and keen discernment were unquestioned. But it was said that his attitude on certain questions was not satisfactory and there grew up here a storm of opposition. That attitude must have a source somewhere, and that source is against the judiciary of the country. It is a socialistic movement. In that debate a famous socialist author was read from for two and one-half hours in this Chamber, and I must assume that the Senator who read the socialistic predictions had more or less sympathy with what he was reading.

Now we have the same thing again as to Judge Parker. Is he the objection or is it the court that is the objection? Let us see. On the 22d day of this month a Washington newspaper, which has gone out of its way to undertake to defeat this confirmation, published an editorial. It has carried on editorially a consistent organized effort to minimize the character of Parker and to encompass his defeat. Every day an editorial is carried. On the 22d day of this month there was an editorial closing with this statement:

"An open Senate debate would destroy further the 'hush-hush' that has protected the Supreme Court. It would focus more light upon that all-powerful institution."

Now, hear me, Senators! I am reading:

"Parker is an incident. The Supreme Court is the issue."

So spoke the sheet that has been carrying on the fight against the confirmation not only of Parker but of Hughes. I say again, it is no use to blink the facts. The fight is against the judiciary, the independent, courageous group of men who sit on the bench and decide in the light of the facts within the law. If they were other than independent they would not be fit to be on the bench. The mere fact that any man would yield to any sort of pressure from any sort of organized propaganda would be the strongest reason for me to vote against him, because we do not want that kind of men on the bench.

Mr. President, in view of what has been said, I think it would be wise for us to go back of the Hitchman case, and to see what the Supreme Court said with respect to this law that was passed by Congress itself. This is reported in Two hundred and eighth United States Reports, known as the Adair case—Adair against the United States. I am reading from page 168:

The tenth section, upon which the present prosecution is based, is in these words:

"That any employer subject to the provisions of this act and any officer, agent, or receiver of such employer, who shall require any employee or any person seeking employment, as a condition of such employment, to enter into an agreement, either written or verbal, not to become or remain a member of any labor corporation, association, or organization; or shall threaten any employee with loss of employment, or shall unjustly discriminate against any employee because of his membership in such a labor corporation, association, or organization; or who shall require any employee or any person seeking employment, as a condition of such employment, to enter into a contract whereby such employee or applicant for employment shall agree to contribute to any fund for charitable, social, or beneficial purposes; to release such employer from legal liability for any personal injury by reason of any benefit received from such fund beyond the proportion of the benefit arising from the employer's contribution to such fund; or who shall, after having discharged an employee, attempt or conspire to prevent such employee from obtaining employment, or who shall, after the quitting of an employee, attempt or conspire to prevent such employee from obtaining employment, is hereby declared to be guilty of a misdemeanor, and, upon conviction thereof in any court of the United States of competent jurisdiction in the district in which such offense was committed, shall be punished for each offense by a fine of not less than $100 and not more than $1,000."

On page 171 the court says:

It thus appears that the criminal offense charged in the count of the indictment upon which the defendant was convicted was, in substance and effect, that being an agent of a railroad company engaged in interstate commerce and subject to the provisions of the above act of June 1, 1898, he discharged one Coppage from its service because of his membership in a labor organization—no other ground for such discharge being alleged.

May Congress make it a criminal offense against the United States—as by the tenth section of the act of 1898 it does—for an agent or officer of an interstate carrier, having full authority in the premises from the carrier, to discharge an employee from service simply because of his membership in a labor organization?

This question is admittedly one of importance and has been examined with care and deliberation. And the court has reached a conclusion which, in its judgment, is consistent with both the words and spirit of the Constitution and is sustained as well by sound reason.

The first inquiry is whether the part of the tenth section of the act of 1898 upon which the first count of the indictment was based is repugnant to the fifth amendment of the Constitution declaring that no person shall be deprived of liberty or property without due process of law. In our opinion that section, in the particular mentioned, is an invasion of the personal liberty, as well as of the right of property, guaranteed by that amendment. Such liberty and right embraces the right to make contracts for the purchase of the labor of others and equally the right to make contracts for the sale of one's own labor; each right, however, being subject to the fundamental condition that no contract, whatever its subject matter, can be sustained which the law, upon reasonable grounds, forbids as inconsistent with the public interests or as hurtful to the public order or as detrimental to the common good. This court has said that "in every well-ordered society, charged with the duty of conserving the safety of its members, the rights of the individual in respect of his liberty may, at times, under the pressure of great dangers, be subjected to such restraint, to be enforced by reasonable regulations, as the safety of the general public may demand." Jacobson *v.* Massachusetts (197 U. S. 11, 29) and authorities there cited. Without stopping to consider what would have been the rights of the railroad company under the fifth amendment, had it been indicted under the act of Congress, it is sufficient in this case to say that as agent of the railroad company and as such responsible for the conduct of the business of one of its departments, it was the defendant Adair's right—and that right inhered in his personal liberty and was also a right of property—to serve his employer as best he could, so long as he did nothing that was reasonably forbidden by law as injurious to the public interests. It was the right of the defendant to prescribe the terms upon which the services of Coppage would be accepted, and it was the right of Coppage to become or not, as he chose, an employee of the railroad company upon the terms offered to him. Mr. Cooley, in his treatise on Torts, page 278, well says: "It is a part of every man's civil rights that he be left at liberty to refuse business relations with any person whomsoever, whether the refusal rests upon reason or is the result of whim, caprice, prejudice, or malice. With his reasons neither the public nor third persons have any legal concern. It is also his right to have business relations with anyone with whom he can make contracts, and if he is wrongfully deprived of this right by others he is entitled to redress."

On page 174 of the same case the court states:

While, as already suggested, the rights of liberty and property guaranteed by the Constitution against deprivation without due process of law is subject to such reasonable restraints as the common good or the general welfare may require, it is not within the functions of government—at least in the absence of contract between the parties—to compel any person in the course of his business and against his will to accept or retain the personal services of another, or to compel any person against his will to perform personal services for another. The right of a person to sell his labor upon such terms as he deems proper is in its essence the same as the right of the purchaser of labor to pre-

scribe the conditions upon which he will accept such labor from the person offering to sell it. So the right of the employee to quit the service of the employer, for whatever reason, is the same as the right of the employer, for whatever reason, to dispense with the services of such employee. It was the legal right of the defendant Adair—however unwise such a course might have been—to discharge Coppage because of his being a member of a labor organization, as it was the legal right of Coppage, if he saw fit to do so—however unwise such a course on his part might have been—to quit the service in which he was engaged because the defendant employed some persons who were not members of a labor organization. In all such particulars the employer and the employee have equality of right, and any legislation that disturbs that equality is an arbitrary interference with the liberty of contract which no government can legally justify in a free land.

Again, on page 180 the court states:

It results, on the whole case, that the provision of the statute under which the defendant was convicted must be held to be repugnant to the fifth amendment, and as not embraced by nor within the power of Congress to regulate interstate commerce, but under the guise of regulating interstate commerce, and as applied to this case it arbitrarily sanctions an illegal invasion of the personal liberty as well as the right of property of the defendant Adair.

That decision, Mr. President, was written by Mr. Justice Harlan. The dissent was by Justices McKenna and Holmes. Justice Moody did not participate. Other members of the court at that time were Chief Justice Fuller and Justices Brewer, White, Peckham, and Day.

I want to pass from that case to the case of Coppage against Kansas, which involved a statute of the State of Kansas. It is reported in Two hundred and thirty-sixth United States Reports, page 1. I read from page 6 of the opinion:

In a local court in one of the counties of Kansas, plaintiff in error was found guilty and adjudged to pay a fine, with imprisonment as the alternative, upon an information charging him with a violation of an act of the legislature of that State, approved March 13, 1903, being chapter 222 of the session laws of that year, found also as sections 4674 and 4675, General Statutes of Kansas, 1909. The act reads as follows:

"An act to provide a penalty for coercing or influencing or making demands upon or requirements of employees, servants, laborers, and persons seeking employment

"*Be it enacted, etc.,*

"SECTION 1. That it shall be unlawful for any individual or member of any firm, or any agent, officer, or employee of any company or corporation, to coerce, require, demand, or influence any person or persons to enter into any agreement, either written or verbal, not to join or become or remain a member of any labor organization or association, as a condition of such person or persons securing employment, or continuing in the employment of such individual, firm, or corporation.

"SEC. 2. Any individual or member of any firm or any agent, officer, or employee of any company or corporation violating the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not less than $50 or imprisoned in the county jail not less than 30 days."

The judgment was affirmed by the supreme court of the State, two justices dissenting (87 Kans. 752), and the case is brought here upon the ground that the statute, as construed and applied in this case, is in conflict with that provision of the fourteenth amendment of the Constitution of the United States, which declares that no State shall deprive any person of liberty or property without due process of law.

I read now from page 9:

Congress, in section 10 of an act of June 1, 1898, entitled "An act concerning carriers engaged in interstate commerce and their employees," had enacted—

And it quotes that provision of section 10, quoted in the other case, which I have just read. Then it quotes from Justice Harlan the language I have used. The court states:

Unless it is to be overruled, this decision is controlling upon the present controversy; for if Congress is prevented from arbitrary interference with the liberty of contract because of the "due process" provision of the fifth amendment, it is too clear for argument that the States are prevented from the like interference by virtue of the corresponding clause of the fourteenth amendment; and hence if it be unconstitutional for Congress to deprive an employer of liberty or property for threatening an employee with loss of employment or discriminating against him because of his membership in a labor organization, it is unconstitutional for a State to similarly punish an employer for requiring his employee, as a condition of securing or retaining employment, to agree not to become or remain a member of such an organization while so employed.

It is true that, while the statute that was dealt with in the Adair case contained a clause substantially identical with the Kansas act now under consideration—a clause making it a misdemeanor for an employer to require an employee or applicant for employment, as a condition of such employment, to agree not to become or remain a member of a labor organization—the conviction was based upon another clause, which related to discharging an employee.

* * * * * * *

But, irrespective of whether it has received judicial recognition, is there any real distinction? The constitutional right of the employer to discharge an employee because of his membership in a labor union being granted, can the employer be compelled to resort to this extreme measure? May he not offer to the employee an option, such as was offered in the instant case, to remain in the employment if he will retire from the union; to sever the former relationship only if he prefers the latter? Granted the equal freedom of both parties to the contract of employment, has not each party the right to stipulate upon what terms only he will consent to the inception, or to the continuance, of that relationship? And may he not insist upon an express agreement, instead of leaving the terms of the employment to be implied? Can the legislature in effect require either party at the beginning to act covertly; concealing essential terms of the employment—terms to which, perhaps, the other would not willingly consent—and revealing them only when it is proposed to insist upon them as a ground for terminating the relationship? Supposing an employer is unwilling to have in his employ one holding membership in a labor union, and has reason to suppose that the man may prefer membership in the union to the given employment without it—we ask, Can the legislature oblige the employer in such case to refrain from dealing frankly at the outset? And is not the employer entitled to insist upon equal frankness in return? Approaching the matter from a somewhat different standpoint, is the employee's right to be free to join a labor union any more sacred, or more securely founded upon the Constitution, than his right to work for whom he will, or to be idle if he will? And does not the ordinary contract of employment include an insistence by the employer that the employee shall agree, as a condition of the employment, that he will not be idle and will not work for whom he pleases but will serve his present employer, and him only, so long as the relation between them shall continue? Can the right of making contracts be enjoyed at all, except by parties coming together in an agreement that requires each party to forego, during the time and for the purpose covered by the agreement, any inconsistent exercise of his constitutional rights?

These queries answer themselves. The answers, as we think, lead to a single conclusion: Under constitutional freedom of contract, whatever either party has the right to treat as sufficient ground for terminating the employment, where there is no stipulation on the subject, he has the right to provide against by insisting that a stipulation respecting it shall be a sine qua non of the inception of the employment, or of its continuance if it be terminable at will. It follows that this case can not be distinguished from Adair *v.* United States.

The decision in that case was reached as the result of elaborate argument and full consideration. The opinion states—

Then it quotes that part of the opinion. In this case, the opinion was written by Justice Pitney.

There were three justices of the Supreme Court dissenting, namely, Justices Holmes, Day, and Hughes—the same Hughes, if I remember my history correctly, who was confirmed by the Senate not very long ago after a bitter struggle. The other members of the court were White, McKenna, Van Devanter, Lamar, and McReynolds.

Those two cases are the cases which are known—at least known by the Senator from Idaho—as the "yellow-dog" decisions.

Mr. BORAH. I did not refer to them as "yellow-dog" decisions.

Mr. HASTINGS. No; I am sorry. I should have said "yellow-dog" contract involved in these decisions. One of the decisions came as the result of an act of Congress and the other came as the result of an act of the Legislature of the State of Kansas.

As I understand the argument of the Senator from Idaho, somehow, in some way, Parker is to be held responsible for deciding that the "yellow-dog" contract was valid, with these two cases staring him in the face, to say nothing of the Hitchman case, and it is upon that theory that the Senator from Idaho is opposed to Parker.

Mr. BORAH. Mr. President, let us get our facts correct before we start. I never criticized Judge Parker for holding the contract valid. I criticized him because of the extent to which he supported the contract with an injunction.

Mr. HASTINGS. And I will read again what the Senator from Idaho stated in answer to the Senator from Virginia when he inquired why this had not been corrected by Congress. The Senator from Idaho stated at that time:

No; we have tried by an act of Congress to repudiate that principle, but the Supreme Court of the United States said that our action was null and void. Mr. President, that is what makes this matter so very

important. They pass upon what we do. Therefore, it is exceedingly important that we pass upon them before they decide upon all of these matters. I say this in great sincerity. We declare a national policy. They reject it. I feel I am well justified in inquiring of men on their way to the Supreme Bench something of their views on these questions.

If that is not a clear statement of facts that the chief reason, or at least one reason, I will say, for opposing Judge Parker, is that you want to get upon the Supreme Bench somebody who will not be in sympathy with this principle.

In connection with that, and assuming that to be a practical proposition, and that it is possible for this country, if they decide upon it as being a wise policy to follow, to undertake to put upon the Supreme Court men who will decide a case in a certain way, I ask the Senator from Idaho what he does with Justice Hughes's dissent in this case? There was as violent an opposition to Justice Hughes as there is to Judge Parker, and my understanding was it was because he stood, too, for these very things for which, we understand, Judge Parker stands—in other words, that he was not as liberal as some people in the Senate thought he ought to be. But if that be true, what do we do with this dissent of Justice Hughes in this Kansas case? Should not that be held up as one important thing which the country ought to know as justifying the Senate in putting him on the bench, assuming that the "yellow-dog" contract has been improperly construed by the Supreme Court?

Mr. BORAH. What does the Senator do with Justice Hughes's opinion that it was invalid? Does he agree with that?

Mr. HASTINGS. I never agree with the dissenting opinion of any court. I learned long ago that the majority opinion of every court was controlling, and that it is not worth while to bother with what somebody said in a dissenting opinion. I learned that before I got very far in the practice of the law, and it still holds good.

Mr. President, now I desire to pass on to the Hitchman case, about which so much has been said. It involves two things. It is reported in Two hundred and forty-fifth United States Reports, page 229. I first read from page 250. This involves two things. It not only followed the decisions in the Supreme Court on this kind of a contract but it went one step farther. On the question of the validity of the contract itself the court said at page 250:

> What are the legal consequences of the facts that have been detailed? That the plaintiff was acting within its lawful rights in employing its men only upon terms of continuing nonmembership in the United Mine Workers of America is not open to question. Plaintiff's repeated costly experiences of strikes and other interferences while attempting to "run union" were a sufficient explanation of its resolves to run "nonunion," if any were needed. But neither explanation nor justification is needed. Whatever may be the advantages of "collective bargaining," it is not bargaining at all, in any just sense, unless it is voluntary on both sides. The same liberty which enables men to form unions, and through the union to enter into agreements with employers willing to agree, entitles other men to remain independent of the union and other employers to agree with them to employ no man who owes any allegiance or obligation to the union. In the latter case, as in the former, the parties are entitled to be protected by the law in the enjoyment of the benefits of any lawful agreement they may make. This court repeatedly has held that the employer is as free to make nonmembership in a union a condition of employment as the working man is free to join the union, and that this is a part of the constitutional rights of personal liberty and private property, not to be taken away even by legislation, unless through some proper exercise of the paramount police power.
>
> Plaintiff, having in the exercise of its undoubted rights established a working agreement between it and its employees with the free assent of the latter, is entitled to be protected in the enjoyment of the resulting status as in any other legal right. That the employment was "at will" and terminable by either party at any time is of no consequence. In Truax *v.* Raich (239 U. S. 33) this court ruled upon the precise question as follows: "It is said that the bill does not show an employment for a term, and that under an employment at will the complainant could be discharged at any time for any reason or for no reason, the motive of the employer being immaterial.
>
> "The conclusion, however, that is sought to be drawn is too broad. The fact that the employment is at the will of the parties, respectively, does not make it one at the will of others. The employee has manifest interest in the freedom of the employer to exercise his judgment without illegal interference or compulsion, and, by the weight of authority, the unjustified interference of third persons is actionable although the employment is at will."
>
> In short, plaintiff was and is entitled to the good will of its employees, precisely as a merchant is entitled to the good will of his customers, although they are under no obligation to continue to deal with him. The value of the relation lies in the reasonable probability that, by properly treating its employees, and paying them fair wages, and avoiding reasonable grounds of complaint, it will be able to retain them in its employ, and to fill vacancies occurring from time to time by the employment of other men on the same terms. The pecuniary value of such reasonable probabilities is incalculably great and is recognized by the law in a variety of relations.
>
> The right of action for persuading an employee to leave his employer is universally recognized—nowhere more clearly than in West Virginia—and it rests upon fundamental principles of general application, not upon the English statute of laborers.
>
> We turn to the matters set up by way of justification or excuse for defendants' interference with the situation existing at plaintiff's mine.

Before I go farther I want to call to the attention of the Senate what the facts were in the Hitchman case, which I have summarized as follows:

In the early part of the year 1902 the plaintiff's mine was operated as nonunion until April, 1903, when plaintiff submitted to the demands of the union that their workers be unionized. This went into effect on the 1st of April, 1903, and upon the very next day the men were called out on a strike. The strike continued until May 23, requiring the plaintiff to cease operations and prevented it from fulfilling its contracts. The strike was settled and the plaintiff continued to employ union labor. In the spring of 1904 difficulties developed, and a new agreement was entered into on the 18th of April. Two days later the men went out on a strike and the mine remained idle for two months. This strike was settled. There was but little trouble, then, until April 1, 1906, when another disagreement arose with the union, which disagreement was with other operators and not with the plaintiff. There was absolutely no grievance or grounds of disagreement at the Hitchman mine beyond the fact that the agreement had expired on March 31 and the men had not received authority from the union officials either to renew it or agree to a new one in its place. Some temporary agreement was made, but on April 15 there was another strike, and the mine was shut down until the 12th of June, when it was resumed as a nonunion mine.

About the 1st of June a self-appointed committee of employees called upon the plaintiff's president, stated in substance they could not remain longer on strike because they were not receiving benefits from the union, and asked upon what terms they could return to work. They were told that thenceforth the mine would be run nonunion, and the company would deal with each man individually, that if any man wanted to become a member of the union, he was at liberty to do so, but he could not become a member of it and remain in the employ of the Hitchman Co.

I want Senators to bear in mind those facts as we proceed with the discussion of what constitutes a breach of that contract. I read now from page 252 of the same case:

> We turn to the matters set up by way of justification or excuse for defendants' interference with the situation existing at plaintiff's mine.
>
> The case involves no question of the rights of employees. Defendants have no agency for plaintiff's employees, nor do they assert any disagreement or grievance in their behalf. In fact, there is none; but, if there were, defendants could not, without agency, set up any rights that employees might have. The right of the latter to strike would not give to defendants the right to instigate a strike. The difference is fundamental.
>
> It is suggested as a ground of criticism that plaintiff endeavored to secure a closed nonunion mine through individual agreements with its employees, as if this furnished some sort of excuse for the employment of coercive measures to secure a closed union shop through a collective agreement with the union.
>
> It is a sufficient answer, in law, to repeat that plaintiff had a legal and constitutional right to exclude union men from its employ. But it may be worth while to say, in addition, first, that there was no middle ground open to plaintiff; no option to have an "open shop" employing union men and nonunion men indifferently; it was the union that insisted upon closed-shop agreements, requiring even carpenters employed about a mine to be members of the union, and making the employment of any nonunion men a ground for a strike; and, second, plaintiff was in the reasonable exercise of its rights in excluding all union men from its employ, having learned, from a previous experience, that unless this were done union organizers might gain access to its mine in the guise of laborers.
>
> Defendants set up, by way of justification or excuse, the right of workingmen to form unions and to enlarge their membership by inviting other workingmen to join. The right is freely conceded, provided the objects of the union be proper and legitimate, which we assume to be true, in a general sense, with respect to the union here in question. The cardinal error of defendants' position lies in the assumption that

the right is so absolute that it may be exercised under any circumstances and without any qualification; whereas in truth, like other rights that exist in civilized society, it must always be exercised with reasonable regard for the conflicting rights of others.

I read now from page 256:

But the facts render it plain that what the defendants were endeavoring to do at the Hitchman mine and neighboring mines can not be treated as a bona fide effort to enlarge the membership of the union. There is no evidence to show, nor can it be inferred, that defendants intended or desired to have the men at these mines join the union unless they could organize the mines. Without this the new members would be added to the number of men competing for jobs in the organized districts, while nonunion men would take their places in the Panhandle mines. Except as a means to the end of compelling the owners of these mines to change their method of operation, the defendants were not seeking to enlarge the union membership.

In any aspect of the matter it can not be said that defendants were pursuing their object by lawful means. The question of their intentions—of their bona fides—can not be ignored. It enters into the question of malice. As Bowen, L. J., justly said in the *Mogul* steamship case: "Intentionally to do that which is calculated in the ordinary course of events to damage, and which does, in fact, damage another in that other person's property or trade, is actionable if done without just cause or excuse." And the intentional infliction of such damage upon another, without justification or excuse, is malicious in law. * * *

Another fundamental error in defendants' position consists in the assumption that all measures that may be resorted to are lawful if they are "peaceable"—that is, if they stop short of physical violence, or coercion through fear of it. In our opinion, any violation of plaintiff's legal rights contrived by defendants for the purpose of inflicting damage, or having that as its necessary effect, is as plainly inhibited by the law as if it involved a breach of the peace. A combination to procure concerted breaches of contract by plaintiff's employees constitutes such a violation. * * *

Defendants' acts can not be justified by any analogy to competition in trade. They are not competitors of plaintiff; and if they were, their conduct exceeds the bounds of fair trade. Certainly, if a competing trader should endeavor to draw customers from his rival not by offering better or cheaper goods, employing more competent salesmen, or displaying more attractive advertisements but by persuading the rival's clerks to desert him under circumstances rendering it difficult or embarrassing for him to fill their places, any court of equity would grant an injunction to restrain this as unfair competition.

Upon all the facts we are constrained to hold that the purpose entertained by defendants to bring about a strike at plaintiff's mine in order to compel plaintiff, through fear of financial loss, to consent to the unionization of the mine as the lesser evil, was an unlawful purpose, and that the methods resorted to by Hughes—the inducing of employees to unite with the union in an effort to subvert the system of employment at the mine by concerted breaches of the contracts of employment known to be in force there, not to mention—

Bear in mind they hold this—

not to mention misrepresentation, deceptive statements, and threats of pecuniary loss communicated by Hughes to the men—were unlawful and malicious methods, and not to be justified as a fair exercise of the right to increase the membership of the union.

At page 260 the court said:

Therefore, upon the undisputed facts of the case, and the indubitable inferences from them, plaintiff is entitled to relief by injunction. Having become convinced by three costly strikes, occurring within a period of as many years, of the futility of attempting to operate under a closed-shop agreement with the union, it established the mine on a nonunion basis, with the unanimous approval of its employees—in fact, upon their suggestion—and under a mutual agreement, assented to by every employee, that plaintiff would continue to run its mine nonunion and would not recognize the United Mine Workers of America; that if any man wanted to become a member of that union he was at liberty to do so, but he could not be a member and remain in plaintiff's employ. Under that agreement plaintiff ran its mine for a year or more, and, so far as appears, without the slightest disagreement between it and its men, and without any grievance on their part. Thereupon defendants, having full notice of the working agreement between plaintiff and its men, and acting without any agency for those men, but as representatives of an organization of mine workers in other States, and in order to subject plaintiff to such participation by the union in the management of the mine as necessarily results from the making of a closed-shop agreement, sent their agent to the mine, who, with full notice of, and for the very purpose of subverting, the status arising from plaintiff's working agreement, and subjecting the mine to the union control, proceeded, without physical violence, indeed, but by persuasion accompanied with threats of a reduction of wages and deceptive statements as to the attitude of the mine management, to induce plaintiff's employees to join the union and at the same time to break their agreement with plaintiff by remaining in its employ after joining; and this for the purpose not of enlarging the membership of the union but of coercing plaintiff, through a strike or the threat of one, into recognition of the union.

In that case the opinion was written by Mr. Justice Pitney, and the dissent was by Justices Brandeis, Holmes, and Clarke. The other members of the court were Chief Justice White, and Justices McKenna, Day, Van Devanter, and McReynolds.

I think it might be well at this point to call attention to the Justices who participated in these cases. In the Adair case, the original case, those approving the opinion were Justices Harlan, Fuller, Brewer, White, Peckham, and Day; those dissenting were Justices McKenna and Holmes.

In the Kansas case the approval was by Justices Pitney, White, McKenna, Van Devanter, Lamar, and McReynolds, while the dissent was by Justices Holmes, Day, and Hughes.

In the Hitchman case the opinion was by Mr. Justice Pitney, and those agreeing with him were Justices White, McKenna, Day, Van Devanter, and McReynolds, and those dissenting were Justices Brandeis, Holmes, and Clarke.

The Senator from Idaho insists that Judge Parker in the Red Jacket case ought not to have followed the Hitchman case but ought to have followed another case reported in Two hundred and fifty-seventh United States Reports, which is called the Tri-City case. In the Tri-City case, however, the facts were very different from those in the Hitchman case, while the facts in the Red Jacket case were so nearly like those in the Hitchman case that I think it is a mistake to say that the Hitchman case ought not to have been followed, but that the Tri-City case ought to have been followed.

I wish to call attention, Mr. President, to the Tri-City case reported in Two hundred and fifty-seventh United States Reports, page 184. I read from pages 209 and 210 as follows:

The principle of the unlawfulness of maliciously enticing laborers still remains and action may be maintained therefor in proper cases, but to make it applicable to local labor unions, in such a case as this, seems to us to be unreasonable.

The elements essential to sustain actions for persuading employees to leave an employer are first, the malice or absence of lawful excuse, and, second, the actual injury. The effect of cases cited as authority must be determined by an examination of the pleadings and facts to see how the malice or lack of lawful excuse was established, and whether there was not illegality present in the means used. Thus Walker *v.* Cronin (107 Mass. 555), and Thacker Coal Co. *v.* Burke (59 W. Va. 253), suits by an employer against members of a labor union in which the right of action for persuading was sustained, were heard on demurrer to the complaint. The element of malice was supplied by averment of the complaint, and was, of course, admitted by the demurrer.

There are other cases in which the persuasion was accompanied by the intent to secure a breach of contract, or was part of a secondary boycott, or had elements of fraud, misrepresentation, or intimidation in it. Perkins *v.* Pendleton (90 Me. 166) was a case of the latter kind. In Lucke *v.* Clothing Cutters (77 Md. 396) it was held unlawful in a labor union to seek to compel an employer to discharge the plaintiff by intimidation, and it was said that the State law authorizing formation of trade-unions to secure most favorable conditions for labor of their members was not a warrant for making war upon the nonunion man or for illegal interference with his rights and privileges. A suit by an employee who seeks to hold a labor union liable for seeking his discharge by threatening to strike unless his employer discharges him stands on a different footing from a mere effort by a labor union to persuade employees to leave their employment. There are in such a combination against an employee the suggestions of coercion, attempted monopoly, deprivation of livelihood, and remoteness of the legal purpose of the union to better its members' condition not present in a case like the present. Without entering into a discussion of those cases which include Brennan *v.* United Hatters of North America (73 N. J. L. 729), Curran *v.* Galen (152 N. Y. 33), Berry *v.* Donovan (188 Mass. 354), and Plant *v.* Woods (176 Mass. 492), it is sufficient to say they do not apply here.

The counsel for the Steel Foundries rely on two cases in this court to support their contention. The first is that of Hitchman Coal & Coke Co. *v.* Mitchell (245 U. S. 229). The principle followed in the Hitchman case can not be invoked here. There the action was by a coal-mining company of West Virginia against the officers of an international labor union and others to enjoin them from carrying out a plan to bring the employees of the complainant company and all the West Virginia mining companies into the international union so that the union could control, through the union employees, the production and sale of coal in West Virginia in competition with the mines of Ohio and other States. The plan thus projected was carried out in the case of the complainant company by the use of deception and misrepresentation with its nonunion employees, by seeking to induce such employees to become members of the union, contrary to the express term of their

contract of employment that they would not remain in complainant's employ if union men, and after enough such employees had been secretly secured suddenly to declare a strike against complainant and to leave it in a helpless situation, in which it would have to consent to be unionized. This court held that the purpose was not lawful, and that the means were not lawful, and that the defendants were thus engaged in an unlawful conspiracy which should be enjoined. The unlawful and deceitful means used were quite enough to sustain the decision of the court without more.

"The unlawful and deceitful means used were quite enough to sustain the decision of the court without more."

The statement of the purpose of the plan is sufficient to show the remoteness of the benefit ultimately to be derived by the members of the international union from its success and the formidable country-wide and dangerous character of the control of interstate commerce sought. The circumstances of the case make it no authority for the contention here.

On the other hand, Mr. President, in the Red Jacket case the facts were entirely different from those in the Tri-City case. We find these to be the state of things:

Complainants operate in what is probably the most important non-union coal field of the United States. Their combined annual tonnage amounts to over 40,000,000 tons, 90 per cent or more of which is shipped out of West Virginia in interstate commerce. The controversy involved in the several suits is not a controversy between complainants and their employees over wages, hours of labor, or other cause, but is a controversy between them as nonunion operators and the international union, which is seeking to unionize their mines.

The employees of the Red Jacket Co. had entered into contracts with the company that they would not join the union while remaining in the service of their employers. It was a nonunion mine, and an attempt was made to unionize it July 1, 1920. The suit in this case was brought on September 30, 1920.

The suit of the Borderland Coal Co., which was a party to this case, was begun on September 26, 1921. This company operated in the same territory, and the suit was in behalf of itself and 62 other companies.

Shortly prior to the institution of the Borderland suit armed union miners to a number variously estimated at between 5,000 and 7,000 had congregated at Marmet, W. Va., had announced their intention of marching across Logan County and into Mingo County with the avowed purpose of unionizing that field, and had actually engaged in a pitched battle with State officers, as a result whereof martial law had been declared and Federal troops had been sent into the territory to preserve the peace.

It is well to bear in mind these facts in considering what the court had before it when Judge Parker wrote this decision. I read from page 884 of Eighteenth Federal Reporter:

[4] And there can be no question that the strikes called by the union in the nonunion fields of West Virginia in 1920 and 1922, and the campaign of violence and intimidation incident thereto, were merely the carrying out of the plan and policy upon which the defendants had been engaged for a number of years. In May, 1920, at a time when there was no general strike, union organizers were sent into the nonunion Williamson-Thacker field, and in July following a strike was called for the avowed purpose of organizing the field. The armed march of the succeeding year was made by union miners for the purpose, among other things, of organizing nonunion territory. The nation-wide strike of 1922 was made applicable to the nonunion field of West Virginia by proclamation of union officials, and representatives of the union began interfering with the employees of nonunion operators for the purpose of forcing the closing down of nonunion mines.

Not for the purpose, if you please, of increasing their organization but for the purpose of closing down the mines.

When the strike of 1922 was settled by the Cleveland wage agreement the interference with these nonunion operators was continued. The district judge has found that the conspiracy existed, and that the acts complained of were done pursuant thereto. We think that these findings are sustained by the evidence, and the rule is well settled that the findings of the trial judge should not be disturbed unless it clearly appears either that he misapprehended the evidence or has gone against the clear weight thereof, or, in other words, unless we are satisfied that his findings were clearly wrong.

Again, on page 848, Judge Parker in his decision says:

In their criticism of the scope of the injunction, defendants make complaint of the restraints contained in paragraphs 2 and 4. As the language criticized is that approved by this court in International Organization, United Mine Workers of America et al. *v.* Carbon Fuel Co. et al. (288 F. 1020), we might content ourselves with referring to that decision as the law of the case in the Carbon Fuel case now before us and as binding authority in the other cases; but we shall go further and say that in the light of the decisions of the Supreme Court we have no doubt as to the correctness of the paragraphs criticized.

[12] With respect to the second paragraph, complaint is made that it restrains defendants "from inciting, inducing, or persuading the employees of the plaintiffs to break their contract of employment with the plaintiffs." This language is certainly not so broad as that of the decree approved by the Supreme Court in Hitchman Coal & Coke Co. *v.* Mitchell (245 U. S. 229, 261, 38 S. Ct. 65, 62 L. Ed. 260, L. R. A. 1918C, 497, Ann. Cas. 1918B, 461), which also enjoined interference with the contract by means of peaceful persuasion. The doctrine of that case has been approved by the Supreme Court in the later cases of American Steel Foundries *v.* Tri-City Central Trades Council (257 U. S. 184, 42 S. Ct. 72, 66 L. Ed. 189, 27 A. L. R. 360) and United Mine Workers *v.* Coronado Coal Co. (259 U. S. 344, 42 S. Ct. 570, 66 L. Ed. 975, 27 A. L. R. 762) and applied by this court in Bittner *v.* West Virginia-Pittsburgh Coal Co. (15 F. (2d) 652), by the Circuit Court of Appeals of the Eighth Circuit in Kinloch Telephone Co. *v.* Local Union (275 F. 241), and by the Circuit Court of Appeals of the Ninth Circuit in Montgomery *v.* Pacific Electric Ry. Co. (293 F. 680).

It is said, however, that the effect of the decree, which, of course, operates indefinitely in futuro, is to restrain defendants from attempting to extend their membership among the employees of complainants who are under contract not to join the union while remaining in complainants' service, and to forbid the publishing and circulating of lawful arguments and the making of lawful and proper speeches advocating such union membership. They say that the effect of the decree, therefore, is that because complainants' employees have agreed to work on the nonunion basis defendants are forbidden for an indefinite time in the future to lay before them any lawful and proper argument in favor of union membership.

If we so understood the decree, we would not hesitate to modify it. As we said in the Bittner case, there can be no doubt of the right of defendants to use all lawful propaganda to increase their membership. On the other hand, however, this right must be exercised with due regard to the rights of complainants. To make a speech or to circulate an argument under ordinary circumstances dwelling upon the advantages of union membership is one thing. To approach a company's employees, working under a contract not to join the union while remaining in the company's service, and induce them, in violation of their contracts, to join the union and go on a strike for the purpose of forcing the company to recognize the union or of impairing its power of production is another and very different thing. What the decree forbids is this "inciting, inducing, or persuading the employees of plaintiff to break their contracts of employment"; and what was said in the Hitchman case with respect to this matter is conclusive of the point involved here. The court there said:

Then, after quoting from that case:

The inhibition of section 20 of the Clayton Act (Comp. Stat., sec. 1243d) against enjoining peaceful persuasion does not apply, as this is not a case growing out of a dispute concerning terms or conditions of employment, between an employer and employee, between employers and employees, or between employees, or between persons employed and persons seeking employment; but is a case growing out of a dispute between employers and persons who are neither ex-employees nor seeking employment.

But, Mr. President, if there was any possible doubt about the correctness of the views of Judge Parker and those associated with him—and, by the way, the men who were associated with him, Judges Waddill and Rose, have been known to this country for a long time as great lawyers; Judge Rose made quite a record and quite a reputation while he was on the bench of the District Court of Maryland—whatever may be said with respect to that, I am wondering what can possibly be said against Judge Parker when this case itself, after this opinion was written, went to the Supreme Court.

Counsel for the defendants, William A. Glasgow—a great lawyer of Philadelphia, representing the defendants at this particular time, after the decision, perhaps—filed a brief and went before the Supreme Court seeking a certiorari in order that the Supreme Court might pass upon the questions involved here. The first question, and one of the important questions, was jurisdiction; but the second question, as found in the record, is this:

Did the district court of the United States and the circuit court of appeals err in enjoining and restraining officers and members of the United Mine Workers of America from persuading the employees of respondents to become members of the union and cease their labor in the production of coal?

In other words, was or was not the complaint which the Senator from Idaho suggested, that the injunction was too broad, decided by the Supreme Court of the United States?

From the brief filed in their effort to have a certiorari issued I copied this language:

We earnestly submit that the circuit court of appeals has misconstrued the opinion of this court in both the Hitchman case and the American Foundries case—

Which is the Tri-City case—

that in the Tri-City case the decree of injunction against persuasion was predicated on fraud and deceit practiced in persuading the employee, notwithstanding his contract, to secretly join the union, while remaining in the employ of the company, for the purpose of thus organizing its labor forces.

In other words, counsel for the defendants in this case took to the Supreme Court the identical question which is complained of here, and which it is said that Parker decided improperly and incorrectly. They made the same point that the Senator from Idaho insists should have been followed by Parker in his decision; namely, that the Hitchman case is not applicable because of the fraud and deceit involved. They not only raise the question which the Senator has suggested but they made the identical argument before the Supreme Court of the United States, and the Supreme Court must have been satisfied that their contention was not well founded. We can not possibly say, when a writ of certiorari is prayed of the Supreme Court, that if there was, in the opinion of the court, somewhere an error which ought to be corrected the Supreme Court would not grant the writ.

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

The VICE PRESIDENT. Does the Senator from Delaware yield to the Senator from Idaho?

Mr. HASTINGS. Yes; I yield.

Mr. BORAH. I took the position when the Senator asked me that question a day or two ago that the denial of the writ was no indication that the court had passed upon the questions. Let me read an opinion from the Supreme Court, in Two hundred and sixtieth United States Reports, where they passed upon the question. The court said:

The denial of a writ of certiorari imports no expression of opinion upon the merits of the case, as the bar has been told many times.

That is a unanimous opinion of the court in Two hundred and sixtieth United States Reports, supported by many other decisions. The fact that a writ of certiorari is denied imports no expression of opinion upon any of the merits of the case whatever.

Mr. HASTINGS. Of course the Supreme Court has said that; and what is meant by it is this—I take it that there can be no disagreement upon that—that because the Supreme Court has refused a certiorari in any case that case can not be cited to the Supreme Court as one which is binding upon it.

Mr. BORAH. Mr. President——

The VICE PRESIDENT. Does the Senator yield further?

Mr. HASTINGS. I do.

Mr. BORAH. That is not what they say. What they say is that the denial of the writ imports no expression of opinion upon the merits of the case.

Mr. HASTINGS. Is not that exactly what I said?

Mr. BORAH. Perhaps so. We see it in a different light.

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

Mr. HASTINGS. I yield.

Mr. WAGNER. I do not want to interrupt the Senator; but, may I add to what the Senator from Idaho read from an opinion of the court? I read from Hamilton Shoe Co. against Wolf Bros.:

It is of course sufficiently evident that the refusal of an application for this extraordinary writ—

Meaning the writ of certiorari—

is in no case equivalent to an affirmance of the decree that is sought to be reviewed.

Mr. HASTINGS. Of course that is true, Mr. President; but I am wondering whether the Senate is going either to agree or even to argue that a judge who has rendered a decision in the circuit court is to be condemned for rendering that sort of a decision when the identical question has been submitted to the Supreme Court, the same sort of argument made that it is contended ought to have been made in that case, and the Supreme Court denied the writ of certiorari. I am wondering whether the Senate of the United States is willing to take that as evidence that this man is unfit to sit on the bench of the Supreme Court.

It seems to me that it is impossible for any person to take these cases and criticize them and urge that Judge Parker ought not to be confirmed because of them—these five cases that I have referred to, one of them being the one in which he himself participated. If Parker is not to be confirmed, what shall we do with great old Harlan, and Fuller, and Brewer, and White, and Peckham, and Day, and the other men who have been upon the Supreme Court Bench and have sustained this sort of a contract? If it can be successfully argued here against the man who comes before us for confirmation for that great office that he ought not to be confirmed because he holds to these views, when the only expression he has made is when he was in a court below the Supreme Court, and in which he properly held that he was bound by the decisions of the Supreme Court, we shall go far afield and it seems to me that we shall have to get away from that proposition to find a sufficient excuse to reject this man.

It is not these propositions that are bothering a lot of people here. There are other things that are distressing them more than these. I submit that no lawyer can reasonably reject the opinion of Judge Parker and say that that unfits him for a position on the Supreme Bench unless he has in his mind something else; and this is what it seems to me may be in the minds of Senators, as was suggested by the Senator from Ohio [Mr. FESS] yesterday.

I am wondering whether we are about to adopt a new attitude with respect to the Supreme Court. Can it be said that the Senate of the United States ought to adopt as a policy a plan to put on the Supreme Court only persons who have certain fixed ideas as to the interpretation of the law? Shall that be the policy of the United States Senate? Shall that be the policy of the President of the United States?

I have heard it suggested in campaigns no longer ago than the last campaign that a certain candidate for President, if he should become President, would fill the Supreme Court with men who had ideas agreeing with his upon the wet and dry question. I considered it an insult to suggest that a candidate for the Presidency of the United States should adopt any such policy as that. Are we to make the Supreme Court of the United States a part of our political scheme of things?

We adopt platforms, both the Democratic and the Republican platforms, and probably other parties here and there occasionally adopt platforms, in which we set forth certain policies which we favor. Shall we include in those platforms a policy which will undertake to control the Supreme Court of the United States and say to the people of this country, "We want you to vote for this man for President because he holds to certain ideas with respect to the character of men who ought to be appointed to the Supreme Court—not the character of man that we have all been taught for years and years is required, namely, that he should have ability, that he should have learning, that he should have character—not that. That is not all that is demanded now, but much more. What is demanded is that he shall be first against the 'yellow dog' contract in particular; that he shall be liberal, and no longer conservative." Is that to be our attitude? Is that the policy that we are about to adopt?

I say that it is not only a dangerous policy but it is not a practical policy. Men can not be appointed to the Supreme Court that we know beforehand will constantly and forever follow a particular line of thought. They must of necessity be left to their own judgment, having before them the Constitution of the land and the laws which have been passed by Congress and the various States of the Union. When we leave that we leave a practical thing, and we embark upon a dangerous thing.

But, my friends, it is not the Red Jacket case that is about to defeat Parker. It is not that. I think it may be true that what are called the "liberals" of this country, as shown by the letter that was read and placed in the RECORD yesterday from the president of the American Federation of Labor, are undertaking to stir this country, to stir the Senate, to reject this man in order that they might have an opening wedge to this plan which they think is wise for the country. That may be true. It may be true that that is what has stirred up the labor unions of this country. It may be true that that is what has caused resolutions to be passed in every city, town, and hamlet all over this country. It may be true that that is what has brought forth the telegrams to every Senator sitting in this body with respect to this matter. But I submit that when you get down and talk to the laboring man and tell him what it all means, when you get down and explain to him what all this fuss is about, when you get down and explain to him that Parker is just as safe for labor as any other man that the President could select, you will have no trouble in getting him to understand this. I know the laboring man. I have lived with him. I have slept with him. I have eaten with him. I know his thoughts. I have worked for him. I have great sympathy for his ideals and what he is attempting to accomplish; but I say that I resent his efforts to come here and undertake to control the only independent body that there is in this land. I resent any effort to make out of that body a party scheme—a scheme which will unquestionably in the end bring chaos to this country and to all the people living in it.

That is what I object to. I am in favor of giving the laboring man what help we can by such legislation as is necessary, but I am opposed to giving him legislation that is not in conformity with the Constitution.

That is not the only trouble some of us here have. We have another problem on our hands. There is another great body of citizens in this country of ours who are greatly interested in this, and interested why? In my judgment, they are interested because they have been stirred to an interest which they did not know they had.

It has been less than five years since this nominee received the unanimous approval of the Senate of ours. Where, then, were the people who are now so active? Why did they not discover before some of these great objections to Parker? It had been 10 years before that when he had made his political speech in North Carolina. Why did not the colored people then become aroused and object to him as a member of the part of the judiciary which is next to the Supreme Court, namely, the circuit court? No; the colored people of North Carolina were not alarmed, and, therefore, there was no danger of the colored people in other parts of the country being alarmed. But as the Senator from Ohio clearly pointed out, there is a determined effort to stir up every organization and every citizen of the country for one purpose, and that is what has brought the colored man into this.

Somebody complains that Parker, from what he said in North Carolina about the colored people, can not be in favor of the fourteenth and fifteenth amendments of the Constitution of the United States, and that his statement practically said so. What he did say, when he was a candidate for Governor of the State of North Carolina, was that he would support the constitution of North Carolina so long as it was not in conflict with the Constitution or any provision of the Constitution of the United States. It can not be argued here that he is not for the fourteenth and fifteenth amendments, because this very year he upheld the fourteenth amendment in a segregation case growing out of an ordinance passed in the city of Richmond.

That is the situation here, and that is giving us on this side of the Chamber much concern, because we are afraid that these colored people will be stirred to the point where they will believe that we voted to confirm a nominee to the Supreme Court who would not give them a fair chance.

There is no man living anywhere who knows Judge Parker's record who fears that he will not support every particle of the Constitution. There is not a colored man in North Carolina who believes that he is biased against the colored race. That charge is not true, and the colored people of North Carolina know it is not true. But the colored people of the North are stirred, and it is the colored people of the North who throw out threats as to what they will do if Parker is confirmed.

It may be that it is a serious thing. I do not know how serious it is for me. I have been in the public service for more than 25 years, but I have never been a candidate for any elective office. It is true that I had hoped to be a candidate to succeed myself in this body, with the idea that I might be of some service to my State, and might add some little service to the Nation. I still hope to be in that position, and I have to go out and defend myself against what I am going to do in this case. I am going to have to defend myself against the labor organizations, which have been friendly to me ever since I was able to vote. I am going to have to defend myself against the colored man, whose champion I have been for more than 20 years. I know I will have to do that, and, with that realization before me, what should I do in this case? I am just as certain that Parker ought to be confirmed as I am certain that Hughes should have been confirmed. I am just as certain that if he is confirmed to the bench of the Supreme Court of the United States in after years those of us who were instrumental in helping him to get there will be proud of what we did. I am just as certain of that as I can be.

What shall I do in this embarrassing position? Shall I withdraw what I have said here and keep my mouth closed, or shall I get up and say in the Senate what I believe to be true, and give my reasons for it?

Oh, it may be that the workingman and the labor organizations are important; I am reasonably certain that they are important, not only to the country, but to the laboring people everywhere. I am certain of that, but I say that in this kind of a crisis, I can not permit the labor organizations to mold my conscience and turn it out, where, if I look at it, I can not recognize it myself, and where, if my children should see it, they would not believe it was the conscience of their father.

I do not propose that the colored people of this country shall take my judgment and fashion it in such a way that when they get through with it will look like a weak, miserable candidate for the United States Senate, instead of a man who is sitting there now and endeavoring to do his duty as he sees it.

Am I to sacrifice principle for political expediency? Oh, no. Before that is done, I hope nature may close my lips so that I can not cast another vote in this body. I hope that before that is done the people of my State will take from me whatever responsibility and whatever power they have given me in this great office.

No, no. I can not stand for that. But when it is all over, I hope to have some good, able friend to say, "He sacrificed his political career, but he did it upon the altar of what he believed to be right," and if that can be said, I care not what else may be said.

Mr. WAGNER obtained the floor.

Mr. BORAH. Mr. President——

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

Mr. WAGNER. I yield.

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

The VICE PRESIDENT. The clerk will call the roll.

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

Allen	George	McCulloch	Steiwer
Ashurst	Gillett	McKellar	Stephens
Baird	Glass	McNary	Sullivan
Bingham	Glenn	Norris	Swanson
Black	Goldsborough	Nye	Thomas, Idaho
Blaine	Greene	Oddie	Thomas, Okla.
Blease	Hale	Overman	Townsend
Borah	Harris	Patterson	Trammell
Bratton	Harrison	Phipps	Tydings
Brock	Hastings	Pine	Vandenberg
Broussard	Hatfield	Pittman	Wagner
Capper	Hawes	Ransdell	Walcott
Connally	Hayden	Robinson, Ind.	Walsh, Mass.
Copeland	Hebert	Robsion, Ky.	Walsh, Mont.
Couzens	Howell	Schall	Waterman
Cutting	Johnson	Sheppard	Watson
Deneen	Jones	Shipstead	Wheeler
Dill	Kean	Shortridge	
Fess	Kendrick	Smoot	
Frazier	Keyes	Steck	

The PRESIDING OFFICER (Mr. FESS in the chair). Seventy-seven Senators having answered to their names, a quorum is present.

Mr. WAGNER. Mr. President, it is my intention to vote to sustain the committee which has reported adversely on Judge Parker's nomination as Justice of the Supreme Court. My present purpose is, in justice to myself, to set forth the reasons which prompted me to come to this conclusion and to persuade, if I can, my colleagues whose minds are still open on this question, likewise to vote to reject the nomination.

I do not often enter upon the terrain of debate in which the Senate is now engaged, because frankly, I dislike to discuss men. I prefer to consider problems. It is only under compulsion of the constitutional duty of "advice and consent" in the nomination of Supreme Court judges—a duty too important to be shirked—that I permit myself to express my thoughts on the pending question.

Let me say at the outset that I do not question Mr. Parker's integrity. Nor do I doubt that he possesses a knowledge of the law. That is but the lawyer's stock in trade. It determines admission to the bar; it is alone insufficient for elevation to the highest court. To pass upon a nomination for that office it is first necessary to survey the requirements of the post, to plumb its profound responsibilities, to calculate its importance in terms of its influence upon the welfare of our country. Only then is it possible to make an appropriate comparison between the magnitude of the place to be filled and the size of the man who has been called to fill it.

The judicial process has been studied for thousands of years. Few students of the subject in our day have been rewarded with as rich an insight into that process as Benjamin Cardozo, Chief Judge of the New York Court of Appeals. In his well-known volume, the Nature of the Judicial Process, he emphasizes that an important phase of the work of judges is lawmaking, and that the decisions they render are law in the making. The present Chief Justice of the United States Supreme Court many years ago expressed a similar thought in an epigrammatic phrase when he said:

> The Constitution is what the judges say it is.

We are to-day all fully aware that the Constitution we live under and the laws we are judged by are not a lifeless set of wooden precepts moved about according to the rules of a mechanical logic. At least I should say that the law is never that in the hands of great judges. The Constitution of the United States to-day is what the judges of the past have made it and the Constitution of the future will be what the judges appointed in our day will make it, and it is, therefore, by the

standard of makers of the Constitution that nominees for the Supreme Bench must be judged.

President Adams's term of office expired 129 years ago. In the perspective of the intervening generations the most important event of his administration was his appointment of John Marshall as Chief Justice of the Supreme Court. Such is the durability of judicial work that many a decision to-day still runs on the track of reasoning which John Marshall laid down.

To cite a contemporary example, I take the liberty to point to Mr. Justice Holmes, called to the Supreme Court by the appointment of President Roosevelt in 1902. To-day he is known to us as the great and beloved dissenter. His dissenting opinions are not, however, merely the record of a past disagreement having no significance in the world of coming events. These opinions, too, enter into the soil of the judicial process and will slowly through the years irrigate it and fertilize it until it will in time bring forth a living law which more closely corresponds to ideal justice.

The point is that appointments to the Supreme Court must be judged by long-time standards. They certainly should not be made by reference to immediate political opportunities. Presidential administrations come and go; laws are made and repealed; alongside of these judicial pronouncements are relatively immortal.

No man of ordinary capacity who merely happens to fit into the political and geographical necessities of the moment can pass muster if tested by these standards. The peculiar quality required of a Supreme Court judge can best be described by the term "statecraft." Its possession is indispensable.

One of our closest observers of the work of the Supreme Court, Felix Frankfurter, in his recent lecture at Yale University, expressed this idea effectively:

> With the great men of the Supreme Court, constitutional adjudication has always been "statecraft." As a mere lawyer Marshall had his superiors among his colleagues. His supremacy lay in recognition of the practical needs of the Government. Those of his successors whose labors history has validated were men who brought to their task insight into the problems of their generation. The great judges are those to whom the Constitution is not primarily a text for interpretation but the means of ordering the lives of a progressive people.

At the present time three problems of major importance divide the Supreme Court. The first deals with the question: What are the limits within which a State may exercise its police powers and taxing powers to accomplish ends loosely referred to as social welfare? New problems, generally arising out of present-day urban and industrial conditions, have been met by the several States in a variety of ways. Many of the methods attempted by the States have been declared invalid by a divided court. The problem is not yet settled. In the nature of things it can never be settled. Every new decision is but the driving of a new stake in the boundary line between permissible action and prohibited action. The nature of the personnel of the Supreme Court will determine whether the area of permitted action shall be wide and free or narrowly restricted.

The second of these problems is identified with the relatively new and expanding field of public-utility regulation.

The third is concerned with industrial relations: What is the scope of permissible action by employees in attempting to further their economic interest?

Little, if anything, is known of the nominee's attitude or experience in dealing with the first two problems. On the third his record discloses an opinion sanctioning the antiunion or so-called "yellow-dog" promise. It is an opinion which obviously merits special consideration.

What is this much-discussed instrument, the antiunion contract? How is it made? What are its uses? What are the effects of its use? I should prefer to discuss it, first, without regard to its legal status, and to appraise it from the point of view of the layman.

An antiunion contract is sometimes a promise exacted by an employer from an employee not to join a union so long as he remains in his employ. Sometimes it is a condition of employment imposed by the employer that the employee shall refrain from joining the union as long as he is employed. This arrangement is consummated either by having a written instrument to that effect at the time of the hiring or during the course of employment, or by orally informing the applicants for employment that the shop was operated nonunion and that all employees were expected not to belong to the union.

The use of this instrument is a very unique one. No employer ever sued any employee for violating it. No employer ever expects to do so. That is not its purpose. Its utility lies solely in the fact that it affords a basis upon which to apply for an injunction restraining anyone from attempting to persuade the employees to unionize.

In a general way that is what occurred in the Hitchman case. That is what occurred in the Red Jacket case. There are differences between the two which I shall discuss later. That is what the company attempted to do in the Interborough cases. Before discussing the legal validity or the legal consequences of this arrangement there are, to my mind, some plain, simple layman reactions to this whole business which ought to be stated.

The layman understands that every contract is essentially a bargain. Let us now try, if we can, to visualize how this strange bargain, if it be one, comes into being.

