Also, a bill (H. R. 12147) granting an increase of pension to Alice Roberts; to the Committee on Pensions.

By Mr. HAMMER: A bill (H. R. 12148) for the relief of Charles C. Bennett; to the Committee on Claims.

By Mr. JOHNSON of Oklahoma: A bill (H. R. 12149) for the relief of Ralph E. Williamson for loss suffered on account of the Lawton, Okla., fire, 1917; to the Committee on Claims.

By Mr. KIESS: A bill (H. R. 12150) granting a pension to Hazel Stover; to the Committee on Pensions.

By Mr. KINZER: A bill (H. R. 12151) granting an increase of pension to Rachel Harlan; to the Committee on Invalid Pensions.

By Mr. MAAS: A bill (H. R. 12152) for the relief of May Dorwin; to the Committee on Claims.

By Mr. MANLOVE: A bill (H. R. 12153) granting an increase of pension to Mary Antle; to the Committee on Invalid Pensions.

By Mr. MERRITT: A bill (H. R. 12154) granting an increase of pension to Nettie Pixley; to the Committee on Invalid Pensions.

By Mr. MOORE of Virginia: A bill (H. R. 12155) for the relief of John F. Buckner; to the Committee on Claims.

By Mr. MOUSER: A bill (H. R. 12156) granting an increase of pension to Ida B. Holdridge; to the Committee on Invalid Pensions.

By Mr. O'CONNOR of Oklahoma: A bill (H. R. 12157) authorizing the President of the United States to posthumously present in the name of Congress a congressional medal of honor to Capt. William P. Erwin; to the Committee on Military Affairs.

By Mr. PALMER: A bill (H. R. 12158) authorizing the Secretary of the Treasury to refund to the so-called assistant directors in the public scshools of the District of Columbia, divisions 10–13, all that portion of their salaries erroneously and illegally deducted and withheld under the provisions of the act of June 20, 1906; to the Committee on the District of Columbia.

By Mr. PARKER: A bill (H. R. 12159) granting an increase of pension to Sarah I. Winchel; to the Committee on Invalid Pensions.

By Mr