John Smith, an unorganized worker out of work, comes to the factory of the X Y Z Co. in search of a job. He meets the personnel manager, hat in hand. He is told that a job is open, but he is given to understand that the plant operates on a nonunion basis and that one can not belong to the union and work there. He understands he is directed to sign a card stating that he will not join a union so long as he is employed by the X Y Z Co. He signs. What else can he do? Is he to refuse the job because of the curtailment of a possible right in the exercise of which he has no present interest? Can he hope to persuade the smart-looking personnel director that the contract interferes with what he regards as an inalienable right freely to associate with whomever he pleases? And if he should fail by persuasion, can he possibly hope to change his employer's attitude by holding out? Every day it costs money to live and every day's labor lost is gone forever beyond recovery. There is the job, together with its terms. Take it or leave it and go hungry. Of course, he takes it.

To jobless John Smith it does not occur at the time that he is consenting to an arrangement which will render him powerless ever to insist on better terms of employment. And if it does occur to him, there is nothing he can do about it.

All this is but another way of saying that between the large employer and the unorganized worker there is such a disparity and inequality of bargaining power that the talk of a contract between them arising out of the free assent of the two parties is as fictitious but not as harmless as the old Mother Goose rhymes.

Smith's rejecting the job means nothing to the X Y Z Co. If Smith will not have it Brown will. To Smith it means rent, food, clothing, and schooling for his children. The employer can afford to wait until his terms are met. Smith can not wait. His employer knows conditions; knows whether employment is plentiful or scarce; knows what he wants and knows how to get it.

It is extraordinarily simple and easy to insert "yellow-dog" contracts into terms of employment. If employers should be foolish enough to use them, and the courts should enforce them by injunction, then the well-organized, responsible trade unionism we have known is doomed. Only underground, rebellious, revolutionary, secret association will flourish in its place. The injunction will silence the voice of every responsible union organizer. But the underground revolutionist who pays little attention to law and less to injunctions will flourish like a green bay tree.

These are considerations which appeal to the lay mind as well as to the professional. One need not have read Blackstone to understand that there is something inherently unfair in such an arrangement. No acquaintance with Supreme Court decisions is necessary to understand the probable effects of such a régime upon the future of industrial relationship. Nor is it necessary for us to consider at this time whether an employer may insist that only unorganized labor shall be employed in his plant.

For purposes of present discussion it is sufficient to inquire whether, if he so insists, he must educate his employees to be satisfied with his terms or whether the courts will render him immune from the flow of ideas and the current of world discussion and the persuasion of workmen that in union lies their salvation.

Does the fact that an employer hangs a sign on his factory gate, "No union men wanted here," at once call into play all the force and all the power of the equity courts of the Nation exerted in their full strength to silence everyone who would tell any of his employees that unionism is worth while? The citizen untrained in the law will naturally draw his own analogies. He will ask: "Would the courts be equally solicitous to protect the man who insisted that only the heathen could work in his plant? Would a court enjoin a missionary from preaching the gospel to his employees? And suppose that he employed only Republicans in his plant? Would a court of equity enjoin a Democrat from electioneering among the employees? Or suppose that the employer insisted upon unmarried men in his plant, would the court restrain the clergyman's blessing upon a mar-

riage vow?" Of course, none of these would be enjoined, but under identical conditions the effort of men to organize to better their conditions of employment was balked by Judge Parker's injunction.

To the worker organization means bargaining power, security, self-respect. So long as he continues unorganized he must accept terms of employment just as they are as tendered. It is only through organization that he achieves the power to withhold that which he sells. The arrangement known as the anti-union or "yellow-dog" contract is ordinarily an undertaking on the part of the employee that he will continue to remain in the same helpless condition which compelled him to make the "yellow-dog" promise in the first instance. Is it good social policy to give full play to a device to accomplish that which medievalism accomplished through class stratification? Is it sound American practice to permit that system to be reproduced on this continent? Already in the mining towns of West Virginia the employer owns the miner's home, from which a court of equity will at the operator's request expel him. The employer owns the worker's city, his school, his church. Is he also to own and control his power of speech and association?

These briefly are the terms of the antiunion contract, the way in which it is made, the purposes for which it is entered into, the effects which it is likely to have, and the questions which it raises.

The following is what Prof. Edwin R. A. Seligman, well-known professor of economics of the Columbia University, said in reference to the antiunion promises:

* * * The world has not yet succeeded in finding a solution for the so-called labor problem. Whatever that solution may be, both history and philosophy conspire to advise against the adoption of any policy which will render the solution more difficult and perhaps impossible. The conditions of this contract seem to the affiant clearly to fall within the latter category. The affiant would therefore strongly urge that the court withhold its approval from such a reversal of public policy which certainly presents no clear advantages, and which contains such potential dangers.

Paul Howard Douglas, professor of economics, University of Chicago, reacts to the antiunion promise in the following language, which I read because it is so pertinent to this discussion:

To grant the injunction which is sought would permit employers to put a legal ring around their plants to prevent their being unionized. To grant such further protection of the law to the ability of the strong to force terms upon the weak, which the latter would not consent to were he on approximately equal terms with the other party, is to bring the boasted equality of the law into disrepute and is to inflict a heavy and unwarranted blow at the institutions which the comparatively weak have built up to protect themselves.

Our own Commissioner of the Bureau of Labor Statistics, Ethelbert Stewart, gives expression to a view that is commonly held when he says:

In fact, I think the law should make criminal these one-sided so-called labor contracts.

Especially persuasive is the report of the United States Coal Commission on Labor Relations in Bituminous Coal Mining, which made a special investigation of the effects of the use of the antiunion contract in coal mines:

We recommend that such destructive labor policies as the use of spies, the use of deputy sheriffs as paid company guards, house leases which prevent free access, and individual contracts which are not free-will contracts be abolished.

Of peculiar interest is the finding of the United States Coal Commission on Civil Liberties in the Coal Field:

Many operators—

Operators, mind you—

however, do not use the "yellow-dog" contract, believing that it is immoral.

It was this sort of an agreement that was presented to Judge Parker in the Red Jacket case.

The Red Jacket Mining Co. employed each man with the understanding that he would not join the union so long as he worked for the Red Jacket Co. The United Mine Workers, nevertheless, sent agents to persuade the employees of the Red Jacket Co. to join the union. The Red Jacket did not attempt to meet argument with argument.

It did not even go through the form of attempting to persuade its men that its method of employment was superior and that they ought not to join the union. It did not exercise the power which it possessed to fire the men who joined. Instead it appealed to the equity court to restrain the organizers from persuading its employees to join the union. How did Judge Parker react to this application? Did he inquire into or consider the inequality of bargaining power between the Red Jacket Co. and each of its employees? Did he consider the consequences to unionism if such applications were generally granted? Did he inquire into the consonance of such a limitation upon public speech with American institutions? Did it occur to him that if such an injunction issued it would mean that under the protecting wing of the Federal courts every form of bondage could be imposed upon workers and that all resistance on their part would be rendered futile?

Mr. President, the most devastating criticism of Mr. Parker, the one fact which alone, in my judgment, is sufficient to disqualify him to hold the position to which he has been nominated is the fact that he failed totally to react. The application aroused in him no response. It called forth in him no evaluation of this device in the government of our people or its effect upon industrial relations. He was not what Cardozo called "the skeptic on the bench." The instrument was labeled a contract, and he accepted it as labeled, without question, without doubt, without thought, totally oblivious of its possibly catastrophic effects upon the future. That failure to be aware of the fact that he was in the presence of an important problem shows a lack of statecraft which is the sine qua non of the high judicial office to which he has been nominated.

I have not as yet discussed the law pertinent to this case. The present point is that where there is no appreciation of the vital issue underlying the litigation, no amount of legal training or judicial experience can supply the shortage.

And now, Mr. President, I insist that the law did not call for the injunction in the Red Jacket case. It is inconceivable that the law is so out of touch with realities that it fails to give adequate weight to the considerations which I have enumerated. Neither principle nor precedent justified this injunction. Indeed, the Court of Appeals of New York found that both principle and precedent required the denial of a restraining order under a very similar state of facts. The decision of the New York court was rendered in the case of Interborough Rapid Transit Co. *v.* Lavin. The Interborough Co., employing some 14,000 men, for reasons sufficient to itself, tired of unionism, and thereafter based its relations with its employees on the understanding that the men were not to join a union. The national union interested in the particular trade—in this case the Amalgamated Association of Street and Electric Railway Workers of America—sent its agents into the city of New York to persuade these employees to organize. The company at once applied for an injunction to restrain interference with its contracts of employment and to enjoin anyone from persuading its employees to affiliate with the union.

The Court of Appeals of New York denied the right to such an injunction. It considered the purposes of the national union in organizing these particular employees. It recognized that the standards of employment in one branch of the trade necessarily influenced standards of employment in another branch of the same trade, and that the union was therefore strictly within its legal objects in attempting to bring these 14,000 men within the sphere of its influence and thereby to augment their bargaining power. The court held that the union was at liberty to pursue such an object as long as it pursued it peacefully and without deception.

At least in one State it has thus been definitely decided that an injunction will not issue to prevent peaceful interference by a union with a "yellow-dog" contract. As counsel for the defendants in that case I helped the court to arrive at that decision. There is nothing in my professional work since I have retired from the bench from which I have derived greater satisfaction or greater pride.

Out of a host of principles of law pertinent to the Red Jacket case the first that comes to mind is the general rule that no contract is entitled to enforcement if it is in conflict with public policy.

The great value of this rule lies in its flexibility, in its power to comprehend new standards and new conditions. It is one of the great moving forces in the law which enables it to be stable and yet not to stand still. Whether a particular contract violates public policy in 1930 can not be determined by reading the precedents in Coke on Littleton. It is the public welfare of this generation that the law seeks to conserve.

What is the evidence on the question of public policy?

There is the story of every commission that has gone into the coal fields that the "yellow-dog" contract and the injunction to which it gives rise are supplanting civil law and government. There is the deliberate conclusion of mature students of the subject that they are rendering impossible the solution of the labor problem. There is the testimony of one commission that many coal operators regard this so-called contract as immoral. There

is the historical fact that State legislatures believe that it ought to be a criminal offense to make such a contract.

All this is cumulative evidence that the antiunion promise is in conflict with public policy. Certainly, no court of equity ought to give it validity.

Another well-established principle has decisive bearing upon the issue raised in the Red Jacket case—the principle that courts will not enforce a harsh and unfair bargain. Compare the give and take in this employment arrangement. What do the employees and employers exchange? Primarily work for wages. But what does the employee secure in return for his additional promise not to join a union? Does the company promise not to fire him when and as it pleases? It does not. Does the company promise not to join a combination of employers to force wages down? It does not. The employer continues entirely unhampered. His liberty of action is in no wise curtailed, but the worker has surrendered his power of self-defense against possible economic oppression. Such a bargain is harsh and unfair. It is not entitled to the extraordinary protection of an injunction.

These are general principles of universal application. They should have governed the disposition of the Red Jacket case.

But in addition, Mr. President, there is one clear-cut, conclusive reason why on Judge Parker's own statement of facts this injunction should never have issued. I have reference to the very simple fact that the employees were urged to do only that which they were at perfect liberty to do under the very terms of their contract. Such was the fact as found by the district court and approved by Judge Parker. On any theory of law whatsoever, there was, therefore, no interference with anyone's rights and no violation of law to be enjoined.

Now let me prove what I have said:

The men at Red Jacket could be fired at any time without assignment of cause. They could quit without stating the reason. Their employment was at will. What, if anything, did they promise? They promised not to join the union so long as they were employed at Red Jacket. And what were they persuaded to do by the union organizers? They were urged to join the union and quit.

This point is so important that it merits verification. I therefore read from the findings of the lower court:

That the union's agents were inducing the plaintiff's employees—

To cease working for said plaintiff and to become members of said union.

Judge Parker fully agreed with this finding, for in his opinion he said that in this case the organizers were attempting to—

Induce them * * * to join the union and go on strike.

Now, why was it not perfectly lawful for the union to persuade the men to do that which the contract itself permitted them to do? How is that the inducement of a breach of contract? The men had agreed to quit if they joined the union, and that is exactly what they were persuaded to do. There was nothing unlawful in that.

The one and only inference that can be and must be logically drawn from the Parker decision is that he holds it unlawful for a union to organize workers in a trade and persuade them to go on strike—contract or no contract. There is precedent for this idea; but, Mr. President, Judge Parker will have to go much farther back than the Hitchman case to find it. He might discover it in that benevolent age of a hundred years ago, in which also flourished the fellow-servant rule and similar barbarisms of our law. Only there can Judge Parker find the precedent or inspiration for the conclusion that must be drawn from his opinion. He said the union was not unlawful of itself. It was lawful as long as it was willing peacefully to curl up and die. But it became unlawful the minute it tried to extend its membership, its scale of wages, and its conditions of employment into the coal fields of West Virginia.

The implications of this case are far wider than the sanctioning of the "yellow-dog" contract. It threatens the right of self-organization by workers in any manner whatever.

No one has yet lifted a finger to defend the justice of these anti-union-contract injunctions. No one in this Chamber has yet offered to approve the propriety of the antiunion promise; but Judge Parker, sitting in a court of equity, sanctioned it, approved it, and enforced it with the most powerful weapon in the arsenal of our courts.

The President, through his Attorney General, says apologetically that Judge Parker in doing so was constrained to follow the Hitchman case. This apology is an exceedingly hollow one for a number of reasons.

I lay aside temporarily the important fact that in truth the two cases are not parallel. I can even afford to overlook the significant absence from Mr. Parker's opinion of any language of constraint. If, indeed, Judge Parker felt himself bound to decide the Red Jacket case as he did by reason of the compulsion of the Hitchman case, then he exhibited an excessively narrow understanding of the function of legal precedents.

Between the decision in the Hitchman case and the Red Jacket decision 10 long years had intervened, crowded with unprecedented discussion of the implications of the antiunion promise. The keen analysis and the new insight into this instrument which was thereby made available had their effect on the Supreme Court, and in American Foundries *v.* Tri-Cities Trades Council (257 U. S. 184–11) Chief Justice Taft pinned the Hitchman decision on the fraud and deceit which were present in that case. He said:

The unlawful and deceitful means used were quite enough to sustain the decision of the court without more.

Present in the Red Jacket case was another factor, the policy of Congress laid down in the Clayton Act, a policy perhaps not strictly governing it by reason of judicial decision but none the less expressive of the new appreciation of the scope of permissible union activity. Present also in the Red Jacket case were the obvious effects of the antiunion promise coupled with the injunction upon the coal industry. As a member of the Senate investigating committee I had the opportunity to witness those results at first hand: Business disrupted; industrial relations destroyed; civil government displaced; civil rights unknown; and poverty, resentment, and the seeds of rebellion everywhere. The Government commissions had already uncovered the facts and condemned the practices when Judge Parker wrote his decision. He must have known them, but apparently these vibrant facts had no meaning for him. These are factors which great judges take into consideration but which are overlooked and neglected and whose significance is missed by the kind of judges who seek a precedent and lean upon it.

It is easier to follow the beaten track than to clear another.

With prophetic pen, Judge Cardozo anticipated that precedent would some day be used in defense of lack of progress. In his Growth of the Law he provided the answer:

* * * Judges march at times to pitiless conclusions under the prod of a remorseless logic which is supposed to leave them no alternative. They deplore the sacrificial rite. They perform it, none the less, with averted gaze, convinced as they plunge the knife that they obey the bidding of their office. The victim is offered up to the gods of jurisprudence on the altar of regularity. One who seeks examples may be referred to Dean Pound's illuminating paper on Mechanical Jurisprudence. I suspect that many of these sacrifices would have been discovered to be needless if a sounder analysis of the growth of law, a deeper and truer comprehension of its methods, had opened the priestly ears to the call of other voices. We should know, if thus informed, that magic words and incantations are as fatal to our science as they are to any other. Methods, when classified and separated, acquire their true bearing and perspective as means to an end, not as ends in themselves. We seek to find peace of mind in the word, the formula, the ritual. The hope is an illusion. We think we shall be satisfied to match the situation to the rule, and finding correspondence, to declare it without flinching. Hardly is the ink dry upon our formula before the call of an unsuspected equity—the urge of a new group of facts, a new combination of events—bids us blur and blot and qualify and even, if may be, erase. The counterdrive—the tug of emotion—is too strong to be resisted. What Professor Dewey says of problems of morals is true, not in like degree, but none the less, in large measure, of the deepest problems of the law; the situations which they present, so far as they are real problems, are almost always unique. There is nothing that can relieve us of "the pain of choosing at every step."

But Judge Parker did not in his opinion indicate that he even tried to make a choice of two possible roads and that he was compelled to walk the one he did by the force of binding precedent. He was totally oblivious to "the urge of a new group of facts." He felt no "tug of emotion." There was but an explicit determination, by the citation of a previous case, to avoid "the pain of choosing at every step."

I will interpolate here to refer to another matter which was brought to my attention after I prepared my remarks. Yesterday there appeared in the Columbian Law Review for this month an article on labor injunctions, and the author of the article did me the honor, which I learned for the first time yesterday, to quote at length from an opinion I wrote in a labor dispute in 1922. I am reading it only because of the suspicions that frequently attach to one's motives. The ideas I express now I expressed in an opinion in 1922.

Since the author did me the honor to quote from the opinion, I will read just that much of it as indicated that I was not

entirely oblivious to this situation several years ago, for I said in that opinion, writing in the lower court, by the way:

> Precedent is not our only guide in deciding these disputes, for many are worn out by time and made useless by the more enlightened and humane conception of social justice. That progressive sentiment of advanced civilization which has compelled legislative action to correct and improve conditions which a proper regard for humanity would no longer tolerate can not be ignored by the courts. Our decisions should be in harmony with that modern conception and not in defiance of it. Some nisi prius adjudications rendered in these disputes, disputes in which the public is as much interested as the contending parties, have in my judgment reflected a somewhat imperfect understanding of the trials and hardships experienced by the workers in their just struggle for better living conditions.

That is contained in an opinion which I wrote in 1922, and I do not suppose anybody would charge me with anticipating at that time this particular controversy.

Now, we come to the final question: Did the Hitchman case actually foreclose Judge Parker's judgment in the Red Jacket case? Let us compare the two cases:

In the Hitchman case the court found the following facts:

First. An antiunion promise.

Second. A union actuated by a malicious purpose.

Third. Deception and abuse in the methods employed by the union organizers.

Fourth. The employees persuaded to join the union and stay at work secretly.

In the Red Jacket case the court found the following facts:

First. An antiunion promise.

Second. A conspiracy in restraint of interstate commerce.

Third. No evidence of deception or fraud.

Fourth. Men persuaded to join the union and quit.

On their very face the two cases are far apart. Let us continue the analysis of each of the four groups of facts:

First. The only factor they have in common is the antiunion contract. But had not Chief Justice Taft already stated in the later Tri-City case that the fraud and deceit, rather than the contract, explained the decision in the Hitchman case?

Second. Judge Parker approved a finding that the union was engaged in a conspiracy in restraint of trade. He could not have approved this finding unless he believed and held that it was unlawful for a union to extend its membership and its influence in order to improve the conditions of the workers in the industry. Is that the law in the United States?

There is not a lawyer in this Chamber who would agree that such is the law. The notion that a union was an unlawful conspiracy has been dead and buried too long to be disinterred at this late day.

There was no finding of conspiracy in the Hitchman case. Had Judge Parker rejected the conspiracy finding the court would have been entirely without jurisdiction in the case and the injunction could not have issued. Yet, we are told that Judge Parker was constrained to follow the Hitchman case!

Third. There was no fraud and deceit in the methods of the organizers in the Red Jacket case. In the Hitchman case the court based its decision upon these facts. Yet we are told that Judge Parker but followed the precedent of the Hitchman case!

Fourth. In the Hitchman case the court found that the men were persuaded to join the union and secretly continue at work in violation of their understanding with their employer. No such fact was present in the Red Jacket case. Quite to the contrary, the court specifically found that the men were persuaded to join and quit. That was not violative of the terms of the employment arrangement. That was not in breach of any possible contract. That was perfectly lawful. Yet we are told that Judge Parker but followed the Hitchman case!

Judge Parker has written a letter to the Senator from North Carolina [Mr. OVERMAN], which was given to the press and reproduced in the RECORD. There was little in the letter which was not already known. But it is a conclusive bit of evidence that Judge Parker has not to this very day emerged from the misapprehension in which his Red Jacket decision is rooted. In his letter he cites in support of his opinion the case of Coppage *v.* Kansas (236 U. S. 1). Nothing can be clearer than that the case of Coppage against Kansas has no bearing whatever upon the question in the Red Jacket case. The Coppage case held invalid a statute making it a crime for an employer to exact from his employee a promise not to join a union. The case did not hold:

First. That a contract in which an employee promises not to join a union is valid.

The case did not hold:

Second. That such a contract confers upon the employer equitable rights.

The case did not hold:

Third. That an employer has any rights, legal or equitable, against third persons who induce a breach of such a contract.

But the Red Jacket case held all three.

There is a world of difference between the position taken in the Coppage case that a law which made the exaction of such a promise a crime is invalid, and the position taken in the Red Jacket case that such a promise is enforceable. When the court holds that such a statute is unconstitutional it takes the position that the Government should keep its hands off and should not interfere in the struggle to bring about or to prevent unionism. The court in the Red Jacket case took a position diametrically opposite—that the Government should interfere to prevent unionism by the strongest measures available. To cite the Coppage case in support of the Red Jacket decision is an incomprehensible piece of legal misunderstanding.

The same court which decided People *v.* Marcus (185 N. Y. 257), which is directly parallel to and in agreement with the Coppage case, also decided Interborough against Lavin, which is squarely in conflict with the Red Jacket case.

I believe I have sufficiently established that neither principle nor precedent justified the Red Jacket injunction.

Mr. President, I see a deep and fundamental consistency between Judge Parker's views of labor relations and his reported attitude toward the colored people of the United States. They both spring from a single trait of character. Judged by the available record, he is obviously incapable of viewing with sympathy the aspirations of those who are aiming for a higher and better place in the world. His sympathies naturally flow out to those who are already on top, and he has used the authority of his office and the influence of his opinion to keep them on top and to restrain the strivings of the others, whether they be an exploited economic group or a minority racial group. Otherwise, would it not be strange that the man whose Red Jacket opinion is defended as resulting from the constraint of a Supreme Court precedent should feel so lightly the restraints of the Constitution itself in his expressed views of the colored people?

In my State, I am happy to say, men and women participate fully and freely in every phase of democratic government and in every branch of the arts and sciences, without regard to race or creed or color.

From the contributions to its development by the negro as well as the white man the State of New York has grown to the position it holds to-day. We have never had cause to regret that in New York color does not determine the rights of citizenship or access to private opportunities. I am sure we never shall.

Judge Parker's reference to the colored race is, to my mind, an insufferable and unjustified affront to millions of American citizens.

Mr. President, Judge Parker's sympathies as reflected in the record are not mine. His attitudes I do not share. But more important than either of these, in my judgment, is that measured by the standards erected, Judge Parker is found wanting. He lacks the statecraft essential to the office which he seeks. Guided by my conscience in the exercise of the duty imposed by the Constitution, I must withhold from the President my consent to this nomination, and in imparting the advice required under the constitutional mandate I satisfy myself to quote once again from Chief Judge Cardozo that it would be well for the President to—

> * * * Know that the process of judging is a phase of a never-ending movement, and that something more is exacted of those who are to play their part in it than imitative reproduction, the lifeless repetition of a mechanical routine.

Mr. McKELLAR obtained the floor.

The VICE PRESIDENT. The Chair suggests that a quorum call is desired.

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	Cutting	Hatfield	Oddie
Ashurst	Deneen	Hawes	Overman
Baird	Dill	Hayden	Patterson
Bingham	Fess	Hebert	Phipps
Black	Frazier	Howell	Pine
Blaine	George	Johnson	Pittman
Blease	Gillett	Jones	Ransdell
Borah	Glass	Kean	Robinson, Ind.
Bratton	Glenn	Kendrick	Robsion, Ky.
Brock	Goldsborough	Keyes	Schall
Broussard	Greene	McCulloch	Sheppard
Capper	Hale	McKellar	Shipstead
Connally	Harris	McNary	Shortridge
Copeland	Harrison	Norris	Smoot
Couzens	Hastings	Nye	Steck

Steiwer	Thomas, Okla.	Wagner	Watson
Stephens	Townsend	Walcott	Wheeler
Sullivan	Trammell	Walsh, Mass.	
Swanson	Tydings	Walsh, Mont.	
Thomas, Idaho	Vandenberg	Waterman	

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

RECEPTION TO SENATOR ROBINSON OF ARKANSAS

Mr. WATSON (at 3 o'clock p. m.). Mr. President, we are informed, and we are all glad to know, that our honored colleague, Senator ROBINSON of Arkansas, has returned to the city and is now in the Vice President's room.

For four months he has been abroad, as the whole world understands, on a mission as a representative of this Government at an international conference. While there he represented his country with distinguished credit to himself and with singular honor to the Republic.

It occurs to me that his return should not pass unnoticed, but that we should accord him that hearty welcome which is in the heart of every Senator to give to him. In order that this may be done, I move that the Senate take a recess for as long a time as may be necessary for the reception, and suggest that the Vice President take his place in the area in front of the clerk's desk with our distinguished fellow Senator and colleague. I move, too, that a committee of two Senators be appointed to escort Senator ROBINSON to the Chamber.

Mr. WALSH of Montana. Mr. President, on behalf of my colleagues on this side of the Chamber I desire to express our appreciation of this very courteous move on the part of the Senator from Indiana [Mr. WATSON]. His action and his words are an eloquent evidence of the fact that whatever asperities may arise in the course of debate in this Chamber, they are all forgotten on an occasion of this character. Whatever diversity of views may obtain concerning the work of the conference at London there has been universal confidence in the sagacity and in the patriotism of the delegates from the United States, to whom this body contributed two of its most conspicuous Members.

I join in the motion of the Senator from Indiana.

The VICE PRESIDENT. The question is on the motion of the Senator from Indiana.

The motion was unanimously agreed to.

The VICE PRESIDENT. The Chair appoints the Senator from Mississippi [Mr. HARRISON] and the Senator from Oregon [Mr. MCNARY] to escort Senator ROBINSON to the Chamber.

The Senate being in recess,

Mr. ROBINSON of Arkansas, escorted by Mr. HARRISON and Mr. MCNARY, entered the Chamber and stood with the Vice President in the area in front of the Secretary's desk and greeted the Members of the Senate as they advanced to greet him.

The reception having ended at 3 o'clock and 15 minutes p. m., the Vice President resumed the chair and called the Senate to order.

NOMINATION OF JUDGE JOHN J. PARKER

The Senate in open executive session resumed the consideration of the nomination of John J. Parker, of North Carolina, to be an Associate Justice of the Supreme Court of the United States.

Mr. MCKELLAR. Mr. President, that Judge Parker is a man of high character no one will doubt. I do not know him, but those who do, in whom I have every confidence, speak most highly of him. However, after the most careful consideration and painstaking investigation of his record, I have concluded to vote against his confirmation for the following reasons:

I do not think as a lawyer and judge he measures up to the high standard that ought to obtain in the membership of the Supreme Court of the United States. I think his letter to the Senator from North Carolina [Mr. OVERMAN], published Monday, explanatory of his opinion in the Red Jacket case and of his former statement about colored people, fell far short of explaining either position.

I think his explanation of the decision in the Red Jacket case is puerile. If he had not believed that his decision was right at the time it was delivered and if he had simply followed the ruling of the Supreme Court in the Hitchman case, as this statement suggests, he would have so stated in the opinion itself and not at this belated day. His every expression in the Red Jacket decision shows his enthusiastic belief in the decision which he rendered. I would have respected him more if he had boldly stood by his decision in the Red Jacket case, saying simply that he believed then it was the law and the right, and still believed it to be so. The attempt to lay the alleged blame, if any, on the Supreme Court shows a weakness that, in my judgment, unfits him for a place on the Supreme Bench. If confirmed, no doubt, he will continue to follow some one else on the bench and would not be an independent thinker, as every Supreme Court judge should be. We ought not to confirm the nomination of a man who even might become a "me, too," judge.

Of course, his explanation about his statement in reference to colored people does not explain anything except possibly a willingness to make a statement which would tend to bring about his confirmation. I would have respected him more if he had stood by his guns or had remained silent on both matters.

His statement that he only followed the opinion of the Supreme Court in the Hitchman case shows two things: First, that his power of differentiating cases is not up to the standard; and, second, that he did not consider at all the Tri-City case, a later case decided by the Supreme Court, and one which was then before him, as he indicated in the opinion rendered by him by citing it.

He went far beyond the ruling in the Hitchman case and upheld an injunction against a peaceful request upon the part of one person to another to disregard an alleged contract of doubtful validity and to join a labor union.

Mr. President, in the use of the process of injunction the Red Jacket case went far beyond the Hitchman case, and therefore Judge Parker can not defend himself on the ground that he was following the Hitchman case.

I voted for the Clayton Antitrust Act, by which the Congress intended to correct, among other things, the holding of the majority of the Supreme Court that injunctions should be generously awarded in labor cases, even to upholding the "yellow-dog" contract. The court itself has always been divided on that question; it is still divided on it; the issue remains a live one in America. To put Judge Parker on the Supreme Court now would make our task of correcting this injustice but the harder. The "yellow-dog" contract is unconscionable, and it is doubtful if any court should have ever upheld it. In order to vote for Judge Parker's confirmation I would have to vote to reverse my former position on the question of the issue of injunctions in labor cases.

Mr. President, I want to call the attention of the Senate to section 20 of the act known as the Clayton Antitrust Act:

SEC. 20. That no restraining order or injunction shall be granted by any court of the United States, or a judge or the judges thereof, in any case between an employer and employees, or between employers and employees, or between employees, or between persons employed and persons seeking employment, involving, or growing out of, a dispute concerning terms or conditions of employment, unless necessary to prevent irreparable injury to property, or to a property right, of the party making the application, for which injury there is no adequate remedy at law, and such property or property right must be described with particularity in the application, which must be in writing and sworn to by the applicant or by his agent or attorney.

I call especial attention to this language:

And no such restraining order or injunction shall prohibit any person or persons, whether singly or in concert, from terminating any relation of employment, or from ceasing to perform any work or labor, or from recommending, advising, or persuading others by peaceful means so to do; or from attending at any place where any such person or persons may lawfully be, for the purpose of peacefully obtaining or communicating information, or from peacefully persuading any person to work or to abstain from working; or from ceasing to patronize or to employ any party to such dispute, or from recommending, advising, or persuading others by peaceful and lawful means so to do; or from paying or giving to, or withholding from, any person engaged in such dispute, any strike benefits or other moneys or things of value; or from peacefully assembling in a lawful manner, and for lawful purposes; or from doing any act or thing which might lawfully be done in the absence of such dispute by any party thereto; nor shall any of the acts specified in this paragraph be considered or held to be violations of any law of the United States.

Mr. President, when that law was passed in 1914 by an overwhelming majority, as I remember, on both sides of the House of Representatives, of which I was then a Member, and also by an overwhelming majority in the Senate, the Congress believed in the principles that were there laid down. What happened to them? I believe the first time the question came before the court was in the Duplex Printing Co. against Deering, in Two hundred and fifty-fourth United States Reports. At that time the act was not declared unconstitutional, but was virtually emasculated.

Mr. President, to my mind, the principles enunciated in that act were so fair and so just to the employees and to the employers alike that it ought to have been upheld in toto; but, as has been stated here, it was chiseled down, and a great many people think that it was held unconstitutional. It was not held unconstitutional, but under such judges as Judge Parker it has virtually been made nugatory, and he made it nugatory in the Red Jacket case and, to my mind, without any warrant.

I wish to speak for a moment regarding the three cases which are of prime importance in this controversy. From the Hitchman case I want to read the words of the injunction.

In that case the defendants were enjoined—

From interfering or attempting to interfere with plaintiff's employees so as knowingly and willfully to bring about the breaking by plaintiff's employees, present and future, of their contracts of service, known to the defendants to exist, and especially from knowingly and willfully enticing such employees, present or future, to leave plaintiff's service without plaintiff's consent.

Judge Parker upheld an injunction restraining the defendants—I quote the words of the injunction—

From inciting, inducing, or persuading the employees of plaintiffs to break their contract of employment with the plaintiffs—

Going, as will readily be seen from the language used, far beyond the terms of the injunction which was issued in the Hitchman case.

Judge Parker cited the Hitchman case in his opinion and said—and I again quote from his decision—that the Supreme Court in that case—

Also enjoined interference with the contract by means of peaceful persuasion. The doctrine of that case has been approved by the Supreme Court in later cases of American Steel Foundries *v.* the Tri-City Central Trades Council, 257 U. S. 184.

Of course, Mr. President, his decision shows that Judge Parker had read, or he is supposed to have read, the Tri-City Central Trades Council case, in which case Chief Justice Taft delivered the opinion of the court. I want to show how utterly at variance the decision of Chief Justice Taft in that case is with the opinion of Judge Parker in the Red Jacket case. There is not the remotest connection between the principles enunciated by the Chief Justice of the United States Supreme Court, Mr. Taft, and the principles announced in the Red Jacket case. I quote from Chief Justice Taft's opinion as follows:

Is interference of a labor organization by persuasion and appeal to induce a strike against low wages under such circumstances without lawful excuse and malicious? We think not. Labor unions are recognized by the Clayton Act as legal when instituted for mutual help and lawfully carrying out their legitimate objects. They have long been thus recognized by the courts. They were organized out of the necessities of the situation.

A single employee was helpless in dealing with an employer. He was dependent ordinarily on his daily wage for the maintenance of himself and family. If the employer refused to pay him the wages that he thought fair, he was nevertheless unable to leave the employ and to resist arbitrary and unfair treatment. Union was essential to give laborers opportunity to deal on equality with their employer. They united to exert influence upon him and to leave him in a body in order by this inconvenience to induce him to make better terms with them. They were withholding their labor of economic value to make him pay what they thought it was worth. The right to combine for such a lawful purpose has in many years not been denied by any court. * * * It is impossible to hold such persuasion and propaganda without more, to be without excuse and malicious. * * * The elements essential to sustain actions for persuading employees to leave an employer are first, the malice or absence of lawful excuse, and, second, the actual injury. (American Foundries *v.* Tri-City Council, 257 U. S. 209, 210.)

That is read from Mr. Taft's opinion in a later case that Judge Parker cited, and did not follow; and yet he tries to put the blame, if any blame there be, for his decision upon the Supreme Court. As I said before, I should have had a great deal more admiration for him and a great deal more respect for him if he had boldly said, "I believed that that opinion was right; I believed it was the law, and I stand by it." He does not say anything like that, however. He excuses it in his letter of last Monday.

The statement by Mr. Taft says:

The principle followed in the Hitchman case can not be invoked here.

And, after describing what that case held, Judge Taft further said:

This court held that the purpose [in the Hitchman case] was not lawful, and that the means were not lawful, and that the defendants were thus engaged in an unlawful conspiracy which should be enjoined. The unlawful and deceitful means used were quite enough to sustain the decision of the court without more.

Mr. President, it will thus be seen that if Judge Parker had simply followed the ruling of the Supreme Court he would have followed the Tri-City Trade Council case, and he would not have followed the Hitchman case. Why? Because the Hitchman case was decided in 1917. The Tri-City case was decided in 1925. It was the latest enunciation from the Supreme Court on that subject; and if Judge Parker had just been following the Supreme Court decision, of course he should have followed the last decision.

Judge Parker enjoined interference with the contract by means of lawful persuasion, when the last case of the Supreme Court, then before him, plainly held that this could not be done. So, in his present position, Judge Parker is in this dilemma: He must of necessity stand on his decision as right under the holding of the Supreme Court in the Hitchman case, or he must admit that he did not understand the differentiation of that case as made by Chief Justice Taft, or that he did not follow the latest decision of the Supreme Court, but elected to follow a prior one.

The truth is, in my judgment, that Judge Parker believed that the law as laid down by the Supreme Court in the Hitchman case was right, and so strongly did he believe it that he extended it by making the injunction apply to interference with the contract by peaceful persuasion; and he did this without regard to the expressed opinion of an almost unanimous decision of the Supreme Court, delivered by Chief Justice Taft in the Tri-City Trade Council case.

In order that lawyers may examine these three cases which I think are conclusive against Judge Parker, I will give the style and dates of the cases:

Hitchman Coal & Coke Co. *v.* Mitchell (245 U. S. 229), decided at the October term of court, 1917, with Justices Brandeis, Holmes, and Clarke dissenting.

American Foundries *v.* Tri-City Council (257 U. S. 184), decided at the October term of court, 1921, in an opinion by Mr. Chief Justice Taft, with only Mr. Justice Clarke dissenting.

International Organization, etc., *v.* Red Jacket C. C. & C. Co. (18 Fed. Rept. 839), decided by Judge Parker on April 18, 1927.

Mr. President, while I wholly disagree with the opinion of Mr. Justice Sutherland in the case of United Railway & Electric Co. against West, decided on January 6, 1930, I desire here to call attention to Mr. Justice Sutherland's reasoning in that case as to how decisions of the Supreme Court should be followed. I quote from his opinion:

What is a fair return on property donated to a public purpose within this principle can not be settled by invoking decisions of this court made years ago based upon conditions radically different from those which prevail to-day. The problem is one to be tested primarily by present-day conditions. Annual returns upon capital and enterprise, like wages of employees, cost of maintenance, and related expenses, have materially increased the country over. This is common knowledge. A rate of return upon capital invested in street-railway lines and other public utilities which might have been proper a few years ago no longer furnishes a safe criterion either for the present or the future.

As I said, I do not agree with the result of the decision in that case, but I do commend the reasoning of Mr. Justice Sutherland that lawsuits should all be settled upon present-day conditions, and that a judge should be wholly independent, and should pass upon every case under present conditions, looking to the present and to the future rather than to the musty conditions of the past.

In the same way, perhaps to a greater extent, have conditions recently changed in regard to labor laws. A few years ago labor was a commodity. This status of labor was abolished by the Congress. A few years ago there was no collective bargaining. Now, according to Mr. Chief Justice Taft, the right to combine for such a lawful purpose has not been denied by any court for many years. Collective bargaining is no longer a theory, but it is a principle acquiesced in by substantially all fair-minded men.

If Judge Parker had been an independent thinker, a judge who worked out his own opinions, who thought for himself, who had convictions, he, like Mr. Justice Sutherland, would have applied his knowledge of changed conditions to present-day facts and would not have blindly followed a decision made 13 years ago upon different facts and by a divided court. To my mind it would be an anomalous thing to put on the Supreme Court of the United States a man with views like that.

I desire here to quote from a letter from a constituent, a distinguished lawyer, a brilliant young lawyer of Chattanooga, Tenn., and I think I can indorse every word he says on the question of an appointment of this kind. I read from that letter:

To my mind, it is vital to the welfare and peaceful progress of our Nation that men raised to the dignity of membership on our highest court should be men whose eyes are fixed, not upon the past but upon the present and future, and who are capable of realizing that the law is not a dead, stagnant, static thing, but lives and grows and develops

with the life and growth of human kind; that property rights, however sacred, are of but trivial importance compared to the basic human rights of life, liberty, and the pursuit of happiness; and that broad questions of public policy are not to be determined in the light of precedents established a half-century ago, or a decade ago, or even a day ago, if, in the light of changing conditions and the development of our complex system of civilization, circumstances arise which impel the declaration, definition, and application of another and newer policy more deserving to be called public than an outworn precedent which might have served in a bygone day.

Mr. President, this is the policy that should animate the breast of every thoughtful and patriotic judge on every court.

On yesterday we listened to a very learned speech by the distinguished senior Senator from Ohio [Mr. FESS]. In his argument, my distinguished friend and my beloved friend—for I am very devoted to the senior Senator from Ohio—said, as I understood him, that anyone who votes against Judge Parker is voting against the Supreme Court of the United States.

To my mind, that was one of the most astounding statements I have heard for a long time. His statement is certainly unfounded so far as I am concerned. I yield to none in my belief in the Supreme Court of the United States. I think it is the greatest court in all the world. At times I differ strongly from the decisions of that court. I sometimes differ strongly from the individual economic opinions of the members of that court; but for the court itself I have the greatest respect and the greatest admiration and the greatest esteem. The members of that court are all honest men, in the highest degree honest men, and men of the greatest ability. Instead of the vote that I am going to cast against Judge Parker being against the Supreme Court, as I regard it, my vote is to uphold our confidence in and respect for that court. In confirming a member of that court, the Senate of the United States performs probably its most important function; and, in my judgment, we can not be too careful about the men we confirm to that court.

I am one of those old fogies who believe, especially in making appointments to the Supreme Court of the United States, that the literal words of the Constitution should be obeyed by the President, in that he should advise with the Senate before he makes appointments to that court. Certainly he should advise with the members of the Judiciary Committee of the Senate before he makes appointments to that court, and probably before he makes appointments to the membership of any court. Instead of a vote against Judge Parker being an attack upon that court, in my judgment it is in this case a defense of the court; for no Senator would vote against a nominee to that court except for the most cogent of reasons.

Mr. President, one other word and I am through.

I regret that my esteemed friend, the senior Senator from Ohio [Mr. FESS], on yesterday undertook to inject politics into this matter. A Supreme Court judge ought not to be selected because of politics in the first instance, and he ought not to be confirmed for political reasons; but I am not so sure that politics has not crept into this matter.

I desire to read to the Senate at this time a letter which I find in Mr. Parker's record as it appears in the Judiciary Committee.

The letter is from the First Assistant Secretary of the Interior, Hon. Joseph M. Dixon, who formerly was a Member of this body. It is addressed to Hon. Walter H. Newton, the White House. It is dated March 13, 1930, and this is what it says:

MY DEAR MR. NEWTON: I speak as a native-born North Carolina Republican.

North Carolina gave President Hoover 65,000 majority. In my judgment it carries more hope of future permanent alignment with the Republican Party than any other of the Southern States that broke from their political moorings last year.

If the exigencies of the situation permit, I believe the naming of Judge Parker to the Supreme Court would be a major political stroke.

Mr. WALSH of Massachusetts. What is the date of that letter?

Mr. McKELLAR. March 13, 1930. I continue reading:

North Carolina has had no outstanding recognition by the administration. The naming of Judge Parker at this time would appeal mightily to State pride. It would be the first distinctive major appointment made from the South. It would go a long way toward satisfying the unquestioned feeling that the administration has not yet recognized the political revolution of 1928.

Everyone tells me that Judge Parker is a man of fine personality, who has made a most enviable record, both in private practice and as a member of the Federal circuit court. By education and legal training he should measure up to the position. There would be no apology necessary. He is a Phi Beta Kappa graduate of the University of North Carolina. The fact that he is 45 years old, and has not yet reached the senile stage, would give a distinct flavor in the matter of a Supreme Court appointment.

Mr. WALSH of Massachusetts. Has the Senator finished?

Mr. McKELLAR. Not yet. I stop here long enough to ask who is attacking the Supreme Court? I read that again:

The fact that he is 45 years old, and has not yet reached the senile stage, would give a distinct flavor in the matter of a Supreme Court appointment.

I may be prejudiced on account of my knowledge and sympathy for the North Carolina Republicans who have borne the banner, in season and out, under tremendous discouragement. I believe Judge Parker's appointment would be a master political stroke at this time.

If in the midst of overwhelming demands upon your time and his these considerations could be presented to President Hoover, I believe they are worthy of serious thought.

Yours very sincerely,

JOS. M. DIXON.

Mr. President, I have read that letter, not for the purpose of indicating that this is a political appointment—I do not know—but in view of that letter being here in the files as one of the reasons why Mr. Parker's name has been sent to this body, it seems to me that it comes with ill grace from those who are supporting Judge Parker to talk about political considerations.

Mr. WALSH of Massachusetts. Mr. President, will the Senator yield now?

Mr. McKELLAR. I will in just a moment. I want to say that so far as I am concerned I do not think any Senator ought to vote to confirm or to reject such a nomination because of political reasons. I think a man ought to be either confirmed or rejected because of his great worth and legal attainments, considering whether he will adorn the bench, whether he will make the same kind of a wonderful judge that those who have gone before him have made.

I think we ought to eschew politics, and if I know anything about the Senate, we are eschewing politics. I want to concede frankly to those who have a different view from mine the highest and noblest purposes, and I am not questioning anybody's purpose, but I just felt that, inasmuch as the question of politics had been raised, the facts as disclosed by the record ought to be made known.

Now I yield to the Senator from Massachusetts.

Mr. WALSH of Massachusetts. Mr. President, I understood the Senator to state that the date of that letter was March 13.

Mr. McKELLAR. March 13, 1930.

Mr. WALSH of Massachusetts. On what date did Judge Sanford die?

Mr. McKELLAR. I do not remember.

Mr. WALSH of Massachusetts. The letter must have been dated shortly after his death.

Mr. McKELLAR. Yes; and it must have been shortly before the appointment.

Mr. WALSH of Massachusetts. Is this Mr. Dixon a resident of North Carolina?

Mr. McKELLAR. No. According to this letter, Mr. Dixon was born in North Carolina, and then he moved to Montana, I believe.

Mr. WALSH of Massachusetts. Was he the Republican candidate for Senator from the State of Montana in the election against Senator WHEELER, of Montana?

Mr. McKELLAR. Yes; I think he is the same man. The junior Senator from Montana [Mr. WHEELER] is here, and can speak for himself.

Mr. WHEELER. That is correct.

Mr. WALSH of Massachusetts. He is now Assistant Secretary of the Interior?

Mr. McKELLAR. Assistant Secretary of the Interior.

Mr. WALSH of Massachusetts. I think the Senator has rendered a distinct service. The colleague of the Senator from Tennessee informs me that Judge Sanford died on March 7 and the resolution of sympathy was presented in the Senate on March 10.

Mr. McKELLAR. It was about that time. I remember I was in Memphis, Tenn., at the time, and I was in Memphis on the 8th.

Mr. WALSH of Massachusetts. This letter was apparently written immediately after the burial.

Mr. McKELLAR. I want to say that I do not know that that letter influenced the President at all. I do not mean to make any charge about it. I merely say that the letter is here in the record and speaks for itself. It is one of the letters upon which the appointment was made.

Mr. WALSH of Massachusetts. The letter makes an appeal on partisan grounds for the appointment of a man to the United States Supreme Court?

Mr. McKELLAR. Yes.

Mr. WALSH of Massachusetts. Let me ask another question. It has been intimated around the Chamber, rather privately, that Senators have received telegrams from Republican organizations in the South urging them to support this nomination, on the ground of the benefit it would be not to the United States Supreme Court but the political benefit it would be to the Republican Party in North Carolina and in the South generally. Has the Senator any information as to that?

Mr. McKELLAR. No; I have not. I want to say that I do not know that I have received any such telegrams.

Mr. WALSH of Massachusetts. I will state for the RECORD that I have seen such a telegram.

Mr. OVERMAN. Mr. President, if the Senator will yield to me, I would like to inquire about this letter. It was dated on the 13th, long before the subcommittee was appointed, and this document was not before the subcommittee.

Mr. McKELLAR. It is a part of the record which the Judiciary Committee had before it in the consideration of Judge Parker's nomination.

Mr. OVERMAN. I say it was not before our subcommittee. I do not know how it got into the record.

Mr. McKELLAR. It may not have been before the Senator's subcommittee, but undoubtedly it was a part of the record before the Committee on the Judiciary.

Mr. OVERMAN. But it was not before my subcommittee.

Mr. McKELLAR. I merely say it is a part of the record now. I found it in the record.

Mr. OVERMAN. It is probably a letter addressed to the President urging him to appoint Judge Parker rather than a letter recommending that he be confirmed.

Mr. McKELLAR. It is addressed to Mr. Walter H. Newton.

Mr. OVERMAN. That is for the purpose of having the appointment made.

Mr. McKELLAR. I suppose so.

Mr. OVERMAN. It was not before our committee at all.

Mr. FESS. Mr. President——

The PRESIDING OFFICER (Mr. JOHNSON in the chair). Does the Senator from Tennessee yield to the Senator from Ohio?

Mr. McKELLAR. I yield.

Mr. FESS. I am glad to have the Senator say that he would not assert that this appointment was a political one, as might be indicated by that letter.

Mr. McKELLAR. The only knowledge I have about it is the letter itself, and in view of the charge of political bias on the part of Senators, and especially of bias on the part of some Senators on this side of the aisle, I thought it my duty to lay the matter before the Senate in the way I have.

Mr. FESS. If the Senator will permit, Mr. Dixon has been rather an active figure politically in the West, and I do not know what his motive might be in writing to Mr. Newton.

Mr. McKELLAR. I could not enlighten the Senator.

Mr. FESS. I do know this, and I think the Senator will admit it, that appointments to the Supreme Court in recent years have not been put on a political basis. If the Senator will recall, in the earlier times they always were put on a political basis.

Mr. McKELLAR. It has been quite frequently done, and I am afraid is too often done as it is.

Mr. FESS. Would the Senator permit me to read a statement from President Buchanan? It is a very significant statement.

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

Mr. McKELLAR. I yield for that purpose if it is not too long.

Mr. FESS. On July 18, 1857, President Buchanan wrote this statement:

> No Whig President has ever appointed a Democratic judge of the Supreme Court, nor has a Democratic President ever appointed a Whig, and yet the remark has been general that the Democrats appointed to this bench, from the very nature of the constitution of the court, have always leaned to the side of power, and to such a construction of the Constitution as would extend the powers of the Federal Government.

He was criticizing a decision which had been made by Mr. Taney.

Mr. McKELLAR. As I remember, there were only two Whig administrations. One was that of Zachary Taylor and Fillmore together, and the other was about 30 days of the first President Harrison, which could not be called a term of office.

Mr. FESS. On the other hand, the Senator recognizes that recent Presidents—I am not sure about President Wilson—including Harding, especially Harding, appointed Democrats to the Supreme Court, and I know that that was the attitude also of President Coolidge and of President Hoover. It shows the breadth of view of the President in the matter of appointments to the Supreme Court.

Mr. McKELLAR. I think uniformly during a long period of Republican administrations the court has been kept about two-thirds Republican.

Mr. FESS. I think it has been Republican.

Mr. McKELLAR. About 6 Republicans to 3 Democrats, if I remember correctly, and sometimes as few as 2 Democrats. I am not complaining of that. I am not making any charges.

Mr. FESS. Would the Senator permit me just one more word?

Mr. McKELLAR. Certainly.

Mr. FESS. I do not know to what portion of what I said yesterday the Senator referred when he said I made the charge that the opposition to this appointment was political. I have not so regarded it at all. My charge was that it was a socialistic move. I do not mean that every Senator who votes against Parker believes in socialism; I do not believe that at all. I mean that the recent opposition to the Supreme Court has in its origin a socialistic interest, a complaint that we do not sufficiently socialize our decisions from the court. That is what I meant. I did not mean that it was political.

Mr. McKELLAR. As I understood the Senator yesterday—I looked for his remarks in the RECORD to-day, but they have not been printed——

Mr. FESS. Yes; they have been printed.

Mr. McKELLAR. I did not find them in the RECORD; I must have looked at the wrong RECORD. My distinct recollection was that the Senator referred to Senators on this side of the aisle——

Mr. FESS. No; I think not.

Mr. McKELLAR. We will get the RECORD and see.

Mr. FESS. I did not mean to.

Mr. McKELLAR. The RECORD will speak for itself.

Mr. WALSH of Montana. Mr. President, will the Senator yield to me?

Mr. McKELLAR. I yield.

Mr. WALSH of Montana. I would like to have a little explanation from the Senator from Ohio as to what he means by the recent attack on the Supreme Court.

Mr. FESS. I mean the criticism that has been running through the press and the criticism that has been prevalent for some years, the expression of dissatisfaction with the attitude of the Supreme Court in giving greater consideration to property than to human rights. I hear that frequently, and I have heard it for 20 years. That is what I mean.

Mr. WALSH of Montana. I am very glad to get the explanation. I supposed the Senator referred to something that transpired in this Chamber.

Mr. FESS. No.

Mr. WALSH of Montana. Does the Senator think the press ought not to express its views concerning the Supreme Court?

Mr. FESS. Oh, no; I believe in freedom of the press absolutely.

Mr. OVERMAN. Mr. President, I would like to inquire further about this letter. I do not see how it got into the files of the Judiciary Committee.

Mr. McKELLAR. I have the file here in my hand and will be glad to show it to the Senator.

Mr. OVERMAN. I do not want to see the file. I know how the letter was addressed, but how it got in our files I can not understand.

Mr. McKELLAR. I will give the Senator the memorandum which appears on it. The first memorandum is "Office of the Attorney General; received March 20, 1930." Then down below is a memorandum, "Respectfully referred for consideration. Lawrence Richey, Secretary to the President." It was sent by the President's Secretary to the Attorney General, and the Attorney General sent it to the committee with other documents.

Mr. OVERMAN. That may have been the case, but I know it was not before my subcommittee. It contained a recommendation for the appointment of Judge Parker, and not for his confirmation; but it was never before our subcommittee.

Mr. McKELLAR. I understand it was before the committee, but whether it was specifically called to the attention of the various members of the committee I can not say.

Mr. WALSH of Montana. Mr. President, will the Senator yield?

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

Mr. McKELLAR. Certainly.

Mr. WALSH of Montana. I would like to ask the Senator from North Carolina if the file in which this letter appears was before the subcommittee?

Mr. OVERMAN. Oh, no.

Mr. WALSH of Montana. The Senator from Tennessee has the file.

Mr. OVERMAN. That is the matter about which I want to inquire. It was sent down by the Attorney General and was never before our subcommittee.

Mr. WALSH of Montana. Was the file which the Senator from Tennessee has in his hand before the committee?

Mr. OVERMAN. Oh, no. We did not look into that file at all.

Mr. McKELLAR. On the first page of the file is this indorsement:

List of indorsers of Hon. John J. Parker, Charlotte, N. C., for position of Justice of the Supreme Court.

Then appear the names of a great many men, starting out with Arthur C. Denison, United States circuit judge, Cincinnati, Ohio, and the date of his letter is March 13, 1930. Then it goes right on down through the list.

Mr. OVERMAN. I understand it now.

Mr. McKELLAR. I find the name of Joseph M. Dixon.

Mr. WALSH of Montana. Mr. President, may I inquire where the Senator from Tennessee got the file?

Mr. McKELLAR. I got it from the desk of the chairman of the Judiciary Committee, the Hon. GEORGE W. NORRIS, Senator from Nebraska. It has been on his desk, I understand, for some little time.

Mr. OVERMAN. I am not contradicting the statement at all. I just wanted the facts. I know that the file was not before our subcommittee. I am not criticizing anybody in the least.

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

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

Mr. McKELLAR. I brought the Senator's name into the discussion, so I will have to yield to him. I have just read the letter from Joseph M. Dixon.

Mr. NORRIS. Is there any question about it?

Mr. OVERMAN. None at all; but it was not before our subcommittee.

Mr. NORRIS. I do not know that it was before the subcommittee. The file which I had here on my desk, which I showed to the Senator from Tennessee and will show to any Senator, contains, as I understand it, all of the recommendations that were made in this case. That is a common thing to be done. Sometimes they are sent to the Senate.

Mr. OVERMAN. That is the reason why I inquired about it. We went into the matter and held hearings; we called witnesses; but we did not look at the files at all, and I did not know whether there were any files there.

Mr. NORRIS. I do not think it was before the subcommittee. I suppose it came to me because I happened to be chairman of the Committee on the Judiciary.

Mr. McKELLAR. I presume the Senator from Nebraska would be willing to say that when it came into my hands it came there in a perfectly regular and proper way?

Mr. OVERMAN. Oh, I have never criticized anyone in that respect at all.

Mr. NORRIS. It is perfectly proper that it should be in the hands of any Senator, and that any Senator may read everything there is in it.

Mr. McKELLAR. Mr. President, it is remarkable how men look upon this nomination. One of the most distinguished lawyers in Chattanooga, Tenn., is Judge J. J. Lynch. I received a letter from him dated the 16th of April, as I recall it, very much in favor of Judge Parker's confirmation. Three days later I received a letter from his son and partner, Carter J. Lynch, one of the ablest and best-equipped young lawyers in our State, with an argument against the confirmation of Judge Parker. I am not going to read the letter. I read an excerpt from it a while ago. I merely want to say that I think it is as strong an argument as I have read, and I ask unanimous consent that it be printed in the RECORD as a part of my remarks. I hope that Senators will read the letter in the RECORD.

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

The letter is as follows:

CHATTANOOGA, TENN., *April 19, 1930.*

Hon. K. D. McKELLAR,

Senate Office Building, Washington, D. C.

MY DEAR SENATOR: While my father and I are thoroughly in accord on most things, I am unable to agree with his views on the confirmation of Judge Parker, as expressed in his letter of the 15th to you.

In view of my father's incomparably superior legal ability, his thorough familiarity with the subject, and his long experience in litigation involving labor disputes, I hesitate to express any view contrary to his. Nevertheless, the matter is of such far-reaching importance, in my judgment, as not only to justify but to impel this letter of protest.

To my mind it is vital to the welfare and peaceful progress of our Nation that men raised to the dignity of membership in our highest court should be men whose eyes are fixed not upon the past but upon the present and future, and who are capable of realizing that the law is not a dead, stagnant, static thing, but lives and grows and develops with the life and growth of humankind; that property rights, however sacred, are of but trivial importance compared to the basic human rights of life, liberty, and the pursuit of happiness; and that broad questions of public policy are not to be determined in the light of precedents established a half a century ago, or a decade ago, or even a day ago, if, in the light of changing events and the development of our complex system of civilization, circumstances arise which impel the declaration, definition, and application of another and newer policy, more deserving to be called "public" than an outworn precedent which might have served in a bygone day.

My father in his letter takes the position that Judge Parker ought not be refused confirmation on account of his decision in the case of International Organization United Mine Workers of America *v.* Red Jacket Consolidated Coal Co. (18 Fed. (2d) 839), because in deciding that case Judge Parker simply followed earlier decisions of the Supreme Court of the United States, which, as a judge of an inferior tribunal, he was obliged to do. There are two answers to this:

1. Judge Parker did a great deal more than follow the decision of the Supreme Court of the United States sustaining the sacredness and inviolability of "yellog dog" contracts. If he had simply followed, through compulsion, the Supreme Court's decision, he could and should have said so, and could and should have said that although he did not agree with this decision he was obliged to follow it. He did nothing of the sort. On the contrary, he wrote an opinion in which he expressed entire accord with every material contention made in behalf of the coal company, except the utterly absurd contention that the very existence of the union was unlawful. In his opinion he went to the very uttermost limit authorized by the most reactionary opinion ever written by the Supreme Court (and I have in mind especially the case of Hitchman Coal & Coke Co. v. Mitchell, 245 U. S. 229, in protecting and safeguarding the sacred contractual and property rights of the coal company and curtailing, restricting, and taking away the rights of free speech and the free prosecution of a lawful enterprise by peaceful means on the part of the union.

It is true that the union men were not confining themselves to the use of peaceful persuasion to accomplish the unionization of the mines, and in so far as they resorted to violence and bloodshed their action ought not to be condoned. The fact remains that the injunction sustained by Judge Parker in terms prohibited them from using even peaceful persuasion to accomplish their purpose.

My father refers to a number of Tennessee cases in which mining operators were granted injunctions apparently fully as broad and sweeping as the one sustained by Judge Parker. In those cases, however, the contracts between the operators and miners differed materially from those involved in Judge Parker's case. The Tennessee cases involved employment contracts in ordinary form, whereby the operator was bound to give employment *for a definite period*, and at a stated rate of pay, and the miner in turn was bound to work for that rate of pay *during that definite period*. The Tennessee courts held that during the period for which the contracts were to run, no person would be permitted to induce their breach by any means whatsoever. In Judge Parker's case, on the other hand, the contracts were for no definite period, so that as a matter of law they were terminable at will; and it was not the employment contracts *as such* which Judge Parker sustained, but the wholly independent stipulation that the miners must not join the union. Where was the consideration to support such a stipulation? The miner's agreement to work constituted full and ample consideration for the operator's agreement to give him work. The work which the miner was to do was full and ample consideration, to say the least, for the wages paid him by the operator. What right, then, had the operator to insist upon this additional stipulation for which he paid nothing and for which the miner got nothing?

It has been said (and said by some very able judges) that if a union dealing with a mine operator or other employer has a right to insist upon a stipulation that none but union men shall be employed, then the employer has a correlative right in dealing with individual employees to insist that they remain out of the union while in his employ. Among the many bases upon which the two situations can be distinguished, the principal and fundamental one is this:

That dealings between employers and unions are dealings between parties on an equal footing, where the power of the employer to give or refuse employment is matched by the power of the union to give or refuse the necessary supply of labor. Can there be any comparison between this situation and that in which a single workman, dealing in his own behalf and without power to control the supply of labor, or control anything except his own willingness to work, seeks employment

from one who has the absolute power to give or refuse the work that means food in the bellies of his children? Isn't it rather fantastic to talk of freedom of contract when we see on the one hand a poor, grimy, ignorant miner with a brood of hungry kids at home, and on the other a mine operator who, with the power to say whether the miner and his wife and babies shall eat or not—in effect, the power of life and death over the man and his family—says: "I will give you work and pay you enough to sustain life after a fashion, but I will do so only on condition that you forfeit your right to join an organization through which you might be able to deal on equal terms with me"?

In the case of American Foundries *v.* Tri-City C. T. Council (257 U. S. 184–209) Chief Justice Taft had this to say with reference to labor unions:

"They were organized out of the necessities of the situation. A single employee was helpless in dealing with an employer. He was dependent ordinarily on his daily wage for the maintenance of himself and family. If the employer refused to pay him the wages that he thought fair, he was nevertheless unable to leave the employ and to resist arbitrary and unfair treatment. Union was essential to give laborers opportunity to deal on equality with their employer."

To my amazement I found this language quoted by Judge Parker in his opinion in International Organization United Mine Workers of America against Red Jacket C. & C. Co., above referred to. Apparently Judge Parker must have quoted this language without reading, or at least without grasping its purport and effect, for his decision went as far as he could possibly have gone on the record in the case to nullify the right of laborers to unionize. His decision left them with no more than the bare right, if they had any, to join a union, and stripped them of everything, including the right of peaceful persuasion, which would enable them to extend the union's scope of influence and make its work effective for the protection of its members.

Freedom of contract should be maintained. The alternative is anarchy. If contracts are not to be respected by those who make them and enforced by the courts against those who would evade them, the imagination falters in an attempt to picture the consequences. But when freedom of contract is made a shield and a screen to cover and protect oppression, then I say that the very same public policy which impels the enforcement of contracts should step in and circumscribe the right of contract within such limits as will prevent its abuse.

There is nothing revolutionary in this suggestion. The legislatures of the various States of this Union have passed laws prohibiting usury, and under these laws a contract, though made between persons sui juris, can not be enforced if by its terms it provides for the payment of a higher interest rate than that fixed by law. These laws are neither more nor less than a legislative declaration of a public policy whereby a necessitous debtor and his family are protected against the rapacity and greed of those holding the power to give or deny the money that means life and sustenance.

It is quite probable that in the present state of the law, as declared by the United States Supreme Court and enthusiastically followed by Judge Parker and other Federal judges of the same reactionary type, a workman's only hope of relief is in the passage by Congress of an act based upon the soundest considerations of a forward-looking and progressive public policy, whereby no Federal court shall be permitted to give injunctive relief to enforce and protect any stipulation in any employment contract by which an employer binds an employee not to affiliate himself with any union or other organization.

Meantime, it seems to me that every possible effort should be made to refuse membership to men who, however upright, however learned in the law, however worthy otherwise they may be, have demonstrated that their minds are molded in the cast of conservatism, inflexibly and unalterably and beyond hope of adjustment to "the awakening forces of a new day and the compulsion of changing circumstances."

2. As I have stated, it is not true that Judge Parker simply did that which he was compelled to do by the earlier decisions of the Supreme Court. His opinion in the case under consideration shows not only that he went to the very utmost limit of the law as announced by the Supreme Court in granting "relief" to the coal company but, moreover, that he stretched the law to the breaking point *in order to sustain the jurisdiction of the district court and his own court.*

The coal companies had invoked Federal jurisdiction upon the ground that the defendants were engaged in an unlawful conspiracy in restraint of interstate trade and commerce. The proof showed, and Judge Parker in his opinion said, that the actual purpose of the defendants was *"to force unionization of the West Virginia mines,"* but a few paragraphs farther on in his opinion Judge Parker held that solely because of the large production of the mines involved, and the fact that the greater part of this product moved in interstate commerce "it is therefore clear that the purpose of defendants in interfering with production was to stop the shipments in interstate commerce." In so holding he refused to follow, and undertook to distinguish, the decision of Chief Justice Taft in United Mine Workers *v.* Coronado Coal Co. (259 U. S. 344), in which Judge Taft had specifically held that proof of the intent to stop production of coal in a mine or mines did not establish a conspiracy in restraint of interstate commerce, even though the greater part of the product of the mines moved in interstate commerce. He brushed aside the case of United Leather Workers *v.* Herkert (265 U. S. 457), in which Judge Taft had further discussed, followed, and applied the Coronado decision, and he wholly misconstrued the purport and effect of Judge Taft's second opinion in the Coronado case (268 U. S. 295) and undertook to apply and base his ruling upon cases clearly and easily distinguishable from the case before him.

In the first Coronado case, which Judge Parker declined to follow, the Supreme Court of the United States announced in very clear terms (a) that coal mining is not interstate commerce and the power of Congress does not extend to its regulation as such; (b) that the fact that coal, when mined, has to move in interstate commerce, does not make its production a part thereof; and (c) that "obstruction to coal mining is not a direct obstruction to interstate commerce in coal, although, of course, it may affect it by reducing the amount of coal to be carried in that commerce."

Further, the court said in that case:

"And so, in the case at bar, coal mining is not interstate commerce, and obstruction of coal mining, though it may prevent coal from going into interstate commerce, is not a restraint of that commerce unless the obstruction to mining is *intended to restrain commerce* in it, or has necessarily such a direct, material, and substantial effect to restrain it that the *intent reasonably must be inferred.*"

The clear and obvious meaning of the language thus used, and of Judge Taft's opinion as a whole, is that the determinative question is that of *intent* to interfere with interstate commerce, and that the mere fact that some interference with interstate commerce results from the acts done is not determinative unless: (a) The intent is proved; or (b) the interference with interstate commerce is such a direct, material, and obvious result of the acts done that *"the intent reasonably must be inferred."*

In other words, the question being strictly one of intent, the extent to which interference with production may affect the movement of the product in interstate commerce is material *only* in so far as it may be looked to as proof of intent.

In the second Coronado decision Judge Taft, so far from departing in any degree from the principle announced in his first decision, as Judge Parker's opinion would indicate or infer, emphasized and clarified the proposition that the question of intent is controlling. In the second opinion, it is true, Judge Taft did advert to the fact that the proof on the second trial indicated that the production of the mines was larger than had been stated in the original opinion, and further said that this might be looked to; but only (a) on the question of intent, and (b) *in connection with other direct and positive testimony to which he referred in his opinion and which tended to indicate a positive intent to interfere with interstate commerce.*

In undertaking to apply the second Coronado opinion Judge Parker overlooked or ignored the essential fact that in the Coronado case on the second trial there was, as stated, direct proof which Judge Taft said should have gone to the jury, indicating a positive intent to interfere with interstate commerce, and that the testimony with reference to the amount of output was held material only "as a circumstance with the rest of the new testimony in proof of intent." In the case presented for Judge Parker's decision, if there was one syllable of proof indicating any direct intent to interfere with interstate commerce, apart from the proof as to the large output of the mines, which would necessarily be affected by their closing, Judge Parker conspicuously failed to refer to it.

As to the actual intent of the defendants as disclosed by the proof, I invite your especial consideration of the following quotation from Judge Parker's opinion. After expressing the opinion that there was evidence to sustain the finding of the district judge as to the existence of a conspiracy in restraint of interstate commerce (and after failing conspicuously to disclose the nature of that evidence), Judge Parker said:

"By this we do not mean, of course, that the union was unlawful of itself, but that defendants, as officers of the union, had combined and conspired to interfere with the production and shipment of coal by the nonunion operators of West Virginia in order to *force the unionization of the West Virginia mines and to make effective the strikes declared pursuant to the policy of the union:*"

The italics here used (as elsewhere in this letter) are mine. Here I use them to stress the obvious fact, from which even Judge Parker could not escape, that the actual purpose, the primary purpose, the paramount and all-important purpose was the *unionization of the West Virginia coal fields,* and that if the means adopted to this end resulted to some extent, or even to a substantial extent, in reducing the amount of coal carried in interstate commerce, this was but a mere incident, and not the intent or purpose.

Judge Parker in his opinion also said:

"And there can be no question that the strikes called by the union in the nonunion fields of West Virginia in 1920 and 1922, and the campaign of violence and intimidation incident thereto, *were merely the carrying out of a plan and policy upon which the defendants had been engaged for a number of years.*"

This being true, upon what conceivable ground consistent with reason could Judge Parker conclude that mere proof as to the amount of coal, whose shipment in interstate commerce was stopped by the strike, could

be taken as a basis for presuming an intent upon the part of the defendants different from the intent thus fairly stated?

The following quotation from the opinion of the late Chief Justice in the Herkert case, above referred to, is, I think, quite pertinent in this connection:

"We concur with the dissenting judge in the circuit court of appeals when, in speaking of the conclusion of the majority, he said: 'The natural, logical, and inevitable result will be that every strike in any industry, or even in a single factory, will be within the Sherman Act and subject to Federal jurisdiction, provided any appreciable amount of its product enters into interstate commerce' (284 Fed. 446, 464).

"We can not think that Congress intended any such result in the enactment of the antitrust act or that the decisions of this court warrant such construction."

I must beg your pardon, Senator, for writing at such length, but the matter has impressed me as being of such great importance, and the appointment of Judge Parker fraught with such grave danger to the development of a liberal and forward-looking interpretation of our laws, that I have felt in the first place a duty to give you an expression of my views, and having undertaken to do so, to make that expression as full and clear as I could.

Sincerely yours,

CARTER J. LYNCH.

Mr. OVERMAN. Mr. President, I ask permission that some clippings from Florida newspapers sent to me may be published in the RECORD without reading.

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

[From the Tampa (Fla.) Tribune]

DEFENDING JUDGE PARKER

Judge John J. Parker, of North Carolina, whose nomination as Associate Justice of the Supreme Court has been turned down by the Senate committee, and whose fate in the Senate is uncertain, does not lack for stout defenders. The Washington Post, for one, asserts that the objections to Judge Parker are "shallow and artificial." He has, according to the Post, "honesty, judicial temperament, legal ability, moral courage, good habits, and industry." The opposition to his confirmation in the Senate, the Post charges, is due entirely to the fact that certain Senators come up for reelection this year, and they fear the "labor votes and colored votes."

The Post grows stronger as it proceeds in its editorial of April 20, and declares the attack on Judge Parker "is in reality an attack upon the Supreme Court. The purpose of the radicals who call themselves 'liberals' is to terrorize all Federal judges so that they will not dare to perform their duty in issuing injunctions in labor disputes. Mixed with this purpose is the usual hodgepodge of radicalism, which demands that the courts shall constitutionalize any legislative act, no matter how crazy; that constitutional property rights shall be disregarded; that the courts shall adopt concepts of radicalism in place of constitutional rules; that, in general, the Supreme Court and all inferior courts shall shape their decisions to suit the political aims of demagogues in the Senate."

There is no just ground for agreement with the objections to Judge Parker's appointment which are based on his decision in the West Virginia case. In that case Judge Parker affirmed an injunction decree which restrained the United Mine Workers from (1) interfering with men seeking employment by menaces, threats, violence, or injury to them, or injuring or destroying the properties of the mine owners; (2) trespassing upon the property of the mine owners, inciting, inducing, or persuading the employees to break their contract of employment; (3) aiding any person to occupy without right any house or other property of the mine owners. The injunction clearly applied to acts plainly and unmistakably unlawful; it did not restrain the mine workers from the exercise of their proper rights in protecting their own membership or in seeking to extend it by peaceful and lawful methods. This injunction, however, is offered as the principal reason why Judge Parker isn't fit to sit on the Supreme Court. We can't see that this position is tenable. Naturally, southern people will not join in the other objection urged to Judge Parker—his declarations on the race question.

We quoted a day or two ago an editorial on this subject from the New York World, which did not urge either of these objections to Judge Parker, but offered the suggestion of a general national opinion that the liberal sentiment of the country should be represented on the Supreme Court. This may have some foundation; but at the same time we do not agree that the liberal sentiment of this country would demand that a judge be disqualified for promotion to the highest court of the land because he enjoined the commission of unlawful acts, whether by labor or capital.

[From the Florida Times-Union, Jacksonville, Fla., April 17, 1930]

UNDERMINING FOUNDATIONS OF GOVERNMENT

Sometimes there is occasion for wondering how long righteous and honorable government can continue to exist with so many and various efforts made to destroy the very foundations on which orderly and respected government rests. Wonderment, and apprehension, also, is increased when are seen at the work of undermining government those who should be its strongest supporters. Efforts in this direction, when made by weak and puny individuals and agencies, do not attract more than passing attention, if that. But when those in high places, in places of power and a certain degree of authority, lend themselves to the undermining of just and upright government, then the situation becomes ominous and fraught with great danger.

A few weeks ago a certain judge in North Carolina stood high in the estimation and respect of all who knew him, of all who had intimate acquaintance with his performance in the high office that he occupied and in which he functioned justly and honorably, it was believed. Then this judge, John J. Parker, by name, was nominated by the President of the United States for a place on the bench of the United States Supreme Court as an associate justice. The nomination was hailed with delight, generally, for there was belief that a wise selection had been made of a man to go on the bench of the highest court in the Nation.

Of course, the nomination had to go to the Senate for approval or for disapproval. Immediately the work of the Government underminers was started. Objections were raised against confirmation of the appointment of Judge Parker, whose entire judicial career was searched in the hope that something could be found to be held against him and his advancement. In the Senate there was listening to these objections, most of them trivial, not one of them reflecting the slightest tinge of either incompetency or of judicial unworthiness. The only thing that could be put up in opposition to the appointment, or confirmation, of this honorable judge was that in one or two cases coming before him he had not decided as some of his present opponents think he should have done, and for these decisions he is now to be punished.

Following announcement of this opposition, to which the Senate gave willing ear—at least a sufficient number of Members to block immediate confirmation—following announcement of this opposition, tongues of criticism wagged freely. So-called investigations were made, privately, in this instance. Evidently it was difficult to find anything seriously affecting either the character or the judicial probity and ability of Judge Parker. But his confirmation still is under fire, although the President is standing firmly back of his nominee and his nomination. Final report by the Senate Judiciary Committee has been held up, more for the sake of expediency than for any other reason, so it appears, although the subcommittee which considered the nomination made a favorable report to the Judiciary Committee.

More need not be said here at this time concerning this particular instance, except to say that sorry will be the day when, in this country or any other, honorable judges can be assailed successfully for having rendered decisions with which not everybody is satisfied. It is well to remember, also, and in this connection, that similar attacks were made on Justice Hughes when, recently, his appointment for the Supreme Court was before the Senate. That attack failed, as ought to fail the attack now being made on Judge Parker, if for no other reason than that such attacks on honorable and eminently qualified judges are in the way of undermining just and righteous government, which must be maintained if the people are not to be made to suffer at the hands of those who seek to drag down and destroy the courts that are the very foundations of civil liberty and human justice.

[From the Miami Herald, Miami, Fla.]

JUDGE REJECTED

If the United States Senate follows the advice of its Judiciary Committee, the nomination of Judge John J. Parker, of North Carolina, for Associate Justice of the Supreme Court will be rejected. Or the appointment may be withdrawn by President Hoover or the nominee before the vote is taken. But there is also the contingency that the Senate will approve the name despite the adverse report of the committee.

But the action of the committee is clearly a rebuff for Mr. Hoover, and will be eagerly hailed by his foes and also by the liberals. The Judiciary Committee voted 10 to 6 against a favorable report on Judge Parker, and declined the fairness of giving the nominee a chance to be heard. The committee was convinced by the protests of radicals, communists, labor, and negroes that Judge Parker is not a proper personage to sit upon the high bench. It wanted no other evidence.

This scrutiny of appointees by the Senate, which is all very well, seems to indicate a desire on the part of that body to worry the Executive, which is in keeping with its character. Judge Parker is no outstanding jurist, and aside from politics there appears to be no good reason for his selection.

He was so little known at the time of his nomination that oratorical Senators had nothing to say, and it was presumed that approval would be bestowed as a matter of form. But it was a simple matter to find protests against the choice, just as it would be possible to discover objections to any appointment.

These were used as the excuse for refusal to indorse the presidential appointment. A surprising feature in the vote is that several supposedly good Republican administration supporters were among those

registering their opposition. Possibly the Senate wishes to put Mr. Hoover in his place, and demonstrate that it must be considered in picking men for judicial offices. He must play with the Senate if the Senate is to play with him. It is the way of politics, and Judge Parker happens to be the victim. The Senate tried to make it operate with Chief Justice Hughes, but was unable to succeed in that case. Now it scents victory and is delighted.

[From the Washington Post, April 20]

JUDGE PARKER'S CASE

The more the qualifications of Judge John J. Parker are studied the more shallow and artificial appear the objections to him. There is no objection to him, in fact, on any valid ground. His honesty, judicial temperament, legal ability, moral courage, good habits, and industry are undeniable. The qualities of a great judge are shown in his judicial opinions and decisions.

It happens that many Senators are beginning primary campaigns for reelection, and the radical agitators who are engineering the opposition to Judge Parker are doing their best to frighten these Senators into voting against Judge Parker. Mythical "labor votes" and "colored votes" are pictured as lining up against any Senator who dares to vote for Parker.

The attack upon Judge Parker is in reality an attack upon the Supreme Court of the United States. The purpose of the radicals, who call themselves "liberals," is to terrorize all Federal judges so that they will not dare to perform their duty in issuing injunctions in labor disputes. Mixed with this main purpose is the usual hodgepodge of radicalism, which demands that the courts shall constitutionalize any legislative act, no matter how crazy; that constitutional property rights shall be disregarded; that the courts shall adopt new concepts of radicalism in place of constitutional rules; and that in general the Supreme Court and all inferior courts shall shape their decision to suit the political aims of demagogues in the Senate.

Chief Justice Hughes was assailed because it was known that he was a man of courage who would apply the Constitution without first obtaining the advice and consent of Senate bosses. Now Judge Parker is attacked because he is a strong and upright judge.

Senators who may be inclined to sacrifice an honest and acceptable judge in order to win votes for themselves should think twice before they make that blunder. The great majority of voters are not won by such cowardice and demagoguery. The people are keeping the Supreme Court in high respect and are deeply resentful of the mud-slinging tactics employed by Senators who seek selfish advantage at the expense of the judiciary. It is quite possible that this resentment would manifest itself in the defeat of Senators who lacked the courage to resist the malign attempts to prostitute the courts. Certainly any Senator who would deliberately vote to fill the Supreme Court Bench with charlatans and sycophants deserves defeat.

No more indecent or vicious attack upon the integrity of American institutions could be conceived than the attempt to destroy the judicial power by killing off all nominations of able and honest jurists. No Senator who is convinced of the fitness of Judge Parker can vote against him without a loss of self-respect. A seat in the Senate is a place of dishonor and shame when it is bought by an act that aims at the degradation of the tribunal that applies the Constitution and the law. The preservation of the integrity of the Supreme Court is a matter of the highest duty, which no Senator with a sense of honor can think of shirking.

Mr. HEBERT obtained the floor.

Mr. NORRIS. Mr. President, will the Senator from Rhode Island yield to me to enable me to suggest the absence of a quorum?

Mr. HEBERT. I prefer that the Senator should not do so for I fear we might not get a quorum at this late hour.

Mr. NORRIS. I only wanted to see that the Senator should have a full hearing.

Mr. HEBERT. I appreciate the Senator's courtesy.

The VICE PRESIDENT. The Senator from Rhode Island declines to yield for that purpose.

Mr. HEBERT. Mr. President, no citizen of this country would knowingly impair or endanger our judicial institutions. All, I am sure, would help to perpetuate them, to have them retain their health and the confidence they have inspired that our civil life may be maintained with the greatest degree of liberty consonant with our safety and our ideas of government.

Therefore I assert that every citizen is most solicitous that we shall have the best judges. Upon this point there can be no difference of opinion. Upon other things we differ. Some may think a judge to be chosen at a particular period of our national life should be of one political faith, others that his political views should agree with theirs, while a third group might urge that the times demand the elevation to the bench of a man holding certain economic convictions. Some of us may be dissatisfied with this or that decision previously rendered by a candidate or a nominee. In the very nature of things there is apt to be at least one dissatisfied party in every case after decision. But I am sure we all agree that we should have good judges. And what are the outstanding qualifications required of a judge? I pause to outline some of them:

First. He should be learned in the law. He must have acquired this knowledge by deep study, by earnest and painstaking application to his work.

Second. He must be a man not only honest and upright and well intentioned but he must be no respecter of persons. He should know nothing about the parties; everything about the case. He must do everything for justice; nothing for himself. If on one side there be arrayed the supreme authority to whom he owes his preferment—the source of his power—the greatest aggregation of wealth, and on the other hand a nameless individual, a penniless pauper, the good judge must see neither. His every thought, his every effort should be directed to the maintenance of an even balance of the scales of justice, the emblem of his exalted office.

By these standards I propose to be guided in my consideration of the nomination of Mr. Justice Parker.

Judge John J. Parker was born in Monroe, N. C., November 20, 1885, the son of John D. Parker and Frances Johnston Parker. On his father's side he descends from one John Parker, a soldier of the Revolutionary War. On his mother's side he traces his ancestry to John Johnston, a surveyor general of the colony of Carolina, who came to America from Scotland in 1735. Through his mother's family he is related to James Iredell, one of the justices of the first Supreme Court appointed by President Washington.

Judge Parker was educated in the public schools of Monroe, N. C., and at the University of North Carolina. He worked his way through college, but notwithstanding this handicap, he is said to have made one of the most brilliant records at that institution since the Civil War. He led his class in scholarship, being president of Phi Beta Kappa Society. He won prizes in Greek, economics, and law. He represented the University of North Carolina in debates with the University of Georgia and the University of Virginia. He won the orator's medal, the most coveted prize of the undergraduate school. He was president of his class during his freshman year and also during his senior year, and he was president of the student council, which administered student self-government. He received from the University of North Carolina the degrees of bachelor of arts and bachelor of law, and in 1927 the university conferred upon him the honorary degree of doctor of laws.

Judge Parker began the practice of law at Greensboro, N. C., in 1908. In 1922 he removed to Charlotte, N. C., that he might have a wider field for practice, and became the head of the law firm of Parker, Stewart, McRae & Bobbitt. During the years he maintained an office in Charlotte Judge Parker had a wide and varied practice. He was not retained by public corporations but he appeared in important cases in the State and Federal courts, as well as in the Circuit Court of Appeals for the fourth circuit, and in the Supreme Court of the United States.

In 1923 and 1924, Judge Parker served as special assistant to the Attorney General of the United States in the prosecution of certain war-fraud cases. He assisted in the prosecution of the Harness case in West Virginia. Mr. Justice Groner, who heard the case, speaks in the highest terms of the abilities which were displayed by Judge Parker in the handling of it.

It has been intimated that Judge Parker in the handling of this case had subjected himself to the criticism of the court because of his conduct in the trial. I have here a copy of a letter addressed to Senator NORRIS by Mr. Justice Groner, who presided at that trial. It is dated Richmond, Va., April 26, 1930. It reads as follows:

MY DEAR SENATOR NORRIS: There have been a great many things said and printed in newspapers opposed to Judge Parker, intended doubtless to influence adversely the consideration by the Senate of his appointment to the Supreme Court. These have been properly answered and I have no present concern with them. I feel, however, in common justice to Judge Parker that I should notice an editorial appearing yesterday afternoon in a Washington newspaper called the News, in which his professional conduct is criticized in a criminal case, known as the Harness case, in which I presided. There was nothing in Judge Parker's conduct in that case which was properly the subject of adverse criticism, nor was there any by me at any time during the trial. His part in the conduct of the case commended itself to me as conforming in all respects to the highest standards of the profession, and I therefore pronounce as wholly unjust and without warrant any and every implication to the contrary.

With respect, I am, yours sincerely,

D. LAWRENCE GRONER.

Mr. NORRIS. Mr. President——

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

Mr. HEBERT. I yield.

Mr. NORRIS. I received that letter, I will say to the Senator, at the same time I received the letter which was previously published, which was sent to me by Mr. Hayes, of New York, who, I understand, was formerly secretary to Secretary Baker when he was Secretary of War. I answered Judge Groner's letter by a telegram, and, if the Senator will permit me, I should be glad to read the telegram I sent and the answer I received by wire from the judge.

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

Mr. HEBERT. I shall be very glad to yield to the Senator for that purpose.

Mr. NORRIS. I do this, I will say to the Senator from Rhode Island, because of the letter that the Senator has read, which has already been published, having been put into the RECORD by the Senator from North Carolina [Mr. OVERMAN]. I want the Senator from Rhode Island and the Senate also to know just what happened in regard to my reply to the letter. On April 29, 1930, I wired Judge Groner as follows:

Hon. D. L. GRONER,

United States District Judge, Richmond, Va.:

Your letter of April 26 regarding the confirmation of Judge Parker has just been brought to my attention. I will have the letter read in the Senate in connection with the nomination now under discussion.

I did not have that done, because before I could get the floor, after I dictated the telegram, the Senator from North Carolina secured the floor and had a copy of the letter put into the RECORD. That is the reason I did not comply personally with the promise I made in the telegram. I further stated:

I desire to call your attention to a letter sent to me by Ralph Hayes, of New York City. This letter was published in the newspapers Monday morning. In this letter there is quoted what purports to be a charge made by you to the jury at the conclusion of the so-called Harness case when you directed a verdict for the defendants. I presume you have read the publication of this letter wherein your alleged charge to the jury in this case is quoted. Please wire me whether the charge quoted in the Hayes letter is correct. If not correct, please send me correct copy of this charge.

G. W. NORRIS,

Chairman Senate Judiciary Committee.

I received an answer by wire from Judge Groner, as follows:

RICHMOND, VA., *April 29, 1930.*

Hon. G. W. NORRIS,

United States Senator, Senate Office Building:

I have just received your telegram in regard to the letter of Ralph Hayes as to Judge Parker's participation as counsel in the Harness case. The Hayes letter was sent me last night by Senator GLASS, to whom I have sent a reply, which will be in his hands by 3.30 p. m. to-day. Please refer to my letter to Senator GLASS for reply to your telegram. I regret that I have not immediate access to the stenographer's transcript of the trial, but I have wired my Norfolk office to forward it to you. As stated in my former letter to you and reiterated in my letter to Senator GLASS there was nothing in Judge Parker's professional conduct in the trial of this case which could properly be the subject of criticism.

D. LAWRENCE GRONER.

In answer to that letter, I called on the Senator from Virginia [Mr. GLASS], and he permitted me to read the letter which he had received. The letter was not, in my judgment, an answer to the question I had propounded in my telegram, although I am not finding any fault, because, as the judge said in his letter, it was some time ago, and he could not remember all that had happened, but I secured from the Attorney General late that afternoon a copy of the judge's charge to the jury which it seems was on file in the Department of Justice. So the information which I sought to get by telegram was fully supplied to me by the Attorney General.

Mr. HEBERT. Mr. President, I might say——

Mr. GLASS. Mr. President——

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

Mr. HEBERT. Mr. President, if the Senator from Virginia will allow me first to answer the Senator from Nebraska I shall then yield to him. I may say, for the information of the Senator from Nebraska, that I myself have examined the charge to the jury of Judge Groner in the Harness case, and I have failed to see any criticism of Judge Parker therein.

Mr. NORRIS. Mr. President, before the Senator from Virginia puts the letter in the RECORD, let me say, if the Senator from Rhode Island will permit me, that the letter of Mr. Hayes contained certain quotations which he alleges were taken from the charge of Judge Groner to the jury. I examined carefully the charge sent me by the Attorney General and the quotations from Mr. Hayes's letter, and the quotations from the letter are all included in the charge, although they are in different places in the charge. I did not see this letter printed in the newspapers, but in the letter itself in the quotations from the charge there are asterisks, showing that the writer did not quote consecutively, but the language quoted may be found, perhaps, on different pages of the charge. However, the quotations were all taken from the charge, although in the charge was a statement by Judge Groner, which has already been read into the RECORD but which was not quoted in the letter, commending the attorneys in the case in a very high manner, as the Senator remembers.

I wanted to say that because of my participation in this matter I myself have never sought any information from any source or tried to make any investigation as to the character of Judge Parker or as to his ability as a lawyer or his participation in the Harness lawsuit or any other. The only reason I sent the telegram was because the letters were directed to me, and I felt it my duty to pursue them as far, at least, as I did.

Mr. GLASS. Mr. President——

Mr. HEBERT. I yield to the Senator from Virginia.

Mr. GLASS. Mr. President, if the Senator will permit me, I think it peculiarly appropriate that the letter written to me by Judge Groner should go in the RECORD at this point. I may say that in trying to reach a conclusion as to how I should vote on this nomination I tried to procure all the facts, and in that process I advised Judge Groner of the charge that he had reprimanded Judge Parker from the bench in the case which has been under discussion here and asked for an explanation of the charge. He wrote me as follows under date of April 29:

UNITED STATES DISTRICT COURT,

Norfolk, Va., April 29, 1930.

Hon. CARTER GLASS,

United States Senate, Washington, D. C.

DEAR SENATOR GLASS: I return the letter of Mr. Hayes and thank you for letting me read it. Prior to seeing it my attention has been called to an editorial in a Washington newspaper along the same line, and I wrote at once to Senator NORRIS, saying that Parker's part in the management of the case in question was not in any respect the subject of adverse criticism, and that the publication had done him grave injustice. This I now repeat to you.

Of course, I can not undertake to recall from memory all the incidents of a case tried nearly seven years ago, but I do remember quite well the impressions then made on me. These were first that the Government had shown an exceedingly weak case and one in which the evidence fell short of the legal requirements of a proof beyond a reasonable doubt, thus devolving on me the responsibility of taking it from the jury, and likewise that the Government had been greatly handicapped in presenting its case by the obvious antagonism of its own witnesses; and, secondly, that all of counsel had conducted the case in fairness and in good spirit and with a proper regard to the proprieties. I do not recall hearing at the time, nor have I ever heard since until the present moment, any suggestion of improper conduct on Judge Parker's part. My recollection is that the case was prepared by the Department of Justice and that he was employed to assist in its presentation to the jury, and I am impelled to conclude that the charges now made against him are thoroughly disingenuous.

The impression that I formed of Judge Parker at the time was wholly favorable, and that impression has grown through my subsequent association with him, and I repeat now the assurance which I have formerly given you that I regard him as in all respects a high-minded, able, conscientious, and forward-looking lawyer and judge.

Sincerely yours,

D. LAWRENCE GRONER.

I may add that it occurred to me, as it did to the Senator from Nebraska, that Judge Groner did not answer the specific inquiry in an explicit way, but upon examination of the Hayes letter I find that there was no quotation in the letter that expressly implied a criticism of Judge Parker. On the other hand, there was a conclusion stated by Hayes himself to the effect that Judge Groner had severely criticized the conduct of the case by Parker; but an inspection of the transcript of Judge Groner's charge shows that that is not true, because Judge Groner in his charge expressly said that the conduct of the case was characterized by earnestness, fairness, and ability. So the implication contained in the Hayes letter was the conclusion of Hayes himself and not an expression of Judge Groner.

I thought it proper to communicate with Judge Groner, and now think it proper to put his letter in the RECORD, in order that that phase of the case may be fairly stated.

Mr. HEBERT. Mr. President, I thank the Senator from Virginia for calling the letter to the attention of the Senate.

I do not wish to appear ungracious to Senators; but the hour is getting late, and I should like to conclude my argument this afternoon. Therefore I wish Senators would not interrupt me further, in order that we may proceed with as much diligence as possible.

Mr. Justice Bailey who presided at the trial of the labor fraud case in which Judge Parker also appeared, stated in a letter to Senator OVERMAN:

Judge Parker handled the case, in my opinion, with great ability. He had to gather testimony from all parts of the country, involving many questions, and showed unusual ability in the marshalling of these facts, so as to present the case clearly as a whole. It was one of the best-conducted cases in my experience.

He also showed great fairness in the conduct of the trial. While he fought the case earnestly and with proper spirit, he did not allow his feelings to overcome his judgment.

Mr. Charles A. Douglas appeared as leading counsel for the defendants in the labor fraud case, and Mr. Douglas says of Judge Parker's conduct in this case:

This trial lasted about three months, and I had the opportunity of seeing, feeling, and knowing what manner of man Judge Parker is. He was fair, able, and thorough in the conduct of the prosecution. He was fair because he did nothing that merited just criticism by the defense; and he was able and thorough, for I never knew of a case so thoroughly and wonderfully prepared in every part of its detail, and I have at no time ever encountered a more dangerous and formidable trial lawyer than he.

Mr. Justice W. E. Baker, judge of the northern district of West Virginia, who was in charge of the grand jury in the Harness case, has this to say of Judge Parker in his telegram of April 28, 1930, addressed to Senator OVERMAN:

It has come to my attention that a question has been raised as to the ability of Judge John J. Parker to perform the duties of Associate Justice of the Supreme Court of the United States. Judge Parker appeared before my court as special counsel for the United States in some very important litigation, and as such acquitted himself in a most commendable manner. Since his elevation to the Circuit Court of Appeals of the Fourth Circuit I have had occasion to sit with him on that court. I have followed his opinions very carefully and have no hesitancy in saying in my opinion he is eminently fitted for the position of Associate Justice on the Supreme Court of the United States.

In 1910 Judge Parker was the nominee of the Republican Party as candidate for Congress from the seventh North Carolina district. He was defeated by a small majority, but he made a campaign which brought him to the favorable notice of the people of his State. In 1920 he was nominated for the office of governor, as a candidate of the Republican Party of his State, and received the unprecedented total of 230,000 votes. This was not only a greater total than any Republican candidate had ever received in that State, but exceeded by 63,000 votes the total cast for any candidate of any party in North Carolina prior to that time. He was defeated, however, by Gov. Cameron Morrison. The impression which he made upon the people of the State on this occasion won him the support of Governor Morrison for appointment to the circuit bench and also to the Supreme Court.

Judge Parker was appointed United States circuit judge by President Coolidge on October 3, 1925, and has since occupied that position. He has sat in more than 450 cases and has written 184 opinions. He has written a number of opinions looking toward the liberalization of procedure in the Federal courts, in which he has held that cases are to be decided upon their merit and not upon technicalities. His sympathy for human rights is shown in his opinion in the recent case of Manly *v.* Hood (37 Fed. (2d) 212), involving the right of wage claims to preference under the bankruptcy statute, in which he said:

There can be no question that it was the purpose and the intent of Congress by the provision in question to protect the wages of laborers due them by insolvents whose assets have been taken over by the courts under the act. The laborer is generally dependent upon his wages for livelihood and the support of his family, and he has little means of judging of the solvency of his employer. Every consideration of morality, as well as of public policy, demands, therefore, that his wages be preserved to him and be given priority over ordinary commercial claims.

Another case of great importance was the case of Atlantic Coast Line Railroad *v.* Standard Oil Co. (12 Fed. (2d) 541, 60 A. L. R. 1456). In this case the court went at great length into the difference between an interstate shipment and an intrastate shipment from a point of distribution, and held that intrastate shipments from point of distribution where the original interstate shipment had ended were governed by intrastate rates. This case involved an extensive investigation of prior decisions. The same question was decided by the Circuit Court of Appeals of the Sixth Circuit contrary to the way the fourth circuit decided it. The Supreme Court denied certiorari in the fourth circuit case and granted certiorari in the sixth circuit case, and reversed the decision of the lower court, citing the fourth district decision as authority, and saying in addition:

We concur in the reasoning and conclusions of the United States Circuit Court of Appeals for the Fourth Circuit in Atlantic Coast Line Railroad *v.* Standard Oil Co. of New Jersey et al. (12 Fed. (2d) 541).

A very recent case in which the decision was announced at the last term of the circuit court of appeals and which has not yet been reported, is Munson Line against United States, which was a suit instituted by the Interstate Commerce Commission at the request of the Attorney General to require a water carrier to file schedules of rates with the Interstate Commerce Commission. The circuit court of appeals affirmed the lower court in denying the right of mandamus asked for in this case and went at considerable length into the question as to what is meant by "common arrangement" within the meaning of the language of the interstate commerce act.

Another case of importance, because it affects the entire check collection system of the Federal reserve banks, is the very recent case of Federal Reserve Bank *v.* Early (30 Fed. (2d) 198). In that case the court went at considerable length into some very complicated questions of banking law and applied the troublesome doctrine of equitable lines. It is of interest that the Supreme Court, on March 12, 1930, affirmed the decision in this case in an opinion by Mr. Justice Holmes.

Another case which involved important principles and has been much cited is the case of Henderson *v.* United States (12 Fed. (2d) 528, 51 A. L. R. 420), involving the right of search without warrant where the search was made not as incident to an arrest, but where the arrest was a mere pretext for the search. The court denied the right of search without warrant in such cases and went fully into the meaning of the fourth and fifth amendments to the Constitution. The court said:

The rights guaranteed by the fourth amendment are not to be thus encroached upon or gradually depreciated by imperceptible practice of courts or by well-intentioned but mistakenly overzealous executive officers.

In the same volume of the Federal Reporter appears another case which has been much cited, laying down the law with respect to conspiracy cases, Belvin *v.* United States (12 Fed. (2d) 548). This case applied to indictments in criminal cases the liberal rules of modern procedure. Another case which is of importance also in simplifying procedure and eliminating technical objections which do not go to the merits of a case is the case of Lisansky *v.* United States (31 Fed. (2d) 846).

Two cases affecting the fundamental rights to a fair and impartial jury and to the full effect of the presumption of innocence are Neal *v.* United States (22 Fed. (2d) 52) and Dodson *v.* United States (23 Fed. (2d) 401).

An important case involving the complicated questions in county government, as well as the measure of damages upon breach of an executory contract for the construction of a public work, is Luten Bridge Co. *v.* Rockingham County (35 Fed. (2d) 301).

Cases bearing upon important questions of constitutional law are the following: United States against Tyler (28 Fed. (2d) 887), holding constitutional the act of Congress taxing transfer of estates by the entireties; Ferris *v.* Wilbur (27 Fed. (2d) 262), defining rights of government in storage of explosives; Doscher *v.* Query (21 Fed. (2d) 521), upholding the constitutionality of the South Carolina sales tax on tobacco; Suncrest Lumber Co. *v.* North Carolina Park Commission, upholding the North Carolina Smoky Mountains Park act (30 Fed. (2d) 121); Kelleher *v.* French (28 Fed. (2d) 341), upholding the Virginia cedar rust statute enacted for protection of the apple-growing industry; Chicago & North Western Railway Co. *v.* Town of Lincolnton (33 Fed. (2d) 819).

Important bankruptcy decisions are: In re Moore (11 Fed. (2d) 62); Levy *v.* Industrial Finance Corporation (16 Fed. (2d) (769). In this case certiorari was granted by the Supreme Court because the fourth circuit had taken a different view of the question involved from the second circuit. The fourth circuit decision was affirmed. (See 276 U. S. 281.) Firestone Tire & Rubber Co. *v.* Cross (17 Fed.. (2d) 417), dealing with the reg-

istration statutes of South Carolina. This case was cited with approval by the Supreme Court of the United States in Two hundred and seventy-sixth United States Reports 12.

One of the most important questions concerning the Federal courts is the question of the simplification of procedure, and there are a number of decisions sustaining the modern tendency to simplify procedure and not deny relief to a litigant because he has mistaken his remedy. Important cases of this character are National Surety Co. *v.* County Board of Education (15 Fed. (2d) 993) and Great American Insurance Co. *v.* Johnson (25 Fed. (2d) 847 and 27 Fed. (2d) 71). In the case last cited the court said:

> The distinction between law and equity has not been abolished by the recent statutes regulating procedure, and a party is entitled to have his case tried on the proper side of the docket; but the question here is not whether it was error to try an equity case as an action at law, but whether this court should hold such error to be prejudicial and award a new trial, where all of the evidence in the lower court is before us, where it appears that the case was fully developed, and where the relief obtained at law is exactly what upon the record should have been awarded in equity? We think not. In such case justice has been done, and courts exist to do justice, not to furnish a forum for intellectual skill or prowess.

The Supreme Court denied the application for writ of certiorari in the case of Great American Insurance Co. against Johnson, and it is believed that this case marks a distinctive step forward in the liberalization of Federal procedure.

Judge Parker has served now for a period of four and one-half years upon the bench of that court next in importance to our highest Federal tribunal. Therefore it must be admitted that he has had judicial experience. That he is learned in the law is attested by the many letters and petitions which have come to the Senate from men themselves learned in the law. They have come here from all parts of our country. They bear the signatures of eminent judges, of the members of the bar associations, local, State, and National.

That Judge Parker is honest and upright is admitted by everyone, including, I believe I am justified in saying, those distinguished men who are opposing his confirmation in this body.

The opposition to Judge Parker comes from two sources; first, those who are dissatisfied with one of his decisions; and second, those who feel that statements which he is alleged to have made in the course of a political campaign when he was a candidate for Governor of the State of North Carolina some 10 years ago justify the belief that as a member of the Supreme Court he would disregard their rights as guaranteed by our fundamental law.

The American Federation of Labor opposes Judge Parker because of one of his decisions. They contend that his decision in the case of United Mine Workers of America *v.* Red Jacket Coal & Coke Co. et al. (18 Fed. Rep. (2d) 839), to quote Mr. William T. Green, president of the American Federation of Labor, "has gone far beyond the doctrine laid down either by the Supreme Court of the United States or by the Circuit Court of Appeals of the Fourth Circuit"; and that he has, in effect, practically stated the law to be that it is unlawful by any means whatsoever (even though there be no element of violence, threat, fraud, or deceit) to endeavor to induce or persuade an employee to join a labor union if such employee is working under an alternative agreement hereinbefore described and generally known as a "yellow-dog" contract. Their whole argument is based solely upon this decision.

Mr. McNARY. Mr. President, would the Senator from Rhode Island be willing to conclude his argument to-morrow?

Mr. HEBERT. I had hoped to conclude this evening, but the hour is growing late and I prefer not to detain Senators longer.

RECESS

Mr. McNARY. I move that the Senate take a recess until to-morrow at 12 o'clock.

The motion was agreed to; and the Senate (at 4 o'clock and 55 minutes p. m.) took a recess until to-morrow, Thursday, May 1, 1930, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate April 30, 1930

ENVOY EXTRAORDINARY AND MINISTER PLENIPOTENTIARY

William Dawson, of Minnesota, to be envoy extraordinary and minister plenipotentiary of the United States of America to Ecuador.

COLLECTOR OF CUSTOMS

Robert B. Morris, of Houston, Tex., to be collector of customs for customs collection district No. 22, with headquarters at Galveston, Tex., in place of Robert W. Humphreys, whose term of office expired February 15, 1930.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 30, 1930

POSTMASTERS

GEORGIA

Ben H. McLarty, Soperton.

ILLINOIS

Gustav H. Beckemeyer, Beckemeyer.

INDIANA

Josiah J. Hostetler, Shipshewana.

KENTUCKY

Francis A. Wiseman, Cecilia.
Yaman Watkins, Clarkson.
Eva B. Weatherholt, Cloverport.
James H. Thompson, Ewing.
Edgar P. Catron, Junction City.
Willie G. Thornbury, Munfordville.
Thomas D. Tapp, Springfield.

MARYLAND

Stewart Rodamer, Grantsville.

MINNESOTA

Delmar J. Carruth, Danvers.
E. Jay Merry, Fairmont.
Fred E. Joslyn, Mantorville.
Sarah E. Jones, Zimmerman.

MISSOURI

Mayme Prather, Advance.
Frank R. Evans, Armstrong.
Claude P. Dorsey, Cameron.
Alfred L. Jenkins, Chula.
Walter E. Pearson, Clarksdale.
Walter S. Johnston, Crocker.
Charles T. Lease, Forest City.
Herman H. Reick, Independence.
Robert E. Ward, Liberty.
Lorenzo T. McKinney, Marceline.
Hattie Biggs, Neelyville.
Lena B. Porter, Novelty.
Victor N. Remley, Orrick.
Paul P. Groh, Peculiar.
Lavinia B. Jones, Pilot Grove.

MONTANA

Gale E. McKain, Eureka.

NORTH CAROLINA

William P. Lee, Benson.
George W. Lance, Fletcher.
Ethel L. Smith, Garland.
Wiley C. Ellis, Garysburg.
William B. White, Norlina.
Elijah F. Pearce, Princeton.

PENNSYLVANIA

Edward N. Dubs, New Hope.
George W. Brelsford, South Langhorne.

SOUTH CAROLINA

William T. Stewart, Camden.
Mason C. Stroud, Great Falls.

WASHINGTON

Bert L. McCarty, Battle Ground.
Frank G. Sanford, Bucoda.
Richard A. McKellar, Cashmere.
Walter W. Shore, Farmington.
Rees B. Williams, Ilwaco.
Ray E. Simons, Leavenworth.
Helen M. Purvis, Sumner.
Millard E. Meloy, Winlock.

WISCONSIN

Peter Mies, Mayville.
Richard A. Goodell, Platteville.

HOUSE OF REPRESENTATIVES

WEDNESDAY, *April 30, 1930*

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

Almighty God, the creator and saviour of the world, take every vision that beckons us, every hope that fires us, and every truth that illuminates and saves us, and hold their possibilities in Thy grasp. O God, we have souls to save, characters to build, passions to master, and virtues to achieve. Do Thou help us to that which all the world needs until we find our crowns in Thee. By industry, by discipline and intelligent, conscientious devotion to high purpose, may we reach those roomy thoughts tested and tried by the facts of knowledge and experience. Amen.

The Journal of the proceedings of yesterday was read and approved.

MINORITY VIEWS

Mr. DICKSTEIN. Mr. Speaker, I ask unanimous consent that I may have five days in which to file minority views on the bill H. R. 9673.

The SPEAKER. The gentleman from New York asks unanimous consent that he may have five days in which to file minority views on the bill H. R. 9673. Is there objection?

Mr. CABLE. Mr. Speaker, reserving the right to object, I would like to ask the title of the bill.

Mr. DICKSTEIN. It is a bill to return visa fees to aliens.

The SPEAKER. Is there objection?

There was no objection.

ANNE FALKENBRECK

Mr. UNDERHILL. Mr. Speaker, I offer a resolution from the Committee on Accounts.

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

The Clerk read as follows:

House Resolution 209

Resolved, That there shall be paid, out of the contingent fund of the House, to Anne Falkenreck, sister of Carl F. Falkenreck, late an employee of the House, an amount equal to six months' compensation and an additional amount not exceeding $250 to defray funeral expenses and last illness of the said Carl F. Falkenreck.

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

The resolution was agreed to.

THREE HUNDREDTH ANNIVERSARY OF THE FOUNDING OF THE MASSACHUSETTS BAY COLONY

Mr. UNDERHILL. Mr. Speaker, I ask unanimous consent to proceed for three minutes for the purpose of extending an invitation to the Members of the House.

The SPEAKER. The gentleman from Massachusetts asks unanimous consent to proceed for three minutes. Is there objection?

There was no objection.

Mr. UNDERHILL. Mr. Speaker, on Saturday of this week there will land at Hoover Field an airplane known as the *New Arbella*, carrying a message of good will from the Commonwealth of Massachusetts to her sister States in the Union and asking them to join with us this summer and autumn in commemorating the three hundredth anniversary of the founding of the Massachusetts Bay Colony. My scholarly colleague [Mr. LUCE] a few days ago summarized the significance of the events of 1630, and outlined the plans for 1930.

It was the good ship *Arbella* which dropped anchor in Boston Bay in 1630 to permit Gov. John Winthrop and his Puritan followers to select their home sites on the pleasant peninsula which the Indians called Shawmut, and which the modern world knows as the progressive and hospitable city of Boston. It is a far cry from the old *Arbella* to the gleaming ship of the air which will come to rest on Hoover Field Saturday afternoon. This airplane comes under the joint auspices of the American Legion, which is to hold its national convention in Boston in October, and of the Boston Herald, one of our great newspapers. President Hoover has already promised to attend the Legion convention, and the crew of the *New Arbella* pauses here to transmit the official invitations of the Legion officials and of the governor of the Commonwealth and the mayor of Boston. There will also be an invitation to every Member of Congress to join with us in this great celebration, and to that end I urge as many of my colleagues as can conveniently do so to join us at Hoover Field on Saturday afternoon to take part in the landing of the *New Arbella*.

You men of the West and South at times think of New England as a little detached corner of the land, too satisfied with its past to be concerned with our joint present and future as a great Nation. We are confident that if you will just spend a day or two with us this summer or fall; if you will make the pilgrimage with us from Lexington, Concord, and Bunker Hill, to Faneuil Hall to Plymouth and Provincetown, to Salem, Marblehead, and Gloucester, to our Berkshire and Blue Hills, the Mohawk Trail and the Deerfield Valley, to Cape Cod, and yes, to the frigate *Constitution*, which will then be completely restored; if you will breathe the invigorating air from off the great sea which lies at our door, you will go back home with a friendlier feeling and with the deep conviction that whether we speak with a Yankee twang, with a slow southern drawl, or with the well-rounded syllables of the great West, we share a common love for a great nation and for the flag which flies so proudly over every square mile of it. [Applause.]

PERMISSION TO ADDRESS THE HOUSE

Mr. PATTERSON. Mr. Speaker, I ask unanimous consent to proceed for one-half minute for the purpose of asking a question of the gentleman from New Jersey [Mr. LEHLBACH].

The SPEAKER. The gentleman from Alabama asks unanimous consent to proceed for one-half minute. Is there objection?

There was no objection.

Mr. PATTERSON. I would like to ask the gentleman from New Jersey how long he thinks he is going to be in the consideration of the radio bill?

Mr. LEHLBACH. I think we will be through very shortly.

Mr. PATTERSON. Mr. Speaker, if we get through with the radio bill and the special orders by 3 o'clock or 3.15, I ask unanimous consent to address the House for one hour. If I can not have the time to-day, I ask unanimous consent that on next Tuesday I may address the House for one hour.

Mr. TILSON. We shall agree that the gentleman may have one hour to-day, but not next Tuesday.

Mr. PATTERSON. If we get through by 3 o'clock or 3.15 this afternoon, I would like to address the House for one hour.

Mr. TILSON. Of course, the gentleman would have to take his time after the other special orders.

Mr. PATTERSON. I understand that I would follow the other special orders.

Mr. TILSON. There are three special orders ahead of the gentleman already, and there is no objection to the gentleman having time after these special orders.

Mr. PATTERSON. The gentleman will remember I talked with him yesterday about the matter, and also with the gentleman from New York. I have been trying to get in for several days.

Mr. TILSON. I have talked with the gentleman from New Jersey, who is in charge of the bill, and it would seem that it will probably be finished in a couple of hours. We already have special orders which will consume 1 hour and 45 minutes, so the gentleman might have time by 3.30, or something like that, or probably earlier, depending on the opposition to the bills to be considered to-day.

Mr. PATTERSON. Mr. Speaker, following the special orders for to-day, I ask unanimous consent that I may address the House for one hour.

The SPEAKER. The gentleman from Alabama asks unanimous consent that following the address of the gentleman from Washington [Mr. JOHNSON] to-day he may address the House for one hour. Is there objection?

There was no objection.

AMENDMENT OF THE RADIO ACT OF 1927

The SPEAKER. This is Calendar Wednesday, and the Clerk will call the committees.

The Clerk called the Committee on the Merchant Marine and Fisheries.

Mr. LEHLBACH. Mr. Speaker, by direction of the Committee on the Merchant Marine and Fisheries I call up the bill (H. R. 11635) to amend the radio act of 1927, approved February 23, 1927, and for other purposes, on the House Calendar.

The SPEAKER. The gentleman from New Jersey calls up a bill, which the Clerk will report.

The Clerk read the bill, as follows:

Be it enacted, etc., That subparagraph (f) of section 1 of the radio act of 1927 (U. S. C., Supp. III, title 47, sec. 81) is amended by inserting after the words "within the" the words "jurisdiction of the," so that as amended said subparagraph shall read: "or (f) upon any aircraft or other mobile stations within the jurisdiction of the United States, except under and in accordance with this act and with a license in that behalf granted under the provisions of this act."

SEC. 2. Section 2 (U. S. C., Supp. III, title 47, sec. 82) is amended by striking out the word "and" before the word "Alaska" in the last line

of said section, by striking out the period at the end of the section and inserting in lieu thereof a comma, and by adding the words "Guam, and eastern Samoa," so that the last line of said section 2, as amended, shall read: "California, the Territory of Hawaii, Alaska, Guam, and eastern Samoa."

SEC. 3. The first paragraph of section 3 (U. S. C., Supp. III, title 47, sec. 83) is amended by adding at the end thereof the following: "The chairman shall be elected annually. The commission shall also elect annually a vice chairman, who shall, during the absence of the chairman, assume and perform the duties of that office."

SEC. 4. Paragraph (f) of section 4 (U. S. C., Supp. III, title 47, sec. 84) is amended by striking out the words "in the character of emitted signals" and inserting after the word "unless," in the sixth line thereof, the words "after a hearing," so that as amended the proviso will read as follows: *"Provided, however,* That changes in the wave lengths, authorized power, or in the times of operation of any station shall not be made without the consent of the station licensee unless, after a hearing, in the judgment of the commission such changes will promote public convenience or interest or will serve public necessity or the provisions of this act will be more fully complied with."

Paragraph (k) of said section is amended by striking out the first sentence and by inserting in lieu thereof the following:

"The commission may conduct its proceedings in such manner as will best conduce to the proper dispatch of business and the ends of justice. The commission shall have the power to require by subpœna the attendance and testimony of witnesses and the production of all books, papers, tariffs, contracts, agreements, and documents relating to any matter under investigation. Any representative of the commission and any examiner appointed by the commission may administer oaths and affirmations and sign subpœnas. In case of failure to comply with any subpœna or in case of the contumacy of any witness appearing at any hearing before an examiner, the commission, or a division thereof, the commission may invoke the aid of any district court of the United States. Such a court may thereupon order the witness to comply with the requirements of the subpœna or to give evidence which is relevant to the matter in question; and any failure to obey such order of the court may be punished by the court as a contempt thereof.

"A majority of the commission shall constitute a quorum for the transaction of business, but no commissioner shall participate in any hearing or proceedings in which he has a pecuniary interest. The commission may, from time to time, make or amend such general rules or orders as may be requisite for the order and regulation of the proceedings before it, including forms of notices and the service thereof, which shall conform, as nearly as may, to those in use in the courts of the United States. Any party may appear before the commission or any division thereof or before an examiner and be heard in person or by attorney. Every vote and official act of the commission, or of any division thereof, shall be entered of record, and its proceedings shall be public upon the request of any party interested.

"The commission may order testimony to be taken by deposition in any proceeding or investigation pending under this act at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the commission and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall then be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the commission as hereinbefore provided.

"Witnesses summoned before the commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States. Witnesses shall be paid by the party subpœnaing them.

"No person shall be excused from attending and testifying or from producing documentary evidence before the commission or in obedience to the subpœna of the commission on the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture. But no natural person shall be prosecuted or subject to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he may testify, or produce evidence, documentary or otherwise, before the commission in obedience to a subpœna issued by it: *Provided,* That no natural person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying."

SEC. 5. Section 9 (U. S. C., Supp. III, title 47, sec. 89) is amended by striking out the period at the end of the third paragraph, inserting a comma, and adding the following: "but action of the licensing authority with reference to the granting of such application shall be limited to and governed by the same considerations and practice which affect the granting of original applications."

SEC. 6. Section 10 (U. S. C., Supp. III, title 47, sec. 90) is amended by striking out the first sentence and by inserting in lieu thereof the following: "The licensing authority may grant licenses, renewal of licenses, and modification of licenses only upon written application therefor received by it: *Provided, however,* That in cases of emergency found by the commission licenses, renewals of licenses, and modifications of licenses, for stations on vessels or aircraft of the United States, may be issued under such conditions as the commission may impose, without such formal application. Such licenses, however, shall in no case be for a longer term than three months."

SEC. 7. The first paragraph of section 12 (U. S. C., Supp. III, title 47, sec. 92) is amended by striking out the period at the end thereof, inserting a colon, and by adding the following: "*Provided, however,* That nothing herein shall prevent the licensing of radio apparatus on board any vessel, aircraft, or other mobile station of the United States when the installation and use of such apparatus is required by act of Congress or treaty to which the United States is a party."

SEC. 8. Section 14 (U. S. C., Supp. III, title 47, sec. 94) is amended by striking out the words "Any station license shall be revocable by the commission," and by inserting in lieu thereof the following: "Any station license may be revoked, modified, or suspended by the commission."

Said section is further amended by striking out all of the proviso and by inserting in lieu thereof the following: "*Provided, however,* That no license shall be revoked, modified, or suspended until the licensee shall have been notified in writing of the proceedings for such revocation, modification, or suspension, the cause for the proposed action, and shall have been given reasonable opportunity to show cause why an order of revocation, modification, or suspension should not be issued."

SEC. 9. Section 16 of the radio act of 1927 (U. S. C., Supp. III, title 47, sec. 96) is amended by striking out the whole of said section and by inserting in lieu thereof the following:

"SEC. 16. (a) An appeal may be taken, in the manner hereinafter provided, from decisions of the commission to the Court of Appeals of the District of Columbia in any of the following cases:

"(1) By any applicant for a station license, or for renewal of an existing station license, or for modification of an existing station license, whose application is refused by the commission.

"(2) By any licensee whose license is revoked, modified, or suspended by the commission.

"(3) By any other person, firm, or corporation aggrieved by whose interests are adversely affected by any decision of the commission granting or refusing any such application or by any decision of the commission revoking, modifying, or suspending an existing station license.

"Such appeal shall be taken by filing with said court within 20 days after the decision complained of is effective, notice in writing of said appeal and a statement of the reasons therefor, together with proof of service of a true copy of said notice and statement upon the commission. Unless a later date is specified by the commission as part of its decision, the decision complained of shall be considered to be effective as of the date on which public announcement of the decision is made at the office of the commission in the city of Washington.

"(b) The commission shall thereupon immediately, and in any event not later than five days from the date of such service upon it, mail or otherwise deliver a copy of said notice of appeal to each person, firm, or corporation shown by the records of the commission to be interested in such appeal and to have a right to intervene therein under the provisions of this section, and shall at all times thereafter permit any such person, firm, or corporation to inspect and make copies of the appellant's statement of reasons for said appeal at the office of the commission in the city of Washington. Within 30 days after the filing of said appeal the commission shall file with the court the originals or certified copies of all papers and evidence presented to it upon the application involved or upon its order revoking, modifying, or suspending a license, and also a like copy of its decision thereon, and shall within 30 days thereafter file a full statement in writing of the facts and grounds for its decision as found and given by it, and a list of all interested persons, firms, or corporations to whom it has mailed or otherwise delivered a copy of said notice of appeal.

"(c) Within 30 days after the filing of said appeal any interested person, firm, or corporation may intervene and participate in the proceedings had upon said appeal by filing with the court a notice of intention to intervene and a verified statement showing the nature of the interest of such party, together with proof of service of true copies of said notice and statement both upon appellant and upon the commission. Any person, firm, or corporation who would be aggrieved or whose interests would be adversely affected by a reversal or modification of the decision of the commission complained of shall be considered an interested party.

"(d) At the earliest convenient time the court shall hear and determine the appeal upon the record before it, and shall have power, upon such record, to enter a judgment affirming or reversing the decision of the commission, and in event the court shall render a decision and enter an order reversing the decision of the commission it shall remand the case to the commission to carry out the judgment of the court: *Provided, however,* That the review by the court shall be limited to questions of law and that findings of fact by the commission, if supported by substantial evidence, shall be conclusive, unless it shall clearly appear that the findings of the commission are arbitrary or capricious or that the action of the commission constitutes an abuse of sound discretion.

The court's judgment shall be final, subject, however, to review by the Supreme Court of the United States upon writ of certiorari on petition therefor under section 347 of title 28 of the Judicial Code by appellant, by the commission, or by any interested party intervening in the appeal.

"(e) The court may, in its discretion, enter judgment for costs in favor of or against an appellant and/or other interested parties intervening in said appeal, but not against the commission, depending upon the nature of the issues involved upon said appeal and the outcome thereof."

SEC. 10. Section 30 (U. S. C., Supp. III, title 47, sec. 110) is amended by inserting in the first proviso thereof after the word "Alaska" the words "Guam, eastern Samoa,".

SEC. 11. Section 32 (U. S. C., Supp. III, title 47, sec. 112) is amended by striking out the last four words and by inserting in lieu the following: "each and every day during which such offense occurs."

Mr. LEHLBACH. Mr. Speaker, H. R. 11635 is a bill to amend the radio act of 1927 in various particulars. It does not in any way amend substantive law with respect to radio but merely amends the act in matters of administration and procedure. It contains no provision that has not the unanimous approval of the Committee on the Merchant Marine and Fisheries and also the approval of the Radio Commission. All matters upon which there were differences of opinion, either in the Radio Commission or in the committee of the House, were eliminated.

These changes in administration and procedure have, since the act of 1927 has been in operation, been found desirable and almost necessary. The act of 1927, creating the Radio Commission and vesting that commission with functions heretofore exercised in part only by the Secretary of Commerce and creating new Federal control over radio broadcasting and vesting that in the commission, of course set up an entirely new activity within the Federal Government. As I have said, in the course of time it was found that it was desirable to particularize the procedure in certain cases, to change various provisions with respect to appeals, with respect to notices, and with respect to the revocation, modification, or suspension of licenses, and this bill, which has been in the course of preparation for almost 12 months, is the result.

Mr. MORTON D. HULL. Will the gentleman yield?

Mr. LEHLBACH. I yield to the gentleman from Illinois.

Mr. MORTON D. HULL. Do these changes in the right of appeal restrict or broaden the right of appeal?

Mr. LEHLBACH. They do not affect the right of appeal, but merely modify the procedure by means of which an appeal is, in the first instance, brought to the attention of the court and, in the second instance, the manner in which it is heard and the judgments entered; but it does not in any way take from a radio owner, a prospective radio owner, or applicant any substantial rights.

Mr. STAFFORD. Will the gentleman yield?

Mr. LEHLBACH. I yield to the gentleman from Wisconsin.

Mr. STAFFORD. I take it that the revision of the law, as recommended by the committee, so far as the basic principles upon which the court may proceed, is rather in opposition to the position that the court took heretofore in reviewing a decision of the commission. I refer to the language as found in section 16, and have in mind the decision of the Supreme Court that passed upon and reversed the decision of the commission so far as the Schenectady broadcasting station case is concerned. I assume under this language the lower court would not have been privileged to set aside the finding of the commission; and I direct the chairman's attention to the language in the proviso of subparagraph (d) that the review by the court shall be limited to questions of law and that findings of fact by the commission, if supported by substantial evidence, shall be conclusive, unless it shall clearly appear that the findings of the court are arbitrary or capricious and that the action of the commission constitutes an abuse of sound discretion. This was not the rule that the court followed in passing upon the action of the commission in the General Electric Co.'s broadcasting case.

Mr. LEHLBACH. Because it was not necessary at that time for the court to find affirmatively that the ruling of the commission was arbitrary or capricious or an abuse of sound discretion. The purpose of this proviso is not to deprive the courts entirely of going into issues of facts or considerations of fact, but to accept, in the first instance, the findings of fact by the commission, unless the courts find that for some reason such findings are unjustifiable, in which event the courts shall have the right to go into the facts as well as the law.

Mr. STAFFORD. If the gentleman will permit, I had occasion to review that decision rather closely, and I thought that the court usurped the powers of the commission in passing upon facts. Under this phraseology the rights of the commission will be safeguarded so that the court will not determine facts or be a fact-finding body but will leave the fact finding to the commission.

Mr. LEHLBACH. In that case the court assumed to hear the matter de novo without regard to the previous testimony taken or action thereon by the commission, and that was never the intention of the original framers of the radio act.

Mr. STAFFORD. And without having the broad field of vision that the commission must necessarily have in determining such questions.

Mr. LEHLBACH. As the gentleman says, without having such broad vision, because the granting of a license or of a certain time or of a certain wave length is not an isolated proposition. It is something that must be done in relation to the entire broadcasting field and with respect to the availability of wave lengths, power, and time. For this reason this provision carries into effect only what the original framers of the act of 1927 intended.

Mr. STAFFORD. If the gentleman will permit further, the court in that case virtually set itself up as a fact-finding commission and did not take into consideration the expert knowledge that the commission had in determining the question before it.

Mr. LEHLBACH. Briefly, to discuss the precise changes that have been made in existing law, section 1 of this bill provides that section 2 is amended by including within the jurisdiction of the Radio Commission and embracing within the purview of the radio act Guam and eastern Samoa, two American possessions, which were inadvertently omitted from the original act, so that as well as Alaska, Hawaii, Porto Rico, and so forth, Guam and eastern Samoa are included. So, consequently, wherever the jurisdiction of the United States goes, the provisions of the radio law go.

The third section of the bill provides that the chairman of the Radio Commission shall be elected annually and that the commission shall also elect a vice chairman, who shall, during the absence of the chairman, assume and perform the duties of that office.

The existing law on this subject merely provided originally for the appointment of a chairman when the Radio Commission was first constituted and then provided that thereafter the chairman shall be chosen by the commission itself, but it did not fix any term for the chairman to be thus elected, nor does it designate or authorize anybody to perform the functions which are by various parts of the act vested in the chairman and which in his absence must necessarily be held in abeyance.

The fourth section amends paragraph (f) of section 4 of the radio act by omitting the words "in the character of emitted signals."

Paragraph (f) provides—

That changes in the wave lengths, authorized power, in the character of emitted signals, or in the times of operation of any station, shall not be made without the consent of the station licensee.

On the recommendation of the Radio Commission the words "in the character of emitted signals" were omitted. They seem to have fallen into disuse and nobody really knows what actually is intended to be covered by this term; and, furthermore, it is provided that these changes shall not be made unless, after a hearing, in the judgment of the commission, such changes will promote public convenience or interest.

The requirement that these changes should not be made until a hearing was accorded was not in the original law and the propriety of such a procedure must be manifest.

The next amendment strikes out these words:

Have authority to hold hearings, summon witnesses, administer oaths, compel the production of books, documents, and papers, and to make such investigations as may be necessary in the performance of its duties.

And in lieu thereof there is substituted the rights and powers of the commission to hold hearings and to summon witnesses and to make investigations in great particularity.

The procedure is set out in detail instead of merely in general language, because it was found that without the procedure set forth in the law, where it is available to all those who may have an interest and who desire to appear and participate in such proceeding, the method of proceeding and their rights, and so forth, would be in question. They would not know how to proceed, and the procedure set up here follows as closely as circumstances will permit the procedure in the Interstate Commerce Commission, which has been tested for a long period and has been found to work very satisfactorily.

Section 5 amends section 9 of the act by adding to the provision, which says:

No license granted for the operation of a broadcasting station shall be for a longer term than three years and no license so granted for any other class of station shall be for a longer term than five years, and any license granted may be revoked as hereinafter provided. Upon the expiration of any license, upon application therefor, a renewal of such license may be granted from time to time for a term of not to exceed three years in the case of broadcasting licenses and not to exceed five years in the case of other licenses.

The language:

But action of the licensing authority with reference to the granting of such application shall be limited to and governed by the same considerations and practice which affect the granting of original applications.

The equity of such a provision is obvious.

Section 7 amends section 12 of the act. Section 12 of the act restricts the granting of licenses to American citizens or American corporations or companies or associations, but that limitation is subject to the following proviso in the bill:

Provided, however, That nothing herein shall prevent the licensing of radio apparatus on board any vessel, aircraft, or other mobile station of the United States when the installation and use of such apparatus is required by act of Congress or treaty to which the United States is a party.

There are circumstances where the law of the United States, or where international agreement with respect to safety at sea, or with respect to radio, make it necessary to install a station on such vessel, aircraft, or other mobile station, although such property may be owned by an alien, in which case the limitation that no license shall be granted to an alien does not apply.

Section 8 of the bill amends section 14 of the radio act by substituting for the words "any station license shall be revocable by the commission," the following words:

Any station license may be revoked, modified, or suspended by the commission.

The greater power certainly was intended to include the lesser power, but by inadvertence it was not put in the original act.

Mr. MORTON D. HULL. Mr. Speaker, will the gentleman yield?

Mr. LEHLBACH. Yes.

Mr. MORTON D. HULL. What would modification be? What is the license but the right to use a wave length? What is modification?

Mr. LEHLBACH. Restricting the time, for example. A station may operate six hours a day and the license may not not be revoked, but it may be modified to grant the station only four hours a day.

Section 9 amends section 16 of the act providing for appeals to the courts. The only substantial change excepting as to the time of filing papers and the time of replying to pleadings, and so forth, is the change already called to the attention of the House by the question of the gentleman from Wisconsin [Mr. STAFFORD], and that provision, which is carried in this bill, merely makes effective the intent of the framers of the original act of 1927, and the intent of Congress when it passed that act.

Mr. CLARK of Maryland. Mr. Speaker, will the gentleman yield?

Mr. LEHLBACH. Yes.

Mr. CLARK of Maryland. Did the committee consider at all the advisability of leaving findings of fact exclusively to the commission?

Mr. LEHLBACH. The committee has determined on that as follows——

Mr. CLARK of Maryland. Oh, I read the report, and I understand what the report says. I am simply asking whether the committee considered the advisability of leaving the finding of fact exclusively to the commission, giving the court only the right to review questions of law.

Mr. LEHLBACH. That was discussed in committee, and it was deemed inadvisable to withdraw entirely from the courts the right to review findings of fact, but it limits it to this, that the review by the courts shall be limited to law, and that findings of fact by the commission, if supported by substantial evidence, shall be conclusive, unless it shall clearly appear that the findings of the commission are arbitrary or capricious, or that the action of the commission constitutes an abuse of sound discretion.

Mr. CLARK of Maryland. That is practically the same language that we find in all the commission laws, but notwithstanding that language we find the courts constantly reversing the findings of fact by the commission. Just now the whole country is considering the advisability of limiting the courts to questions of law, and leaving the findings of fact exclusively to the commission. This language is not different, so far as limitations upon the power of the court are concerned, from language found in similar laws, we will say, for illustration, State commission laws, all over the country. The courts get around the language such as the gentleman has in this bill.

Mr. LEHLBACH. On the other hand, the committee did not feel that at this time it ought to report to the House a provision which renders one within the jurisdiction of the Radio Commission entirely without remedy in the event of a palpably gross abuse of discretion.

Mr. CLARK of Maryland. We are hoping that sooner or later some legislative body will be bold enough to say to the courts that they are going to review questions of law and leave questions of fact to those better able to determine them. In other words, that the commissioners, hearing the whole case and having the witnesses before them and studying all the facts, should know the facts better than the court before whom no witnesses appear. Courts are constantly reversing commissions on questions of fact, when the commissions are better able to determine those facts than are the courts.

Mr. LEHLBACH. The remaining changes in the existing law effected by this bill include an amendment to section 30 of the radio act making the penalty for violations of regulations and restrictions by license holders conform to the same penalty that other acts of this kind generally carry. Instead of saying that violators shall be fined $500 for each and every offense—and a continuing violation may be deemed one offense—it imposes a fine of $100 for each and every day, which is in accordance with the penalties in the case of other Government-regulated activities.

These briefly are the changes carried in this bill, and in the opinion of the committee reporting the same they have greatly improved and clarified the radio act; and as I say, the bill comes as a unanimous report of the Committee on the Merchant Marine, and has the support of the Radio Commission.

I reserve the balance of my time. I yield 10 minutes to the gentleman from Tennessee [Mr. DAVIS].

The SPEAKER. The gentleman from Tennessee is recognized for 10 minutes.

Mr. DAVIS. Mr. Speaker and ladies and gentlemen of the House, the gentleman from New Jersey [Mr. LEHLBACH] has fully explained the contents of this bill and its purpose. However, I shall make a few observations in regard to the subject.

The first general radio act was enacted by Congress in 1912 and continued to be the only law upon the subject until the Committee on the Merchant Marine and Fisheries reported a bill which was enacted into law in 1927 and is known as the radio act of 1927. Then in 1928 we amended the law in certain particulars, the chief of which was the enactment of the equalization provision, undertaking to insure an equal and equitable distribution of radio facilities as between different zones and between different States.

Radio is a comparatively new subject. I do not suppose that we have ever had any art which has developed so rapidly or any industry which has grown as rapidly as radio. The tremendous growth and the rapid development of the industry have changed conditions very rapidly. Radio being a new subject, from the scientific standpoint and the public-service standpoint and the industrial standpoint, any legislation that was enacted was necessarily experimental. On the whole, the radio legislation has met the situation fairly well.

However, in the actual administration of the law and in the light of actual experience it has developed to the satisfaction of the Radio Commission and of the Committee on the Merchant Marine and Fisheries that certain amendments to the law should be adopted, and the pending bill undertakes to effectuate some changes along that line.

These changes are practically all of a procedural and administrative character. As has been explained by the gentleman from New Jersey, the two outstanding changes are those relating to the hearings before the commission and those relating to appeals from the commission to the courts. The act of 1927 was perhaps not comprehensive and definite enough in these particulars. At any rate, differences of opinion arose as to the proper interpretation of the law, both with respect to hearings and the right of parties thereto and also in respect to appeals, and interpretations have been made that were not in accord with the purpose and views of the committee which reported the original bill.

With respect to the subject of hearings, the amendments proposed make it very clear and definite how the hearings shall be held, and insure any interested party the right to be heard. The same is true with respect to the right of appeal to the courts. Any party aggrieved is given the right to appeal to the court; and then we have made it clear in the proposed amendment that an appeal shall lie to the Supreme Court of the United States upon a proper showing by petition for a writ of certiorari.

There are some other features which have already been explained by the gentleman from New Jersey, and which I shall not review. However, the committee is of the opinion that all of the proposed changes are in the interest of clarity, in the interest of simplicity, in the interest of justice, and in the final analysis in the public interest.

There has been a great deal of discussion of the work of the Federal Radio Commission and of their administration of the existing law. There is a wide diversity of opinion as to whether their administration has been wise or unwise. There has been and is now more or less dissatisfaction on the part of different individuals and different sections. No law can be enacted, no law can be so administered with respect to radio, that will perfectly meet the situation or will satisfy everybody, for the simple reason that we have long since reached the point where the demand for radio facilities, not only broadcasting but commercial; in other words, radiotelegraphic facilities—that it is impossible to commence to meet the demand, and the demand is growing rapidly all the time. Consequently the duty and responsibility now devolves upon the commission to determine those to whom facilities shall be granted, the terms upon which they shall be granted, and those to whom facilities shall be denied. Of course, those who seek facilities and fail to obtain them will naturally be dissatisfied.

Therefore much of the dissatisfaction grows out of a natural situation for which neither the law nor the commission is responsible. However, I do not want to be understood as giving expression to the opinion that the administration of the law has been ideal. In my opinion, it has been far from ideal. While I think the commission has performed its services very well in many respects, and while I think they have improved the situation to a great extent, still I think they have failed in several important respects.

Referring particularly to the equalization amendment which was enacted in 1928, and which I had the honor to prepare and to propose, there has been a great deal of discussion of the reallocation which went into effect thereunder on November 11, 1928, together with changes subsequently made. I think that the commission, acting under that amendment, improved the situation to a great extent. They effected a much more equitable distribution than had previously existed, but, as their own figures show, they have not yet effectuated anything like perfect equalization of broadcasting facilities.

Mr. SLOAN. Will the gentleman yield?

Mr. DAVIS. I yield.

Mr. SLOAN. I think there is a bill pending which has as a basis for distribution three factors—one, the State itself; one, the area; and one, population. Does that bill appeal to the gentleman as a satisfactory or an almost satisfactory basis for distribution of rights?

Mr. DAVIS. I have given some considerable study to that proposal in the light of the situation and the present law. I think it is worthy of careful consideration, but I am not prepared at this time to accord my approval to it.

In that connection I wish to say to the gentleman from Nebraska [Mr. SLOAN] that the equalization amendment which was first reported by the Committee on the Merchant Marine and Fisheries embraced not only the factor of population but also of geographical area. However, when the bill was reported to the House in that form, considerable opposition developed to the application of the area feature; so much so that it was indicated we would be unable to obtain a rule for the consideration of the bill with that provision in it. Whereupon our committee reconsidered that feature and reported a bill providing for distribution upon a population basis and omitting the criterion with respect to geographical area.

My opinion is that if we undertake to inject issues of geographical areas and, particularly, State rights, we will find it a very controversial proposition.

The SPEAKER pro tempore. The time of the gentleman has expired.

Mr. LEHLBACH. Mr. Speaker, I yield the gentleman five additional minutes.

Mr. DAVIS. As I stated in the outset, I think the proposal is worthy of serious and careful consideration, particularly the geographical feature. In fact, the present law, I think, would possibly permit the location of additional stations in large geographical areas, where it would not interfere with the use of the facility elsewhere. Of course, the law might be clarified or liberalized along that line.

I wish to state, however, that my opinion is that the extent to which the present law has proven unsatisfactory to the public as a whole is due to two things primarily. The first is the fact that the commission cleared 40 of the 89 channels available for broadcasting and then allocated 38 of those 40 cleared channels to chain stations; in other words, to stations which were broadcasting the same program that scores of other stations throughout the country were broadcasting. And the remaining stations, to the number of considerably more than 500, were crowded together on the remaining 49 channels.

In the second place, I think that they have injured the situation and the reception most materially by granting superpower to many stations. Personally, after years and years of study of this subject and after discussing it with listeners and engineers and broadcasters and people of every kind and description from all sections of the country, I am convinced that superpower causes infinitely more harm by blanketing and heterodyning stations on the other channels than any possible benefit that can accrue to the few stations that are permitted to employ this high power. The harmful effects of superpower far outweigh any benefits thereof.

Mr. COYLE. Will the gentleman yield?

Mr. DAVIS. I yield.

Mr. COYLE. Has the gentleman from Tennessee had his attention called to cases where stations located in the same channel were given, in some cases, forty times the power that other stations in the same channel were given? I have had that called to my attention, and it seems to me the gentleman has hit on the very difficulty that causes nine-tenths of the trouble that we have with the local stations.

Mr. DAVIS. I will state to the gentleman from Pennsylvania [Mr. COYLE] that that situation undoubtedly existed to a very great extent. Under the reallocation made pursuant to the equalization amendment, the commission claimed to have undertaken to get away from that situation, and, I think, perhaps, on the whole they have, but in some respects I do not think they have. It is not merely other stations on the same channel that are affected by high power. Anybody familiar with the situation knows that the superpower station not only destroys the reception of any other station on the same wave length, but plays havoc with stations on adjoining wave lengths and frequently on wave lengths with a much greater kilocycle separation.

Mr. COLE. Will the gentleman yield?

Mr. DAVIS. I yield.

Mr. COLE. Is that superpower necessary?

Mr. DAVIS. No. My opinion and the opinion of many others, including some of the members of the Radio Commission, is that it is not only not necessary but not really beneficial, for the reason that fading takes place with somewhere between five and ten thousand watts power, and after fading takes place, any increase in power is practically worthless for that station, but causes untold damage to the reception of other stations anywhere near it or on a wave length anywhere near that wave length. Certainly chain stations should have neither cleared channels nor superpower. [Applause.]

The SPEAKER pro tempore. The time of the gentleman from Tennessee has expired.

Mr. LEHLBACH. Mr. Speaker, I yield five minutes to the gentleman from North Carolina [Mr. ABERNETHY].

Mr. ABERNETHY. Mr. Speaker, ladies and gentlemen of the House, I am on this committee, and I am supporting this bill, but I am doing it with considerable misgivings. I am supporting it because it is the best thing we can get at this particular time. I have never been very much in favor of this character of legislation, because I thought when we first started out that there would be a few groups in the United States that would undertake to control the air, and that is the situation we have in this country to-day. There are two or three groups which are controlling the air through the regulation of the laws respecting radio. That is a fact, and there can be no dispute about it. At the present time we have two great broadcasting companies, one the National Broadcasting Co. and the other the Columbia chain. Whenever an independent radio station or an individual or independent group undertake to go in and get a license from the present Radio Commission, it will find, either directly or indirectly, opposition from these two great interests. That is the truth, and we might as well look the thing squarely in the face.

I do not desire to make any attack upon the present personnel of the Radio Commission, but I am not at the present moment or in my present frame of mind going to undertake to defend them. I am going to wait and see what they do. But I tell the House and the country that we have put into the hands of the Radio Commission the greatest power that has ever been given to any body of men in this country—the control of communication in the air. They have set up 40 cleared channels, which is absolutely indefensible. Those cleared channels are to-day used by these two combinations, the National Broadcasting Co. and the Columbia chain and their associated sta-

tions. That is the situation. I want to see the present commission take this thing with a strong grip and undertake to give the country some distribution of these cleared channels. [Applause.]

Mr. SLOAN. Will the gentleman yield?

Mr. ABERNETHY. Yes.

Mr. SLOAN. Is there anything in this bill which the gentleman has discovered that in any wise strengthens those two objectionable organizations?

Mr. ABERNETHY. None whatever. This bill, in my judgment, gives the independent man or the independent station more rights to appeal to the court, with one exception, and that exception is that the present commission has the right to find facts, and those facts can not be reviewed by the court unless there has been an abuse of discretion or there is something capricious about decisions they may make.

I have nothing against these large corporations like the National Broadcasting Co. and the Columbia chain. I think they serve a very useful purpose. When we can hear Berlin, London, and great events through national hook-ups I think it is a great thing, but I want to serve notice on the Radio Commission, as a humble member of this committee, that I think they can give these two combinations all they need and at the same time have plenty of cleared channels to take care of the balance of the country. That can be done if they have the nerve and courage to do it. I think we might as well lay down the barrage now and let the present commission understand that is the way Congress feels about it. I am sure we feel that way about it or we never would have passed the Davis amendment, and ever since the adoption of the Davis amendment there has been an effort on the part of certain interests to tear it down.

The SPEAKER pro tempore. The time of the gentleman from North Carolina has expired.

Mr. LEHLBACH. Mr. Speaker, I yield the gentleman three additional minutes.

Mr. ABERNETHY. I want to say that the present Merchant Marine and Fisheries Committee—and this applies to the Republican membership and the Democratic membership—have worked in harmony, and I believe the committee is seeking to serve the country. I believe we are undertaking to bring about conditions that will be beneficial to the whole country, and this legislation is helpful, but it does not go far enough. I want to reserve the right to make a searching investigation of the Radio Commission, if necessary, in the future to ascertain who is controlling the air, how they are controlling it and what method they are using to control it. While I am supporting this legislation I serve notice upon the present Radio Commission that they must function in the interest of the people or they may expect to hear from Congress. [Applause.]

Mr. KVALE. Will the gentleman yield?

Mr. ABERNETHY. Yes.

Mr. KVALE. Reports have been current throughout the country in the past week or two that there are some mysterious shakeups in the air which may drastically affect some of the stations in the way of reassignment of power and redistribution.

Mr. ABERNETHY. The gentleman will find there will be considerable shape-ups all the time. Certain large interests came to Washington some time ago and said to Congress, "Give us a monopoly of the air. It will be for the benefit of the people." They brought our friend Owen Young, and he said he desired an absolute monopoly of the air. Of course he does. The interests he represents have at present a considerable monopoly of the air. If Congress or the Radio Commission should give this monopoly, of course they are going to take it.

Mr. KVALE. This had reference to the basic policies of the commission.

Mr. ABERNETHY. I hope the commission will not do anything that is radical, because as far as I am concerned I am looking at them with one eye askance and watching them with the other. [Applause.]

Mr. LARSEN. Will the gentleman yield?

Mr. ABERNETHY. Yes.

Mr. LARSEN. The gentleman spoke of the Davis amendment. Is the Davis amendment being put into effect?

Mr. ABERNETHY. To some extent; yes.

Mr. LARSEN. But not fully.

Mr. ABERNETHY. To some extent only.

Mr. LEHLBACH. Mr. Speaker, I yield three minutes to the gentleman from Pennsylvania [Mr. COYLE].

Mr. COYLE. Mr. Speaker, I have asked for this time to emphasize a point that has just been made, and that is that very often in the allocations to single stations that are not tied up with a chain, the lack of the proper power allocations to the individual station causes a great deal of cross talk in the local area that belongs locally to the individual station.

There is, I think, nothing fundamentally wrong with the law itself, delegating this power to the Radio Commission. The fundamental difficulty arises, as is almost always the case, through personnel failure and not through the failure of the law itself.

I have but one broadcasting station in my neighborhood, which serves an area that is about six times as large in population and product as each of several States in this Union, and it is practically impossible for that single radio station to get power that will prevent cross talk from stations in or near the same supposed cleared channel that are as much as 300 miles away and clear outside of that area. This lack of power frequently blocks this station into an area radius of not more than 5 miles from its transmitter, although its natural area has a radius of about 50 miles.

As an excellent case in point, which indicates the failure of the Federal Radio Commission to recognize the repeatedly expressed will of Congress, I would cite a recent hearing before the commission on an application of this station WCBA, "The Voice of the Lehigh Valley," for an increase from 250 watts, its present licensed power, to 500 watts. Although the commission had ample authority to grant this application without any recourse to a hearing, it nevertheless determined to hold a hearing. All the other stations operating on 1,440-kilocycle wave lengths were notified of the hearing. There are four other stations in this Middle Atlantic area operating on the same wave length, and all four stations have at least twice as much power as the Allentown station, which is now dividing time with another Allentown station, WSAN, on the same wave length.

At the hearing, there were no witnesses called by any of the stations notified, to testify in opposition to the request for an increase in power. It was stated under oath that these stations in Allentown serve a population of about 600,000. It is a fact that these stations are the only ones which can locally serve this big area. The importance of the area was clearly explained to the commission. It is the home of the Bach Choir, which annually brings people to Bethlehem from 36 States. This year the music of this choir is to be broadcast from its home station, and the power back of the broadcasting is but 250 watts. In the field of sport, these stations broadcast the historic games between Lehigh and Lafayette, both of which universities are in this area. The largest potato market south of Maine is within 8 miles of the location of these stations. In cement, slate, steel production, and more recently in apples and peaches, this area assumes an immense importance. Three Metropolitan opera stars have been developed in Allentown, live there now, and use this station frequently. Yet the Radio Commission, who might have without a hearing allowed the 500-watt power application, nevertheless saw fit after holding a hearing—at which these and many other facts were produced, and at which no witness was produced by anyone in opposition to the motion—still saw fit to refuse the application. This decision was reached in spite of the fact that it was clearly stated and agreed in by the Radio Commission that the State of Pennsylvania is far under the power allocation allowed by the commission itself, and probably because of the fact that it was a little station merely asking to be equal in power with the other stations on the same wave length.

Station WCBA, in Allentown, was one of the earliest in the field, and the Radio Commission itself has admitted, informally of course, that this early station, which has continuously given satisfactory programs to the people in its area, was just overlooked by the commission in the allocation of wave lengths and power in November of 1928. In no sense was it the fault of the owners and operators of this station. It is a fair example of one of the local stations that has been fairly operated and has been just left out of consideration because it did not belong to one of the nation-wide hook ups.

I want to commend the committee for the legislation which it brings in to-day. It may help to clear up and adjust the inequalities of the past. It should express to the Radio Commission the definite will on the part of Congress that the local stations are not to be disregarded in their anxiety to care for the national chains; and if with this added legislation the commission continues to disregard these local stations, it will be but further evidence of the failure of the human element on the Federal Radio Commission to grasp the good will and good intent of the Congress toward the local stations.

Mr. LEHLBACH. Mr. Speaker, by inadvertence, on page 7, in section 9, the right of appeal by an applicant who is refused a construction permit is omitted. The manner in which this omission came about was that there was consideration of elimi-

nating construction permits entirely. The committee determined not to eliminate them, but in anticipation of such elimination an appeal from a refusal to grant a construction permit was stricken from the appeals section. Inasmuch as construction permits are applied for and can be granted or refused, the right of appeal from such order ought to lie as well as from every other decision of the commission, and hence I offer this amendment.

The SPEAKER pro tempore. The gentleman from New Jersey offers an amendment, which the Clerk will report.

The Clerk read as follows:

Amendment offered by Mr. LEHLBACH: Page 7, line 23, after the word "applicant," insert the words "for a construction permit, or."

The amendment was agreed to.

Mr. LEHLBACH. Mr. Speaker, I move the previous question on the bill and all amendments to final passage.

Mr. ARENTZ. Will the gentleman yield for a question?

Mr. LEHLBACH. I will hold the motion in abeyance, with the permission of the Chair.

Mr. ARENTZ. Under the present ruling of the Radio Commission the State of Nevada has been denied any more than two small stations—one located in Las Vegas, Nev., and one in Reno, located about 450 miles apart. Each one of these stations, in turn, is located some two or three hundred miles from the nearest large town or city. The Federal Radio Commission advises me that, because of the Davis amendment and because of some other language now in the law, it is impossible for them to consider giving a license to two 500-watt stations in the State of Nevada. Surely I am within my rights, and I think the State as well, in demanding that something be done to remedy this situation, and if it is not in the present bill I wonder if it would be possible for the gentleman to offer an amendment that would remedy the situation.

Mr. LEHLBACH. There is nothing in the bill that deals with substantive law at all. The Davis amendment is a provision of substantive law that intends or aims to bring about an equitable distribution of radio facilities in all sections of the country.

Mr. ARENTZ. If the Radio Commission misinterprets the meaning of the Davis amendments, and I have spoken to the gentleman regarding the matter and told him that the Radio Commission has referred me to the Davis amendment, saying it does not cover the matter so they are able to do what I have suggested, is it not possible then to remedy this situation by now making it clear?

Mr. DAVIS. I want to state that it has come within my observation several times that the commission, or some member of the commission or the secretary of the commission, has given as the reason for doing something or for not doing something the "Davis radio equalization amendment," when the reason they gave was absolutely false and their assigning the amendment as a reason was simply a subterfuge. Of course, the equalization amendment, just as the gentleman from New Jersey [Mr. LEHLBACH] stated, was designed to effectuate an equal distribution of radio facilities between the different zones and then a fair and equitable distribution of radio facilities among the different States within a zone, and if this is not done it is simply a failure of administration.

Mr. ARENTZ. Is there not some language that could be inserted to make it plain to the commission that we mean just that?

Mr. LEHLBACH. We can not do that in this bill.

Mr. DAVIS. I do not see how you can make it any clearer. The law itself directs it, and they admit that they have not effected an equal distribution in many instances. They admit this. They admit that some sections and some cities are overquotaed and others underquotaed, but in many instances they have not had the courage to put the law into effect. This is the only trouble. The equalization amendment is fair and workable, notwithstanding the propaganda to the contrary.

Mr. ARENTZ. I will say that the people located on the isolated ranches, in the mountains and desert valleys of Nevada, are just as much entitled to hear some of the broadcasting from a Nevada station as people in the cities.

Mr. DAVIS. I agree with the gentleman, and before this provision was adopted many sections of the country had no facilities and could not get facilities, whereas some of them had more facilities than were for their own best interests, because their situation was all cluttered up.

Mr. ARENTZ. We can hear California cities, Salt Lake City, Oregon, and Washington cities, and every other section of the United States, but when we have some local material that we want to hear from two sections of our own State, surely the State is entitled to hear it, which its people can not do several hundred miles from a 100-watt station.

Mr. DAVIS. I agree with the gentleman 100 per cent.

Mr. BRIGGS. Will the gentleman yield?

Mr. ARENTZ. I yield.

Mr. BRIGGS. If it had not been for the Davis amendment Nevada might not have had any station at all. You did not have before.

Mr. ARENTZ. That does not take care of the situation now.

Mr. BRIGGS. The Davis amendment has made it possible and the question now is one of administration.

Mr. ARENTZ. I hope the statements that have been made here to-day and put in the RECORD will let the commission understand that Congress means that States like Nevada shall have additional facilities than now permitted.

Mr. LEHLBACH. Mr. Speaker, I renew my motion for the previous question.

The SPEAKER pro tempore. The question is on the motion of the gentleman from New Jersey for the previous question.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the engrossment and the third reading of the bill.

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

On motion of Mr. LEHLBACH, a motion to reconsider the vote whereby the bill was passed was laid on the table.

COMPENSATION OF VESSELS FOR TRANSPORTING SEAMEN

Mr. LEHLBACH. Mr. Speaker, by direction of the Committee on the Merchant Marine and Fisheries, I call up the bill (S. 3249) to amend section 4578 of the Revised Statutes of the United States, respecting compensation of vessels for transporting seamen.

The SPEAKER pro tempore. This bill is on the Union Calendar, and the House automatically resolves itself into the Committee of the Whole House on the state of the Union.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union, with Mr. MARTIN in the chair.

The Clerk read the title to the bill.

The CHAIRMAN. The gentleman from New Jersey is recognized for one hour.

Mr. LEHLBACH. Mr. Chairman, this is a bill that has been introduced in both Houses and has passed the Senate. It was introduced at the request of the Department of State. It deals with the compensation of vessels which, under the law, are compelled to furnish passage for distressed American seamen from different ports of the world back to the United States.

Under the practice the State Department, through its consular officers, may fix a reasonable rate within certain limits to pay for such transportation of seamen who are stranded.

It has been held that where a seaman is picked up in the open sea after a shipwreck, or where he is stranded in a port where there is no American consul, the State Department is without jurisdiction to fix a reasonable compensation for the ship that brings the distressed seaman home, and the Comptroller General must fix it.

The law also provides that where there is no consul in a foreign port the Comptroller General shall fix the compensation. There is an appropriation known as the appropriation for the relief of distressed American seamen out of which all of these items are paid under the discretion, and under the authority of the State Department, save in these few exceptions. The amount of money involved in transporting seamen and over which the Secretary of State may not exercise discretion does not amount to over $1,000 a year, but in order to make the practice uniform, in order that the whole matter of repatriating stranded seamen may be in one governmental agency this legislation is desired. I know of no opposition to the measure, and unless some time is desired, I will ask the Clerk to read.

The Clerk read the bill for amendment, as follows:

Be it enacted, etc., (1) That section 4579 of the Revised Statutes of the United States as amended by the acts of July 31, 1894, and June 10, 1921, is hereby repealed; and (2) That section 4578 of the Revised Statutes of the United States as amended by the acts of June 26, 1884, June 19, 1886, July 31, 1894, June 10, 1921, and January 3, 1923, be further amended to read as follows:

"All masters of vessels of the United States and bound to some port of the same are required to take such destitute seamen on board their vessels at the request of consular officers, and to transport them to the port in the United States to which such vessel may be bound, on such terms, not exceeding $10 for each person for voyages of not more than 30 days and not exceeding $20 for each person for longer voyages, as may be agreed between the master and the consular officer, when

transportation is by a sailing vessel; and the amount agreed upon between the consular officer and the master of the vessel in each individual case not in excess of the lowest passenger rate of such vessel and not in excess of 2 cents per mile shall in each case constitute the lawful rate for transportation on steam vessels; and said consular officer shall issue certificates for such transportation, which certificates shall be assignable for collection. Every such master who refuses to receive and transport such seamen on the request or order of such consular officer shall be liable to the United States in a penalty of $100 for each seaman so refused. The certificate of any such consular officer, given under his hand and official seal, shall be presumptive evidence of such refusal in any court of law having jurisdiction for the recovery of the penalty. No master of any vessel shall, however, be obliged to take a greater number than one man to every 100 tons burden of the vessel on any one voyage or to take any seaman having a contagious disease.

"Reasonable compensation, in addition to the allowances provided herein, or any allowance now fixed by law or by regulations now or hereafter established in accordance with section 1752 of the Revised Statutes of the United States, may be paid from general appropriations for the relief and protection of American seamen, when authorized by the Secretary of State, in the following cases:

"First. If any such destitute seaman is so disabled or ill as to be unable to perform duty, the consular officer shall so certify in the certificate of transportation, and such additional compensation shall be paid as the Secretary of State shall deem equitable and proper.

"Second. Whenever distressed or destitute seamen of the United States are transported from foreign ports where there is no consular officer of the United States, or from points on the high seas, to ports of the United States, or from such foreign ports or points on the high seas to a port accessible to a consular officer of the United States who is authorized to assume responsibility on behalf of the Government of the United States for the further relief and repatriation of such seamen, there shall be allowed to the master or owner of such vessel in which they are transported such reasonable compensation as shall be deemed equitable by the Secretary of State."

Mr. LEHLBACH. Mr. Chairman, I move that the committee do now rise and report the bill to the House.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. MARTIN, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee had had under consideration the bill (S. 3249) to amend section 4578 of the Revised Statutes of the United States, respecting compensation of vessels for transporting seamen, and had directed him to report the same back without amendment with the recommendation that it do pass.

Mr. LEHLBACH. Mr. Speaker, I move the previous question.

The previous question was ordered.

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

On motion of Mr. LEHLBACH, a motion to reconsider the vote whereby the bill was passed was laid on the table.

Amend the title so as to read: "An act to repeal section 4579 and amend section 4578 of the Revised Statutes of the United States respecting compensation of vessels for transporting seamen."

MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Latta, one of his secretaries, who also informed the House that on April 29, 1930, the President approved and signed bills of the House of the following titles:

H. R. 11704. An act to amend the air mail act of February 2, 1925, as amended by the acts of June 3, 1926, and May 17, 1928, further to encourage commercial aviation;

H. R. 7881. An act authorizing the Secretary of the Interior to erect a monument as a memorial to the deceased Indian chiefs and ex-service men of the Cheyenne River Sioux Tribes of Indians; and

H. R. 10081. An act to amend the act authorizing the attorney general of the State of California to bring suit in the Court of Claims on behalf of the Indians of California.

ORDER OF BUSINESS

Mr. LEHLBACH. Mr. Speaker, the committee has no further bills to call up at this time.

The SPEAKER. Under the special order of the House, the Chair recognizes the gentleman from Iowa [Mr. RAMSEYER] for one hour.

THE SENATE EXPORT DEBENTURE AMENDMENT

Mr. RAMSEYER. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by printing excerpts from public documents.

The SPEAKER pro tempore (Mr. KETCHAM). Is there objection?

There was no objection.

Mr. RAMSEYER. Mr. Speaker and Members of the House, I am going to discuss with you to-day the highly controverted issue of agricultural export debentures. To-morrow we will commence the consideration of the conference report on the tariff bill. One of the amendments on which there will be a separate vote is the Senate export-debenture plan. I asked for time yesterday to discuss this amendment to-day as I wanted to do so before the Members of the House got into an emotional state of mind over highly controverted matters in the tariff bill. I want to bring to your attention certain economic facts and principles bearing on export debentures or bounties.

The question of farm relief has agitated this country for over 10 years, and whatever agitates the country agitates this body. The farm problem has not only agitated this country but it has agitated every agricultural country in the world.

We have in this country about 350,000,000 acres of land under cultivation. Of this 350,000,000 acres 47,000,000 acres are in cotton, 57,000,000 acres in wheat, and 100,000,000 acres in corn. These three products occupy 204,000,000 acres of land, leaving 146,000,000 acres for other agricultural uses. How to handle this 350,000,000 acres of land in a way profitable to the tillers of the soil is the problem that the Federal Farm Board is attempting to solve in cooperation with the farm organizations and the farmers of the country.

In recent years we have passed many laws to aid agriculture. In fact I do not now recall any proposal sponsored by the national farm organizations that was not enacted into law except the Haugen-McNary equalization fee proposal. Behind this Haugen-McNary proposal were most, if not all, of the great national farm organizations except the National Grange.

We will have before us in a few days a Senate amendment to aid agriculture by the so-called export-debenture plan. An export-debenture plan has been sponsored by the National Grange since 1926. So far as I know no other national farm organization has gone on record as favoring such a plan. Any plan that has the backing of a great national farm organization like the National Grange is entitled to serious, candid, and respectful consideration. The export-debenture plan has been twice indorsed by the United States Senate, first in connection with the agricultural marketing bill last year and later as an amendment to the pending tariff bill.

There is no question about the necessity for aid to agriculture. Arguments to demonstrate that are unnecessary. That is conceded by every group that has ever made a study of the agricultural situation in this country. I have listened to arguments in this body as well as elsewhere in support of the export debenture. Usually a good deal of time is taken up to demonstrate the need for relief to agriculture. In some indefinite way it is pointed out that the export debenture will give that relief. Then the conclusion is reached that the export debenture should be enacted into law. Whether this export-debenture plan will aid agriculture is the subject of our inquiry this afternoon.

It is argued that the export-debenture plan will make the tariff effective on agricultural products to which the debenture will be made to apply by the Farm Board. The Senate amendment proposes the issuance of debenture certificates on all agricultural products exported equal to one-half of the duties on such products. Cotton, on which there is no import duty, is to have export-debenture certificates of 2 cents per pound on the cotton exported.

What constitutes making a tariff effective? There are two concepts of an effective tariff. The first is that it increases the domestic price of the commodity over the world price to the extent of the duty on such commodity. That is the concept that is usually in the minds of those who argue for making the tariff effective. That is the concept that was emphasized during the discussions while the Haugen-McNary equalization fee bills were before the Congress and the country. According to this concept to make the tariff effective is to elevate the domestic price over the world price of such commodity by means of a tariff.

The other concept of an effective tariff, which I think is the historic concept, is to bring about a condition by the regulation of foreign commerce by means of tariff barriers that will give to the domestic producers all of the home market which such producers can supply. Or, as is sometimes stated, to give the domestic producers certain advantages over the foreign producers in the home market. There are a number of factors that enter into the determination of the price a commodity will sell for in the domestic market aside from the tariff factor. According to this latter concept of what constitutes an effective tariff the price of a commodity may or may not be elevated if

the domestic producers are given all of the home market. Whether a tariff thus effective will elevate prices depends on competition among domestic producers, domestic marketing conditions, and production of surpluses for export.

In my speech of December 20 last I discussed the effect of the tariff on numerous agricultural products. In the production of all agricultural products there is keen competition. Whether a tariff on agricultural products which gives the domestic producers all the home market will result in an elevation of prices depends very largely on whether or not there are exportable surpluses.

To date the marketing machinery for agricultural products has not been sufficiently developed to prevent the surpluses from depressing the prices to the level of the world prices. Whether the present agricultural marketing act will develop agricultural cooperative organizations or agricultural stabilization corporations with sufficient bargaining power to hold agricultural products above world prices remains to be demonstrated.

Instances can be cited where industrial products were taken from the free list and protected, or the duties on such products were increased, with the result that the prices of the industrial products were cheaper after the protective duties were imposed. Protecting such products has given producers an opportunity for mass production and improved merchandising methods which resulted in lowering the prices of such products. The idea of the old school protectionists was to bring about that very situation.

I do not wish to be understood as claiming that the imposition of duties on industrial products results as a rule in reducing prices. On the other hand, I think the converse is the rule. Producers of industrial products are organized as the producers of agricultural products are not. Producers of industrial products can control their production as the producers of agricultural products can not. The producers of industrial products by organization and control of output can protect themselves against world prices as the producers of agricultural products can not.

I have listened to most of the discussion on the export debenture plan in this body and have also heard discussions elsewhere. Furthermore, I have read a great deal of the literature on the subject that has come to my desk. The supporters of the export debenture cite in support of this plan two great authorities. One, the Report on Manufactures by Alexander Hamilton, and the other a recent report of an informal committee set up by the Right Hon. S. M. Bruce, Prime Minister of Australia, in the spring of 1927. I have in my hand a volume entitled "Industrial and Commercial Correspondence of Alexander Hamilton." Beginning on page 247 of this volume is the report of Mr. Hamilton on the subject of manufactures. I do not know how many of you have ever read this report, but I am sure you have all heard of it. While Mr. Hamilton was Secretary of the Treasury, the House of Representatives ordered him to report on the different means to aid manufactures. The result was the famous Hamilton report on the subject of manufactures. I will read to you the 6-line introduction to this report:

The Secretary of the Treasury, in obedience to the order of the House of Representatives, of the 15th day of January, 1790, has applied his attention, at as early a period as his other duties would permit, to the subject of manufactures; and particularly to the means of promoting such as will tend to render the United States independent of foreign nations for military and other essential supplies.

Those of you who have read this report and are familiar with the literature on the tariff and other aids to manufactures and agriculture, I am sure will agree with me that there never was a more thorough, exhaustive, and intelligent discussion of the subject than that contributed by Alexander Hamilton in this report.

On page 289 Mr. Hamilton gives 11 different ways to aid manufactures, and aids to agriculture are included. There is some discussion following each of the 11 proposed aids. Now, here are the 11 different suggestions or proposals or aids by Mr. Hamilton:

1. Protecting duties, or duties on those foreign articles which are the rivals of the domestic ones intended to be encouraged.

2. Prohibitions of rival articles, or duties equivalent to prohibitions.

That is the same as an embargo tariff. We have some now, and I think there have always been some in the different tariff laws.

3. Prohibitions of the exportation of materials of manufactures.

4. Pecuniary bounties.

I shall return to this in a moment, because it is here that Hamilton has been quoted as favoring the debenture plan proposed in the Senate amendment.

5. Premiums.

6. The exemption of the materials of manufactures from duty.

7. Drawbacks of the duties which are imposed on the materials of manufactures.

We have the drawback in our tariff law.

8. The encouragement of new inventions and discoveries at home and of the introduction into the United States of such as may have been made in other countries, particularly those which relate to machinery.

9. Judicious regulations for the inspection of manufactured commodities.

10. The facilitating of pecuniary remittances from place to place.

11. The facilitating of the transportation of commodities.

Under this last head Mr. Hamilton discusses the improvement of roads and waterways. This report was written before there were railways. The Committee on Rivers and Harbors could get some good pointers out of this part of the report.

Now, turning back to the fourth suggestion, Pecuniary bounties, I want to say before I read from Mr. Hamilton that as an aid to industry and agriculture bounties have their place. I may suggest before I get through different items in the tariff bill where we ought to apply the principle of the bounty instead of the principle of the protective duty.

I am going to warn you now that this address may prove to be somewhat tedious, as I intend to do considerable reading from the authorities before me. I am now going to read several paragraphs under the head of "Pecuniary Bounties" to ascertain whether anything Hamilton had to say on bounties can be construed as supporting the export-debenture plan of the Senate and on which we will have to pass judgment within a few days. I will now read on page 291 the paragraphs that have been quoted as supporting export debentures. I read:

Bounties are sometimes not only the best but the only proper expedient for uniting the encouragement of a new object of agriculture with that of a new object of manufacture. It is the interest of the farmer to have the production of the raw material promoted by counteracting the interference of the foreign material of the same kind. It is the interest of the manufacturer to have the material abundant and cheap. If prior to the domestic production of the material, in sufficient quantity to supply the manufacturer on good terms, a duty be laid upon the importation of it from abroad, with a view to promote the raising of it at home, the interest both of the farmer and manufacturer will be disserved. By either destroying the requisite supply, or raising the price of the article beyond what can be afforded to be given for it by the conductor of an infant manufacture, it is abandoned or fails, and there being no domestic manufactories to create a demand for the raw material, which is raised by the farmer, it is in vain that the competition of the like foreign article may have been destroyed.

It can not escape notice, that a duty upon the importation of an article can no otherwise aid the domestic production of it, than by giving the latter greater advantages in the home market. It can have no influence upon the advantageous sale of the article produced in foreign markets—no tendency, therefore, to promote its exportation.

The true way to conciliate these two interests is to lay a duty on foreign manufactures of the material, the growth of which is desired to be encouraged, and to apply the produce of that duty, by way of bounty, either upon the production of the material itself, or upon its manufacture at home, or upon both. In this disposition of the thing, the manufacturer commences his enterprise under every advantage which is attainable, as to quantity or price of the raw material; and the farmer, if the bounty be immediately to him, is enabled by it to enter into a successful competition with the foreign material. If the bounty be to the manufacturer, on so much of the domestic material as he consumes, the operation is nearly the same; he has a motive of interest to prefer the domestic commodity, if of equal quality, even at a higher price than the foreign, so long as the difference of price is anything short of the bounty which is allowed upon the article.

What Mr. Hamilton was trying to bring about was the establishment of industries and the production of raw materials on the farms to supply such industries. To encourage the farmers to produce the raw materials he suggested a bounty to be paid to them. There is nothing in this entire discussion from which it can be inferred that Hamilton advocated a bounty on farm products of which there were produced a surplus for export. Hamilton has been quoted time and again in both Houses of Congress and by advocates of the export debenture outside of Congress as a supporter of the export-debenture plan. Mr. Hamilton did advocate bounties as an aid to both indus-

try and agriculture under certain circumstances. He did advocate bounties for new undertakings, and for such undertakings on the next page he said:

They are as justifiable as they are oftentimes necessary.

Now, I want to be clearly understood before I go further in this discussion. I do not want you to infer that just because Hamilton was not in favor of a bounty on agricultural products, of which we have a surplus for export, that that proves an export bounty can not or should not ever be used as a means of aiding agricultural products of which we produce a surplus for export. My only purpose in referring to this Hamilton report is to show you that Hamilton advocated protective duties to aid industry and agriculture, and bounties to aid new undertakings of industry and agriculture, and that in so far as this report goes he did not advocate bounties on old and well established undertakings of either industry or of agriculture. Following the discussion of these various aids to industry, Hamilton discusses the situation relative to various products. He takes up the following products: Iron, copper, lead, fossil coal, wood, skins, grain, flax, hemp, and so forth. The discussion of flax and hemp you will find on pages 309 and 310. Under flax and hemp he advocates both a duty and a bounty. In those days they had sailboats and they had to have sailcloth. To have sailcloth was important for navigation, and to have a supply of sailcloth on hand was important for both times of peace and times of war. From the last paragraph on this subject of flax and hemp I read on page 310:

To afford more effectual encouragement to the manufacture, and at the same time to promote the cheapness of the article for the benefit of navigation, it will be of great use to allow a bounty of 2 cents per yard on all sailcloth which is made in the United States from materials of their own growth. This would also assist the culture of those materials. An encouragement of this kind, if adopted, ought to be established for a moderate term of years to invite new undertakings and to an extension of the old. This is an article of importance enough to warrant the employment of extraordinary means in its favor.

I shall quote no further from Mr. Hamilton. What I have quoted to you will give you an understanding of the use of bounties to aid industry and agriculture as contemplated in Mr. Hamilton's report.

I hold in my hand the report of an informal committee set-up by the Right Hon. S. M. Bruce, Prime Minister of Australia, in the spring of 1927. This report was made some time last year. The committee was composed of a professor of economics, a professor of commerce, a member of the stock exchange, and two statisticians. It is a very complete and exhaustive report. The report discusses protective duties and bounties as applicable to the Australian industrial situation. Last fall I heard paragraph 197, beginning on page 109 of this report, quoted in support of the export debenture and afterwards I saw this paragraph in the CONGRESSIONAL RECORD. This committee, like Hamilton, urged the use of bounties instead of protective duties for new undertakings and for industries in their early and experimental stages. The views of Hamilton and of this committee on the uses to be made of bounties seem to be in accord. For nascent industries the committee, in paragraph 197, sums up the advantages of bounties over protective duties. Reading this paragraph alone one might get the idea that the committee sought to displace all protective duties with bounties in all cases. Now, bear in mind that the committee advocates the use of bounties instead of protective duties to aid industries in their early and experimental stages, and with that in mind I will read to you paragraph 197, on page 109, on the advantages and practicability of bounties. I read:

From every point of view, except that of political expediency, bounties are to be preferred to customs duties as a means of protection, and we may summarize their advantages as follows:

1. The assistance given to a tariff-protected industry is, in fact, a bounty, but it is paid by consumers, and much of its cost falls ultimately on the export industries.

2. Bounties paid from tax revenues are paid by the general taxpayer, who can be taxed in proportion to his income and capacity with much less hampering effect on production.

3. Bounties do not raise prices except through the general influence of taxation.

4. Bounties require payments only on the goods produced locally, while duties require payments on all the goods consumed, through the customs duties collected on the imports, which continue.

5. With bounties it is easy to discriminate between the grades of goods which can be produced at home and those which can not, and to leave the latter free from taxation.

6. The cost of bounties is definitely known and felt; it is not obscured as with duties, and there is a natural and healthy resistance to and criticism of the assistance given.

7. There is less probability of wasteful assistance to industries of minor importance.

Now, let me read to you a part of paragraph 200, beginning at the bottom of page 110:

We suggest, notwithstanding the fact that a general adoption of the bounty system is quite impracticable, that it should be possible in many cases to begin with bounties while home production is small. When the industry has grown and justified a continuance of protection, the practical necessities of the Treasury may make it advisable to substitute a protective duty. In the early stages of any industry, before it can develop its production, a duty increases the cost to the community without compensating benefit, except in respect of the revenue derived.

What I have just read to you is absolutely true. It applies to our situation in this country as it applies to the situation in Australia. Bounties can be used to-day to encourage new undertakings both here and in Australia, as they could have been used during the early period of our country when Mr. Hamilton made his report. Bounties have their advantages and practicability to-day as well as 140 years ago. One other quotation from this report in the introduction, on page 8, under the heading, "Bounties," I read:

Bounties are more economical than protective duties and are preferable on all grounds except financial expediency. They should be adopted as the method of protection when the industry is in an early and experimental stage. If and when the industry is established, a tariff duty could be substituted, and the amount necessary more accurately determined. We suggest the establishment of a trust fund for bounties, into which a fixed proportion of the customs revenue should be paid.

Here, as in other places in the report, the committee advocates a trust fund to be fed by customs duties and to be administered so as to aid industries in their early and experimental stages.

I realize that there is a prejudice aroused in this country at the mere suggestion of a bounty. There are numerous products of both industry and agriculture that should be protected by bounties rather than by customs duties. Hamilton advocated the use of bounties for new undertakings. The Australian committee advocates the use of bounties to aid industries in their early and experimental stages. Now, in this country when protection to a new undertaking is suggested we think only of customs duties.

In the pending tariff bill we double the duty on filberts. You know the filbert is a cultivated hazel nut. The present duty is 2½ cents per pound. The bill carries 5 cents per pound. Filberts are raised chiefly in Oregon. In 1928 we consumed 12,000 tons of filberts. That same year Oregon placed on the market 100 tons of filberts. This is a new undertaking. This is a nascent industry. It is an industry in its early and experimental stage. I am told if all the filbert orchards which are now planted and those that are in prospect to be planted come into full bearing we will produce 1,000 or 2,000 tons of filberts. There is no question but that doubling the duty on filberts will add that much additional burden on consumers of filberts. A bounty on filberts would be the economically sound way to aid this industry.

In California there is an olive-oil industry which produces about 1 per cent of our consumption of olive oil. This bill increases the duty on olive oil. The increase in duty is not going to increase the production of olive oil in this country. This nascent olive-oil industry should be protected, if at all, by a bounty.

In the State of Washington they are trying to grow tulip bulbs. This, too, is an industry in its early and experimental stage. For years we have imported our tulip bulbs from Holland. The peculiar climate of that country and the skill of generations in cultivating tulip bulbs produce a tulip bulb the like of which can not be gotten from any other place in the world. The State of Washington claims to have the climate and soil to produce tulip bulbs. Last year we imported 76,000,000 tulip bulbs. The State of Washington produced about 1,500,000 tulip bulbs. Experts who ought to know claim that the Washington tulip bulb is not comparable to the Holland tulip bulb. They also state that the cultivators of tulips in this country must have the Holland bulbs because of their superior quality. A leading nurseryman and cultivator of flowers informs me that the Washington tulip bulbs can be sold only in the 10-cent stores. I think the Washington tulip-bulb industry should have protection. That industry should be given every possible chance to demonstrate that the tulip bulbs can be pro-

duced in this country. The way to help that nascent industry is by means of a bounty and not by greatly increasing the duty as the present tariff bill contemplates.

Mr. JOHNSON of Washington. Will the gentleman yield?

Mr. RAMSEYER. If it is on the export debenture I will yield. If it is on tulip bulbs I would prefer to proceed with my remarks. I am simply attempting to illustrate where bounties are applicable in the scheme of protection and where duties are applicable in the scheme of protection.

In the case of nuts or tulip bulbs, if, after being helped along by bounties the industry gets to the place where it can supply a considerable portion of our demand and of the quality that we require, then is the time to withdraw the bounty and apply a duty for the purpose of protection.

Mr. JOHNSON of Washington. Will the gentleman yield for a short statement?

Mr. RAMSEYER. Not for a statement. I yield for a question.

Mr. JOHNSON of Washington. Does the gentleman think that we should advertise the Washington tulip as only being sold in the 10-cent store? Do not the people seem to like the word "imported"? We might grant a bounty of double the selling price of the home-grown tulip and still people would ask for something that was imported. It seems to be human nature. It is the local article that is always bad and the imported article that is always fine. It is a trick of the trade in salesmanship to use the word "imported" in order to get the fancy price.

Mr. RAMSEYER. Perhaps that is true, but that does not argue against the advantages of bounties to aid new undertakings.

Mr. KINCHELOE. Will the gentleman yield?

Mr. RAMSEYER. I yield.

Mr. KINCHELOE. Do I understand that it is the gentleman's idea that it was the idea of Hamilton and the Australian report to have a bounty when and only when there was not enough of the commodity produced for domestic consumption?

Mr. RAMSEYER. It is the Hamilton idea and it is the idea of the special committee on the tariff which was appointed by the Prime Minister of Australia to make use of the bounty for new undertakings.

Mr. KINCHELOE. The trouble with agriculture to-day is not that we do not raise enough for domestic consumption but that we raise too much, and therefore under such a state of the case would not the report to which the gentleman has referred and the opinion given by Hamilton be against a bounty now?

Mr. RAMSEYER. I think the gentleman's conclusion is correct. I have already stated there is nothing in the Hamilton report on manufactures which supports an export debenture such as is provided for in the Senate amendment, and there is nothing in this Australian report which in any way supports the idea that an export debenture such as appears in the Senate amendment should be adopted. Let me state again that I did not bring in the Hamilton report and the Australian report for the purpose of conveying the idea that because these reports are against the export debenture that that is conclusive proof that we ought to be against it. These two reports have been repeatedly cited as favoring the export-debenture plan. Such a conclusion can not be supported by a careful reading of these reports.

Mr. JONES of Texas. Will the gentleman yield?

Mr. RAMSEYER. Yes.

Mr. JONES of Texas. I want to ask the gentleman if he found anything in that report which offered any way of restoring equality to the surplus-producing farmer after he had reached the point where they claimed the bounty should not apply?

Mr. RAMSEYER. These reports state that when the industry has reached a certain stage of development the bounty should be withdrawn, and if the industry needs or deserves protection, for the public good it should receive its protection through a duty.

Mr. JONES of Texas. How would the raw-material production receive any protection if it were on a surplus-producing basis?

Mr. RAMSEYER. For the present I concede it will not by duties alone. The reports do not discuss a situation like that.

Mr. JONES of Texas. Then, as the gentleman conceives it, the theory of that report is that agriculture should simply be a handmaid of industry and that after it produces what industry needs it ought to quit?

Mr. RAMSEYER. No; that is not the deduction at all.

Mr. JONES of Texas. What is the deduction?

Mr. RAMSEYER. The only deduction I make, after quoting from these two authorities—and I have read them through and have only quoted briefly—is that they can not be cited as supporting the export debenture plan as set out in the Senate amendment in the tariff bill. That is all.

Mr. JONES of Texas. I concede the gentleman has a right to his opinion. But I do not agree with all his conclusions as to the Hamilton report.

Mr. RAMSEYER. If the gentleman will take the time to give the Hamilton report a careful and intelligent study—and he is capable to do that—he will arrive at exactly the same conclusion that I have just stated.

Mr. RANKIN. Will the gentleman yield?

Mr. RAMSEYER. For a question.

Mr. RANKIN. As I understand the gentleman's argument it is that it was Hamilton's idea to pay this bounty whenever it was unprofitable to produce these agricultural commodities in order to encourage their production. Now, when they are not produced profitably because of the high prices of industrial articles does not the gentleman think his logic would apply to the payment of an export debenture in order to make it profitable to produce agricultural commodities?

Mr. RAMSEYER. No; nothing in Hamilton's report nor anything I have said about the report justifies either the statement or the question which the gentleman from Mississippi has submitted. I hope the gentleman will read the report, and if he can find anything in the report which supports even remotely the idea of an export debenture on a product of which we produce a surplus for export I should like to know it.

Mr. CHRISTGAU. Will the gentleman yield?

Mr. RAMSEYER. Yes.

Mr. CHRISTGAU. Is the gentleman going to discuss the export tariff bounty such as they have in Australia?

Mr. RAMSEYER. Export bounties on a limited scale are used in a number of countries, and I intend to make some reference to them and show how their operation differs from the plan under consideration. I was going to take first the bill and analyze the Senate amendment, but since the gentleman raises that question I will now go to a discussion of some of the aids that other countries give to agriculture.

First, let us get into our minds just what the theory of the export debenture is, and how it is supposed to aid agriculture. The object of the Senate export-debenture plan is to elevate the prices of farm commodities of which we produce a surplus for export. The proposal in the amendment is to offer a bounty to the exporter equal to half of the duty. To illustrate, let us take wheat. The duty is 42 cents per bushel and the bounty would be 21 cents. The exporter would be given a debenture certificate of 21 cents for each bushel of wheat exported, which could be used in paying the duties on any and all imports.

Now, the theory is that when the debenture plan is in effect the exporter, knowing he is going to get this debenture of 21 cents a bushel, will bid that much more per bushel, or nearly that much more, for the wheat which he buys for export, and as he will be in the market continuously to buy wheat for export just as fast as he can find buyers abroad, the domestic buyers of wheat for milling and other purposes will have to bid up or nearly up to the amount the exporter bids, and that will have a tendency to elevate the price of wheat throughout the country, just how much no one undertakes to say. They argue it may vary in effectiveness as the tariff does. The tariff on some products is effective to the full extent, on others products it is only partially effective, and on still other products it is not effective at all. There are a number of factors that must be taken into consideration.

So an export bounty on wheat under certain conditions may be fully effective, under other conditions only partially effective, and under still other conditions may not be effective at all, and even may do actual damage.

As far as I know, no country in the world has now an export bounty of the nature that is proposed in the Senate amendment. Germany has had export bounties for a number of years before the war. Of course, during the war they did not operate or the laws were repealed. Germany went back to export bounties in 1925.

I have here a report of the Tariff Commission on "Bounties in Foreign Countries on Production and Exportation." You will find on page 21 a brief statement on the bounty certificates on exports of grain used in Germany. The German exporters of rye, wheat, spelt, barley, oats, buckwheat, legumes, as well as flour and malt and other mill products, receive a certificate for a sum equal to the import duties on a corresponding quantity of cereals or legumes.

These certificates can be used in the payment of import duties on any of the articles above named.

Now, note that the export certificates which the exporters receive on wheat and other products I just named can be used only to pay import duties of a like amount of cereals and legumes. What useful purpose does this arrangement serve in

Germany? Eastern and northeastern Germany are agricultural. There they raise wheat more than they do in western and southern Germany where the dense industrial populations reside. Germany in the last five years has exported each year about 12,000,000 bushels of wheat and has imported nearly 90,000,000 bushels of wheat, so you see Germany must import a great deal more than she exports.

The wheat raised in eastern and northeastern Germany is a wheat of low protein content. They have to import the wheat of higher protein content from other countries.

There are two reasons why Germany has this export bounty certificate plan. One is to get rid of her low-grade wheat and with the certificates import the high-grade wheat, and the other is, that northeastern and eastern Germany are near the sea and the sea freight rates to the countries where their markets are, are a good deal less than the rail rates from eastern Germany to western and southern Germany, where the dense industrial populations reside.

Lately, in 1928, Germany amended the bounty-certificate system to include hogs, pork, and ham, and these certificates can be used to import duty free the cereals heretofore named.

Sweden has an export-bounty plan, but there it is used, so I have read and also have been told, to prevent seasonal gluts; that is, to get rid of grain they issue export certificates at a certain season of the year and then the export certificates are used at another time of the year to bring in grain. These and other countries have this plan of issuing bounty certificates on exports to aid agriculture, and also to balance, in a way, thtir needs.

Germany has a high duty on wheat to protect her farmers. That duty has been raised recently. Last July the wheat duty was raised from 32 to 42 cents per bushel, January 20 last the duty was raised to 62 cents, March 27 it was raised to 78 cents per bushel. Recently another increase was announced raising the wheat duty to 97 cents per bushel, effective the 25th of this month.

Germany aids her wheat growers in still another way—by requiring a certain portion of the wheat used by millers to be German-grown. Year before last it was 40 per cent and last year, by order or law, the millers must use 50 per cent of wheat grown in Germany.

I have been unable to find in any country—and this report discusses bounties in 24 countries—any plan that is so broad in its scope as the plan that is before us. In nearly every country where they use this plan it is used like it is in Germany; that is, first, to aid agriculture and then to balance or to help to balance their needs. One way to help balance their needs is to get rid of the kind of products they do not need and get in the kind of products which they do need.

Mr. BRIGHAM. Will the gentleman yield?

Mr. RAMSEYER. For a question, yes.

Mr. BRIGHAM. Are all the countries that use the export bounty on a net import basis of the product upon which it is levied?

Mr. RAMSEYER. I do not quite get the question.

Mr. BRIGHAM. Germany is on a net-import basis as to wheat.

Mr. RAMSEYER. She imports 90,000,000 bushels and exports 12,000,000 bushels, her surplus of imports over exports being 78,000,000 bushels.

Mr. BRIGHAM. So she is on a net-import basis?

Mr. RAMSEYER. Yes.

Mr. BRIGHAM. Are all the countries that are using the bounty plan on a net-import basis with reference to the products upon which a bounty is paid?

Mr. RAMSEYER. I can not answer that question.

Mr. JONES of Texas. Will the gentleman yield?

Mr. RAMSEYER. Yes; I yield.

Mr. JONES of Texas. For what year is the gentleman quoting figures with respect to the importations and exportations of Germany?

Mr. RAMSEYER. This report of the Tariff Commission was made in October, 1929. The last tariff duty on wheat went into effect April 25 in Germany. I received that information yesterday from the farm-marketing experts in the Department of Agriculture. I also received the figures of German imports and exports of wheat from the same source and the figures apply to the last five crop years.

Mr. HOPE. Will the gentleman yield before he leaves that question?

Mr. RAMSEYER. Yes.

Mr. HOPE. I understood the gentleman to say that export debentures as issued in Germany could only be used in paying the duty on bread products.

Mr. RAMSEYER. On the grains which I named, yes.

Mr. HOPE. Are there any debentures issued which may be used in payment of duties on imports generally?

Mr. RAMSEYER. If there are, I have never heard of them. In Germany the export bounty certificates are used, as I have stated, both to help the farmers and to balance the needs of the nation. Of course, Germany's situation is entirely different from ours with respect to the products sought to be benefited by the export bounty. We import little or none of the products we want to aid by the debenture. In Germany more of wheat is imported than exported. With us much wheat is exported and very little imported.

Mr. HOPE. If the gentleman will permit another question along the same line, there is a provision in the Senate tariff bill which makes it optional with the board as to whether or not the debenture plan shall be put into effect. Do any of the other countries which the gentleman has mentioned have this same provision or is the provision a part of their substantive law?

Mr. RAMSEYER. I have not read any of the acts of any of the countries whose systems I am discussing. I received my information from reports, and I do not recall any reference made to optional provisions. The optional provision in the Senate amendment I think is one that is very objectionable. If an export bounty were put into effect for a definite time, or if a bounty of any kind were put into effect for a definite time, say 3 years, 5 years, or 10 years, then the producers as well as those who deal in that commodity, would know just what to expect.

But here is a plan that can be placed in operation by a board on a day's notice. In practice I do not suppose that the board would put it into effect that soon. Any bounty, whether it is an export bounty or any other kind of bounty, to be helpful at all should have the element of definiteness of time connected with it.

Mr. BANKHEAD. Will the gentleman yield for a question?

Mr. RAMSEYER. I will yield.

Mr. BANKHEAD. The discussion has been very interesting from an academic standpoint. Does the gentleman propose to point out some method by which the tariff may be made effective on our surplus agricultural crops?

Mr. RAMSEYER. I have discussed the tariff bill and its effects on agricultural products in former addresses, and the gentleman can get my views on that in a speech that I delivered here on December 20 last. To-day I am addressing myself to this particular proposition that will be before the House this week.

The question for us to determine is whether this particular plan will be of aid and benefit to agriculture, and if we decide it will aid whether we should enact it into law at this time.

I am sure that I express the sentiment of every Member of this House when I say that we want to do all that we can to foster a prosperous agriculture.

Now, the only thing before us to-day is, and the only thing that we can consider on the tariff bill is the Senate export debenture amendment—to consider other plans during this discussion would be purely academic—so let us center our thoughts on this in order to determine whether or not this particular plan will tend to aid the agricultural situation in this country, which everybody here concedes ought to get aid.

Mr. BANKHEAD. Does not the gentleman think that practically he is entirely begging the question as far as any relief to the farmer is concerned, on the theory that the tariff is not effective on the surplus. What benefit does it do the farmer to say "Here is the only proposition we have and that this is not effective"?

Mr. RAMSEYER. I am telling the gentleman that the only proposition before us is the Senate debenture plan. This we should face squarely. To discuss other plans would be "begging the question." If he will let me proceed a while longer, we may be able to determine whether this particular proposition will aid agriculture, and whether we want to indorse it. We can not substitute other propositions as the gentleman well knows, because he is familiar with the rules of the House; you can not offer an amendment to this Senate amendment that is not germane or not within the limits of the controversy which marks the difference between the two Houses.

Mr. BRAND of Ohio. Will the gentleman yield?

Mr. RAMSEYER. Yes.

Mr. BRAND of Ohio. Before the gentleman leaves the matter of applying the bounty, take the price of wheat, which has varied in the last 10 years from 75 cents a bushel to close up to $4 a bushel. Might it not be wise to have an optional application of the law? You would not want to apply it when wheat was $4 a bushel, but you would want to apply it when it was 75 cents a bushel.

Mr. RAMSEYER. Does the gentleman claim that is written in the Senate amendment?

Mr. BRAND of Ohio. That is in it the way it is now.

Mr. RAMSEYER. Making the operation of the debenture optional with the board, there is nothing in this Senate amendment to prevent the board from applying the debenture when wheat is $4 a bushel and refusing to apply it when wheat is 75 cents per bushel. The gentleman from Ohio was one of the enthusiastic advocates of the McNary-Haugen bill with the equalization fee in it. I supported that, and probably had as much to do with trying to keep the House straight on the kind of a yardstick to apply to the operation of the equalization fee as anybody.

Speaking of the McNary-Haugen equalization fee bill, we did not leave the determination as to when the operating period should be applied to the judgment or the whim of the board. We wrote into that bill a very specific rule for the guidance of the board in the commencement of and the determination of what was known as the operating period.

In the McNary-Haugen equalization fee bill that was last before the House the yardstick was this—I will see whether I can recall it. We provided that when the domestic price was less than the foreign price plus the tariff, plus the freight rate to the chief competing foreign market, that the board should commence an operating period and apply the equalization fee.

The theory was that the application of the equalization fee would tend to bring the domestic price up to the foreign price, plus the tariff, plus the freight rate. We had a very definite yardstick, and notwithstanding that definite yardstick, the constitutionalists in this body and in the other body claimed that it was unconstitutional.

The SPEAKER pro tempore. The time of the gentleman from Iowa has expired.

Mr. MICHENER. Mr. Speaker, I ask unanimous consent that the gentleman have 30 additional minutes.

The SPEAKER pro tempore. Is there objection?

Mr. PATTERSON. Mr. Speaker, no one appreciates this address more than I do, and I am not going to object, but if the gentleman takes 30 minutes more, the time that I was to have at the close of all of the other addresses will be eliminated.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. RAMSEYER. Mr. Speaker, I appreciate this very much. I did not come to you with a prepared address, as I sometimes do on highly controverted subjects. I have given this subject some study and I have a great deal of material on it before me. If I can do so, I want to throw light on this very complicated and highly controverted proposition. I stated yesterday in seeking this time that I hoped that we could conduct something in the nature of a round table and exchange views in a somewhat informal way. In the matter of the equalization fee we had a definite yardstick, as I said, directing the board when to operate and requiring the board to specify the time during which the equalization fee shall remain in effect. The question of the delegation of legislative power to an officer or a board is often brought in issue in this body. Some constitutionalists in Congress in both bodies claimed that the equalization fee provision was unconstitutional on the ground that it was a delegation of legislative power. The House Agricultural Committee undertook to so frame the equalization fee provision as to make it free from the objection of being a delegation of legislative power.

I come now to the Senate amendment. The Senate amendment provides that whenever the board finds it advisable, in order to carry out the policy declared in section 1 of the agricultural marketing act, with respect to any agricultural commodity, to issue export debentures with respect to such commodity, said board shall give notice of such finding to the Secretary of the Treasury. Then the Secretary proceeds to issue debentures to exporters as the law would require of him.

There was no question in my mind that in the McNary-Haugen bill with the equalization fee in it we were required to have a definite yardstick or rule to govern the boards' action in order to pass muster of the courts. I am not going to discuss the constitutional issue that is inherent in this provision, but if in the McNary-Haugen equalization fee bill we were required to write in a definite yardstick to direct the board in its activities, I suggest this question: Why is it not necessary in this bill where we empower the board to divert customs duties from their regular course to the Treasury to have in it a definite yardstick, ascertainable, so as to free this provision from the objection of being a delegation of legislative power? The amendment on page 327 of the bill, lines 15 and 16, reads:

In order to carry out the policy declared in section 1 of said agricultural marketing act.

Section 1 of the agricultural marketing act is a declaration of policy. Just what a declaration of policy adds to or subtracts from the rest of the law which defines the duties and powers of the board at this time I am not going to discuss. I merely want to suggest that the declaration of policy may aid the courts in determining what Congress had in mind in giving certain powers to the board. The declaration of policy does not confer powers. For the powers and duties of the board one must look to that part of the law outside of section 1. I do not regard section 1 as a rule or yardstick or imposing on the board the duty to find certain facts or the existence of certain situations on which the board is required to act in commencing an operating period. All the direction that the board is given on which to base its action to commence an operating period is the declaration of policy in section 1 of the agricultural marketing act. Even though it should be found that section 1 does lay down a definite rule for the guidance of the board under the provision of the amendment the board need not act on its finding of the existence of a certain state of facts, but it may find the facts for an operating period and then decide for reason or no reason that it is not advisable. In other words, the amendment reposes in the board arbitrary powers to divert customs revenue from the Treasury. That, in my opinion, is a delegation of legislative powers.

Mr. RANKIN. Mr. Speaker, will the gentleman yield?

Mr. RAMSEYER. For a question.

Mr. RANKIN. Does not the gentleman think that the yardstick is fixed here as one-half of the tariff on the commodity, for the benefit of which the debenture is levied?

Mr. RAMSEYER. Oh, no; that is a definite direction after the board directs the commencement of an operating period.

The yardstick is used in determining the commencement of the operating period. The board does not fix the amount of the debenture. If the board finds it advisable to commence an operating period on any agricultural commodity, the Secretary of the Treasury must issue debentures to the amount of 50 per cent of the import duty on such commodity. The board nor the Secretary has any power or discretion to make the debenture anything else than 50 per cent of the import duty.

Mr. RANKIN. Certainly, and that is the debenture yardstick, just as the full tariff was the yardstick in the McNary-Haugen bill.

Mr. RAMSEYER. Oh, no; nothing like it. We had a declaration of policy in the McNary-Haugen bill in section 1:

It is hereby declared to be the policy of Congress to promote orderly marketing—

And so forth.

If, a little further on, we had said that the board, whenever it deems it advisable to carry out the policy declared in section 1 of the bill, shall do so-and-so, we would have something analogous to this; but in trying to give the board a yardstick under the old McNary-Haugen bill we did not rely on the declaration of policy. We gave the board something definite, which was not referred to at all in the declaration of policy.

Mr. RANKIN. The gentleman now is going off on the constitutional angle.

Mr. RAMSEYER. I am through with the constitutional phase, if the gentleman will permit me to go to another phase. I am simply suggesting the constitutional element. I am not going to argue it a bit further. If I were to undertake to discuss the constitutional phase of it, I would have to ask you not for 30 minutes more time, which was so courteously granted me a moment ago, but for a great deal more time.

Now, if the gentleman from Mississippi will desist, I will say no more about the Constitution.

Mr. RANKIN. I do not propose to discuss that phase of it, but the fact is that we declared the tariff to be the yardstick in the McNary-Haugen bill, just as is suggested here.

Mr. RAMSEYER. The gentleman repeats and reiterates his assertion, but that does not change the facts. I have at different times discussed the constitutional phases of the McNary-Haugen bill, and, so far as I know, I was the only one who ever undertook to defend the constitutionality of the equalization fee on the floor of this House. There were a number of gentlemen who spoke against the constitutionality of the equalization fee in the McNary-Haugen bill.

In the forepart of my address I called attention to the uses that can and should be made of bounties to aid new undertakings. I have tried to make it plain that I do not want to be understood as saying that an export bounty on a surplus crop could under no circumstances serve a beneficial purpose. If Congress wants the export bounty on surplus crops it should designate the agricultural commodities that are to receive this bounty and either make the bounty mandatory or give the board a definite

rule to guide it in declaring an operating period. If the bounty is made mandatory Congress should further specify a definite number of years over which the bounty is to operate. If the bounty is to be placed in operation by the board under a rule prescribed by Congress the board should be required to fix a definite period over which the bounty shall apply. All this is highly essential in order that the producers of such commodities and those who deal in those commodities may know what to expect. Under such circumstances I am inclined to think that an export bounty would tend to elevate the prices of commodities of which we produce a surplus for export. How much the prices would be elevated would depend upon a number of factors outside of the bounty. In making this statement as to the tendency of the bounty to elevate prices I leave out the possibility of increased production and the application of countervailing duties by foreign countries.

Either considerable increased production of an agricultural commodity on which the export bounty operates or the application of countervailing duties by foreign countries would tend to negative any benefit from the bounty on such commodity.

The gentlemen who are most strenuously supporting the export bounty system are opposed to the flexible tariff because it confers too much power upon the President. Under the Senate debenture amendment the board is given the right to apply export bounties on any and all agricultural commodities exported whenever the board finds it advisable to do so. The board is the creature of the President, every member of which can be discharged by the President on a minute's notice. It is assumed by the advocates of the debenture that the board will do whatever the President wants it to do. If that be so, the Senate amendment gives the President the power to divert at will annually $281,577,175 of customs revenues.

The flexible provision of the tariff law gives the President the power, under specific and ironclad rules laid down by Congress, to raise or lower customs duties within prescribed limits. The President can not exercise this power until the Tariff Commission has made a thorough investigation and reported its findings to him. In my judgment, the Senate debenture proposal confers greater power upon the President than the flexible provision of the tariff law.

I have before me here some calculations respecting export debentures as provided in section 321 of the tariff bill. These tables were prepared by the experts of the Tariff Commission. Therein are specified several hundred agricultural products, and the manufactures thereof, and the debenture cost on each product on the basis of the 1929 exports and of the rates as agreed to by the conference committee as of April 18, 1930. I shall place these tables in the RECORD.

I also have before me a table of estimated gross and cash income from farm production in the United States for the years 1924 to 1928, prepared by the Department of Agriculture. I shall also place this table in the RECORD. I was unable to get the income from farm production for the year 1929, as that has not yet been compiled.

Now, let us do some calculating. I assume that the 1929 income figures would not differ materially from the 1928 income figures. The grand total of gross income from all farm products for the year 1928 was $11,827,709,000. The gross income from cotton lint for the same year was $1,300,502,000. The gross income from the production of leaf tobacco was $276,448,000. The gross income from wheat for that year was $764,621,000. The gross income from farm production of all products except cotton and tobacco was $10,250,759,000.

Assuming that the Farm Board will apply the debenture to all farm products, let us turn to the debenture tables and see how the Senate proposal will operate. On leaf tobacco the debenture cost will be $97,197,704. On cotton, unmanufactured, the debenture cost will be $79,630,190. On all other farm products and manufactures thereof the debenture cost will be $90,898,922. Wheat is one of the commodities that this debenture is supposed to benefit. On wheat, the gross income of which in 1928 was $764,621,000, the debenture cost will be $18,927,216.

Taking these figures and with a little calculating you will ascertain that tobacco will benefit at the expense of the Public Treasury in debenture cost to the extent of 35 per cent of the gross income of leaf tobacco. Cotton will derive from the Public Treasury in debenture cost 6 per cent of the gross income from cotton. Wheat will derive from the Public Treasury by way of debenture cost 2 per cent of the gross income from wheat. All farm products except tobacco and cotton will derive from the Public Treasury by way of debenture cost nine-tenths of 1 per cent of the gross income from all farm products except cotton lint and leaf tobacco.

You gentlemen from the Corn and Wheat Belts who think you must vote for this debenture proposal should take the story of these calculations home to your people and see what they think about it. This is relief not on a basis of the needs of the various farm commodities, but on a basis of the accidents of tariff rates, except as to cotton where the export bounty is arbitrarily fixed at 2 cents per pound.

A word further here in regard to tobacco. The duty on tobacco is 35 cents per pound. Dark tobacco raised in western Kentucky, western Tennessee, and southern Indiana has been selling during the present season at 12 cents a pound. Eighty per cent of this tobacco is exported. The debenture on tobacco in the Senate amendment is 17½ cents per pound, or 145 per cent of what it has been selling for. A tobacco farmer, or a manager of a tobacco cooperative, or a tobacco exporter could ship this tobacco to a foreign country, give it away, and still have more money in his pocket than he could derive from the domestic selling price. Oh, but somebody will say, with this high-debenture rate the board will never find it advisable to apply the debenture on tobacco. If this becomes a law, is it not the will of Congress that leaf tobacco shall have a debenture of 17½ cents per pound? If tobacco gets in distress, as it has been in times past, why should not the board find it advisable to help out tobacco? The extent of the help that Congress provides for tobacco is none of the board's business. That is the business of Congress. When it becomes advisable to help tobacco it is the business of the board to help in the way and to the extent that Congress declares in the law. I think that the wheat growers should be very happy when they contemplate how much this proposal intends to help tobacco and how little it intends to help wheat.

We have been told, and it has been urged on this floor, that the National Grange is for the debenture proposal before us. It is true the Grange since 1926 has advocated the export debenture. I am of the opinion that the National Grange is not for the proposal before us and that its officials will not defend the Senate amendment on cross-examination before a committee of Congress. If you will listen, I will prove it to you. The National Grange export-debenture plan was incorporated in a bill introduced during the first session of the Seventieth Congress, H. R. 12892, by Mr. KETCHAM, of Michigan. You who have read this bill know that it is a definite proposition—the board given specific directions, required to make findings of facts, and to consider conditions with regard to farm commodities both here and in foreign countries.

The National Grange plan, as incorporated in this bill, specifies seven farm commodities to which the export-debenture rates are prescribed, to wit: (1) Swine; (2) cattle; (3) corn; (4) rice; (5) wheat. On these five commodities the debenture rates prescribed are one-half of the import duties then in effect. The other two commodities are: (6) Cotton, 2 cents per pound; (7) tobacco, 2 cents per pound. Note the difference in the tobacco rate in the Senate amendment and in the National Grange bill. In the former it is 17½ cents per pound; in the latter it is 2 cents per pound. The officers of the National Grange are economists and the rates they advocated were based on economic facts and conditions. Two cents per pound on tobacco sounds reasonable and economic and was recommended to give relief to the tobacco growers. Seventeen and one-half cents per pound sounds unreasonable and uneconomic and inclines one to the belief that the 17½-cent rate was proposed by the tobacco politicians and not by the tobacco growers.

Let me point out another difference in the Senate proposal and the National Grange proposal. Coming to what is known as the penalty provision, on page 332 of the tariff bill beginning with line 4, you will see there is to be no reduction in the debenture rates for an increase in production of less than 20 per cent. You could have a 19 per cent increase and still get the full debenture rate. A 19 per cent increase on wheat would mean increasing the surplus of wheat by at least 160,000,000 bushels. You who know the wheat situation will readily understand what havoc such an increase in production would bring about in the wheat market.

The Senate amendment further provides:

> For an increase in production of 40 per cent but less than 60 per cent there shall be a reduction of 50 per cent.

That is a reduction in the debenture rate of 50 per cent.

Now let us look at the penalty provision proposed by the National Grange, which you will find on page 17 of the Ketcham bill. This provides that there shall be no reduction in debenture rates for a computed increase in production or acreage of less than 5 per cent. The Senate provision is 20 per cent. A little further down is this provision:

> For a computed increase in production or acreage of 15 per cent or more the issuance of debentures shall be suspended for a period of one year.

According to the National Grange plan, an increase in production or acreage of 15 per cent suspends the debenture. Under the Senate amendment an increase in production of less than 20 per cent does not reduce the export-debenture rates. I will leave it to you to judge which of these two proposals is the more economically sound.

Now I shall proceed to another matter in this round-table discussion.

Mr. COLE. Mr. Speaker, will the gentleman yield?

Mr. RAMSEYER. I yield to my colleague.

Mr. COLE. Will the gentleman, before he closes, discuss section 303 relating to countervailing duties and the effect of that upon the debenture? Is it not true that the debenture proposes to do what in section 303 we forbid all foreign countries to do to us?

Mr. RAMSEYER. I will refer to that before I conclude.

Mr. ANDRESEN. Mr. Speaker, will the gentleman yield there?

Mr. RAMSEYER. Yes.

Mr. ANDRESEN. The gentleman has said the President would have the power to divert $281,577,175 from the Treasury.

Mr. RAMSEYER. No; from the customs, on the way to the Treasury.

Mr. ANDRESEN. Would the farmers get the benefit of that $281,577,175?

Mr. RAMSEYER. That depends on many different factors. I am not saying that export bounties could not be used, if rightly administered, in a way to give some benefits to agriculture. To determine the benefits to be derived from an export bounty you have got to study each commodity separately and take into consideration the situation that prevails both here and abroad at the time the debenture is placed in operation. It is difficult to forecast just how it will operate and to what extent benefits will be realized. It presents difficulties of the same nature as is presented in determining how a customs duty will affect the price of a commodity.

A duty may be high enough to exclude all importations, but if you have competition among the producers of any commodity and possibly also the benefits of mass production and improved marketing facilities, the cost of such commodity to the consumer may be less than it was before the exclusion of the foreign commodity. With the export bounty on a surplus farm product you must take into consideration the world's supply and demand of that product. Take wheat; last year there was a large world surplus. If the export bounty had been applied to wheat last year at threshing time and that had resulted in an abnormal acceleration of the flow of wheat to foreign markets, the crash in wheat prices might have come several months sooner than it did and with the possibility of more disastrous results. This question as to benefits to be derived either from bounties or duties can not be answered offhand. In the tariff bill there are about 23,000 different items. Each item has a story of its own. You can not say that because a duty will benefit item No. 1 that it, therefore, will also benefit item No. 7. Item No. 1 may react to a duty one way this year, a different reaction may have resulted three years ago, and both reactions be different to what the reaction will be five years hence. Item No. 7 may or may not have the same reaction at different times.

A bounty paid directly to the producer will benefit the producer to the extent of the bounty. An export bounty paid to the exporters of surplus products may or may not benefit the producers of those products. There is nothing in the Senate amendment requiring the exporter to exercise diligence in returning as much of the export bounty to the producer as possible.

There is nothing to prevent him from buying surplus products as low as possible and using the bounty which he receives to sell the products in the foreign market below the world price. If Congress deems it wise to try out the export bounty on surplus farm products, it should begin with a limited number of commodities, lay down a definite rule for the guidance of the board, fix the bounties in proportion to the needs of the producers of such products, and then fix a definite period of years for the operation thereof so that the producers and dealers in such commodities will know what to expect and to figure on.

Mr. ANDRESEN. Will the gentleman yield further?

Mr. RAMSEYER. I yield.

Mr. ANDRESEN. Does the gentleman feel that the bounty would be effective on the producers of flaxseed and sugar beets, if applied?

Mr. RAMSEYER. With respect to sugar, I opposed an increased duty on sugar, for the simple reason that I did not think, and I do not think now, that it will result in an expansion of the sugar-raising area, on account of the obstacle of getting labor to perform that particular kind of work. The domestic production of sugar is one-sixth of our demand. Two-sixths of our demand comes from our insular possessions, and three-sixths is imported from abroad and pays a duty.

I think the gentleman from Wisconsin [Mr. FREAR] is correct, that rather than increase the duty on sugar, which is bound to increase under the circumstances the cost to the consumers, it would be better for the country to pay a direct bounty to the sugar-beet and sugar-cane farmers. That is one case in which I think a bounty is applicable.

Mr. ANDRESEN. How about flaxseed?

Mr. RAMSEYER. There is a different situation in connection with flaxseed. We produce about one-half of our flaxseed needs, and we import the other half. We have, however, the area to produce all of our needs, and apparently, from the reports received from the Farm Board, we have the farmers who are willing to raise flaxseed. The wheat raisers of Minnesota and the Dakotas desire to go from wheat to flaxseed. That is a case where I think the protective duty is applicable rather than a bounty.

Mr. CHRISTGAU. Will the gentleman yield?

Mr. RAMSEYER. I yield for a question.

Mr. CHRISTGAU. The gentleman is arguing in favor of a definite provision as to when the bounty shall go into effect?

Mr. RAMSEYER. Yes.

Mr. CHRISTGAU. Inasmuch as the debenture calls for the establishment of a new public policy, is there not a great deal of merit in the provision which gives the Federal Farm Board the option to invoke the debenture as an experimental policy which might have some beneficial effect later on, especially as long as our agricultural prices are in a fluctuating state?

Mr. RAMSEYER. That would depend altogether on how it would be applied. If the Farm Board would do, and would be supported in doing what the Congress itself ought to do, that is, to specify the commodities, provide for a specific debenture, and provide for a specific time, it might aid. But, to turn this over to a group of men to do whatever they think is advisable under the indefinite and inequitable provisions of the proposal before us, I think would make the situation confronting us a great deal worse than it is.

Now, as to countervailing duties that my colleague [Mr. COLE] asked about a few minutes ago. We have a countervailing duties provision in our tariff law which is carried in the pending tariff bill. Other countries have countervailing duties. There are eight European countries that have such duties, to wit: Austria, Belgium, Czechoslovakia, France, Poland, Portugal, Spain, and Switzerland. The oriental countries having countervailing duties are Japan, Australia, and the Union of South Africa, and in at least one Latin-American country, Argentina. Whether these countries would put into effect their countervailing duties in case we adopt export bounties I do not know. Neither do I know whether other countries that now do not have countervailing duties would enact such duties. The one thing that I am sure of is that if other countries would put into operation countervailing duties against our products benefited by export bounties that would absolutely nullify whatever benefit we might otherwise get from such bounties.

Section 303 is the one on countervailing duties. It is a very strict provision. It is mandatory upon the Secretary of the Treasury whenever he finds that another country pays a bounty on any product sent to this country which is on the dutiable list to increase the duty to the extent of the foreign bounty. The Secretary has no discretion in this matter whatever. In the last eight years the Secretary of the Treasury has invoked the countervailing duty section against foreign products a number of times. I shall place this list in the appendix of my remarks. We also have a strict antidumping provision in the act of 1921, section 201 (a). I shall place a list of the findings of the Secretary of the Treasury under this provision in the appendix also.

There is one thing that I think the advocates of the debenture have overlooked, and that is, if we are to go on an export-bounty basis on a large scale, we should repeal section 303 on countervailing duties of the tariff and thereby give the bounty-fed products of foreign nations the same treatment as we expect foreign nations to give our own bounty-fed products.

There is another suggestion that I wish to make that I think ought to receive some consideration. We all know the President is opposed to this export-debenture plan. A little over a year ago members of the Senate Committee on Agriculture called upon the President for his views on this proposition. In a letter addressed to Senator MCNARY, chairman of the Senate Committee on Agriculture, he did express his objections in plain language to this proposition. This letter can be found in the CONGRESSIONAL RECORD for May 2, 1929. It has been argued that, even though the President is opposed to this debenture plan, it will do no harm to enact it into law; that

the Farm Board will follow the wishes of the President and not put the debenture into operation. With this proposal applicable to the exports of all farm products everybody should know that if it is enacted into law there will be a great demand and clamor for its use whenever there is the least disturbance in the market of any farm commodity. The board would be swamped with appeals for the debenture. If the board would refuse to act, then the President would be appealed to to compel the board to act or to appoint a new board that would act. For a President to sign such a bill to which he is opposed and which he is determined not to place into operation if enacted into law would be, to say the least, an act of unwisdom.

Mr. Hoover was elected President in 1928. The equalization fee had been a controversial issue for some years. Neither the Republican Party nor the Democratic Party in their national platforms in 1928 would indorse the equalization fee. Mr. Hoover came out unequivocally in opposition to the equalization fee. The platform of neither political party indorsed the debenture plan. Neither Mr. Hoover nor the Republican platform orators during the campaign said anything or advocated anything from which it could be inferred that either Mr. Hoover was or they were for this debenture proposition.

Mr. Hoover made farm relief his major campaign issue. He has a program of his own on farm relief and to place agriculture on an equality with industry. He has a Farm Board, whose members are in sympathy with his program. Up to date, and I say this advisedly, the President has not had a full and fair chance to carry out his program, and I think the American people are willing to give him that full and fair chance. I say he will not have that full and fair chance if the Congress imposes upon him this debenture proposition.

Another thing, this debenture proposition has not been indorsed by the farmers of the country. Before the last campaign the National Farm Bureau Federation, the National Farmers' Union, and other farm organizations indorsed the equalization fee. The National Grange never indorsed the equalization fee. On this debenture proposition the National Grange has indorsed a debenture proposition, but not the Senate debenture amendment. The other great national farm organizations have not indorsed the debenture. This is not the time to enact the Senate proposal into law.

The President has been in office a little over 13 months. He has yet almost three more years to serve. If within the next year or two his program fails to get results, then we will hear a great deal more of the equalization fee and of debentures. In that event we may have to choose one or the other, or both.

The people of the country are looking to the President to lead them out of the present economic difficulties. He was elected for that purpose, and for the present at least the Congress should not impose upon the President a proposition that does not fit into his program of farm relief. [Applause.]

The SPEAKER pro tempore. The time of the gentleman from Iowa has again expired.

Mr. RAMSEYER. Mr. Speaker, under leave granted me to extend my remarks I submit for printing in the RECORD:

First. Export-debenture tables prepared by the Tariff Commission.

Second. Table prepared by the Department of Agriculture on estimated gross and cash income from farm production.

Third. Letter from Treasury Department, list of Treasury findings and decisions under the antidumping act of 1921, and under the countervailing duty provision of the tariff act of 1922.

EXPORT DEBENTURES, SECTION 321, H. R. 2667

I. Proposed export debenture rates applied to exports of agricultural products (except cotton and tobacco) and manufactures thereof, calendar year 1929[1]

AT DEBENTURE RATES EQUAL TO ONE-HALF THE TARIFF RATES OF H. R. 2667 AS TENTATIVELY AGREED UPON BY THE CONFERENCE COMMITTEE, AS OF APRIL 18, 1930

Commodity	Unit of quantity	Par. No. Senate bill, H. R. 2667	Tariff classification of commodity	Tariff rates in H. R. 2667 as agreed upon by conference committee	Exports, 1929		Debenture cost	Notes
					Quantity	Value		
Hogs	No.	703	Hogs	2c per lb	27,017	$464,998	$37,542	On assumption of average weight of 250 pounds per head.
Sheep	No.	702	Sheep	$3 per head	15,431	211,770	23,146	
Poultry, live	Lb.	711	Poultry, live	8c per lb	448,611	301,301	17,944	
Beef and veal:								
Fresh	Lb.	701	Beef and veal, fresh	6c per lb	2,917,859	661,669	87,536	
Pickled or cured	Lb.	706	Meats, preserved	6c per lb. but not less than 20%.	10,824,870	1,321,002	324,746	
Pork, fresh	Lb.	703	Pork, fresh	2½c per lb	13,539,070	2,169,025	169,238	
Wiltshire sides—shoulders, sides, and hams.	Lb.	703	Other pork, prepared or preserved.	3¼c per lb	5,039,034	717,892	818,843	
Hams and shoulders, cured	Lb.	703	Hams and shoulders	3¼c per lb	125,796,826	26,461,981	2,044,198	
Bacon	Lb.	703	Bacon	3¼c per lb	138,423,370	20,850,928	2,249,380	
Cumberland sides	Lb.	703	Other pork, prepared or preserved.	3¼c per lb	5,858,054	1,123,875	95,193	
Pickled	Lb.	703	Other pork, prepared or preserved.	3¼c per lb	44,787,116	6,403,050	727,791	
Mutton and lamb	Lb.	702	Mutton, fresh Lamb, fresh	5c per lb 7c per lb	835,411	210,807	27,569	On assumption that 80% of exports are lamb, 20% mutton.
Sausage, not canned	Lb.	706	Meats, preserved	6c per lb. but not less than 20%.	3,724,042	1,124,153	112,415	Calculated on the ad valorem rate.
Canned meats:								
Beef	Lb.	706	Meats, preserved	6c per lb. but not less than 20%.	2,606,162	945,462	94,546	Calculated on the ad valorem rate.
Pork	Lb.	703	Pork, prepared or preserved.	3¼c per lb	10,239,914	3,694,820	166,399	
Sausage	Lb.	703	Pork, prepared or preserved.	3¼c per lb	2,139,100	706,424	34,760	
Other	Lb.	706	Meats preserved	6c per lb. but not less than 20%.	2,266,448	614,887	67,993	Calculated on the specific rate.
Poultry and game, fresh	Lb.	712	Chickens, ducks, geese, guineas, turkeys.	10c per lb	2,472,574	842,303	123,629	
Other meats (including edible offal).	Lb.	706	Meats, preserved	6c per lb. but not less than 20%.	41,422,103	4,610,789	1,242,663	Calculated on the specific rate.
Sausage casings:								
Hog casings	Lb.	1758	Sausage casings	Free	12,905,125	3,490,267		
Beef casings	Lb.	1758	Sausage casings	Free	16,820,424	2,365,785		
Other casings	Lb.	1758	Sausage casings	Free	2,911,194	441,335		
Oleo oil	Lb.	701	Oleo oil	1c per lb	68,208,850	7,501,270	341,044	
Oleo stock	Lb.	701	Tallow	½c per lb	8,095,202	859,633	20,238	
Tallow	Lb.	701	Tallow	½c per lb	3,840,020	326,851	9,600	
Lard	Lb.	703	Lard	3c per lb	847,867,918	107,976,396	12,718,019	
Lard compounds containing animal fats.	Lb.	703	Lard compounds and lard substitutes.	5c per lb	3,632,219	457,229	90,805	
Oleo and lard stearin	Lb.	701	Oleo stearin	1c per lb	3,930,682	440,075	19,653	
Oleomargarine of animal or vegetable fats.	Lb.	709	Oleomargarine	14c per lb	901,625	152,401	63,114	
Milk and cream:								
Fresh or sterilized	Gal.	707	Whole milk	6½c per gal	180,217	103,571	5,857	
Condensed, sweetened	Lb.	708	Milk, condensed or evaporated, sweetened.	2¾c per lb	41,242,812	6,459,419	567,039	
Evaporated	Lb.	708	Milk, condensed or evaporated, unsweetened.	1.8c per lb	68,942,613	5,844,208	620,484	
Dried	Lb.	708	Dried whole milk	6½c per lb	5,342,301	1,366,794	162,495	
Butter	Lb.	709	Butter	14c per lb	3,724,245	1,750,278	260,697	

[1] The debenture rates upon manufactured food products have been calculated at one-half the duty on such products in H. R. 2667 as agreed upon by the conference committee instead of on the basis of rates on the basic raw material as proposed in sec. 321, H. R. 2667, as passed by the Senate.

EXPORT DEBENTURES, SECTION 321, H. R. 2667—Continued

I. Proposed export debenture rates applied to exports of agricultural products (except cotton and tobacco) and manufactures thereof, calendar year 1929—Continued

AT DEBENTURE RATES EQUAL TO ONE-HALF THE TARIFF RATES OF H. R. 2667 AS TENTATIVELY AGREED UPON BY THE CONFERENCE COMMITTEE, AS OF APRIL 18, 1930—contd.

Commodity	Unit of quantity	Par. No. Senate bill H. R. 2667	Tariff classification of commodity	Tariff rates in H. R. 2667 as agreed upon by conference committee	Exports, 1929		Debenture cost	Notes
					Quantity	Value		
Cheese	Lb.	710	Cheese	8c per lb. but not less than 40%.	2,646,009	$735,333	$147,067	Calculated on the ad valorem rate.
Infants' foods, malted milk, etc.	Lb.	708	Malted milk and compounds or substitutes for milk or cream.	35% ad valorem	2,126,136	655,844	114,773	
Eggs in the shell	Doz.	713	Eggs of poultry in the shell.	10c per doz.	12,074,830	4,081,363	603,742	
Eggs and yolks, frozen, dried and canned.	Lb.	713	Whole eggs, egg yolk and egg albumen frozen.	8c per lb.	325,706	61,644	13,028	
Meat extracts and bouillon cubes	Lb.	705	Extract of meat, incl. fluid.	15c per lb.	185,116	400,077	13,884	
Gelatin	Lb.	41	Edible gelatin, valued at 40c or more per lb.	20% ad val. and 7c per lb.	269,620	168,696	26,306	
Hides and skins, raw:								
Cattle hides	Lb.	1691	Hides, cattle	10%	22,544,535	3,516,494	175,825	
Calfskins	Lb.	1691	Hides, cattle	10%	6,977,438	1,539,559	76,978	
Sheep and goat skins	Lb.	1769	Skins of all kinds, raw, and hides, n. s. p. f.	Free	1,864,136	577,629		
Other hides and skins	Lb.	1769	Skins of all kinds, raw, and hides, n. s. p. f.	Free	6,358,641	1,161,949		
Horses other than breeding	No.	714	Valued at not more than $150 per head. Valued at more than $150 per head.	$30 per head 20% ad valorem	7,358	722,202	110,370	Assuming all exports valued at not more than $150 per head. Statistics do not segregate horses for immediate slaughter.
Mules, asses, and burros	No.	714	Valued at not more than $150 per head. Valued at more than $150 per head.	$30 per head 20% ad valorem	15,295	1,812,965	229,425	Assuming all exports valued at more than $150 per head. Statistics do not segregate mules for immediate slaughter.
Barley	Bu.	722	Barley	20c per bu. (48 lbs)	29,523,077	24,154,866	2,952,308	
Malt	Bu.	722	Barley malt	40c per 100 lbs.	3,380,783	3,334,438	229,893	Exports in bu. converted at 34 lbs. per bu.
Buckwheat	Bu.	723	Buckwheat	25c per 100 lbs.	191,141	212,981	11,468	Exports in bu. converted at 48 lbs. per bu.
Corn	Bu.	724	Corn	25c per bu. (56 lbs)	33,745,270	34,058,510	4,218,159	
Corn meal	Bbl.	724	Cornmeal	50c per 100 lbs.	267,121	1,330,468	130,889	Exports in bbl. converted at 196 lbs. per bbl.
Hominy and corn grits	Lb.	724	Corn grits	50c per 100 lbs.	14,383,857	304,761	35,960	
Corn breakfast foods ready to eat	Lb.	732	Cereal breakfast foods	20% ad valorem	6,157,114	525,341	52,534	
Oats	Bu.	726	Oats	16c per bu. of 32 lbs.	6,608,727	3,389,111	528,698	
Oatmeal, flaked and rolled oats	Lb.	726	Oatmeal and rolled oats	80c per 100 lbs.	81,245,501	4,220,140	324,982	
Rice	Lb.	727	Rice	1¼c per lb.	315,441,412	12,129,009	1,971,509	
Rice flour, meal, and broken rice	Lb.	727	Broken rice, rice meal, flour, polish, and bran.	⅘c per lb.	70,593,596	1,980,679	220,605	
Rye	Bu.	728	Rye	15c per bu. of 56 lbs.	3,433,576	3,612,596	257,518	
Rye flour	Bbl.	728	Rye flour and meal	45c per 100 lbs.	14,764	84,699	6,511	Exports in bbls. converted at 196 lbs. per bbl.
Wheat	Bu.	729	Wheat	42c per bu. of 60 lbs.	90,129,600	111,500,615	18,927,216	Statistics do not segregate wheat unfit for human consumption.
Wheat flour	Bbl.	729	Wheat flour	$1.04 per 100 lbs.	13,663,457	80,788,765	10,633,038	Exports in bbls. converted at 196 lbs. per bbl. $3,292,757 debenture on export of wheat flour made from foreign wheat deducted from original total of $13,925,795.
Biscuits and crackers:								
Plain	Lb.	733	Biscuits, etc.	30% ad valorem	6,743,348	1,114,887	167,233	
Sweetened	Lb.	733	Biscuits, etc.	30% ad valorem	3,874,556	916,221	137,433	
Macaroni	Lb.	725	Macaroni, etc., containing no eggs.	2c per lb.	10,740,479	925,004	107,405	
Wheat breakfast foods:								
Ready to eat	Lb.	732	Cereal breakfast foods	20% ad valorem	1,961,627	181,511	18,151	
To be cooked	Lb.	732	Cereal breakfast foods	20% ad valorem	1,242,040	140,740	14,074	
Cereal foods n. e. s.	Lb.	732	Cereal breakfast foods, etc.	20% ad valorem	4,638,529	496,361	49,636	
Other grains and preparations	Lb.	732	Cereal preparations	20% ad valorem	12,373,749	952,442	95,244	
Hay	Ton	779	Hay	$5 per short ton	11,073	267,046	31,004	
Kaffir and milo	Bu.	1558	Raw products, n. s. p. f.	10% ad valorem	2,694,978	2,337,928	116,896	
Beans, dried	Bu.	765	Beans, dried	3c per lb.	291,218	1,162,488	262,096	Exports in bu. converted at 60 lbs. per bu.
Peas, dried	Bu.	769	Peas, dried	1¾c per lb.	114,320	483,963	58,017	Exports in bu. converted at 58 lbs. per bu.
Potatoes, white	Bu.	771	Potatoes, white or Irish	75c per 100 lbs.	2,734,530	3,223,436	615,269	Exports in bu. converted at 60 lbs. per bu.
Onions	Bu.	770	Onions	2½c per lb.	580,273	786,507	413,445	Exports in bu. converted at 57 lbs. per bu.
Other fresh vegetables		774	Vegetables, all other	50% ad valorem	199,043,905	6,340,092	1,585,023	Export and tariff classifications not identical but it is believed rates would average at least 50%.
Vegetables, canned:								
Asparagus	Lb.	775	Vegetables, prepared or preserved, n. s. p. f.	35% ad valorem	22,834,475	3,544,726	620,327	
Baked beans and pork and beans	Lb.	765	Beans, prepared or preserved.	3c per lb.	7,664,894	667,013	114,973	
Corn	Lb.	775	Vegetables, prepared or preserved, n. s. p. f.	35% ad valorem	8,366,230	629,133	110,098	
Peas	Lb.	769	Peas, prepared or preserved.	2c per lb.	8,384,573	739,789	83,846	
Soups	Lb.	775	Soups	35% ad valorum	28,751,205	2,722,575	476,451	
Tomatoes	Lb.	772	Tomatoes, prepared or preserved.	50% ad valorum	4,674,113	340,078	85,020	
Other canned vegetables	Lb.	775	Vegetables, prepared or preserved, n. s. p. f.	35% ad valorum	13,126,129	808,444	141,478	

EXPORT DEBENTURES, SECTION 321, H. R. 2667—Continued

I. Proposed export debenture rates applied to exports of agricultural products (except cotton and tobacco) and manufactures thereof, calendar year 1929—Continued

AT DEBENTURE RATES EQUAL TO ONE-HALF THE TARIFF RATES OF H. R. 2667 AS TENTATIVELY AGREED UPON BY THE CONFERENCE COMMITTEE, AS OF APRIL 18, 1930—contd.

Commodity	Unit of quantity	Par. No. Senate bill, H. R. 2667	Tariff classification of commodity	Tariff rates in H. R. 2667 as agreed upon by conference committee	Exports, 1929		Debenture cost	Notes
					Quantity	Value		
Pickles	Lb	775	Vegetables, prepared or preserved, n. s. p. f.	35% ad valorem	4,136,192	$386,367	$87,614	
Catsup and other tomato sauces	Lb	775	Vegetables, prepared or preserved, n. s. p. f.	35% ad valorum	11,014,301	1,490,084	260,765	
Other sauces and relishes	Lb	775	Vegetables, prepared or preserved, n. s. p. f.	35% ad valorum	3,732,241	769,847	134,723	
Vinegar	Gal	738	Vinegar	8c per proof gal	318,511	167,680	12,740	
Yeast	Lb	1558	Unenumerated mfr. article.	20% ad valorum	3,584,074	652,894	65,289	
Other vegetable preparations	Lb				2,969,034	411,648		No corresponding rate.[1]
Grapefruit	Box	743	Grapefruit	1½c per lb	976,264	3,619,743	512,539	70 lbs. per box.
Lemons	Box	743	Lemons	2½c per lb	266,358	1,410,485	246,381	74 lbs. per box.
Oranges	Box	743	Oranges	1c per lb	5,510,514	18,745,561	1,928,680	70 lbs. per box.
Pineapples	Box	747	Pineapples	50c per crate	50,791	149,126	12,698	Per crate of 2.45 cu. feet
Apples:								
In boxes	Box	734	Apples	25c per bu. of 50 lbs.	9,452,588	20,671,242	992,522	Exports in boxes converted at 42 lbs. per box.
In barrels	Bbl	734	Apples	25c per bu. of 50 lbs.	2,467,948	12,467,077	1,011,859	Exports in bbls. converted at 3.28 bu. per bbl.
Berries	Lb	736	Berries	1¼c per lb	14,728,517	1,424,832	92,053	
Grapes	Lb	742	Grapes	25c per cu. ft	47,306,879	2,463,724	153,747	Exports in lbs. converted at 38.4 lbs. per cu. ft.
Pears	Lb	749	Pears	½c per lb	69,995,885	4,831,872	174,990	
Peaches	Lb	745	Peaches	½c per lb	19,947,316	806,111	49,868	
Other fresh fruit	Lb	750	Other fresh fruit	35% ad valorem	58,955,119	2,070,470	362,332	
Dried and evaporated fruits:								
Pears	Lb	749	Pears, dried	2c per lb	4,576,466	573,302	45,765	
Raisins	Lb	742	Raisins	2c per lb	149,686,659	8,390,051	1,496,867	
Apples	Lb	734	Apples, dried	2c per lb	37,889,187	4,633,108	378,892	
Apricots	Lb	735	Apricots, dried	2c per lb	21,264,616	3,515,207	212,646	
Peaches	Lb	745	Peaches, dried	2c per lb	7,785,897	842,091	77,859	
Prunes	Lb	748	Prunes, dried	2c per lb	197,227,583	14,837,915	1,972,276	
Other dried and evaporated fruits	Lb	752	Fruits, dried, n. s. p. f.	35% ad valorem	13,568,690	1,489,398	260,645	
Canned fruits:								
Berries	Lb	736	Berries, edible, prepared or preserved.	35% ad valorem	12,684,141	1,307,719	228,851	
Apples and apple sauce	Lb	734	Apples otherwise prepared or preserved.	2½c per lb	22,963,281	1,185,349	287,041	
Apricots	Lb	735	Apricots otherwise prepared or preserved.	35% ad valorem	30,246,105	2,947,925	515,887	
Cherries	Lb	737	Cherries, prepared or preserved in any manner.	9½c per lb. and 40% ad valorem	2,069,091	353,039	168,890	
Prunes	Lb	748	Prunes, otherwise prepared or preserved.	35% ad valorem	2,616,486	264,293	46,251	
Peaches	Lb	745	Peaches, otherwise prepared or preserved.	35% ad valorem	90,040,895	8,315,560	1,455,223	
Pears	Lb	749	Pears, otherwise prepared or preserved.	35% ad valorem	56,075,297	6,241,697	1,092,297	
Pineapples	Lb	747	Pineapples, otherwise prepared or preserved.	2c per lb	46,153,359	4,557,493	461,534	
Fruits for salads	Lb				33,874,645	5,139,561		No corresponding rate.[1]
Other canned fruits	Lb				10,643,848	1,051,967		No corresponding rate.[1]
Preserved fruits, jellies, and jams	Lb	751	Jellies, jams, marmalades.	35% ad valorem	2,413,139	455,325	79,682	
Other fruit preparations	Lb	752	Fruits, otherwise prepared or preserved.	35% ad valorem	23,915,146	1,225,209	214,412	
Peanuts	Lb	759	Peanuts (shelled) Peanuts (not shelled)	7c per lb 4¼c per lb	4,880,038	408,004	154,026	Assuming an average of 75% shelled, 25% not shelled, the ratio of imports into Canada from the U. S., fiscal year 1929.
Other nuts	Lb				6,020,135	1,072,886		No corresponding rate.[1]
Cottonseed oil:								
Crude	Lb	54	Cottonseed oil	3c per lb	19,172,131	1,542,241	287,582	
Refined	Lb	54	Cottonseed oil	3c per lb	6,902,890	845,415	103,543	
Corn oil	Lb	53	Oils, n. s. p. f.	20% ad valorum	315,255	42,329	4,233	
Vegetable oil lard compounds	Lb	703	Lard compounds and lard substitutes.	5c per lb	6,342,631	866,597	158,566	
Other edible vegetable oils and fats	Lb				3,893,049	616,804		No corresponding rate.[1]
Molasses	Gal	502	Testing not above 48% total sugar. Testing above 48% total sugar.	¼c per gal 0.275c additional each per cent of total sugar.	8,577,399	768,897	152,249	Assuming an average of 60%.
Honey	Lb	716	Honey	3c per lb	8,675,707	775,340	130,136	
Glucose (corn sirup)	Lb	503	Dextrose	2c per lb	118,523,086	4,412,137	1,185,231	
Grape sugar (corn sugar)	Lb	503	Dextrose	2c per lb	7,238,983	268,664	72,390	
Sirup, including maple	Lb	503	Maple sirup	5½c per lb	3,175,595	972,814	87,329	
Cornstarch and corn flour	Lb	83	Starches, n. s. p. f.	1½c per lb	235,041,590	8,857,751	1,762,812	
Other starch	Lb	83	Potato starch	2½c per lb	3,779,129	181,513	47,239	
Broomcorn (long ton)	Ton	779	Broomcorn	$20 per short ton	4,371	597,292	48,955	
Hops	Lb	780	Hops	24c per lb	7,677,157	1,383,841	921,259	
Wool and mohair, unmanufactured	Lb	1,102	Wool in the grease or washed per pound of clean content.	34c per lb	239,336	87,592	19,123	Assuming exports are of 47% clean content.
Total—Agricultural products (except cotton and tobacco) and manufactures thereof.							90,898,922	

[1] "All other" class in export classification does not correspond with "All other" class in tariff classification, so that it is impossible to determine debenture rate which should be used.

II. Proposed export debenture rates applied in accordance with section 321, H. R. 2667 (as passed by the Senate) to exports of leaf tobacco and manufactures thereof, calendar year, 1929

[Debenture rates equal one-half the tariff rates of H. R. 2667. (House and Senate bills have identical rates on these paragraphs)]

Commodity	Unit of quantity	Paragraph No. House bill	Tariff classification on commodity	Tariff rate on H. R. 2667	Conversion factor	Exports, 1929		Equivalent exports of raw materials (pounds)	Debenture cost
						Quantity	Value		
Leaf tobacco	Lb	601	Filler tobacco, if unstemmed	35c per lb		555,415,451	$145,810,570		$97,197,704
Stems, trimming and scrap tobacco	Lb	601	Filler tobacco, if unstemmed	35c per lb	1.0	10,549,278	318,904		1,846,124
Cigarettes	M	601	Filler tobacco, if unstemmed	35c per lb	2.85 lbs. per 1,000	8,455,851	16,706,421	24,099,175.35	4,217,356
Chewing tobacco, plug and other	Lb	601	Filler tobacco, if unstemmed	35c per lb	.759	3,885,754	1,944,027	2,949,287.29	516,125
Smoking tobacco	Lb	601	Filler tobacco, if unstemmed	35c per lb	.759	1,120,235	733,565	850,258.36	148,795
Other tobacco manufactures	Lb	601	Filler tobacco, if unstemmed	35c per lb	.759	197,734	111,273	150,080.11	26,264
Tobacco, total									103,952,368

[1] Debentures on tobacco products have been calculated on the basis of equivalent exports of oba the leaf-tobacco debenture rate.

III. Proposed export debenture rates applied in accordance with section 321, H. R. 2667 (as passed by the Senate) to exports of cotton and manufactures thereof, calendar year 1929 [1]

Commodity	Unit of quantity	Debenture rate	Conversion factor	Exports, 1929		Equivalent exports of raw materials	Debenture costs	Notes
				Quantity	Value			
Cotton, unmanufactured	Lbs	2c per lb	1.0	3,981,509,485	$770,830,254	3,981,509,485.00	$79,630,190	
Cotton mill waste	Lbs	2c per lb	1.1	59,129,559	6,744,096	65,042,514.90	1,300,850	
Cotton rags, except paper stock	Lbs	2c per lb	1.18	21,095,634	1,541,930	24,892,848.10	497,857	
Cotton batting, carded cotton, and roving	Lbs	2c per lb	1.05	446,301	85,812	468,616.05	9,372	
Cotton yarn:								
Carded yarn, not combed	Lbs	2c per lb	1.18	13,919,250	4,681,954	16,424,715.00	328,494	
Combed yarn	Lbs	2c per lb	1.43	13,571,962	10,843,493	19,407,905.66	388,158	
Cotton thread and cordage:								
Sewing thread	Lbs	2c per lb	1.43	1,053,882	1,149,515	1,507,051.26	30,141	
Crochet, darning, and embroidery cotton.	Lbs	2c per lb	1.43	82,825	96,781	118,439.75	2,369	
Twine and cordage	Lbs	2c per lb	1.18	4,588,069	1,811,740	5,413,921.42	108,278	
Cotton cloth, duck, and tire fabric:								
Tire fabric—								
Cord	Sq. yd	2c per lb	1.25	4,969,963	2,217,421	6,212,453.75	124,249	
Other	Sq. yd	2c per lb	1.25	1,355,239	472,945	1,694,048.75	33,881	
Cotton duck—								
Heavy filter paper dryer, hose and belting duck.	Sq. yd	2c per lb	2.36	688,618	421,641	1,625,138.48	32,503	
Unbleached—								
Ounce	Sq. yd	2c per lb	1.18	6,045,770	1,712,012	7,134,008.60	142,680	
Number	Sq. yd	2c per lb	1.18	4,249,118	1,720,523	5,013,959.24	100,279	
Bleached	Sq. yd	2c per lb	1.18	2,293,417	743,777	2,706,232.06	54,125	
Colored	Sq. yd	2c per lb	1.18	1,842,948	631,575	2,174,678.64	43,494	
Cotton cloth, unbleached (gray):								
Drills and twills	Sq. yd	2c per lb	.22	12,469,675	1,580,059	2,743,328.50	54,867	
Sheetings, 40 inches and under	Sq. yd	2c per lb	.30	82,174,153	7,166,814	24,652,245.90	493,045	
Sheetings, over 40 inches	Sq. yd	2c per lb	.30	1,561,372	170,747	468,411.60	9,368	
Osnaburgs	Sq. yd	2c per lb	.60	22,581,106	2,292,148	13,548,663.60	270,973	
All other unbleached	Sq. yd	2c per lb	.30	19,050,636	1,235,158	5,715,190.80	114,304	
Cotton cloth, bleached:								
Drills and twills	Sq. yd	2c per lb	.22	4,507,030	678,925	991,546.60	19,831	
Pajama checks	Sq. yd	2c per lb	.20	10,421,548	1,076,341	2,084,309.60	41,686	
Sheetings, 40 inches wide and under	Sq. yd	2c per lb	.30	33,575,043	3,849,494	10,072,512.90	201,450	
Sheetings, over 40 inches	Sq. yd	2c per lb	.30	12,960,689	1,712,039	3,888,206.70	77,764	
All other bleached	Sq. yd	2c per lb	.20	27,839,039	3,273,673	5,567,807.80	111,356	
Cotton cloth, colored:								
Voiles	Sq. yd	2c per lb	.13	56,378,646	8,048,951	7,329,223.98	146,584	
Percales and prints—								
32 inches and less	Sq. yd	2c per lb	.20	29,991,139	3,114,296	5,998,227.80	119,965	
Over 32 inches	Sq. yd	2c per lb	.20	11,595,083	1,610,203	2,319,016.60	46,380	
Flannels and flannelettes	Sq. yd	2c per lb	.30	4,451,811	684,812	1,335,543.30	26,711	
Khaki and fustians	Sq. yd	2c per lb	.22	4,526,474	904,219	995,824.28	19,916	
Denims	Sq. yd	2c per lb	.60	17,229,538	3,152,250	10,337,722.80	206,754	
Suitings (drills, etc.)	Sq. yd	2c per lb	.60	30,343,950	4,927,863	18,206,370.00	364,127	
Gingham	Sq. yd	2c per lb	.22	14,001,954	1,466,375	3,080,429.88	61,609	
Chambrays	Sq. yd	2c per lb	.22	16,447,828	1,751,199	3,618,522.16	72,370	
All other printed fabrics 7½ yds. per lb. and lighter.	Sq. yd	2c per lb	.16	27,556,474	4,451,922	4,409,035.84	88,181	
Heavier than 7½ yds. to a lb	Sq. yd	2c per lb	.22	20,847,631	3,691,987	4,586,478.82	91,730	
All other piece dyed fabrics:								
5 yds. per lb. and lighter	Sq. yd	2c per lb	.18	24,717,573	3,704,941	4,449,163.14	88,983	
Heavier than 5 yds. per lb	Sq. yd	2c per lb	.26	19,201,400	2,808,208	4,992,364.00	99,847	
All other yarn-dyed fabrics	Sq. yd	2c per lb	.22	19,807,137	2,963,458	4,357,570.14	87,151	
Cotton and rayon mixtures (chief value cotton).	Sq. yd	2c per lb	.22	18,766,787	5,174,491	4,128,693.14	82,574	
Other cotton fabrics:								
Blankets	Lbs	2c per lb	1.25	1,569,156	885,311	1,961,445.00	39,229	
Damasks	Sq. yd	2c per lb	.37	780,072	244,629	288,626.64	5,773	
Pile fabrics, plushes, velveteen, corduroys.	Sq. yd	2c per lb	.74	494,061	412,193	365,605.14	7,312	
Tapestry and otherupholstery goods	Sq. yd	2c per lb	1.00	293,125	305,280	293,125.00	5,862	
Cotton fabrics sold by the pound	Lbs	2c per lb	1.17	10,129,620	3,756,248	11,851,655.40	237,033	
Cotton wearing apparel:								
Knit goods—								
Gloves	Doz. prs	2c per lb	1.20	125,563	$219,413	$150,675.60	$3,014	
Hosiery—								
Women's	Doz. prs	2c per lb	1.80	1,941,831	3,442,369	3,495,295.80	69,906	About 1½ lbs. per doz. finished weight, 20% waste allowed.
Children's	Doz. prs	2c per lb	1.80	751,213	1,143,977	1,352,183.40	27,044	About 1½ lbs. per doz. finished weight, 20% waste allowed.
Men's socks	Doz. prs	2c per lb	1.20	1,084,490	1,855,703	1,301,388.00	26,028	About 1 lb. per doz. finished weight, 20% waste allowed.

[1] Debentures on cotton products have been calculated on the basis of equivalent exports of raw cotton at the raw cotton debenture rate.

III. Proposed export debenture rates applied in accordance with section 321, H. R. 2667 (as passed by the Senate) to exports of cotton and manufactures thereof, calendar year 1929—Continued

Commodity	Unit of quantity	Debenture rate	Conversion factor	Exports, 1929		Equivalent exports of raw materials	Debenture costs	Notes
				Quantity	Value			
Cotton wearing apparel—Continued								
Knit goods—Continued								
Underwear	Doz	2c per lb	12.00	610,616	$2,194,452	7,327,392.00	$146,548	Only rough estimate possible.
Sweaters, shawls, and other knit outerwear.	No	2c per lb	1.50	504,912	419,844	757,368.00	15,147	Only rough estimate possible.
Other wearing apparel:								
Collars and cuffs	Doz	2c per lb		231,206	311,029			Statistics for estimates not available.
Cotton overalls, breeches, and pants	Doz	2c per lb		53,965	662,670			Statistics for estimates not available.
Underwear, not knit	Doz	2c per lb		116,511	538,583			Statistics for estimates not available.
Shirts	Doz	2c per lb	8.00	236,450	2,072,998	1,891,600.00	37,832	
Dresses, skirts, and waists	No	2c per lb	[2] $1.50	610,126	596,177	397,451.33	7,949	
Other cotton clothing		2c per lb	[2] $1.25		1,310,938	1,048,750.40	20,975	
Other cotton manufactures:								
Handkerchiefs	Doz	2c per lb	[3] 1.40 / [4] 1.25	213,752	145,355	76,423.02	1,528	Assuming 75% of imports to be men's handkerchiefs 3 sq. yds. per doz.; 25% women's, 1.361 sq. yds. per doz.
Laces, embroideries, and lace window curtains.	Yd	2c per lb	[2] $3.00	4,264,710	215,750	71,916.67	1,438	
Woven belting for machinery	Lbs	2c per lb	1.18	424,119	242,368	500,460.42	10,009	
Cotton bags	Lbs	2c per lb	1.17	5,906,326	1,209,801	6,910,401.42	138,208	
Quilts, comforts, counterpanes, and bedspreads.	No	2c per lb	4.00	184,863	272,529	739,452.00	14,789	
Bed sheets, pillow, bolster, and mattress cases.	Doz	2c per lb	18.00	36,803	276,563	662,454.00	13,249	
Towels, bathmats, and washcloths	Doz	2c per lb	4.00	907,073	1,326,797	3,628,292.00	72,566	
Other cotton manufactures					4,686,196	[5]	[5]	
Cotton, total							86,725,885	
Grand total, using debenture rates equal to one-half tariff rates of H. R. 2667 as passed by House of Representatives I(A)†II†III.							279,741,393	
Grand total, using debenture rates equal to one-half tariff rates of H. R. 2667 as passed by Senate I(B)†II† III.							281,336,611	
Grand total, using debenture rates equal to one-half tariff rates of H. R. 2667 as tentatively agreed upon by the Conference Committee as of Apr. 18, 1930—I(C)†II†III.							281,577,175	

[2] Per pound. [3] Men's. [4] Women's. [5] Statistics for estimates not available.

Estimated gross and cash income from farm production, United States, 1924–1928

(Value in thousands of dollars: i. e., 000 omitted)

Product	Gross value					Gross income					Cash income				
	1924	1925	1926	1927	1928	1924	1925	1926	1927	1928	1924	1925	1926	1927	1928
CROPS															
Corn	2,438,945	2,046,550	2,023,242	2,365,302	2,341,462	429,061	386,482	324,312	408,124	423,417	397,614	362,152	302,692	382,224	396,056
Wheat	1,082,931	972,481	1,014,854	1,047,127	900,754	925,383	804,175	861,799	875,486	764,621	911,316	788,599	848,505	862,173	752,642
Oats	719,653	584,482	506,687	563,119	597,480	217,498	150,428	117,264	116,180	146,696	217,498	150,428	117,264	116,180	146,696
Barley	133,946	131,655	107,602	183,999	204,751	61,842	55,385	36,767	72,920	84,401	61,842	55,385	36,767	72,920	84,401
Rye	62,728	37,585	34,401	49,068	36,002	50,297	27,903	24,119	38,621	26,730	49,886	27,531	23,773	38,248	26,337
Buckwheat	14,341	12,235	11,002	13,318	11,794	10,769	9,480	8,132	10,507	8,851	9,729	8,526	7,296	9,670	7,992
Rice	44,564	49,268	45,621	42,168	37,319	41,698	45,231	42,395	40,558	35,844	41,542	45,179	42,356	40,549	35,836
Grain sorghums	99,766	80,251	74,065	104,712	93,433	16,694	12,135	14,360	28,072	18,749	16,694	12,135	14,360	28,072	18,749
Emmer and spelt	3,191	2,313	1,278	3,213	2,450	276	190	82	269	196	276	190	82	269	196
Popcorn	1,285	3,676	1,651	1,181	1,303	1,285	3,676	1,651	1,181	1,303	1,285	3,676	1,651	1,181	1,303
Cotton lint	1,561,025	1,577,396	1,121,222	1,314,093	1,300,502	1,561,025	1,577,396	1,121,222	1,314,093	1,300,502	1,561,025	1,577,396	1,121,222	1,314,093	1,300,502
Cottonseed	206,190	220,381	172,134	206,971	227,895	148,613	162,543	130,027	155,157	170,974	148,613	162,543	130,027	155,157	170,974
Tobacco	259,139	250,774	236,702	256,875	276,448	259,139	250,774	236,702	256,875	276,448	259,139	250,774	236,702	256,875	276,448
Potatoes, white	315,290	531,689	500,743	456,459	293,679	257,868	430,685	409,185	382,890	234,380	196,284	337,253	324,204	309,554	189,059
Sweetpotatoes	82,068	103,941	98,483	102,588	88,675	79,644	101,212	96,239	100,817	86,730	53,002	72,352	75,054	81,027	66,735
Truck crops	302,671	346,833	287,597	308,231	326,926	302,671	346,833	287,597	308,231	326,926	279,032	317,633	266,930	286,114	301,599
Hay	1,413,193	1,254,585	1,268,419	1,284,620	1,182,969	236,131	204,045	192,622	179,989	178,638	236,131	204,045	192,622	179,989	178,638
Sweet sorghum forage	32,610	28,226	29,973	36,280	28,748	3,053	2,373	2,782	3,534	2,852	3,053	2,373	2,782	3,534	2,852
Flaxseed	68,725	50,746	39,252	49,737	37,316	65,191	47,253	36,163	46,943	34,297	65,191	47,253	36,163	46,943	34,297
Broomcorn	7,454	4,219	4,285	4,212	4,850	7,454	4,219	4,285	4,212	4,850	7,454	4,219	4,285	4,212	4,850
Hemp	11	224	195	112	116	71	224	195	112	116	71	224	195	112	116
Hops	3,415	6,232	7,296	7,024	6,328	3,415	6,232	7,296	7,024	6,328	3,415	6,232	7,296	7,024	6,328
Alfalfa seed	11,231	11,825	9,645	8,315	7,026	10,246	10,822	8,608	7,365	5,975	10,246	10,822	8,608	7,365	5,975
Clover seed, red and alsike	13,311	16,206	13,181	27,527	18,399	10,515	13,346	9,778	24,558	15,277	10,515	13,346	9,778	24,558	15,277
Clover seed, sweet and jap	5,868	5,903	8,817	6,327	4,168	3,941	4,229	6,486	4,694	2,966	3,941	4,229	6,486	4,694	2,966
Timothy seed	8,828	6,561	6,834	5,424	2,977	8,373	6,101	6,460	5,173	2,712	8,373	6,101	6,460	5,173	2,712
Field beans	49,280	52,470	41,383	50,346	68,181	44,484	48,324	38,041	45,964	62,395	44,096	48,030	37,798	45,552	61,865
Soybeans	23,147	23,431	21,808	28,050	29,944	7,034	5,958	5,843	6,510	6,447	7,034	5,958	5,843	6,510	6,447
Cowpeas	31,317	34,552	28,843	36,866	26,768	4,749	4,439	3,773	4,272	3,065	3,239	2,853	2,570	3,276	1,991
Peanuts	44,433	39,480	33,376	47,122	39,213	39,883	35,732	29,304	42,015	34,435	38,807	34,766	28,432	41,069	33,548
Velvet beans	13,545	9,636	11,991	14,520	14,805										
Apples	206,450	215,050	211,896	173,744	200,582	198,644	207,785	199,066	168,929	193,189	160,627	169,233	161,434	131,829	154,452
Peaches	68,084	64,171	68,426	50,494	63,649	65,713	62,506	64,667	49,164	60,253	49,800	48,628	49,838	39,424	44,941
Pears	26,689	29,066	22,399	24,298	24,167	25,888	28,196	21,508	23,569	23,503	21,090	23,257	17,242	19,707	19,624
Grapes	70,251	66,168	64,603	65,332	49,601	69,134	65,299	63,621	64,493	48,160	64,741	61,330	60,208	61,180	45,062
Cranberries	5,485	6,370	5,623	6,089	7,743	5,485	6,370	5,623	6,089	7,743	5,485	6,370	5,623	6,089	7,743
Strawberries	53,859	50,512	58,373	59,179	53,711	53,859	50,512	58,373	59,179	53,711	53,348	49,830	57,759	58,613	53,186
Other berries	28,109	28,311	32,615	36,857	31,881	28,109	28,311	32,615	36,857	31,881	27,687	27,734	32,129	36,385	31,437
Pecans	4,649	7,030	9,772	4,592	4,030	4,649	7,030	9,772	4,592	4,030	3,834	5,962	8,680	3,684	3,602

Estimated gross and cash income from farm production, United States, 1924–1928—Continued
(Value in thousands of dollars; i. e., 000 omitted)

Product	Gross value					Gross income					Cash income				
	1924	1925	1926	1927	1928	1924	1925	1926	1927	1928	1924	1925	1926	1927	1928
CROPS—CON.															
Oranges	91,338	89,864	104,082	118,313	142,285	91,338	89,864	104,082	118,313	142,285	90,725	89,337	103,587	117,576	141,685
Grapefruit	7,620	16,855	11,146	19,456	18,901	7,620	16,855	11,146	19,456	18,901	7,542	16,739	11,068	19,321	18,791
Other fruits	64,818	63,463	79,285	74,605	81,931	64,510	63,283	78,816	74,468	81,466	60,007	58,903	73,803	70,719	76,966
Other nuts	12,942	19,080	12,450	20,958	15,818	12,942	19,080	12,450	20,958	15,818	12,837	18,526	12,342	20,870	15,714
Maple sirup and sugar	9,285	7,629	9,802	9,166	7,526	9,283	7,629	9,802	9,166	7,526	8,093	6,658	8,508	8,028	6,608
Sugar beets	59,524	47,137	54,964	59,455	50,960	59,524	47,137	54,964	59,455	50,960	59,524	47,137	54,964	59,455	50,960
Sugarcane and sirup	27,344	33,836	24,802	24,219	24,669	24,341	29,525	20,376	19,855	20,786	12,085	16,930	10,171	9,955	12,291
Sorghum sirup	23,579	23,646	29,080	25,716	24,683	17,370	17,399	21,405	18,854	18,138	7,411	7,484	9,219	8,041	7,798
Farm gardens	295,379	301,583	284,349	266,082	303,651	295,379	301,583	284,349	266,082	303,651					
Nursery products	20,432	20,432	20,432	20,432	20,432	20,432	20,432	20,432	20,432	20,432	20,432	20,432	20,432	20,432	20,432
Forest products	306,427	327,011	317,981	309,852	311,091	306,427	327,011	317,981	309,852	311,091	177,597	189,524	184,291	179,578	180,296
Greenhouse products	76,839	76,839	76,839	76,839	76,839	76,839	76,839	76,839	76,839	76,839	76,839	76,839	76,839	76,839	76,839
Total	10,513,262	9,989,859	9,261,501	10,070,581	9,726,822	6,245,791	6,239,471	5,531,376	5,919,948	5,757,484	5,566,107	5,503,156	4,856,340	5,283,042	5,101,814
ANIMAL PRODUCTS															
Cattle and calves	817,492	878,901	869,504	940,727	1,137,176	921,682	1,002,954	1,010,030	1,005,770	1,124,474	895,397	974,105	982,922	975,233	1,089,124
Hogs	1,186,055	1,598,320	1,753,645	1,570,027	1,387,122	1,323,975	1,666,402	1,757,626	1,506,949	1,477,721	1,088,016	1,340,698	1,413,332	1,208,929	1,208,866
Sheep and lambs	148,803	173,568	174,872	177,508	197,406	133,966	152,612	155,876	150,962	171,463	131,145	149,487	152,848	147,628	168,091
Poultry (chickens)	371,333	410,827	462,333	457,823	444,208	390,991	408,088	445,631	449,314	457,464	229,574	233,710	274,729	261,350	279,854
Eggs	609,638	722,925	735,323	668,218	746,285	583,562	691,897	704,037	639,868	717,103	430,312	519,929	545,934	490,318	560,258
Milk	1,767,366	1,852,191	1,896,855	2,005,097	2,061,464	1,677,561	1,758,841	1,804,605	1,910,545	1,965,358	1,231,776	1,302,654	1,359,099	1,469,154	1,509,962
Wool	87,401	97,245	88,485	86,240	109,299	87,401	97,245	88,485	86,240	109,299	87,401	97,245	88,485	86,240	109,299
Mohair	6,509	5,790	7,219	7,537	10,228	6,509	5,790	7,219	7,537	10,228	6,509	5,790	7,219	7,537	10,228
Bee products	11,597	11,934	11,129	12,490	9,493	11,597	11,934	11,129	12,490	9,493	8,088	8,355	7,678	9,376	6,127
Horses	50,921	44,736	38,056	38,028	36,998	16,163	14,749	16,227	14,973	15,406	16,163	14,749	16,227	14,973	15,406
Mules	26,467	22,787	17,211	16,086	15,205	12,533	10,537	10,194	12,701	12,216	12,533	10,537	10,194	12,701	12,216
Total	5,083,582	5,819,224	6,054,632	5,979,781	6,154,884	5,165,940	5,821,049	6,011,059	5,797,349	6,070,225	4,136,914	4,657,259	4,858,667	4,683,439	4,969,741
Grand total						11,411,731	12,051,520	11,542,435	11,717,297	11,827,709	9,703,021	10,160,415	9,715,007	9,966,481	10,071,555

NOTE.—The values shown above for feed and seed crops, horses, and mules, include sales by farmers in some States eventually bought by farmers in other States. These interfarm sales tend to overstate the total income from farm production for the country as a whole.

TREASURY DEPARTMENT,
BUREAU OF CUSTOMS,
Washington, December 4, 1929.

Hon. C. W. RAMSEYER,
House of Representatives.

MY DEAR MR. RAMSEYER: Referring to your letter of November 30, 1929, I inclose a list of decisions issued under the countervailing duty (bounty) provisions of section 303 of the tariff act of 1922, and a list of the findings of dumping issued under the antidumping act of 1921. You will find a file of these decisions (except the first three, which are in manuscript), in the office of the legislative counsel of the House, room 197, House Office Building. If you are interested in the first three, which were not published, copies of them will also be furnished upon your request.

The term "countervailing" is sometimes also applied to the class of contingent duties found in paragraphs 369, 371, and certain other paragraphs of the tariff act of 1922, whereby under certain conditions duty is assessed at the same rate that the country of exportation imposes on similar articles from the United States. If you are interested in this class of decisions, I shall be glad to furnish a list thereof, but almost, if not all of them, merely give, for the information of customs officers, the rates of duty imposed by the foreign country which are to be applied here.

Very truly yours,

F. X. A. EBLE,
Commissioner of Customs.

List of findings by the Secretary of the Treasury under the antidumping act of 1921, section 201 (a)

Article	Date of finding	Treasury decision
Goatskin parchment paper	Oct. 11, 1921	(1)
Cotton embroideries	Nov. 1, 1921	(1)
Hamburgs from Austria	Jan. 13, 1922	(1)
Hamburgs from Switzerland	Feb. 25, 1922	39025
Veneer chair seats from Canada	Mar. 3, 1922	39027
Peeled tomatoes in tins from Italy	Mar. 4, 1922	39028
Rugs from Canada	Mar. 6, 1922	39032
Tissue paper from England	Mar. 13, 1922	39036
Revoked	Apr. 27, 1922	39089
Cut-glass ware from England	Mar. 28, 1922	39052
Photo dry plates from England	Mar. 31, 1922	39053
Sheathing paper from British Columbia	Apr. 18, 1922	39067
Hamburgs from Switzerland	Feb. 25, 1922	39025
Revoked	Apr. 22, 1922	39086
Flour, wheat, from Canada	Apr. 23, 1922	39071
High-pressure tube gauge glasses from England	May 19, 1922	39119
Revoked	Sept. 5, 1925	41084
Fountain syringes from Canada	May 26, 1922	39139
Raspberries, canned, red, from Ontario, Canada	June 19, 1922	39177
Oxide of iron from Quebec	July 26, 1922	39210
Sole leather from Ontario	Aug. 3, 1922	39220

[1] Circular letter.

List of findings by the Secretary of the Treasury under the antidumping act of 1921, section 201 (a)—Continued

Article	Date of finding	Treasury decision
Brick, plastic, from Quebec	Oct. 13, 1922	39272
Earthenware cereal sets from Czechoslovakia	Oct. 16, 1922	39277
Revoked	Sept. 22, 1923	39793
Decorated chinaware jugs from Czechoslovakia	Oct. 28, 1922	39293
Revoked	Sept. 22, 1923	39793
Canvas from England	Oct. 30, 1922	39294
Roofing, or deadening felt, from British Columbia	Nov. 4, 1922	39303
China cereal sets from Czechoslovakia	Dec. 14, 1922	39360
Revoked	Sept. 22, 1923	39793
Rubber balls from Germany	Jan. 20, 1923	39422
Castings, No. 1 spuds, malleable, from Ontario	Feb. 26, 1923	39481
Ferrosilicon, from Ontario, Canada	Mar. 23, 1923	39542
Revoked	Jan. 10, 1925	40603
Veneers, or thin lumber from Quebec	Apr. 16, 1923	39583
Calcium carbide from Quebec	May 16, 1923	39635
Revoked	June 12, 1923	39686
Pig iron from Ontario	Mar. 25, 1925	40762
Paper-white sulphite wrapping or bag from Germany	July 1, 1925	41005
Strychnine from Switzerland	July 28, 1925	41045
Magnesium chloride fused from Germany	Aug. 27, 1925	41079
Pins, common and safety, from Germany [2]	July 19, 1926	41713
Colored antique window glass from England	Sept. 9, 1926	41781
Revoked	Apr. 14, 1927	42103
Pig iron from Germany	Jan. 29, 1927	41965
Suspended	Nov. 22, 1928	43047
Phosphate rock, Morocco	Feb. 9, 1928	42577
Lighting carbons from Germany	Sept. 18, 1928	42965

[2] Reversed by Court of Customs Appeals—43475.

List of decisions under section 303, tariff act 1922 (bounties)

Country	Article	Treasury Decision	Date
Australia	Sugar n certain articles	39310	Nov. 16, 1922
Do	do	39541	Mar. 24, 1923
Do	do	39789	Sept. 17, 1923
Do	Fencing wire (galvanized sheets), traction engines.	39722	July 2, 1923
Do	do	40001	Feb. 6, 1924
Do	Butter	42937	Sept. 5, 1928
Do	do	43067	Dec. 5, 1928
South Africa	Cattle and beef	39746	July 20, 1923
Spain	Coal	39830	Oct. 19, 1923
Netherlands	Yellow prussiate of soda	40895	May 25, 1925
India	Pig iron	41500	Apr. 16, 1923
Do	do	41730	Aug. 6, 1926
Do	do	42161	Apr. 30, 1927
Germany	Rolling mill products	41561	May 13, 1926
Do	do	41628	June 18, 1926
Do	do	41964	Jan. 31, 1927
Great Britain	Spun silk yarn	42895	July 24, 1928
Do	Silk or artificial silk, manufactures of.	43634	Oct. 30, 1929

HOUR OF MEETING

Mr. TILSON. Mr. Speaker, after conference with the minority members of the Ways and Means Committee and the majority members, I wish to ask unanimous consent that during the remainder of the week the House meet at 11 o'clock instead of 12 o'clock.

The SPEAKER pro tempore. The gentleman from Connecticut [Mr. TILSON] asks unanimous consent that during the remainder of the week the House meet at 11 o'clock instead of 12 o'clock. Is there objection?

Mr. RANKIN. Mr. Speaker, reserving the right to object, I understand the gentleman from Texas [Mr. GARNER] is ill in bed.

Mr. TILSON. We have communicated with him by telephone, and also with Mr. CRISP, and it is agreeable to all.

The SPEAKER pro tempore. Is there objection?

There was no objection.

Mr. MICHENER. Mr. Speaker, may I ask the gentleman from Connecticut [Mr. TILSON] if it is the purpose of the House to sit on Saturday of this week?

Mr. TILSON. Yes. It is the purpose to continue until the tariff bill is finished, as far as this House is concerned.

CONFEDERATE MEMORIAL DAY

Mr. WRIGHT. Mr. Speaker, on April 26, 1930, at La Grange, Ga., in my district, a most comprehensive, illuminating, and historical address was delivered on the occasion of Confederate Memorial Day by Mr. A. W. Cozart, an eminent scholar and jurist. This address shows great research and contains historical data which is not generally known. I ask permission to extend my remarks by having it printed in the RECORD.

The SPEAKER pro tempore. The gentleman from Georgia asks unanimous consent to extend his remarks by printing a historical address delivered in the State of Georgia a short time ago by a distinguished gentleman. Is there objection?

There was no objection.

Mr. WRIGHT. Mr. Speaker, under the leave to extend my remarks in the RECORD, I include the memorial address by Mr. A. W. Cozart on the occasion of Confederate Memorial Day.

The address is as follows:

MEMORIAL ADDRESS

By A. W. Cozart, of the Columbus, Ga., bar, delivered at Lagrange, Ga., April 26, 1930

Confederate veterans, ladies of the memorial association, ladies and gentlemen, one of the clamant needs of our southern people is a better knowledge of the history of the Southland. Such a knowledge would make our people as patriotic as they are proud.

The Southland is the land of arborescent vistas, the land of perpetually efflorescent gardens, the land of cerulean heavens, the land with rubescent mornings and evenings, the land of valiant and gallant men and women who are winsome but wise.

SLAVERY

(a) Slavery was the exciting and proximate cause of the War between the States. Had there been no slavery, there would have been no war, and had the South not made a financial success under and on account of slavery, there would have been no war.

(b) Georgia prohibited slavery from 1735 until 1749.

(c) "In 1760 South Carolina passed an act prohibiting the further importation of negro slaves, but it was rejected by the British Crown, the governor of the colony was reprimanded, and the governors of all the Colonies were warned not to countenance such legislation."

(d) In 1827 there were 126 antislavery societies in Southern States and only 24 in Northern States.

(e) In 1770 Rhode Island had 150 vessels in the slave trade.

(f) "Capt. Nathaniel Gordon, master of the ship *Erie*, was hanged in New York Tombs for violating the law making slave transportation a capital offense, passed by Congress in 1820. He was the only man ever so punished—and both he and his ship hailed from Portland, Me." (They Also Rans, p. 107, by Don. C. Seitz.)

(g) There were less than 400,000 persons in the South who owned slaves when the War between the States began. They owned about 4,000,000 slaves, and had several billion dollars invested in them. As there were so few persons who owned slaves, comparatively speaking, the war was called by many "a rich man's war and a poor man's fight." In the mountain sections of north Alabama, north Georgia, east Tennessee, and in the Carolinas there were vast numbers who owned not a slave. East Tennessee furnished more volunteers to the Union Army than New Hampshire, Maine, and Massachusetts all put together.

(h) The South could not well liberate her slaves on account of the vast sum invested in them. She was in the position of the man who swallowed the egg. He said if he moved it would break, and if he didn't the darned thing would hatch.

(i) The United States Constitution provided that fugitive slaves should be returned by the States. Between 12 and 15 Northern States passed laws to nullify this provision of the Constitution and the acts of Congress passed in pursuance of the Constitution requiring the return of fugitive slaves. The North disregarded the United States Constitution. The North disregarded the acts of Congress. The North disregarded the mandates of the Supreme Court of the United States; and touching the question of fugitive slaves the North disregarded every obligation imposed by law upon her toward the South. Great constitutional lawyers from Massachusetts, including Daniel Webster, Rufus Choate, and Caleb Cushing, and great patriots like Edward Everett, repeatedly said and proclaimed boldly to the world that the South was right in her position on the fugitive slave question. Fanatics, poets, and low politicians took the opposite view and fanned the flame until it was a mighty conflagration. They were responsible for the greatest tragedy which has occurred on this continent.

(j) Rawle was a great constitutional lawyer and legal author of Philadelphia. He wrote a textbook, View of the Constitution, which was a textbook at West Point and studied by Robert E. Lee, Albert Sidney Johnston, Joseph E. Johnston, Jefferson Davis, and others. He taught in this book and demonstrated it beyond any doubt that the States had a right to secede. (See Life of Alexander H. Stephens, by Pendleton, pp. 218, 219.)

(k) Daniel Webster opposed the War of 1812, and in the House of Representatives he opposed the conscription bill, and in 1814 he intimated that Massachusetts would secede if driven to it. Massachusetts and other New England States threatened to secede on or about the same date. As late as 1843 and 1845 Massachusetts threatened to secede in the event or on account of the annexation of Texas. In the Hayne-Webster debate it might have been appropriate for some northern man to speak against nullification by South Carolina of the laws of Congress, but Webster was hardly the man to do so. He said Massachusetts needed no encomium. I think myself that Massachusetts deserved no eulogy. Boston did more to bring on the Revolutionary War and the War Between the States, with less cause, than any other city or any other community.

(l) For the reasons which I have stated, the South had a legal right and a moral right to secede. In her situation, the right of revolution would have been justified had she had no technical right to secede.

PARADOXES

(a) Lyman Beecher was bitterly opposed to the abolition of negro slavery. He had seven sons who were ministers and he was the father of Harriet Beecher Stowe.

His most distinguished son, Henry Ward Beecher, and his daughter, Harriet Beecher Stowe, were among the bitterest abolitionists.

(b) Robert E. Lee liberated his negro slaves before Lincoln signed his Emancipation Proclamation but Grant's slaves were emancipated by the proclamation.

(c) Harriet Beecher Stowe and Gen. William T. Sherman were among the mightiest forces for the abolition of slavery, but both of them, after the War Between the States, opposed the enfranchisement of the negroes.

(d) Robert G. Ingersoll and Henry Ward Beecher supported Grant for President, but later they favored Grover Cleveland.

THE NEGRO

(a) Dr. U. B. Phillips, one of your own distinguished citizens, in his new book, Life and Labor in the Old South (p. 184), says:

"A British voyager on an Alabama steamboat just after the war told: 'A gentleman of color, working on one of the boats, was asked the other day whether he was best off now or before he was free. He scratched his wool and said, "Wall, when I tumbled overboard before the captain he stopped the ship and put back and picked me up; and they gave me a glass of hot whisky and water; and then they gave me 20 lashes for failing overboard. But now if I tumble overboard the captain he'd say, 'What's dat? Oh! only dat dam nigger—go ahead!'"' The slaves might be chastened but they were sure to be cherished."

(b) Dr. W. H. Wilcox, of Cornell University, a Government statistician, in an address before the American Sociological Science Association, at Saratoga, September 6, 1899, showed that negroes were nearly three times as criminal in the Northeast and more than three times as criminal in the Northwest, in proportion to numbers, as they were in the South at the time of the estimate.

(c) Many negroes desire to obtain an education so that they can get a living without manual labor. This is illustrated by one of Booker Washington's stories about the negro who was working in a cotton field. He suddenly stopped, and, looking toward the skies, said: "O Lawd, de cotton am so grassy, de work am so hard, and de sun am so hot dat I b'lieve dis darky am called to preach!"

Booker Washington also tells this good story: He asked an old negro about 60 years old to tell him something of his history. The old man said he had been born in Virginia and sold into Alabama in 1845. Washington asked him how many were sold at the same time. He said, in reply, "There were five of us; myself and brother and three mules."

Confederate generals who were northern born, birthplace, and rank in United States Army at beginning of or before war

Gen. Samuel Cooper, New Jersey, colonel, adjutant general.

Maj. Gen. Samuel Gibbs French, New Jersey.

Brig. Gen. Julius Adolphus deLagnel, New Jersey, second lieutenant, Artillery.

Lieut. Gen. John C. Pemberton, Pennsylvania, captain, Fourth Artillery.

Brig. Gen. John Kelly Duncan, Pennsylvania, second lieutenant, Artillery Reserves in 1855.

Brig. Gen. Josiah Gorgas, Pennsylvania, captain, Ordnance.

Maj. Gen. Luther Martin Smith, New York, captain, Top'l Engineers.

Brig. Gen. Archibald Gracie, New York, captain, dropped in 1861.

Brig. Gen. Franklin Gardner, New York.

Brig. Gen. Walter H. Stevens, New York, lieutenant, Engineers.

Brig. Gen. Daniel Marsh Frost, New York, second lieutenant, Artillery Reserves in 1853.

Brig. Gen. Albert Pike, Massachusetts.

Brig. Gen. Edward A. Perry, Massachusetts.

Brig. Gen. Albert Gallatin Blanchard, Massachusetts.

Maj. Gen. Daniel Ruggles, Massachusetts, captain.

Maj. Gen. Bushrod R. Johnson, Ohio.

Brig. Gen. Otto French Strahl, Ohio.

Brig. Gen. Daniel H. Reynolds, Ohio, lieutenant.

Brig. Gen. Danville Leadbetter, Maine, captain, reserves in 1857.

Maj. Gen. Lunsford L. Lomax, Rhode Island, lieutenant, Cavalry.

Maj. Gen. Mansfield Lovell (born of New York parents), Washington, D. C., captain, reserves in 1854.

Brig. Gen. Clement Hoffman Stevens, Connecticut.

Brig. Gen. Francis Asbury Shoup, Indiana. Light Artillery Reserves in 1860.

Brig. Gen. Lawrence Sullivan Ross, Iowa. (Came to Alabama when small boy.)

Brig. Gen. James L. Alcorn, Illinois. (Born in Illinois of southern parents. He was elected a brigadier general by the Mississippi State convention, but Jefferson Davis refused to grant him a commission.)

Thus it appears that the North furnished to the Confederacy 25 generals: One full general, 1 lieutenant general, 6 major generals, and 17 brigadier generals. New Jersey, Ohio, and Pennsylvania each furnished 3; Massachusetts, 4; and New York, 5. Nine were officers in the United States Army at the beginning of the war, and resigned to become members of the Confederate Army, and 6 had previous to the war been officers in the United States Army.

Albert Sidney Johnston was born in Kentucky of parents who just a few months prior to his birth had moved there from Connecticut. He had not a drop of cavalier blood in his veins.

FEDERAL GENERALS WHO WERE SOUTHERN BORN

Fifty-two generals in the Federal Army, during the war between the States, were born in the South, of whom 19 were major generals and 33 brigadier generals.

Twenty-five were born in Kentucky, 14 in Virginia, 3 in Tennessee, 3 in Alabama, 2 in Florida, 2 in South Carolina, and 1 in each of the following States: Georgia, Louisiana, and North Carolina.

CONFEDERATE GENERALS WHO LOST THEIR LIVES IN THE SERVICE OF THE CONFEDERACY DURING THE WAR

One full general, 3 lieutenant generals, 13 major generals, 76 brigadier generals, and 4 acting brigadier generals, making a total of 97 generals, lost their lives in the service.

Three lost their lives at the Battle of Petersburg, 4 at the Battle of Atlanta, 5 at the Battle of Chickamauga, 5 at the Battle of Sharpsburg, 6 at the Battle of Gettysburg, and 7 at the Battle of Franklin.

Brig. Gen. Robert S. Garnett, the first killed, was killed July 13, 1861; Brig. Gen. Robert C. Tyler, the last one killed, was killed April 16, 1865, at West Point, Ga., just across the Alabama line.

FEDERAL GENERALS WHO LOST THEIR LIVES DURING THE WAR BETWEEN THE STATES

Forty-seven Federal generals, of whom 12 were major generals and 35 were brigadier generals, lost their lives during the War between the States.

Five were killed at Gettysburg, 3 at Antietam (Sharpsburg), 3 at Chancellorsville, 3 at Spottsylvania, and 2 at each of the following places: Stones River, Kenesaw Mountain, Perryville, Fredericksburg, the Wilderness, and Chantilly.

Brig. Gen. Nathaniel Lyon was the first one killed. He was killed at Wilsons Creek, Mo., August 10, 1861. Brig. Gen. Thomas A. Smyth was the last one killed. He was killed at Farmville, Va., April 9, 1865.

It is interesting to note that 6 Confederate generals and 5 Federal generals were killed at Gettysburg and 7 Confederate generals were killed at Franklin but no Federal general lost his life at Franklin.

ROBERT E. LEE

(a) "It is not generally known, I believe, that Robert E. Lee was a blood relative of John Marshall, the great Chief Justice, and Thomas Jefferson, the author of the Declaration of Independence, and twice President of the United States. Marshall's mother, Mary Keith; Jefferson's mother, Jane Randolph; and Lee's grandmother, Mary Bland; were all three granddaughters of Col. William Randolph." The home of Randolph was on an island in the James River. (Lincoln, Lee, Grant, and other Biographical Addresses, by Emory Speer, p. 47.)

(b) It is not generally known, I believe, that Robert E. Lee had three sons, all of whom were officers in the Confederate Army. George Washington Custis Lee, his eldest son, was graduated from West Point at the head of his class, was a major general in the Confederate Army, was made president of Washington College to succeed his father; William Henry Fitzhugh Lee, his second son, was a graduate from Harvard, was a major general of cavalry, and was a Member of Congress from Virginia; and Robert E. Lee, jr., his third son, one of his biographers, was a captain.

(c) "Is it not indeed an immortal glory for Virginia to have produced the noblest soldier (George Washington) of the Revolution, and the noblest (George Henry Thomas) that fought for the North in the Civil War, as well as the noblest (Robert E. Lee) that fought for the South." (Union Patriots, by Gamaliel Bradford, p. 129.)

(d) I have said on many occasions that Robert E. Lee had the training and culture of a West Point honor graduate, but he was more than a scholar; the chains of habit and passion did not fetter him, but he was more than a moral man—he possessed and practiced the virtues of a Christian exemplar; in his veins flowed the best blood of Virginia, but his virtues were not due to the fact that he was the cavalier of cavaliers; in person, he was one of God's handsomest creations, but his nobility did not reside in his physique; he was a great commander, but military achievements were not his sole praise. His preeminent glory was his fidelity to duty. He was the model for and the type of our best Confederate soldier.

CHARMED LIVES

We read with amazement that Marshal Ney had five horses shot from under him at the Battle of Waterloo, but hear these remarkable facts:

Gen. William T. Sherman had 3 horses shot from under him at the Battle of Shiloh; Maj. Gen. Benjamin Franklin Cheatham had 3 horses shot from under him at the Battle of Stone River; Lieut. Gen. Daniel Harvey Hill had 3 horses shot from under him at the Battle of Sharpsburg; Lieut. Gen. A. P. Stewart had 3 horses shot from under him at the Battle of Resaca; Acting Brig. Gen. Claudius C. Wilson had 3 horses shot from under him at the Battle of Chickamauga; Lieut. Gen. Joseph Wheeler had 16 horses shot from under him while in the Confederate service; and Lieut. Gen. Nathan Bedford Forrest had 29 horses shot from under him while in the Confederate service.

ANDERSONVILLE

It has been thought and believed in the North that Jefferson Davis was responsible for the suffering of Northern prisoners in Southern prisons. For his alleged cruelties, the North considered no epithets too vile and no insults too great to be heaped upon him. The late United States Senator John Warwick Daniel, of Virginia, said:

"It is clearly demonstrated now that far from sharing any responsibility for the suffering of prisoners, Jefferson Davis did his best to alleviate them. He tried to get exchanges; he sent a delegation of prisoners to Washington to represent their own situation; he sent Alexander H. Stephens on a mission for the same purpose; he proposed that each side send surgeons, money, and medicines to their men in captivity; he established prisons in the most fertile parts of the Southland; and finally he gave up Federal prisoners, both sick and well, without exchange, rather than have them suffer in Confederate hands. There were 60,000 more Federal prisoners in southern prisons than Confederate prisoners in northern prisons, and yet 4,000 more Confederates died in prison. It is easier to protect from cold than from heat, and the North was tenfold more able to provide for captives than the South. There is no argument possible that would convict Jefferson Davis of cruelty to prisoners that would not more deeply convict Abraham Lincoln of the same charge."

CONCLUSION

The Federal Government maintains more than 84 national cemeteries, in which are buried most of the soldiers who lost their lives in the Union Army. A few of the Confederate dead, very few, are buried in these cemeteries. "Little Joe" Wheeler is buried in Arlington National Cemetery. Thousands of the Confederate dead lie in unknown graves.

I hope that each of our Confederates may have a mansion in the skies with foundations of malachite and azurite, with walls of chalcedony, with doors of ruby, with windows of diamonds, with floors of amethyst, with ceilings of sapphire, and with roof of amazonite and emerald, lighted up by the radiance and effulgence and glory which emanate from the throne of the everliving and triune God!

LUMBER, SHINGLES, AND THE TARIFF BILL

Mr. KORELL. Mr. Speaker, I ask unanimous consent to extend my remarks upon the subject of lumber, shingles, and the

tariff bill, and to incorporate therein a letter I have received from one of the friends of these industries.

The SPEAKER pro tempore. The gentleman from Oregon asks unanimous consent to extend his remarks in the RECORD upon the subject of lumber, shingles, and the tariff bill, and to include therein a letter received upon those subjects. Is there objection?

There was no objection.

Mr. KORELL. Mr. Speaker, on April 14 the House granted me the courtesy of incorporating with my remarks upon the subject "Lumber, Shingles, and the Tariff Bill," a brief statement prepared by friends of the lumber and shingle industries, stressing the necessity of retaining the duties already voted on lumber and shingles in the pending tariff bill.

In an effort to combat the force of the arguments, which appeared in this brief statement, Mr. C. D. Root, secretary of the Retail Lumber Dealers' Association of Indiana, has written a letter to Hon. FRED S. PURNELL, which was incorporated with Mr. PURNELL'S remarks appearing in the RECORD last Monday, challenging the accuracy of the assertion that the information contained in the statement that I had incorporated and particularly that the statement was based upon Government records. This letter has been read by the friends of the lumber and shingle industries, and one of their number, Mr. A. C. Edwards, of Everett, Wash., has undertaken to answer it in a communication that he has addressed to me.

I venture to suggest to the Members of the House that if the statement that I inserted on April 15, Mr. Root's letter to Representative PURNELL, and Mr. Edwards's letter to me are carefully read that the issue between the proponents and the opponents of tariff protection for lumber and shingles will clearly appear and that every believer in the soundness of the principle of a protective policy will be fully convinced that the duties already voted on lumber and shingles in the pending tariff bill should be retained.

WASHINGTON, D. C., *April 30, 1930.*

Hon. FRANKLIN F. KORELL,
Member of Congress, Washington, D. C.

MY DEAR MR. KORELL: My attention has been called to a letter printed in the CONGRESSIONAL RECORD, pages 7899–7901, April 28, 1930, written by Mr. C. D. Root, who signs himself as secretary of the Retail Lumber Dealers' Association of Indiana.

He asserts that the statements contained in The Plain Facts About the Lumber and Shingle Tariffs are false. Answering what may be fairly termed "mere misrepresentations," may I suggest let the Government records and cold facts speak for themselves. They answer every charge Mr. Root has made.

It is asserted that Plain Facts contained no citations sustaining its statements. Reference to the statement will show quotations from the President's messages, from the CONGRESSIONAL RECORD, from Labor, Census, and Commerce Department records, and from reports of the United States Tariff Commission. Plain Facts relied solely on Government statistics and Government records. If they are wrong, then Plain Facts are incorrect.

1. The unemployment problem: Claim is made that unemployment totaling 160,000 is false. In figuring this item care was taken to be conservative. Total lumber-industry workmen was figured in round numbers at 800,000 and a 20 per cent idleness, producing a figure of 160,000. However, it is nearer correct to accept the statement of Senator STEIWER, as follows: "The Department of Commerce furnished me one estimate of the average number of employees as 886,889." (CONGRESSIONAL RECORD, February 27, 1930, p. 4392.). Trend of Employment and Labor Turnover, March, 1930, a Labor Department bulletin, says mill employment totals 73.7 per cent, so there is idleness of 26.3 per cent, or total lumbering idleness of 233,251 (26.3 per cent of 886,889). Current reports, not completely verified, now place total idleness considerably in excess of even those figures, but it will have to be admitted the original figures were entirely too conservative.

It shall not be my aim to answer argument. That's largely opinion, and the argument advanced by Mr. Root is so clearly unsound it needs no answer, but is, for the major part, answered by quotations from reports of the United States Tariff Commission, contained herein.

2. Opposition to a lumber and shingle tariff: Plain Facts emphatically states:

"Every witness that appeared before the Ways and Means Committee of the House or Finance Committee of the Senate, opposing lumber and shingle tariffs, was an owner of foreign mill and timber or importing interests, an importer, or the agent or employee of a foreign mill and timber or importing interests."

That assertion remains unchallenged. It is proven by the records of the committees named and stands as an undisputed and admitted fact.

A list of names, presumably opponents of lumber and shingle tariffs, is submitted by Mr. Root. It is presumed they are retailers. Retailers are what is known as "middlemen" and middlemen from time immemorial have been against tariffs of nearly all kinds. They are in the main, and probably totally, importers of lumber and shingle products. They desire to play foreign prices against American prices to drive down the price they pay for lumber and shingle products, solely for their individual gain and profit, and not in the interest of the consumer, the American workmen, or American commercial activities. Their motive is purely selfish.

3. Who wants the lumber and shingle tariff: It is claimed the lumber industry tariff committee has not submitted a list of its membership. That is true. The lumber industry tariff committee does not profess an organization except to work for a tariff in behalf of American labor, American business, and American commercial activities. By reference to the large number of labor petitions on file in the United States Senate, it will be seen that thousands of American workmen are asking for lumber and shingle tariffs. Investigation will disclose that there are no American mills, free from foreign or importing entanglements but what want, and for the greater part, are asking for lumber and shingle tariffs and further investigation will disclose that American commercial activities are also asking for such tariffs. Those are the several interests represented by the lumber industry tariff committee. The only ones who question the representation of the lumber industry tariff committee are foreign and importing interests. There is no doubt as to the authenticity of the representation of the lumber industry tariff committee. They represent American interests and American interests only.

Mr. Root says the number of mills in the United States total 8,723. According to Senator STEIWER, quoting from the Census Bureau, the number operating in 1925 was 15,621, and in 1928, the number was 13,266. (CONGRESSIONAL RECORD, February 27, 1930, p. 4399.) The Census Bureau is no doubt the best authority, but it admits the noninclusion of a very large number of small mills.

4. Importance of American lumbering operations: Apparently an effort is made to decry the fact that 946,871 farmers own 35,270,527 acres of timberlands. The slur does not need nor is it entitled to a reply.

Mention is made that Indiana has only 39,909 farmers, who own 809,824 acres of wooded lands. No doubt these Indiana farmers value these lands highly, and will resent belittling their holdings.

Further Indiana statistics should have been quoted, which are that in 1927 Indiana lumbering operations gave employment to 5,252 workmen, and paid them a wage of $14,665,802. (Census of Manufacturers, 1927, p. 45.)

Chances are that Indiana workmen prefer to have American labor, the purchasers of their products, who draw pay checks, employed, instead of driving them to idleness, so that they can purchase the products of farm and factory. American farmers and manufacturers generally know that idle labor means decreased purchases and business stagnation, and they are unwilling to take the chance of selling their products to the orientals of Canada or peasants of Europe.

5. Lumber-industry distress: Attention is called to the CONGRESSIONAL RECORD, February 8, 1930 (pp. 3296–3300), and February 27, 1930 (pp. 4378–4383), pretending to show lumber industry prosperity. In this connection, one should read page 5469 of same RECORD, November 12, 1929, and 4402 of February 27, 1930; the first presenting a report of the Commissioner of Internal Revenue, clearly showing losses and distress, and the latter submitting indisputable evidence of the falsity of the assertions on pages 3296–3300, 4378–4383, above referred to. Clearly, the criticism of Plain Facts is a one-sided consideration, with utter disregard for truth or facts.

I must decline to comment on the asserted statistics offered by Mr. Root, most of which are argumentative, because I can neither verify nor disprove them from a careful search of Census, Labor, and Commerce reports. They do not correspond with Government reports.

Canadian lumber production has increased 160 per cent in the past 10 years. Facts about Canada, page 58, British Columbia shingle production has gained 399 per cent since the tariff was removed from shingles in 1913. Page 51, Tariff Commission's report on shingles, United States production of shingles and lumber has greatly decreased. That can be seen from any of the Government records. Canadian lumber exports to the United States average about 1,500,000,000 feet yearly. Shingle imports average 2,229,000,000, page 51, shingle report. These imports to United States markets displace American workmen, decrease American pay rolls, and lessen American commercial activities. That may be meaningless to Mr. Root, but it means forced idleness and distress to thousands of American lumber workmen.

6. Building cost increases from lumbering tariffs: This criticism is really too absurd to answer. It speaks of pyramiding. That's opinion, or guess, whichever it may be called. Better authorities say there will be no price increase to the consumer. However, if a lumber tariff is enacted and becomes completely effective in a cost increase, the statement of a competent and capable critic is more valuable. It follows:

"So, if the tariff was effective, the 8-room house costing $4,000 would cost only $4,010 or $4,012. The 6-room house costing $3,000 would cost $3,008 or $3,009. If he should build a 6-room house, it would cost only $5 to $9 additional if the proposed tariff rate should be entirely reflected in the cost of lumber." (Hon. PARK TRAMMELL, CONGRESSIONAL RECORD, March 20, 1930, p. 5676.) The Senator qualified as a building expert, and he is therefore entitled to credence.

It may be well to consider the proposed lumber-tariff clause. It covers dressed lumber or planed on more than one side, and excepting rough lumber from contiguous countries. Normally about one-third of the lumber used in construction is rough. That's not covered if imported from contiguous countries. The tariff therefore equals but two-thirds of the $1.50, or $1 per thousand feet average construction on lumber used for building purposes. That makes the lumber tariff easy to figure for any building as an increased cost, if effective in a price increase—just two-thirds proposed tariff rate times thousand feet of lumber in the building.

7. Beneficiaries of a lumber tariff: It is alleged "American workmen will not be benefited or employed one moment longer than they are now through increasing the price of lumber." No one is asking for a lumber-price increase, unless it be the retailers represented by Mr. Root, whose prices average from 40 to 150 per cent above mill prices. See CONGRESSIONAL RECORD, page 5683, March 20, 1930. What American workmen ask and want is a chance to labor in the production of American lumber and shingles for American markets, and American lumber and shingle manufacturers are only asking an equal opportunity with foreign production in the manufacture of those products. That's all, and that's a fair request.

It is argued the lumber tariff benefit will go to the timber owner. Labor Department statistics show that the labor cost per thousand feet of lumber in 1927 was $16.84. That's most of the mill price of American lumber and that will at least go to American workmen. The timber owner can't get that, so labor will be the chief beneficiary. Anyone who knows the value of a pay roll can tell who will get a large amount of the other benefits to be derived from lumber and shingle tariffs.

8. Timber ownership: In this Mr. Root certainly chose a subject with which he shows astonishing lack of knowledge. He should have read page 5492 of the CONGRESSIONAL RECORD, November 13, 1929, and he would have found the 60 per cent claim of ownership. Then he should have read pages 4784–4787, of the CONGRESSIONAL RECORD, March 5, 1930, and he would have found more interesting information concerning timber ownership and misrepresentations as to timber ownership. Maybe he would then have not presumed to pose as an authority on timber ownership.

9. Foreign timber production advantages: It may be useless to quote from the Tariff Commission's log report, pages 7, 11, and 21, and the shingle report, pages 11, 23, 49, and 72, showing foreign production advantages, because, even after quoting the higher costs, an asserted report that was never made is proffered by Mr. Root to show that Tariff Commission's reports are worthless.

Special attention is asked to the fact that Plain Facts did not show cost statements. It certainly did not. It quoted Tariff Commission's findings as to costs. It was not presumptuous enough to propose to manufacture cost data on which to base false statements in an attempt to disprove the findings of the commission, ascertained from careful investigations. Plain Facts merely assumed the Tariff Commission knew its business, and believes that assumption is tenable.

Mention is made of the "long ton of pea coal and short ton of stove coal." Probably that was intended to refer to log scales in British Columbia and in the United States. The Tariff Commission settles that by saying: "A log 24 feet long and 18 inches in diameter contains, under the Scribner (American) rule, 320 board feet, whereas the same dimensions under the British Columbia scale gives only 311 board feet" (p. 8, commission's shingle report).

The forestry branch of the Candian Government sustains this finding. See page 146 British Columbia Trade Directory and Yearbook, 1929. So the United States gets the short ton by about 3 per cent.

There is no minimum wage law in Washington. I know; I live there. Nearly all of Washington lumbering labor is paid from $4 to $12 per day. I know that, too, because I have signed many checks paying those wages, and I am not guessing like Mr. Root. I also know the minimum wage law of British Columbia has been declared invalid by a Canadian court, and that's no guess.

10. Labor costs in lumber production: Claim is made there is no difference in the wages in British Columbia and Washington and Oregon. Answering this reference must again be had to the same pages of the Tariff Commission's reports just quoted. Also to schedules found on pages 4400–4401 of the CONGRESSIONAL RECORD, February 27, 1930. Surely the Tariff Commission should know the facts in the case and be better informed than its critic.

Mr. Root wonders where the labor costs per 1,000 feet are found. That's easy. Total lumber production is given in numerous Government publications, as is also total wages paid. Divide total wages by total lumber production and you get labor cost per thousand feet. It's about a fourth-grade problem.

11. Prices of lumber: The critic of Plain Facts did not have much to say concerning this item. Evidently the stated drop in mill prices are admitted. An instance of a decrease in retail price in one city from $95 to $75 per 1,000 feet in "C grade edge-grain southern pine flooring" is given. That's a drop of $20 per thousand feet. A retailer that can afford to cut his price $20 per thousand feet must have had a long profit to begin with, and in such an instance one naturally wonders what the war (price) is all about.

Page 5683 of the CONGRESSIONAL RECORD will afford interesting reading on the question of mill and retail lumber prices. It shows the profits of the retail dealer. Maybe that's why the secretary of the Indiana Retail Lumber Dealers' Association is so earnestly opposed to a lumber and shingle tariff.

12. Alleged shingle production advantages: Mr. Root says: "1. The costs are higher in Canada."

The Tariff Commission says: "It will be noted that daily wage rates are lower in British Columbia than in Washington and Oregon" (p. 23, shingle report).

"It appears from the whole five and one-half years covered by Table 5–A log prices in Washington and Oregon have exceeded those in British Columbia, on the average, by $2.25. In 1925, the year for which cost data were obtained by the commission, the excess was $2.31; in the first six months of 1926 it had risen to $2.52" (p. 11).

"Although, as would be expected, piece labor on grades designated as comparable average higher in Washington and Oregon than in British Columbia" (p. 49).

Even on water shipments, the commission says:

"British Columbia shippers sometimes have an advantage in charter rates—not being limited to ships flying American flag," and

"A considerable part of the shipment of shingles from both sides of the line is by water" (p. 72).

But those are merely United States Tariff Commission findings. They do not amount to much in the estimation of Mr. Root.

Again Mr. Root says:

"2. Canadian shingles are predominantly high grade and domestic shingles are chiefly low grade."

The Tariff Commission says:

"Official grading specifications in Washington-Oregon and British Columbia are identical. Moreover, in actual practice, they are approximately equal, whether made on the northern or southern side of the international boundary" (p. 32).

Seemingly to emphasize the fact that American grades equal the British Columbia grades the commission further states: "Most Washington and Oregon mills producing high-grade shingles now turn out as good product as do the British Columbia mills" (p. 72).

American mills also have an abundant supply of high and low grades. See page 5449, CONGRESSIONAL RECORD, November 12, 1929.

And Mr. Root says:

"Canadian shingles sell for a considerably higher price than the comparative domestic grades."

The Tariff Commission explains by saying:

"That British Columbia shingle manufacturers pay higher commissions than their Washington and Oregon competitors." (Page 50, shingle report.) In other words, higher powered salesmanship. The British Columbia mills are prosperous, have the advantages, and can afford to pay commissions that would break the American mills. The Canadian advantages are the exact reasons Americans are asking for tariffs.

Mr. Root says the shingle production in the United States was 5,136,600,000 in 1920. Wrong. The production was 6,156,000,000—page 51, Tariff Commission's shingle report, or page 25, Census of Manufactures, 1927. Really, Mr. Root should get some things right, but it seems he can't—or won't.

13. Russian lumber: Plain Facts quoted the statements published by Russian authorities without comment. The Russian publications speak for themselves. They serve notice of the Russian intent. If American interests do not heed them, the American interests will be to blame and will have to suffer the consequences, in which Indiana will share. There's no getting away from that.

When it comes to the asserted prices of the Russian lumber it should be noted the declared valuations of Russian imports for 1928, according to commerce records, were $22.04 per 100 feet. The Soviet Union Year Book says the return to the shipper was $14.50. Some one must have received a nice profit if the lumber was actually sold for nearly $40 per thousand feet, as is claimed. They nearly doubled their money.

The statements on pages 5675–5676 of the CONGRESSIONAL RECORD, March 20, 1930, are, excepting a paragraph quoted from the Supreme Economic Council of Russia, mostly anonymous and mere boosts for the importation of Russian lumber. They are worth just as much as any other anonymous statement and no more.

However, one fact remains: Russian lumber expansion and production has exceeded anticipation to date. That's an historic fact, well known to all who have made even the slightest investigation of Russian lumber operations.

14. Oriental labor competition: Mr. Root states, "Oriental labor is not a factor in competition between the United States and Canada." Evidently oriential labor was considered the factor that caused the passage of the United States exclusion act, but maybe Mr. Root knows best.

No proponent of the lumber and shingle tariffs admitted the wages of the orientals in Canada were the same as white labor in the United States, and no record will so disclose.

Seeming complaint is made that negroes of the South are employed in the lumber industry. That's too bad. They are American citizens under the laws of the United States, and surely should be granted the right to earn a living by honest toil, even if Mr. Root may not like their working in lumbering operations. Oriental labor in Canadian cedar mills totals 45 per cent of the workers. Page 21, shingle report: Canadian statistics state it amounts to 39 per cent in the lumber mills.

15. Foreign lumber tariffs: If Mr. Root will investigate, he will find Russia now exceeds the United States as a lumber-exporting nation. He will likewise find the United States can not compete in Russian markets; that we ship but little lumber and practically no shingles into Canada; that we lost 33 per cent in exports to Japan in 1929, and have most excellent prospects of losing about 33 per cent more during the coming year; but Mr. Root is evidently not looking for facts; he is merely arguing a question with which he is decidedly unfamiliar and determined not to be convinced of error or mistake in his selfish conclusions.

16. Conservation: What may have been intended as an argument for "conservation" Mr. Root bases on history. The historic statements are in a measure true, but they produce no argument for conservation. Conservation consists largely in closer utilization, and allowing overripe timber to rot is nothing but pure waste. When our laws are so changed that timber growing, which might become as legitimate as being a secretary of a retail lumber dealers' association, can be made profitable, perpetuity of forests will become an actuality, as they are in some countries where reforestation and true conservation are practiced, but conservation can never become an actuality as long as foreign low-cost competition forces American devastation and waste, in an effort to compete with the foreign lumber-producing nations, nor can the high standard of American living be maintained if American workmen are to be compelled to equally compete with the peasants of Europe and orientals of Canada.

However, Congressman, if the findings of the Tariff Commission, Government facts and figures, and the statements of able, prominent, and capable United States Senators mean nothing to Mr. Root, there is in reality no need to repeat facts and statistics.

Because of the numerous direct conflicts of proponents and opponents of lumber and shingle tariffs, Plain Facts relied exclusively on the findings of the United States Tariff Commission and other official facts. It is still apparent those authorities are best in determining the need for and advisability of the enactment of lumber and shingle tariff, and they should govern.

Yours very truly,

A. C. EDWARDS,
Secretary, Lumber Industry Tariff Committee, Everett, Wash.

EXTENSION OF REMARKS

Mr. SCHAFER of Wisconsin. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD and to incorporate an article appearing in a National Grange publication indicating that it is clearly not necessary to enact the debenture in order to solve the farmer's problem but that prohibition has already solved that problem.

The SPEAKER pro tempore. The gentleman from Wisconsin asks unanimous consent to extend his remarks in the RECORD in the manner indicated. Is there objection?

Mr. SPROUL of Illinois. Mr. Speaker, I object.

TO AMEND SECTION 22 OF THE FEDERAL RESERVE ACT

Mr. BRAND of Georgia. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD by printing a short bill of some 10 lines in length (H. R. 10560), and also the report of the Committee on Banking and Currency thereon.

The SPEAKER pro tempore. The gentleman from Georgia asks unanimous consent to extend his remarks in the manner indicated. Is there objection?

There was no objection.

Mr. BRAND of Georgia. Mr. Speaker, under the leave to extend my remarks in the RECORD I include the following bill (H. R. 10560) to amend section 22 of the Federal reserve act and the report thereon of the Committee on Banking and Currency:

H. R. 10560

A bill to amend section 22 of the Federal reserve act

Be it enacted, etc., That section 22 of the Federal reserve act be amended by adding at the end thereof the following language:

"(g) Whoever maliciously, with intent to deceive, makes, publishes, utters, repeats, or circulates any false report concerning any National bank or any State member bank of the Federal reserve system which causes a general withdrawal of deposits from such bank shall be deemed guilty of a misdemeanor, and shall upon conviction in any court of competent jurisdiction be fined not more than $1,000 or imprisoned for not more than one year, or both."

[H. Rept. No. 1278, 71st Cong., 2d sess.]

FALSE REPORTS AS TO CONDITION OF NATIONAL AND STATE MEMBER BANKS, ETC.

Mr. BRAND of Georgia, from the Committee on Banking and Currency, submitted the following report (to accompany H. R. 10560):

The Committee on Banking and Currency, to whom was referred the bill (H. R. 10560) to amend section 22 of the Federal reserve act, having considered the same, report favorably thereon with the recommendation that the bill do pass.

This proposed legislation is approved by the Secretary of the Treasury and the governor of the Federal Reserve Board, as shown in the following letters addressed by those officials to the chairman of the Committee on Banking and Currency:

TREASURY DEPARTMENT,
Washington, April 4, 1930.

Hon. LOUIS T. MCFADDEN,
Chairman Committee on Banking and Currency,
House of Representatives.

MY DEAR MR. CHAIRMAN: Reference is made to your letter of March 10 requesting an expression of my views with regard to the bill (H. R. 10560) to amend section 22 of the Federal reserve act, so as to make it a crime punishable under Federal law to circulate false reports concerning national banks or State member banks of the Federal reserve system. After consultation with the Federal Reserve Board and the Comptroller of the Currency, it is the view of the Treasury Department that the enactment of this bill would be beneficial to national banks and State member banks as well as to their depositors and stockholders.

The circulation of unfounded statements regarding a banking institution not infrequently causes serious damage to the bank by bringing about a general withdrawal of deposits therefrom, and as a result the stockholders and depositors of the bank may, in case of failure of the bank, suffer financial loss. It is believed that member banks of the Federal reserve system are entitled to have protection under Federal statutes from such statements when maliciously made and with intent to deceive. The proposed law would tend to deter malicious individuals from making or circulating such false statements.

It is understood that a number of States have enacted statutes similar to that proposed in this bill, which apply to banking institutions in those States. It would seem that all National and all State member banks should have the benefit of legislative protection from malicious attacks of this kind against which there appears to be no other effectual means of protection. The proposed bill would also serve to protect against such misstatements which are made in one State concerning a bank in another State, as State laws are not ordinarily effectual against these.

It seems clear that the proposed legislation would be constitutional in view of the decision of the Supreme Court of the United States in the case of Westfall *v.* United States (274 U. S. 256), in which the court held in substance that it is within the power of Congress to enact any legislation which Congress deems appropriate for the purpose of protecting National banks and State banks which are members of the Federal reserve system.

Similar legislation has been repeatedly recommended by the Comptroller of the Currency in his annual reports to Congress.

For the reasons which have been stated above, the Treasury Department favors the enactment of H. R. 10560.

Very truly yours,

A. W. MELLON,
Secretary of the Treasury.

FEDERAL RESERVE BOARD,
Washington, March 27, 1930.

Hon. LOUIS T. MCFADDEN,
Chairman Banking and Currency Committee,
House of Representatives, Washington, D. C.

SIR: Reference is made to your letter of March 10, in which you request an expression of the views of the Federal Reserve Board with reference to the provisions of the bill (H. R. 10560) to amend section 22 of the Federal reserve act so as to make it a crime punishable under Federal law to circulate false reports concerning national banks or State member banks. After a careful consideration of the provisions of this bill the Federal Reserve Board is of the opinion that its enactment would be beneficial to National banks and State member banks as well as to their depositors and stockholders.

The circulation of unfounded statements regarding a banking institution not infrequently causes serious damage to the bank by bringing about a general withdrawal of deposits therefrom, and as a result the stockholders and depositors of the bank may, in case of failure of the bank, suffer financial loss. The Federal Reserve Board feels that member banks of the Federal reserve system are entitled to have protection under Federal statutes from such statements when maliciously made and with intent to deceive. The proposed law would tend to deter malicious individuals from making or circulating such false statements.

The Federal Reserve Board understands that a number of States have enacted statutes similar to that proposed in this bill, which apply to

banking institutions in those States. The board feels that all National and all State member banks should have the benefit of legislative protection from malicious attacks of this kind against which there appears to be no other effectual means of protection. The proposed bill would also serve to protect against such misstatements which are made in one State concerning a bank in another State, as State laws are not ordinarily effectual against these.

It seems clear that the proposed legislation would be constitutional in view of the decision of the Supreme Court of the United States in the case of Westfall *v.* United States (274 U. S. 256), in which the court held in substance that it is within the power of Congress to enact any legislation which Congress deems appropriate for the purpose of protecting national banks and State banks which are members of the Federal reserve system.

For the reasons which have been stated above the Federal Reserve Board favors the enactment of H. R. 10560.

Respectfully,

R. A. YOUNG, *Governor.*

Attention is also invited to the recommendation made by the Comptroller of the Currency to the Congress in his last annual report, which is as follows:

"It is again recommended that a law be enacted making it a criminal offense to maliciously, or with intent to deceive, make, publish, or circulate any false report concerning any national bank or any other member of the Federal reserve system which imputes insolvency or unsound financial condition, or which may tend to cause a general withdrawal of deposits from such bank, or may otherwise injure the business or good will of such bank."

This proposed legislation also was indorsed by the American Bankers' Association, as shown in letter dated February 26, 1930, from its general counsel, reading as follows:

"Your bill * * * to punish libel and slander of national and State bank members of the Federal reserve system has the hearty approval of the American Bankers' Association. Instances are most frequent where malicious persons from a variety of motives circulate malicious stories affecting the standing and solvency of particular banks, which very often have the effect of causing serious injury and loss. The banks certainly need the protection of a Federal statute of this kind which will act as a deterrent to many malicious individuals who, in the absence of a punitive statute, can freely circulate unfounded and injurious statements without fear of punishment."

The following States have enacted a slander and libel of bank act, which acts are, as a rule, stronger and more drastic than the bill H. R. 10560, which this committee has favorably reported to the House: New York, Connecticut, New Jersey, Delaware, Maryland, Pennsylvania, West Virginia, Ohio, Michigan, Wisconsin, Indiana, Kentucky, Illinois, Missouri, Arkansas, Louisiana, Alabama, Rhode Island, Florida, Georgia, South Carolina, North Carolina, Texas, Oklahoma, Kansas, Wyoming, Colorado, New Mexico, Arizona, Utah, Idaho, Washington, Oregon, Nevada, California, Iowa (1929), and Nebraska (1930).

The States which have not passed such an act are as follows: Maine, Vermont, New Hampshire, Massachusetts, Virginia, Tennessee, Mississippi, North Dakota, Minnesota, South Dakota, and Montana.

Statutes passed in 37 States and Alaska.

Although the majority of our States have enacted bank slander laws, any one State law does not reach into another State. Therefore, where false and malicious reports may be circulated from State to State by wire, telephone, or radio, neither State can reach the offender in the other State. There are a number of such instances reported from time to time, and while bank slander bills have been passed in a majority of the States, as indicated above, a man who may be in California and maliciously publishes or circulates information derogatory, for instance, to a bank in St. Louis, the State law of Missouri can not reach this man, nor can any law effective in California assume any jurisdiction.

The only recourse will be a Federal law to reach all cases and it being perfectly apparent that all interests desire and need such a law, your committee respectfully recommends the early passage of this bill.

PERMISSION TO ADDRESS THE HOUSE

Mr. PATMAN. Mr. Speaker, I ask unanimous consent that at the conclusion of the address of the gentleman from Alabama [Mr. PATTERSON] I may address the House for 10 minutes.

The SPEAKER pro tempore. The gentleman from Texas asks unanimous consent that at the conclusion of the address of the gentleman from Alabama [Mr. PATTERSON] he may be permitted to address the House for 10 minutes. Is there objection?

There was no objection.

THE SOVIET GOVERNMENT AND WORLD UNREST—UNEMPLOYMENT IN THE UNITED STATES—DANGER SIGNS

Mr. JOHNSON of Washington. Mr. Speaker, I am sure that Members have enjoyed the address just made by the distinguished gentleman from Iowa [Mr. RAMSEYER]. His explanation and analysis of the debenture plan, as revised by the Senate, is the most informative that has been heard in this Chamber.

I am of the opinion that if on days when the regular program has not been arranged in the House of Representatives, or when there is a lull, we could have more hours set aside, under "the state of the Union" rule, for speeches by different Members on subjects on which they have specialized that the attendance would be good and that all who attend would receive information worth while. Members use the radio for big national subjects when they should be heard in this forum. [Applause.]

The gentleman from Iowa [Mr. RAMSEYER] has given much study to economic and other conditions which now disturb the world. In the course of his remarks, the gentleman from Iowa [Mr. RAMSEYER] told of some conditions in Russia, but qualified his statement by saying that he knew comparatively little about that country. It is probable that few of us know much about Russia. We can not be sure of what we read about that country, which is now experimenting with an entirely new form of government. Even those who have traveled somewhat in Russia can not be much better informed than some of those Europeans who spend 60 days in the United States and then write books telling all about us.

But we are all well enough informed to know that a great and interesting problem in government is being tried in what was an ancient powerful empire—gone, never to return to the czars.

Inasmuch as the United States Government itself is, so far as time goes, a very young government it behooves us to keep our eyes on the movements in Soviet Russia whether we consider them dangerous or not.

The new Russian government must have credits in other countries; it must receive moneys from other countries. To get the credits and receive the moneys it must sell in the markets of the world all the goods that can be made up from its raw products, coal and minerals from its mines, and foods grown from its fields.

Like the gentleman from Iowa, Mr. RAMSEYER, I know very little about Russia, although I have read and studied all substantial printed matter that I have been able to find on the revolution, the Kerensky government, and its overthrow by the Lenin-Trotsky "dictatorship of the proletariat," the Third International, the development of communism, and the system by which the United States of Soviet Russia has been built up. The next generation will have a story of blood and starvation to read that will rival many of the chapters of the French Revolution. And it is happening right in our time. No one of us can follow the whole Soviet movement.

But we can learn about some movements in detail. We know something about "AMTORG," which is the abbreviated name of the American Trading Organization—a soviet subsidiary.

I happen to know that agents of Amtorg have been and are at work in the district which I have the honor to represent. The United States headquarters of this organization is, of course, in New York. It has branches in Boston, Chicago, San Francisco, Seattle, and other important cities, and in these cities are the big agents, who make contracts into the millions to buy and sell. The subagents are out in the smaller localities. The big agents contract to buy American machinery and to sell Russian products. As much cash and credit as possible, and trade deals for the balance. The minor agents are about the country engaging American experts in the leading lines of factory production. In the district which I have the honor to represent—the third district of Washington—these agents have been employing young sawmill men; that is to say, saw filers, sawmill builders, and gang-saw men, tallymen, and lumber expert workers of all kinds. They offer good pay and insist on a 3-year contract. They usually engage young men, preferably of north European ancestry.

Many of these young men have gone to Russia by the short route—along the Alaskan coast, passing Aleutian Islands to Vladivostok and thence to the northern interior where there are great forests of pine and other softwoods. These American boys are writing home to the effect that the wage of peasants and workers engaged in getting out logs and working out rough lumber is about $10 per month; that the conditions are bad; that they are almost in a state of serfdom. The Soviet Government owns the forest or pays a low stumpage, and are said to be erecting 122 American style sawmills, if not more, for the purpose of cutting these cheap priced logs into lumber to sell in the American markets, as well as in the markets of Japan, China, France, and elsewhere. The organization is shipping sawed lumber from Vladivostok to Puget Sound, Wash., and thence down the Pacific coast and through the Canal, and on to ports of France where it is sold for less money than similar lumber can be shipped from Sweden to France. The Soviet organization is also selling its lumber at Poughkeepsie, N. Y., a lumber headquarters promoted by the West and South, so that our fir and the South's pine could reach the great market in the New York trade area—for 250 miles in every direction—the greatest buying area in the world.

In addition to lumber, Russia is planning a great combination to unload peasant-grown wheat into the markets of the

United States. Already some of that wheat has arrived. The peasants, hoping to keep local prices in Russia up, have tried not to grow this wheat, but under force they have been obliged to plant and grow it. If these shipments are continued the Wheat Belt States will have to look out, tariff or no tariff, for that is wheat being grown to be dumped into the United States for the rehabilitation of Russia under its Soviet Government. It is not a question of profits; money is needed for the Soviet Republic, and for the spread of the doctrine of world communism. More information concerning the wheat situation can be learned from the farmers of the Montana State College where Soviet agents spent considerable time. Representative BRIGHAM, of Vermont, can give you further deails. It is said that the progress of Soviet Russia next year depends more on the size of this year's wheat crop than on its actual value. The Soviet, through Amtorg, is exporting anthracite coal. Such coal is coming to the United States and competes with our own anthracite. It undersells our coal just a shade, but not cheap enough as yet to benefit our consumers. The trick is to get money for that coal for the benefit of the Soviet system. It is mined over there by men who are forced to mine. Can our coal miners stand that competition?

They can not—any more than the lumber workers in the North Pacific States and in the Gulf Coast States of the South can stand the Russian $10-a-month man in the new sawmills.

Just a word about lumber conditions. The exports from the north Pacific coast to China, Japan, Australia, and the west coast of South America have declined greatly. There are many causes. Japan is increasing rapidly as a manufacturing island. It is importing raw material, some of it from Russia, manufacturing it, exporting the manufactured article, and taking the profits therefrom. This comes with advance in modern civilization. Where the Pacific coast used to sell the box shooks used all through Asia by the Standard Oil Co. to incase two 5-gallon cans of oil for shipment on the backs of camels Japan now does the manufacturing part of that work. Japan gets the wages that our laborers once received—less wages, of course. Japan's mills make the nails and Japanese laborers benefit by all the operations, and all of that is more competition for the United States export trade. In addition, we have the competition from Canada. Great mills are down by the dozens in western Washington. Unemployment in the district which I represent is fully 5 per cent greater now than it was on the day of the census enumeration—April 2—about a month ago.

One city in my district reports but two sizable lumber camps operating. Other western Washington districts report much unemployment. They fear bread lines this fall. These are conditions to think about. Improved machinery is everywhere in the United States. Electricity and inventive genius are snatching the bread from the mouths of the workingmen. They work faster than the men can adjust themselves to the new conditions.

Mergers and trade combinations cut down chances for employment. Think of the gigantic electric railroad engines hauling trains of 125 to 175 freight cars over heavy steel rails and wonderfully ballasted tracks. These long freight trains cut the need of train crews. Think of the crews—engineers, firemen, conductors, brakemen, and flagmen—that have been laid off all the way from St. Paul to Puget Sound. Shortage of freight to haul—lumber East, wheat, corn, machinery, and automobiles West. Such cargoes East and West are down in volume. More freight crews off. And then the short-line trains, reduced to the minimum by the auto bus and the auto truck. The younger men get the automobile jobs. The trained, experienced railroad men—many of them not yet in the prime of life—see the human junk heap ahead. Great railroad mergers will make this situation worse. Neither this Government nor its financiers and capitalists can afford to reduce the number of steady jobs, for the people have to live.

It is a gloomy picture. The situation has to be met.

I have not touched the situation of the farmers at all. My friend, the gentleman from Iowa, has just told you a lot about their troubles. It may be he has the cure—not cure, but some kind of aid. I hope and pray that the new Farm Board system will work. Give it time. But even that board's plans puts lots and lots of people out of work. They do not want to starve either.

The wholesalers are combining to eliminate wastes and costs. Retailers are combining. Chain stores are on nearly every good corner in every sizeable town in the United States, and in cities north of the Mason-Dixon line we find in between the chain stores the late arrivals from our newest type of immigration running stores, small restaurants, and the like, working, with their families helping, from daylight to midnight. This means more citizens out of work, and it means competition that our old-time individual merchant should not have to meet.

Work, work! They say our people will not work. I tell you, they will. I have cried out a dozen times this winter and spring against unnecessary new immigration. We need no workers from any of the other countries of the world.

Every able-bodied alien now coming either takes work away from some one already here or adds to the unemployed. No one can deny that. The remedy is evident. Admit no more unnecessary immigrants.

Congress should act, and act quickly. Suspend for a while all of the immigration that can be suspended. It is easier to keep them out than it is to get them out after they arrive in these times of overproduction and unemployment. The whole country wants more restriction.

One more picture. I hope it is overdrawn, but I feel impelled to call attention to certain conditions which are foreboding—gang government in the cities!

O gentlemen, if gang government in any city succeeds in breaking down city government the result is confusion.

It will spread to other congested cities. Add all the things I have mentioned—unemployment, mergers, chains, and consolidations, arrival of unemployed alien workers, on account of these arrivals increased feeling against aliens already here and entitled under the Constitution to the "pursuit of happiness" (meaning very often a job), increased use of machinery, arrival of our noncitizen "nationals," the Filipinos, forcing out of white labor by Mexicans, increase in small crimes by boys who have not learned to work, increase in sensational bank robberies, automobile murders, and so forth, crimes of the big bootleggers, the hi-jackers, crimes of the racketeers—all of which are dangerous and might lead on to revolution. I do not predict it. I know that certain forces are driving for it. RAMSEYER has given you one serious angle. I am attempting to give you another. We both agree that "eternal vigilance is the price of liberty."

But the United States is not alone. Most of the world is sick. Much of the present unrest comes from the World War.

The efforts of the Soviet Republic to establish itself in Russia and to spread its communistic doctrines elsewhere, creates a poisonous serum which infects the populations of all countries. It will take steady hands and cool heads to keep modern civilization firm.

The first duty of any government is to extend the benefits of that government to as many people of that government as is possible. If too many of the people of this government "by the people" can not be assured of "life, liberty, and the pursuit of happiness," they may feel inclined to overtures for a change of the whole system. But any great change is not done in a day, or a year, or ten years. We want no overthrow.

We should give President Hoover a chance. All of these troubles can not be cured with a magic wand, or with a speech, or with a treaty. The whole job of every citizen is to do his best to help set things right. [Applause.]

In conclusion I quote from Wiggam:

This is a sloganized age; an age of searching not for solutions of social problems but for what Professor James calls "solving words." Democracy, progress, brotherhood, communism, uplift, humanity are not solutions for anything but mere solving words. * * * Just so a thing is democratic or progressive, without any reference to where it may progress toward, it must be right. It has exactly the right name. As James points out, Solomon could control the evil spirits because he knew the right names of all of them. Address an evil spirit by the right name and you've got him. And this age is obsessed with the idea that social evils will yield to the same treatment.

If a "democratic" remedy fails to cure anything, it is proof not that it is the wrong remedy but that it is not democratic enough. Pour in a little "more democracy"! To calculate, to measure, to analyze the psychology of human motives; to add up columns of figures; to calculate standard deviations and coefficients of correlation; this requires hard work and intelligence. It requires intellectual men. It requires men who want to solve things instead of finding solving words for them. * * *

But the faith in solving words in the place of hard-won solutions reigns supreme over this age. There were never so many problems, so many solving words, nor so many people who believed in them. Yet they never have solved anything. Nothing but intelligence and good will, usually extended over long periods of time, ever solved any social problem. (A. E. Wiggam, The New Decalogue of Science, pp. 190–192.)

Lothrop Stoddard uses that quotation in his book, Scientific Humanism, and says:

Nothing but the application of scientific methods can rescue politics from its present muddling inefficiency. And, in the last analysis, the way to bring this about is by the spread of the scientific spirit and attitude in the public mind. The progressive liberalism and open-mindedness of the scientific spirit is absolutely necessary for a people if it is to succeed in truly ruling itself through rational public opinion. Yet

to-day the public seems actually afraid of science in politics, preferring to trust the "professional" politicans who play the game according to the old rules—with the old results! (Lothrop Stoddard, Scientific Humanism, p. 110.)

My colleagues, the two countries to be most closely watched in this present period of unrest and change—economic and social—are the United States of America and the Soviet Republic of Russia. Ours is still a new Government. To it the founders and builders came, many as immigrants; and the other is a still newer government which found its people there. Russia, with its population reduced from 180,000,000 to 150,000,000 in the last 10 years; United States, with a population of 122,000,000, an increase of 17,000,000 in the last 10 years. History is in the making rapidly in both countries, with their governments as opposite as the poles. [Applause.]

SECRETARY OF EDUCATION

The SPEAKER pro tempore (Mr. KETCHAM). Under the special order the gentleman from Alabama [Mr. PATTERSON] is recognized for one hour.

Mr. PATTERSON. Mr. Speaker, ladies and gentlemen of the House, I realize that it is very unfortunate for me to come before the House so late in the day to speak at great length with a prepared address on a highly controversial subject.

I made an effort several days ago to get time, but the House has been so busy that I have not been able to get that time until to-day. I would ask for the hour to be vacated if it was not for an engagement I have which would seem to prevent me from speaking on the subject at all for some time.

The question I wish to discuss with you is a highly controversial one, and I am not going to discuss it as a partisan, for it is not a party question.

I do not expect to take my full time, for it is my sincere desire to hurry along and leave out some matters that I have prepared.

This question I feel has a great deal to do with the upbuilding and development of the American Republic. One of the outstanding forces which has brought us to this high state which we enjoy is our American public school, which is an essential part of a democracy where the people are sovereign.

In spite of the splendid advancement we find to-day, we have not had the recognition of the American public educational system which many of its friends desire by having a secretary of education in the President's Cabinet. As was pointed out some few weeks ago by Representative SANDERS of Texas in his speech over the radio, almost all of the great civilized nations have given this phase of their work greater consideration than we have, in placing a minister or secretary of education in the cabinet of the ruler of the country. I here insert a list of these 72 nations as found in Statesman's Year Book for 1929:

NATIONS ACCORDING EDUCATION PRIMARY RECOGNITION BY INCLUDING A MINISTER OF EDUCATON AMONG THE CABINET OFFICERS

British Empire: Great Britain, president of the board of education; Northern Ireland, minister of education; the Irish Free State, minister for education; Malta, minister for public instruction; India and dependencies, education, health, and land; Union of South Africa, minister of the interior; Bombay Presidency, minister of education; Federated Malay States, director of education; New South Wales, minister for education; Victoria, minister of public instruction; Queensland, secretary for public instruction; South Australia, commissioner of public works and education; western Australia, chief secretary and minister for education; Tasmania, attorney general and minister of education; New Zealand, minister of education; Canada: Alberta, minister of education; British Columbia, minister of education; Manitoba, minister of education; Ontario, minister of education; Saskatchewan, premier, minister of council, minister of education.

Afghanistan, minister of education.
Austria, minister of education.
Argentina, minister of public instruction.
Belgium, minister of education.
Bolivia, minister of education and agriculture.
Brazil, secretary of justice, interior, and public instruction.
Bulgaria, minister of education.
China, minister of education.
Cuba, secretary of public instruction.
Chile, minister of public instruction.
Costa Rica, secretary of education.
Colombia, minister of public instruction.
Czechoslovakia, minister of education.
Denmark, minister of public instruction.
Dominican Republic, minister of justice and public instruction.
Egypt, minister of education.
Finland, minister of education.
France, minister of public instruction and of fine arts.
Guatemala, minister of public instruction.

Germany: Baden, minister of religion and education; Bavaria, minister of education; Hesse, minister of education; Prussia, minister of education.

Greece, minister of education.
Hungary, minister of public instruction.
Honduras, minister of instruction.
Italy, minister of public instruction.
Japan, minister of education.
Latvia, minister of education.
Mesopotamia, minister of education.
Morocco, grand vizier's delegate for public instruction.
Netherlands, minister of instruction, science, and arts.
Norway, minister for education and ecclesiastical affairs.
Nicaragua, minister of instruction.
Paraguay, minister of worship and public instruction.
Peru, minister of worship and instruction.
Persia, minister of education.
Poland, minister of education.
Portugal, minister of instruction.
Russia, minister of education.
Rumania, minister of education.
Serb, Croat, and Slovene State, minister of education.
Salvador, minister of foreign relations, justice, and instruction.
Siam, minister of education.
Spain, minister of public instruction.
Sweden, minister of education and ecclesiastical affairs.
Turkey, minister of education.
Uruguay, minister of industry and education.

The present public-school system of America has not arrived at its present status without a tremendous struggle. That fight extended over a period of more than 50 years, and the ancestors of some of those who to-day are fighting this bill were fighting the establishment of public schools at that time. Practically all of you know that it was almost the middle of the nineteenth century before public education was developed to any great degree within the great States which compose this country. There were organizations and people who opposed—and I presume they do so yet—the establishment of the public-school system by the States themselves. It is rather interesting to go into the debates of the State legislatures and the hearings on the proposal to establish free public schools for the masses of the people.

In spite of the fact that practically all great American leaders, such as Washington, Jefferson, and Lincoln, strongly advocated public schools for the masses of the people there were people in the States as late as the middle of the nineteenth century who bitterly opposed establishing and extending the benefits of the public-school system, even as there are now those in this great country of ours who bitterly oppose the establishment of a department of education, or extending the service of the present Bureau of Education.

I was very much surprised a few days ago when the gentleman from Connecticut [Mr. MERRITT], on the floor of the House, made the astounding statement that he thought it would be advantageous to the country to abolish the services of the Bureau of Education. This statement, coming from a gentleman of the great and enlightened State of Connecticut, a man who has seen more than three-quarters of a century, has actually given me as much thought and concern as anything that has happened on the floor of this House. It seems to me that the time has come for us to come out in the open and see where we stand on this important question. I think I would be safe in saying that there is hardly a Member of Congress or a Member of the United States Senate who has not received a letter or some written petition—and a great many of us have received thousands of them—requesting that this Congress have an opportunity to vote as to whether there should be established in the President's Cabinet a department of education, and I think it would be a conservative estimate to say that 5,000,000 people, first and last, within the last year, have given expression in writing, by either signing their names to a petition or by writing personally, saying that they favored such a course by the present Congress of the United States.

I doubt if there has been any question before the American people since the great World War which has attracted the attention of so many of our citizens. Now, can we seriously do our duty as Representatives in Congress and entirely overlook the requests and petitions of these people? As for myself, I have only one answer, and that is, personally I can not, and I have no desire or inclination to do so. I doubt not that any other class of legislation having the backing among the masses of our people would have gotten an opportunity to be heard on the floor of the House, and that is what the proponents of this legislation to-day request—that we have a chance to vote on this, on the floor of the House. I approach the discussion of this subject

without any bitterness or partisan feeling. I am ready to acknowledge, and do acknowledge, that men who are just as honest and sincere in their convictions as I am in mine differ from me on this question. As I see it, this is not to be a question of any sectional feeling, or that of prejudice. I find men in the fair Southland who are rather hesitant to establish a department of education, and find it in practically every State in the Union, and then I find large numbers of people in my section, and in every State in the Union, who support this measure, and I believe that the request of these people who wish to have the Congress vote on this question is well founded. As I said, I approach this without any feeling of partisanship or prejudice. I believe that these gentlemen here in the House who have been with me on the committee and know me personally, even though some of them differ with me on this question, would not accuse me of having any kind of prejudice or partisan feeling in this matter. I have a desire to approach the case entirely on its merits and on the plane of statesmanship. Every man has a right to vote as he sees fit, or as his constituents may desire, but when it comes to trying by unseen methods to prevent that free expression, that is a different matter.

Now, what is the situation which we are facing to-day? I will say that in my own judgment the opponents of this measure seem to be divided into two classes. First, some feel that to establish a department of education with increased appropriations and wide opportunity for investigation and service, would tend to interfere with the rights of the States and local people in carrying on their legitimate educational functions. The second class say they oppose the establishment or widening or extending the duties of any kind of bureau in the Federal Government.

Referring to the first class—that this will interfere with the rights of the States, or the rights of the communities, or the rights of families, or of any particular person, in carrying on the education of their children or the education of the children of the State or the community—everyone who has studied this bill knows that it has absolutely nothing written in it, the purpose of which is to do this, for it states very clearly and unmistakably its purpose, which is, to have a secretary of education in the President's Cabinet giving education that recognition to which its friends feel it is entitled. I challenge any person to show me in this bill where any right that any person has at present in his State or local community is restricted or infringed upon by the purpose of this bill. It only widens the influence of the department in its extension and investigating purpose, similar to that of the Departments of Agriculture, Commerce, or Labor, at present. I here give a few things which a department of this kind will do and will not do.

It will coordinate the educational activities of the Federal Government. These are now spread through four departments and six independent agencies, with no general directing head.

It will conduct investigations on all educational matters, such as rural education, elementary education, secondary education, higher education, professional education, physical education, including health and recreation, specialized education, training of teachers, immigrant education, adult education, and other phases of the subject.

It will study schoolhouse construction and equipment and furnish the benefits of its research to public schools throughout the land.

It will investigate school accounting systems and administration for the sake of improvement and efficiency.

It will inquire into the training requirements of various businesses, professions, trades, and crafts in connection with courses of study in the public schools.

It will aid in equalizing school advantages throughout the country.

And these are the things that the proposed department will not and can not do:

It will not take one iota of school control from the municipality or the State. In all matters of administration the State and the local government will remain supreme. This is only to assist those agencies of State and community. There will be no attempt to impose the customs or practices of the North upon the South, the East upon the West, or vice versa, in any school questions.

Now as to that great group who claim that they oppose the extending of the duties or work of any bureau, may I say that, if their objections were adhered to in every other line, this objection would be more pertinent, but we are establishing and extending bureaus and services of bureaus in every direction. Hence it would be all out of place to extend every other bureau and widen every other service, and refuse to widen the service of this most important work which has to do with thirty millions of people in whom lies the hope of the future democracy of our country.

Then there is another class who can not find any real objection on the face of things, who say there is no opportunity for constructive work of this kind, and that the States can, and are, doing their work just as well. Some say that the States already have excellent public-school systems and that there is no opportunity wherein a department of education could render any service; some say they are in favor of not spending the Federal money for carrying on an educational enterprise; that it is against the traditions of our country.

Let us see if it is against the traditions of our country. Thomas Jefferson stressed the importance of education; Washington advocated it; there remains a well-founded tradition that Washington left a donation for the purpose, that it might be added to by the Federal Government to establish a great university here at the Capital of the Nation; also, there is not a State in the Union to which the Federal Government has not given large sums of money for educational purposes. The Federal Government has given money to land-grant colleges practically in every State in the Union. The Federal Government gave to many of the States what is known as the sixteenth section fund, which, I am sorry to say, some of them wasted, but which, had they kept it intact, would have been a bulwark to the States to-day in carrying on their educational work. This was given by the Federal Government. We are giving millions of dollars annually in order to carry on education work in the different States, and in spite of that, as time rolls around, people state that they are opposed to the Federal Government giving aid to the schools.

I have seen bills passed here without a record vote, to extend further educational advantages to the colleges and enterprises through their vocational and agricultural education, as well as to the extension service carried on among the people. But strange to say, when it comes to aid for or even the recognition of these 25,000,000 children, almost 90 per cent of whom never see the inside of the walls of a college or university, and almost one-half the balance, until recently, never saw the inside of the walls even of a high school, you will see men upon the floor of the House begin at once to say "I am opposed to granting educational aid or further extending Federal service toward carrying on education."

Let us examine these premises in the light of the facts. Some one has announced that the estimated cost of crime to the Nation is more than $10,000,000,000 annually. No one would question that this could be largely reduced by the right kind of education, that is, education for service and citizenship, which would put the boys and girls on their way to earning a livelihood, sufficient to enable them to contribute their part to citizenship. Another glaring defect in our educational system which was revealed by the World War is the great number of physical defectives in the schools and without among our people, especially in the rural districts. Statistics show that the lack of health is costing the American people annually $15,729,925,396; but with the proper education this can be materially decreased and largely done away with. Here in these two items alone is a larger amount than the entire national debt, to work on.

May I pause here to say—having come up from that class of citizens who had no opportunities for an education, and no opportunities to learn anything of health rules, that I personally have seen the tremendous handicap under which these people labor on account of the lack of adequate knowledge and facilities; and I am to-day glad to pay tribute to the splendid work of the Education Bureau and the Department of Agriculture, as they spread knowledge and ideas throughout the country, which in a small way is remedying some of the glaring defects in a system such as I mention.

Another thing which shows the great necessity for this kind of work is the problem of illiteracy, which is widespread among our people. And I may add here that every Republic which makes a boast that its people are sovereign and can exercise that sovereign right owes it to their people to provide education. This is vital to those who are to exercise the franchise, for thousands of them are not able to read the problems of the day. Of course, conditions like these are being mended, but there is still great ground for further improvement.

Then there is the great problem of Americanization, where the proper education of these people and teaching them the principles of American doctrines and American ideals, as well as the English language and the ideals of our Republic, would probably add much to that foundation stone of our Republic and polish it after the similitude of our Constitution. There is a great opportunity for educational service in the extension of vocational education. I know that literally millions of our citizens arrive at that period of maturity without a knowledge of a trade or profession. I recall a time in my own life which brought to me very forcibly the fact that I had no education for a trade or a profession.

When I was about 25 years old, without having had an opportunity for even an elementary education, I recall that I started out to "get a job," as the world would say. I met a man and told him I was looking for work. He asked me what my trade was. Naturally I had to admit I had none; that all I knew was how to plow and hoe and work on a farm; and he said to me in a fatherly manner that any young man who started out in life and left home to get work without a trade or profession had really a hard road before him, and, my fellow colleagues, may I say to-day that I know that many persons who have known similar conditions will agree with me that such a situation as this contributes toward lawlessness and creates a larger number of criminals or perpetual loafers than any of us can imagine.

There is no finer opportunity for the Federal Government to extend its services in helping our people than in the vocational line, in my estimation. Then there is another line which is left more or less to the scientific scholar, and that is the measurement or determination of the kind of education which will be best suited to the individual. Here is a large and beneficial field wherein a Federal department of education might render a splendid service. We have in this twentieth century a great educational unrest; literally millions of our people look toward the colleges and the high schools, not knowing what is best to take or to teach. We realize that it is sometimes suggested that too much of our education is that kind which fails to prepare those who study in the schools for work or for service, another very large field wherein a Federal department of education could make a splendid contribution.

Coming to my last point on this phase of the question, I bring to you a most astonishing fact which, if weighed carefully, should bring to our minds wise and serious reflection. We are told to-day, in spite of the fact that we have in this great educational system of our country invested five billions of capital outlay and are spending $3,000,000,000 annually, and concerned in this are 30,000,000 of the youth of America, and more than that number of parents who are responsible for their children, and who have the interests of their children at heart, each contributing to carry on this great enterprise, as well as the large and influential class of educators who are carrying on this work, that it has been estimated that only 3 per cent of what is taught in our schools is beneficial for the children to carry with them out into the world.

Mr. SPROUL of Kansas. Mr. Speaker, will the gentleman yield?

Mr. PATTERSON. I prefer not.

Mr. SPROUL of Kansas. But the gentleman undertakes to lay the blame for the failure to pass this bill on the Republican Party. Does the gentleman not know that his party advocates principles which are urged in opposition to this bill, the principles in respect to State rights, yet I favor this bill myself?

Mr. PATTERSON. Oh, there are men in my party I admit, the party of my fathers, who seem to be opposed to this measure and they have done what they could to keep it from coming to the floor of the House, the same as there are in the gentleman's party. I do not claim that it is a party question, but I say that since 1920, and the gentleman will not deny that, the responsibility must lie at the door of the gentleman's party, because they have had a majority of the Members of the House, and to-day if the leaders of the gentleman's party will put it in the program of their party he knows what the result would be, and the country knows what the result would be.

Mr. ALMON. That bill does not provide for any appropriation, does it?

Mr. PATTERSON. This bill does not. I am not speaking about any special bill, but I am speaking of the general principles of the legislation.

Mr. ALMON. Does not the gentleman think we ought to go on and make the appropriations?

Mr. PATTERSON. I am not going to discuss that to-day. The gentleman knows, and the other Members of the House know, how I feel about humanitarian legislation and legislation in the interest of the youth of America.

Surely, my fellow colleagues, to-day as we face this situation, it is time that we awakened from our lethargy and admitted that there is a wide field of service and an opportunity for further extension of Federal aid along the lines of investigation, and of extending to the States and communities, and to all educational institutions everywhere. The service that such a department could render along this line could be used not only by all public institutions but by private institutions and private schools which carry on their work of education, not to restrict the rights of any man or woman to educate their children as they see fit but it is to get a broader and a greater cooperation in carrying on this great educational work. If it is approximately true that more than 95 per cent of our educational effort is futile and the remaining small percentage is so valuable, here must exist the greatest opportunity in America to-day.

Let us turn to the objection on the other side—those people who claim they do not want to appropriate money to carry on this work—where the interests of 30,000,000 children who are the hope of the American family of to-morrow, and more than 30,000,000 parents who have a wide interest in their children and in the great capital outlay of $5,000,000,000. Moreover the majority of the American people contribute to-day in another line, through taxes (76 per cent of the taxes of the Federal Government is spent on wars), $3,000,000,000 are spent annually on war, past, present, and future, and I am as heartily in favor of taking care of those who have fought the country's battles as anyone.

My friends, I wish to raise my voice here—that the first line of defense in my judgment, is far more important than to advance the building of armaments; the future of America and the safety of the country is not in building battleships, but in the hearts and homes of our people; it does not lie in military projects; it does not lie entirely in the renewal of our outlay to carry on war. The safety of the American Republic, and the assurance that that beautiful Star-Spangled Banner which has been pictured so beautifully as waving over "the land of the free and the home of the brave," and the assurance that throughout the enduring years of time that flag may float on, is constructive citizenship. The great hope of safety and democracy lies in the first line of defense, which is among the people and American children; and I repeat, not alone the $3,000,000 which is spent annually for war purposes. But why not spend several millions to carry on education as well as to appropriate millions to carry on a process of eradication of insects and diseases of cattle and hogs, and stamping out diseases of plants, without even an approach to a record vote in this House? But just the minute it is suggested that we extend and expand an educational service, the cry comes from afar, "We don't believe in that; we can not afford to spend several millions in education, or it is unconstitutional," or something to that effect.

The appropriation for the Bureau of Education this year is $1,526,331. Of that sum $1,090,000 is spent in Alaska. We are expending for the same fiscal year $16,000,000 plus to take care of the forests of the United States, and around $500,000 by the Bureau of Education in the United States proper. We are expending $5,000,000 plus to take care of plants. We are expending $11,000,000 plus to take care of animals. The appropriation for the Interior Department, in which we put that little Bureau of Education, is $283,000,000 for the next fiscal year, and the Bureau of Education gets but $1,526,331, and over $1,000,000 of it, as I said, is expended in Alaska.

Not a gentleman on this floor would be more zealous in protecting the rights of the States and the communities than I. And I would not vote for any bill that would restrict any man's personal rights, and there is nothing in this bill to restrict a pupil or prevent his attending any school that he wishes to attend.

Mr. Speaker, may I say the statement of the gentleman from Connecticut raises the battle cry. I wish to make my position clear here to-day, my colleagues, I feel that the lines are drawing. This question we have with us, and it is going to remain with us until we have a settled national policy of this Government, that in spite of the fact that we have millions of people who are neglected in their health education, neglected in their literary education, whether we shall give our schools this recognition or not. We have made great accomplishments in our educational field. Our motives are good, yet our system is far from perfect and could be added to so adequately by help from a national department of education. This fight is to continue until it is definitely decided whether we shall spend money for these other things and refuse to spend for this important educational work. The question is, Shall we refuse to establish a department of education in the President's Cabinet, and recognize education as a great national asset and something which will receive the national sanction of the Federal Government, or whether we shall continue to put it off in a little bureau in the Department of the Interior, or, as the gentleman from Connecticut said, "abolish it altogether."

There are yet other reasons why it is important to the national welfare. Some one has said that by education and training of our people our national income is made about five times as large as it ordinarily would have been by computing the annual interest on our capital wealth, and that every day spent in self-improvement is worth more than $10 to the person using that time for self-improvement. Some one has figured out that a high-school education is actually worth on an average $78,000 in cash during the lifetime of the recipient, and that a college

education is worth $150,000. Surely adding to the national income by a great asset like this challenges the very best that is in us, and I trust that every man and every woman shall see the wisdom of this, and I hope that we shall not continue in being lethargic toward this great question when the great masses are concerned.

This question is one of such great importance to the youth of our land and the hope of America's future citizenship, and that in view of the fact that when we appropriate billions of dollars here in Congress I hope we do not continue to neglect the first line of defense, which is the American youth. This important question faces us to-day. To return to the purpose of this bill, as I stated previously, it is not the purpose of this bill to control education of any State or any community or any person. It is not my purpose in advocating this to restrict any man's or woman's right to educate their children as they choose; but it is my purpose to get that national recognition to our educational system and extension of that service to the States and the communities and to the homes of the American people.

We stand to-day well into the enlightened twentieth century, and the world stands literally astounded at our great progress, the many inventions and luxuries which life has brought us, as well as the intricacies and the scientific apparatus and scientific procedure which the age has ushered in. We also stand removed only a little more than a decade from the most gigantic World War and struggle in the world's history. All of these bring new complications and new challenges for duty, citizenship, and training. No other age has brought forward so forcefully the necessity for training as is brought to us to-day. This is particularly true of the great country of which we are citizens—that country which although young has produced such a long line of illustrious men and women and given to the world so many splendid principles of democracy and ideals of democratic government, a country whose spirit has been that of the pioneer, and has through struggle brought us to this threshold of opportunity for leadership in the world of mankind.

We are literally thrilled to-day as we review the great accomplishments of this Republic, from the time when under the leadership of George Washington, of Virginia, our ancestors marched from Lexington and Concord, through the bloody snows of Valley Forge, to victory at Yorktown. During these trying years the immortal pen of Thomas Jefferson gave to the world the Declaration of Independence, which is to us our charter of liberty.

Then came that long period illuminated by so many distinguished men and women, which placed our country well on its feet, and it spread out from the Atlantic to the Pacific under the leadership of men like Alexander Hamilton, Thomas Jefferson, Andrew Jackson, James K. Polk, and many others, until a little past the middle of the nineteenth century we encountered the sad experience of the great Civil War. We were led through that by God, and under the leadership of the greatest and most shining and most illustrious statesman which modern times has given to the world, and whose name stands second to none for rugged honesty and devotion to public duty and to the ideals of the American Republic, as well as his great humanitarian spirit, which will shine with more and more luster until time shall be no more. Again, as he said, the better angels of our nature touched us and we stood reunited under that blessed flag the "Star-Spangled Banner," which flag we to-day would be delighted in taking the field for in a reunited country which is neither North, South, East, or West. Then the wonderful period of development until we stepped forth, one might say, under the leadership of the Congress rather than under the leadership of the President, to become a world power as none can deny; whenever we took up arms in the Spanish-American War, it meant breaking away from the past. We have never gone back, we never could go back to the old isolation which characterized us for 100 years. Then next, under the leadership of that great typical American statesman, Theodore Roosevelt, we had that period of awakening that national spirit wherever the value and the benefit of conservation, not only of our national resources but of American ideals and principles, which were brought most forcibly to our people.

Then, as I have already mentioned, we had that great conflagration, where under the leadership of that great crusader, Woodrow Wilson, we went forth to make the world safe for democracy. And now to-day, with all of those achievements, all those splendid inheritances, where do we stand? We find that the Government has grown as from time to time new demands have been made upon it for the expansion of its work and the dispensing of its services in every field of human endeavor.

We find established a Department of Agriculture, assisting the farmers of the Nation and the great agricultural interests; we find the Department of Labor, to assist the laboring man with his manifold problems, all of which I am in favor of. In all this splendid work that has been done to-day we find one field for which there has been a steady demand throughout the years for the Government to extend the same aid and cooperation, but for some reason those opposing this policy have succeeded in pushing it off from time to time; as I have said, where we find representing 12,000,000 or more laborers in our country the great Department of Labor, with an efficient head; we find representing several million manufacturers of our country the great Department of Commerce, with an efficient head, spending millions of dollars; we find representing the great farming class of our people, about 6,000,000 of them, a great Department of Agriculture, with its many bureaus, doing splendid work for the farmers; but to represent an investment of $5,000,000,000 in school property and an outlay of $3,000,000,000 annually, with 30,000,000 children and with more than that number of parents and 1,000,000 splendid, patriotic teachers, we find a little bureau down in the Department of the Interior.

And this is what the leaders of the party in power offer us to serve the national interest of education in this great scientific age, when we are extending the service of government into every field of human endeavor from looking after chinch bugs in California to spending nearly $100,000,000 in the Department of Commerce to help the trader and manufacturer. In this great enlightened age, when changed and restless conditions demand the highest and most scientific training known to history, the country wants to know, and should know, why this important legislation has been sidetracked for the past 10 years.

And I am one of those Members who feel that in view of past utterances of party platforms and leading citizens that the leaders of the party in power should let the country know their attitude toward this legislation. I believe no one who knows the facts will deny that it has been the victim of the greatest strangling in the history of party government.

So to-day, my colleagues, we come to appeal to you to give proper recognition to education by establishing a department of education in the President's Cabinet; we come to you to ask why this has been denied. Why is it that all other organizations, all other industries and businesses of our country, can have a man to sit around the table with the great President of the United States and speak for them while education alone has no such voice? It would be interesting at this time, I think, to review the history of this legislation; some of you would probably be surprised to know who first introduced a bill to establish a department of education—none other than that great and good man James A. Garfield, while he was a Member of the House of Representatives; at that time this measure was supported most vehemently by no less a person than Senator Charles Sumner, of Massachusetts; they finally turned it aside and established a bureau in the Department of the Interior, and that has been brought forward to the present day. We have had a number of bills introduced by gentlemen from different sections of the country proposing a department of education—until after the Great War these bills poured into both Houses of Congress. Many farseeing men recognized the importance and the necessity of having an educational representative in the President's Cabinet.

At hearings literally great numbers of people and organizations appeared for this measure. A few appeared against it, and for some reason during the 10 years the leaders of the party which has been in power have never permitted Congress to vote on these bills. It has been stated time and again that Congress was overwhelmingly in favor of such legislation, but by methods which were in vogue in the House of Representatives, I am told we have never been permitted to bring the bill upon the floor of the House for discussion. Those who have opposed these bills seem to have created a continuous fear on the part of those who had the responsibility for this legislation, therefore we have not been permitted to get anywhere. What is the situation to-day? To-day we find ourselves, after 10 years of delay, still with poor prospects for any action before we have another election. I am informed by those who sponsored this legislation in former years that we have had to face the same identical situation as now; that we would not bring it up before election, and we have postponed it from time to time. To-day we have what is known as a commission to study the feasibility of what the Congress should do along the lines of education. Without any undue criticism of anyone, and without any idea as to how the commission might report, I do know that it is not necessary for anyone to tell Congress what it is proper for it to do regarding a matter of this kind, in which so many millions of people are interested.

I assume, to start with, that there are good, honest people who differ with my views on this legislation, and if they wish to vote against the bill or for it, I accord them the same honest

conviction as I take for myself; but we do feel that it is not fair, in view of the demands of our people, to prevent this legislation by what is known as "gag rule" or unseen pressure or by an effort to select a committee which is known to be opposed to the bill, or any other kind of rule which prevents the bringing of such legislation before the Houses of Congress and let the Members who represent their constitutents vote as they see fit on this legislation.

This is not prejudice. I am for this legislation, and not with any purpose to restrict any man's right to send his children to any school he pleases, but with the firm purpose and belief that we should give education the recognition of a place in the Nation's councils.

I have no desire to have any kind of a national organization which will dictate to anyone as to his rights, or the right to send his children to any school he wishes to, and I would not support any proposition which would tend to take the control of education out of the hands of the States and the local people. But there is not an iota of anything in this bill which attempts to do so, but it is giving it that recognition to which it is justly entitled. It is giving the question of education that broad field in cooperation with the States and communities, and also the private institutions as well, that they may render more efficient and constructive service in their particular field and render it unhampered and unrestricted. There would be no more obligation for any school or community or any State to avail itself of the benefits of the investigations or findings of the department of education than there would be for the farmer to use Paris green on his potatoes because the Department of Agriculture said that Paris green would kill bugs. As I have previously stated, I do not argue that this is a party question, but I do say this: That no one can deny that the major responsibility for legislation rests with the party in power, and they would get the lion's share of the credit for this act, and no one can deny that if the present political party leaders—and I am going to make this assertion in as fine a spirit as I can; I say it without any feeling of partisanship; no one can accuse me of that, as my first great political ideas were drawn from the life of Abraham Lincoln, to whom might be credited the founding of that great political party which has produced so many splendid and patriotic men and women, many of whom we have with us to-day, and many of them are for this legislation. If the leaders of the party in power wishes action on this bill, they can have it. Not one of the leaders would stand here, those who hear me to-day, and say that they championed the cause of this bill in their program of legislation, and they have not been able to drive it out for 10 years.

So whatever blame there is in keeping this legislation from the floor lies at your door and the leaders of the party in power. I have no more doubt in my mind that if the steering committee of that great political party which is in power were to get together to-morrow and decide that they wanted legislation on this measure at this session of Congress they could have the bill before the House and have it before the Senate within a few weeks, and also before the President for his signature. But they do not do this, and make no move in that direction; so they naturally must admit that the responsibility rests squarely on the shoulders of those who are in power and plan the program for their failure to do so.

My friends, the country knows where the responsibility lies, and I do not mean that all the opponents of this bill who have sought to keep it from the floor of the House are members of the party in power. But, of course, there are 14 members of the committee which has this measure before them on the Republican side, while the Democrats have 7, and may I add here that in spite of the zeal of some to prevent this I would not be surprised that a vote of that committee would now put this bill on the calendar; and you have every facility for action excepting the will. If you would, you could champion it to-morrow and put it on the program for new legislation. You know what the result would be, and the country knows what the result would be. Therefore, in defeating this measure and keeping it from coming before the House, whatever virtue there is in it, the major credit must be given to the Republican Party; and whatever fault there is for not allowing this Congress to vote on this bill that fault must rest on the shoulders of the Republican Party.

What we want in this Congress is the right to vote as to whether, when these 10 men sit around the President's table, when times are good or when times are bad, in considering the strain and struggle for all the great industries and great enterprises of our country, and the different occupations comprising this great population, we ask for a man to sit there who can speak for citizenship, for the schools, and the citizens of to-morrow. This is, as I said before, our first line of defense; the safety of our country and the glory of that flag would be more secure.

I reiterate that the security of the American Republic is not alone in her great navies, which ride the seas with their masts pointing skyward; it is not in the great armies, which come marching, tramp, tramp, tramp; not these alone make secure this great Republic; the first line of defense is the training and development of its citizenship and training the young people how to become the citizens of to-morrow.

There are so many things which such a department could do. I would not at this time attempt to go further into this. It has been so well set forth in so many splendid speeches; it has also been set forth that practically every country in the world has either a secretary or minister of education in the ruler's cabinet. We stand alone almost in not giving that recognition to our education, and I again repeat, I doubt that any other question before the American people has ever received reinforcement by so many requests from the hands of the people, whether by petition or letter asking for action. I have no doubt that more than 5,000,000 people in the past year have requested Congress through their legal representatives by petitions or letters written directly to the Representatives or Senators asking them to get this bill out of committee and get it before the House of Representatives, and in this connection may I not add that these men and women are going to be heard, and don't you believe for one moment they do not know where the responsibility lies.

In addition to that, a great number of organizations have indorsed this legislation. The total list of organizations represent 29,000,000 of such great organizations as the American Federation of Labor, the National Education Association, National Association of Parents and Teachers, Federation of Women's Clubs, General Grand Chapter Order of the Eastern Star, Young People's Christian Associations, Woman's Christian Temperance Union, National Council of Jewish Women, National Council of Religious Education, Supreme Council of Scottish Rite Masons, 44 State organizations of the National League of Women Voters, in addition to the District and one Territory, and many other organizations, all of whose names will be inserted in the RECORD at this point.

NATIONAL ORGANIZATIONS SPONSORING A DEPARTMENT OF EDUCATION

National Education Association; American Federation of Teachers; American Federation of Labor; National Committee for a Department of Education; National Congress of Parents and Teachers; General Federation of Women's Clubs; National League of Women Voters; Supreme Council, Scottish Rite of Freemasonry, Southern Jurisdiction, United States; International Council of Religious Education; National Council of Jewish Women; National Woman's Christian Temperance Union; American Association of University Women; National Federation of Business and Professional Women's Clubs; General Grand Chapter, Order of the Eastern Star; National Women's Trade Union League; National Board of the Young Women's Christian Associations; National Federation of Music Clubs; American Library Association; American Vocational Association; Woman's Relief Corps; Federal Council of the Churches of Christ in America; National Kindergarten Association; American Home Economics Association; American Hellenic Educational Progressive Association; American Nurses' Association; Osteopathic Women's National Association; National Council, Junior Order of United American Mechanics of the United States of North America; Service Star Legion (Inc.); Educational Press Association of America; Woman's Missionary Council, Methodist Episcopal Church, South; Women's Homeopathic Medical Fraternity.

These, as I said, represent more than 29,000,000 splendid citizens of our country.

Let the case stand on its merits and give the people a voice, but do not try to kill it with guile, because it is controversial, but let us vote openly on the matter. Why is it that we can not get an opportunity to vote on this bill? I leave that for each Member of this great legislative body to answer for himself. The reason is obvious. It has been explained by some of those gentlemen who have spoken before. It is not my purpose to go further into the discussion of what the bill does and what it does not do—but I repeat again that it has no tendency to set up in the President's Cabinet an administrative function in relation to the schools of the States. There is not a particle of foundation in any argument of any man who opposes this bill because there is something in it that he thinks has to do with the administration of education in the States and the communities. It would be a splendid service which such a department could render in its investigation and extension by having this great work given recognition in the President's Cabinet. Every school or person would be free to use this service or leave it alone, just as he is free to use the service of the Department of Agriculture or the Department of Commerce or the Department of Labor, or leave it alone.

I challenge those who are opposed to the bill and who try to point out some of its objectionable features to come before the House and in their own time show where the bill in any way restricts the rights of a State or community to carry on its education. They have not done it so far. The speeches which have been made have been on the other side and in my opinion no legitimate objection is made. Once in a while a Member will rise up and say that he believes in State rights. I believe in State rights, but I know that the establishment of a department of education no more invades the rights of a State than the establishment of the Department of Agriculture.

Mr. Speaker, in closing may I say that in this great age, with the many demands which beset us as citizens and country, and since our great Government has recognized this by extending the service of the Government literally into every field of human endeavor, and properly so, then why not give education the same recognition or a similar recognition to that which has been given those other great enterprises and scopes of work?

Members of the Seventy-first Congress, I appeal to you to help us get action on this bill. I especially appeal to the steering committee of the majority party. You have 14 out of 21 members on the House committee; you could get action if you wished. I plead with you not as a partisan but as an humble Member who recognizes the great, eminent, and patriotic men and women of the party of our Lincoln to give us a chance to make some headway on this legislation either by holding hearings or getting behind this legislation and reporting it to this House for action.

I appeal to you in the name of the nearly 30,000,000 splendid citizens of every State and congressional district in this great country who have petitioned you or indorsed this legislation. Without any prejudice or thought but the good of my country and every citizen and every cause for good, with no intent or purpose to impose anything or any idea on anyone contrary to their own personal views pertaining to their own affairs or controlling the ideas or plans of any school, person, State, or community; and every one who knows this bill knows there is no effort to do so.

I appeal in the name of the 30,000,000 youth of America, many of whom are now neglected and are without health education, literary instruction, educational guidance, and many other needs which I myself experienced in the dark years of suffering and deprivation. I appeal to you in the name of these 30,000,000 children who are the hope and future of America.

I probably feel this thing deeper than most anyone else, since I was unable to attend high school until I was 30 years of age. I know the problems of the poor and the neglected. I know the kind of educational facilities they have and the meager advantages of health, education, or things of that kind. I appeal to you in their names, and many of them can not speak for themselves through organization or otherwise.

I appeal to the people of the country, especially those who have sponsored this legislation, to carry on, and that we may all take increased devotion to the cause for which so many splendid and patriotic men and women have given so much of effort and consecration, and go forward with that great asset, so that education of our country shall be recognized nationally by having a spokesman in the President's Cabinet, and that every school, private, public, or any person who may be interested in any educational cause will have the advantage of this service with no right restricted or curtailed, and with no more obligation to use this service than there is for a farmer to use the service of the Department of Agriculture, but a service so valuable that all will welcome this long-needed aid.

In my further appeal to you and the country I think it not out of place here to quote from some distinguished authorities who have expressed themselves on this important question.

Ex-President Coolidge in his message December 6, 1927:

> For many years it has been the policy of the Federal Government to encourage and foster the cause of education. Large sums of money are annually appropriated to carry on vocational training. Many millions go into agricultural schools. The general subject is under the immediate direction of a commissioner of education. While this subject is strictly a State and local function, it should continue to have the encouragement of the National Government. I am still of the opinion that much good could be accomplished through the establishment of a department of education and relief, into which would be gathered all of these functions under one directing member of the Cabinet.

Late Senator Woodbridge N. Ferris in an undelivered speech:

> The "hewers of wood" and "carriers of water" have never received a square deal. Millions and millions of dollars have been given to educational foundations; millions and millions of dollars have been given to colleges and universities; but very little effort has been made to take care of the great majority who can never hope to enroll in a high school. The real educational problem for America to solve is the problem of enabling the rural schools to provide a practical education through satisfactory courses of study, through adequate equipment, through the best methods of instruction, through the employment of well-trained teachers.

Hon. S. M. N. Marrs, State superintendent of Texas:

> We have a Secretary of Agriculture, and I believe in that department. It is promotional; but the Secretary of Agriculture has never attempted to standardize the method of raising cotton in the South; he has never undertaken to standardize the method of raising wheat in the West; but through that great department information has been disseminated in the agricultural sections and the localities have been stimulated until the country is more prosperous on account of the workings of that department. And so I may say of Commerce and Labor. What is the department of the Government recognized by the world as standing for the cultural and the spiritual among our people? I submit this, gentlemen, as one thought that has not been developed by any other person that I have heard discuss this question.

My colleagues, you may talk resources, and no one takes more pride in the rich resources of our country than I, but may I say that our greatest assets are not our great mines with their layers of coal, iron, gold, and many other products, nor our great oil fields with their great gushers, nor our great forests and fertile fields extending for thousands of miles, nor our rivers and water power, as great as all these are, neither is it our great cities and factories with all their material wealth, but our greatest asset is the youth of America; here is the first line of defense, and as that great and eminent teacher of President Hoover, Dr. David Starr Jordan, once said: "America is safe so long as we have American ideals."

Then, my colleagues, the safety of this great country when we have passed on, lies in the proper training and fitting of the youth of America to-day for the tasks of to-morrow.

When we have done this, my colleagues, regardless of our other mistakes, those of us who are called to be partners at these sacred shrines and altars where Garfield and many others have tread, and when we are called to look back on the past, illuminated by the heroic examples of Washington, Jefferson, Lincoln, Roosevelt, and Wilson, we shall feel a new challenge to duty, country, and citizenship, to give the best that is in us to this great heritage of heroism and valor, and then we shall so watch and so serve that when the bugle sounds at the dawning of the day that we shall be ready to break camp and march at the sound of the trumpet. Then let us go again and again unto that limpid fountain of patriotism and perform there a solemn lustration and return divested of all the sordid and selfish impurities of life and think alone of our God and our country. [Applause.]

THE SILVER TARIFF

Mr. ARENTZ. Mr. Speaker, I ask unanimous consent to insert in the RECORD a letter addressed to me on the matter of the silver tariff.

The SPEAKER. The gentleman from Nevada asks unanimous consent to insert in the RECORD a letter addressed to him on the subject of the silver tariff. Is there objection?

There was no objection.

The letter is as follows:

EUREKA SECRET-CANYON MINES (INC.),
Washington, D. C., April 29, 1930.

Hon. SAMUEL S. ARENTZ,
House of Representatives, Washington, D. C.

DEAR SIR: The attention of yourself and your colleagues in the House of Representatives is respectfully invited to the very serious condition the silver-producing industry in the United States is in at present, due to the ruinous competition of silver produced in foreign countries by peon labor, at peon standard of wages and living, as well as the threatened dumping of the world's surplus supply of silver in the United States, due to India going on a gold basis, which calls from circulation the silver coinage used in India. The same condition prevails in other countries.

This condition not only affects the rich silver-producing districts in Nevada, but the silver-producing districts in our Western States. This fact was brought to public attention in the Senate on March 19, 1930, by Senator REED SMOOT, of Utah, who said:

"I recognize that the mining industry is at a standstill, and particularly the silver mines of the country. England is forcing India to a gold standard. As those silver coins come out of circulation they are melted and exported all over the world, but America is the principal place to which they are sent."

At the same session of the Senate, Senator KEY PITTMAN, of Nevada, further stated:

"Great Britain has demonetized silver. They have not only demonetized silver, not as we do in the United States and in Mexico and in other places, but they are destroying silver. Every time a silver rupee comes into a bank in India it is immediately sent to the mint and melted up and the silver shipped out of the country. It is dumped on

the market of the world without regard to price, because Great Britain would sooner throw that silver in the sea than have it remain in India."

Senator AUGUSTUS SWANSON, of Virginia, further stated:

"I look upon silver now as absolutely a commodity; it is no longer money, it is like wheat, corn, oats, iron, and other things. India proposes to dump her silver in all parts of the world. Our market is accessable to India, and I have no doubt the vast reservoir of silver in India will be dumped here, so that the price of silver may go to 30 cents an ounce or even less."

Senator TASKER L. ODDIE, of Nevada, further stated:

"I am very familiar with the depressed condition of the silver-mining industry and of the benefits we all hope and believe will come to that industry from the adoption of this amendment. Not alone to the silver-mining industry but to the industries of copper, lead, zinc, and gold, and the mining of other metals, because silver is a by-product in the mining of many of the metals I have mentioned."

The passage of the amendment will do much toward solving the unemployment problems in our Western States where mining is practically the sole industry. By reason of increasing the consuming and buying power of the citizens of the silver-producing States, of those materials which are produced in the non-silver-producing States, production would be increased and unemployment in the nonsilver-bearing States would be curtailed.

The passage of the amendment would tend to stabilize the silver-producing industry in the United States, which would be reflected in the fabrication and distribution, with the possibility of developing additional uses for this useful metal which is now largely used in the production of luxuries. The stabilization of the silver-producing industry in the United States would have a favorable influence on the silver situation throughout the world.

Furthermore, the passage of the amendment would tend to further develop the vast areas of mineralized lands in the United States, thereby adding to the Nation's wealth.

This office is in receipt of a letter from the International Union of Mine, Mill, and Smelter Workers, affiliated with the American Federation of Labor, indorsing the proposed amendment and advising of the active support of that organization in urging its passage. The International Union of Mine, Mill, and Smelter Workers is the representative organization of the workers in the mining industry. Writing specifically on the proposed amendment to place a 30-cent per fine ounce on the importation of silver, President James B. Rankin, of Anaconda, Mont. says:

"I fully realize the necessity of improved conditions for the mining industry. I have asked our local unions to assist by requesting them to use their influence to secure the enactment of the proposed amendment." Mr. Edward E. Sweeney, the secretary-treasurer of the International Union of Mine, Mill, and Smelter Workers, writes his office as follows: "As the time appeared short for our organization to get out a letter and send to all of the Congressmen, I have wired Mr. Matthew Woll, vice president of the American Federation of Labor, to appear before the joint committee which is handling the tariff proposition, in behalf of the 10,000 organized miners and smeltermen. I also stated that many of the mines were shut down, many working on reduced time and wages had been reduced 25 and 75 cents per day in many of the silver mines."

Thus it would seem that the passage of the amendment will not only save one of our important industries from ruination but it will have a beneficial influence on industrial conditions throughout the United States. As every industry is endeavoring to help overcome the bad effects of the period of adjustment which we are just going through, the passage of this amendment will make possible the silver industry's substantial contribution to the Nation's prosperity.

This condition should be of interest to all of your colleagues as it directly or indirectly affects every section of industry in the United States.

It is hoped that your active support of this amendment by informing the Congress of its importance will relieve the predicament of the silver-producing industry is in.

Very truly yours.

H. SERKOWICH, *President.*

THE OIL SITUATION

The SPEAKER. Under the special order of the House the Chair recognizes the gentleman from Texas [Mr. PATMAN] for 10 minutes.

Mr. PATMAN. Mr. Speaker, the Attorney General of the United States should be removed from office. He has delivered our country, lock, stock, and barrel, into the hands of the monopolies and trusts. He is failing and is refusing to enforce the antitrust laws. He is using his office as an agency of convenience for the large oil companies and other big concerns of America. He has been a great disappointment to the people. Harry Daugherty, former Attorney General, successfully used prohibition as a smoke screen to hide his many failures of duty. Mitchell is now attempting to use law enforcement as a smoke screen to prevent the people from noticing his failure to enforce the antitrust laws. Prohibition should be enforced and not used as a smoke screen for a public officer to hide his failure of duty.

The oil companies of the United States were organized into a trust by the Federal Trade Commission last fall at St. Louis, Mo. This trust agreement has evidently been acquiesced in if not affirmatively approved by the Attorney General. Tomorrow, May 1, 1930, the oil companies are starting an increase in price of gasoline of 1 cent per gallon. It will soon be effective all over the United States and by all oil companies. This agreement to raise the price of gasoline 1 cent per gallon is the outgrowth of the trust organized by the Federal Trade Commission and will be followed by similar increases. This increase of price is unnecessary, as the oil companies are now making enormous profits, and it is nothing less than a tax on the people. There were 13,400,180,162 gallons of gasoline used last year by motor vehicles in the United States.

An increase of 1 cent a gallon will mean that the American public will have to pay $134,001,801.62 additional for that amount of gas this year, and more gas than that will be consumed. It means a direct assessment against every automobile owner of from $5 to $10 a year. The Attorney General of the United States knows about this violation of the antitrust laws. He has failed and refused to prosecute the conspirators. Not only is he permitting the oil companies to violate the antitrust laws but big business generally is permitted to violate them.

It will be noticed that the Attorney General never asks for a criminal indictment against violators of the antitrust laws. If any action is taken at all, it is usually by injunction. By pursuing this course if the conspirators against the public lose they are assured that they will not have to go to jail or pay a fine. If he were sincere in trying to enforce the antitrust laws, he would ask the grand juries of the country to indict these conspirators representing giant trusts and monopolies.

Sir Henry Deterding, head of the Royal Dutch Shell Co., announced a few days ago that there was an end to the oil war. It is generally known that the oil war ended when the Federal Trade Commission organized the Oil Trust last fall. Wall Street bankers are letting the Royal Dutch Shell interest have all the money they want, and that company is rapidly taking charge of the oil industry in America. I predict that it will not be 10 years, if the present progress of acquisition continues, until the Dutch Shell Oil Co. will absolutely control the oil industry in America, and then we will be forced to pay tribute to the English Government on every gallon of gasoline purchased in America. Only a few days ago I noticed where seven Wall Street bankers were letting the Royal Dutch Shell Co. have $40,000,000 to promote its business. Many other large bond issues have been floated for this company and its subsidiaries.

I called the Attorney General's attention to the fact that the cottonseed-oil companies had organized an illegal conspiracy and compelled the farmers of the South to sell their cottonseed for $75,000,000 less than the market price last fall. The Department of Justice investigated my charges and evidently found them to be true.

The conspirators were permitted to keep the money they had illegally taken from the farmers, but were told by the Attorney General "to go along and not defraud the farmers any more." [Applause.]

SPECIAL REPORT ON THE DISEASES OF CATTLE

Mr. BEERS. Mr. Speaker, I offer a privileged resolution from the Committee on Printing.

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

The Clerk read as follows:

House Joint Resolution 191

To provide for the printing, with illustrations, and binding in cloth of 130,000 copies of the Special Report on the Diseases of Cattle

Resolved, etc., That the Secretary of Agriculture be, and is hereby, authorized to have printed, with illustrations, and bound in cloth 130,000 copies of the Special Report on the Diseases of Cattle, the same to be revised and brought to date, of which 90,000 shall be for the use of the House of Representatives, 25,000 for the use of the Senate, and 5,000 for the use of the Department of Agriculture; and to carry out the provisions of this resolution there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $60,000, or so much thereof as may be necessary.

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

Mr. MICHENER. Mr. Speaker, reserving the right to object, is this another bill to print more of these cattle books or horse books? We have been printing these books at least since 1902.

Mr. BEERS. How many prints have there been?

Mr. MICHENER. I have no idea, but there were many of them in the document room five or six years ago that had not been drawn out.

Mr. BEERS. I want to say to the gentleman that I brought this matter up probably a year ago and the same objection was offered at that time, that there were a great number in the document room, but they have now been exhausted, and there is more demand for the book than any document I know of.

Mr. MICHENER. What will this cost the Government?

Mr. BEERS. The cattle book will cost $55,000.

Mr. MICHENER. That is just for the book itself, and of course it will cost a number of thousands of dollars to send them out under the frank.

Mr. BEERS. There is a great demand for them.

The SPEAKER. From the reading of the resolution, the Chair observes it carries a direct appropriation, which destroys its privilege.

Mr. MICHENER. I do not want to assume the responsibility, but it does seem to me this committee should not bring in a bill of this kind at this hour with only six Members on the floor.

Mr. BEERS. I may say to the gentleman that I have been here all the afternoon trying to get this bill up, but have not had a chance to bring it up.

Mr. MICHENER. This is a campaign year and everybody likes to send out books.

The SPEAKER. The gentleman from Pennsylvania informed the Chair that this was a privileged resolution. The Chair does not think it is privileged.

Mr. BEERS. This is the way similar resolutions have been passed.

The SPEAKER. The Chair does not feel he should recognize the gentleman to submit a unanimous-consent request under these circumstances. The Chair understood this was one of the ordinary privileged resolutions; on the contrary, it carries a large appropriation, and of course is not privileged, because the Committee on Printing has no authority to report a resolution carrying an appropriation. Under the circumstances the Chair will ask the gentleman to withhold his request for the time being.

Mr. BEERS. I withdraw the request, Mr. Speaker.

MESSAGE FROM THE PRESIDENT—CLAIM OF LI YING-TING, A CITIZEN OF CHINA (S. DOC. NO. 139)

The SPEAKER laid before the House the following message from the President, which was read, and, with the accompanying papers, referred to the Committee on Foreign Affairs and ordered printed.

To the Congress of the United States:

I transmit herewith a report of the Acting Secretary of State requesting the submission to the Congress of a claim against the Navy Department submitted through the American consul at Nanking, in behalf of Li Ying-ting, a citizen of China, for the deaths of four members of the claimant's family resulting from a collision between the claimant's junk and the United States naval vessel *Hart* on the Yangtze River on July 3, 1925.

I recommend that, as an act of grace and without reference to the question of the legal liability of the United States, an appropriation of $1,500 United States currency be authorized to effect settlement of this claim in accordance with the recommendations of the Acting Secretary of the Navy and the Acting Secretary of State.

HERBERT HOOVER.

THE WHITE HOUSE, *April 30, 1930.*

MESSAGE FROM THE PRESIDENT—CLAIM OF THE OWNERS OF THE DANISH MOTOR-SHIP "INDIEN" (S. DOC. NO. 140)

The SPEAKER also laid before the House a further message from the President, which was read, and, with the accompanying papers, referred to the Committee on Foreign Affairs and ordered to be printed.

To the Congress of the United States:

I transmit herewith a report from the Secretary of State in relation to a claim presented by the Government of Denmark for the payment of compensation to the owners of the Danish motorship *Indien* for damage sustained as a result of a collision with the United States Coast Guard cutter *Shawnee* at San Francisco on April 5, 1925, and I recommend that an appropriation be authorized to effect a settlement of this claim in accordance with the recommendations of the Secretary of State.

HERBERT HOOVER.

THE WHITE HOUSE, *April 30, 1930.*

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted as follows:

To Mr. CHINDBLOM, from Monday, April 28, on account of illness.

To Mr. KURTZ, indefinitely, on account of illness.

BILL PRESENTED TO THE PRESIDENT

Mr. CAMPBELL of Pennsylvania, from the Committee on Enrolled Bills, reported that that committee did on this day present to the President, for his approval, a bill of the House of the following title:

H. R. 7356. An act for the relief of the American Foreign Trade Corporation and Fils d'Aslan Fresco.

ADJOURNMENT

Mr. MICHENER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 5 o'clock and 12 minutes p. m.) the House, in accordance with its previous order, adjourned until to-morrow, Thursday, May 1, 1930, at 11 o'clock a. m.

COMMITTEE HEARINGS

Mr. TILSON submitted the following tentative list of committee hearings scheduled for Thursday, May 1, 1930, as reported to the floor leader by clerks of the several committees:

COMMITTEE ON THE DISTRICT OF COLUMBIA—SUBCOMMITTEE ON PARKS AND PLAYGROUNDS

(10.30 a. m.)

To provide for the closing of Center Market in the city of Washington (S. J. Res. 77).

COMMITTEE ON PUBLIC BUILDINGS AND GROUNDS

(10 a. m.)

To provide for the sale of the Government building site located on the State line dividing West Point, Ga., and Lanett, Ala.; for the acquisition in West Point, Ga., of a new site and for the erection thereon of a Federal building (H. R. 11515).

COMMITTEE ON BANKING AND CURRENCY

(10.30 a. m.)

To consider branch, chain, and group banking as provided in House Resolution 141.

COMMITTEE ON AGRICULTURE

(10 a. m.)

To authorize the Secretary of Agriculture to carry out his 10-year cooperative program for the eradication, suppression, or bringing under control of predatory and other wild animals injurious to agriculture, horticulture, forestry, animal husbandry, wild game, and other interests, and for the suppression of rabies and tularemia in predatory or other wild animals (H. R. 9599).

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. UNDERHILL: Committee on Accounts. H. Res. 209. A resolution to pay Anne Falkenreck, sister of Carl F. Falkenreck, six months' compensation and an additional amount not exceeding $250 to defray funeral expenses and last illness of the said Carl F. Falkenreck (Rept. No. 1341). Ordered to be printed.

Mr. REED of New York: Committee on Education. S. 2113. An act to aid in effectuating the purposes of the Federal laws for promotion of vocational agriculture; without amendment (Rept. No. 1342). Referred to the House Calendar.

Mr. HOOPER: Committee on the Public Lands. H. R. 11900. A bill to authorize the Secretary of the Interior to investigate and report to Congress on the desirability of the acquisition of a portion of the Menominee Indian Reservation in Wisconsin for the establishment of a national park to be known as Menominee National Park; without amendment (Rept. No. 1343). Referred to the House Calendar.

Mr. HAUGEN: Committee on Agriculture. S. 1959. A bill to authorize the creation of game sanctuaries or refuges within the Ocala National Forest in the State of Florida; without amendment (Rept. No. 1344). Referred to the House Calendar.

Mr. MAAS: Committee on Foreign Affairs. H. J. Res. 209. A joint resolution to provide an annual appropriation to meet

the quota of the United States toward the expenses of the International Technical Committee of Aerial Legal Experts; without amendment (Rept. No. 1345). Referred to the Committee of the Whole House on the state of the Union.

Mr. O'CONNOR of Oklahoma: Committee on Indian Affairs. H. R. 11280. A bill to carry out certain obligations to certain enrolled Indians under tribal agreement; with amendment (Rept. No. 1346). Referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. GUYER: Committee on Claims. H. R. 4101. A bill to extend the benefits of the employees' compensation act of September 7, 1916, to Willie Louise Johnson; without amendment (Rept. No. 1339). Referred to the Committee of the Whole House.

Mr. RAMSPECK: Committee on Claims. H. R. 10490. A bill for the relief of Flossie R. Blair; without amendment (Rept. No. 1340). Referred to the Committee of the Whole House.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of Rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. YON: A bill (H. R. 12030) to transfer to the Secretary of the Treasury certain lands in Panama City, Bay County, Fla., for public-buildings purposes; to the Committee on Public Buildings and Grounds.

By Mr. COLTON: A bill (H. R. 12031) granting certain public lands to the State of Utah for reservoir purposes; to the Committee on the Public Lands.

By Mr. LAGUARDIA: A bill (H. R. 12032) to provide for the appointment of two additional district judges for the southern district of New York; to the Committee on the Judiciary.

By Mr. BRUNNER: A bill (H. R. 12033) to regulate certain employment on public work; to the Committee on the Judiciary.

By Mr. McFADDEN: A bill (H. R. 12034) to authorize the Comptroller of the Currency and/or the Federal Reserve Board to approve or disapprove the entry of any member bank in the Federal reserve system into group or chain banking, and for other purposes; to the Committee on Banking and Currency.

By Mr. ZIHLMAN: A bill (H. R. 12035) to amend subchapter 5 of chapter 18 of the Code of Law for the District of Columbia by adding thereto a new section to be designated section 648–A; to the Committee on the District of Columbia.

By Mr. KIESS: A bill (H. R. 12036) authorizing the Public Printer to print and bind additional copies of Government publications for sale; to the Committee on Printing.

By Mr. PORTER: A bill (H. R. 12037) authorizing the payment of a claim presented by the Polish Government for the reimbursement of certain expenditures incurred by the community authorities of Rzeczyczany, Poland, to which place an insane alien was erroneously deported; to the Committee on Foreign Affairs.

By Mr. EVANS of California: A bill (H. R. 12038) authorizing the head of any executive department or officer to furnish copies of books, records, and papers within his custody, and permit the admission in evidence of such copies; to the Committee on the Judiciary.

By Mr. CRAIL: Joint resolution (H. J. Res. 321) to authorize an appropriation of $4,500 for the expenses of participation by the United States in an International Conference on the Unification of Buoyage and Lighting of Coasts, Lisbon, 1930; to the Committee on Foreign Affairs.

By Mr. PORTER: Joint resolution (H. J. Res. 322) authorizing payment of the claim of the Norwegian Government for interest upon money advanced by it in connection with the protection of American interests in Russia; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BOWMAN: A bill (H. R. 12039) granting an increase of pension to Frances A. Gallagher; to the Committee on Invalid Pensions.

Also, a bill (H. R. 12040) granting a pension to Laura E. Long; to the Committee on Invalid Pensions.

By Mr. BRAND of Ohio: A bill (H. R. 12041) for the relief of W. C. Oleson; to the Committee on Claims.

By Mr. DOUGLAS of Arizona: A bill (H. R. 12042) for the relief of the Consolidated Holding & Trust Co.; to the Committee on the Public Lands.

By Mr. KEARNS: A bill (H. R. 12043) granting an increase of pension to Bertha A. Liming; to the Committee on Invalid Pensions.

By Mr. LEHLBACH: A bill (H. R. 12044) granting a pension to Annie Elizabeth Hull; to the Committee on Invalid Pensions.

By Mr. MEAD: A bill (H. R. 12045) granting an increase of pension to Sarah Buck; to the Committee on Invalid Pensions.

By Mrs. OWEN: A bill (H. R. 12046) for the relief of Daisy O. Davis; to the Committee on Claims.

By Mr. PARKER: A bill (H. R. 12047) granting an increase of pension to Catherine D. Sage; to the Committee on Invalid Pensions.

Also, a bill (H. R. 12048) granting an increase in pension to Mary Schaible; to the Committee on Invalid Pensions.

By Mr. RANKIN: A bill (H. R. 12049) granting a pension to Charlotte Du Bose Taylor; to the Committee on Invalid Pensions.

Also, a bill (H. R. 12050) for the relief of James Rodge McKelvey; to the Committee on Military Affairs.

By Mr. THURSTON: A bill (H. R. 12051) granting an increase of pension to Nancy J. Wood; to the Committee on Invalid Pensions.

By Mr. WURZBACH: A bill (H. R. 12052) for the relief of H. B. Berry; to the Committee on Military Affairs.

Also, a bill (H. R. 12053) for the relief of Jessie Jameson; to the Committee on Naval Affairs.

By Mr. ZIHLMAN: A bill (H. R. 12054) for the relief of Mary D. Gould; to the Committee on Claims.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

7167. By Mr. DEROUEN: Resolution from the mayor and board of aldermen of the town of Rayne, La., favoring an increase in compensation paid to officers and enlisted men, both active and retired, of the Army, Navy, Marine Corps, Coast Guard, Public Health, and Geodetic Survey; to the Committee on Military Affairs.

7168. By Mr. FENN: Resolution adopted by the court of common council of the city of Hartford, Conn., favoring the repeal of the eighteenth amendment of the Constitution of the United States; to the Committee on the Judiciary.

7169. By Mr. FITZGERALD: Petition of 500 veterans of the Central Branch of the National Military Home at Dayton, Ohio, asking that adjusted compensation certificates of $40 or less be paid in cash and others paid in monthly installments; to the Committee on Ways and Means.

7170. By Mr. CAMPBELL of Pennsylvania: Petition of residents of Allegheny County, Pa., asking for the disposal of the Muscle Shoals project at this session of Congress; to the Committee on Military Affairs.

7171. By Mr. CANNON: Memorial of common council of the city of St. Charles, State of Missouri, urging enactment of House Joint Resolution 167, directing the President of the United States to proclaim October 11 of each year as General Pulaski's memorial day for the observance and commemoration of the death of Brig. Gen. Casimir Pulaski; to the Committee on the Judiciary.

7172. By Mr. LINDSAY: Petition of Harold Bean, Brooklyn, N. Y., urging favorable action on the silver amendment by Senator PITTMAN, since it will tend to boost the price of silver, and reemploy many people out of work due to closing of silver mines in the West; to the Committee on Ways and Means.

7173. Also, petition of John Fitzpatrick and 15 other individual letters from citizens of the third congressional district, Brooklyn, N. Y., registering protest against the Federal education bill, H. R. 10, and contending that education is a local matter and not for governmental administration; to the Committee on Education.

7174. Also, petition of Abraham & Straus, Brooklyn, N. Y., urging opposition to the Vestal design copyright bill on the ground that it is harmful to retail business and will cause confusion and endless litigation if passed; to the Committee on Patents.

7175. By Mr. MANLOVE: Petition of Robert W. Cole and 211 others of the Veterans' Home, California, urging Congress to speedily pass the Manlove bill, H. R. 8976, for the relief of veterans and widows and minor orphan children of veterans of Indian wars; to the Committee on Pensions.

7176. By Mr. O'CONNELL of New York: Petition of Abraham & Straus Co., Brooklyn, N. Y., opposing the passage of the Vestal copyright bill; to the Committee on Patents.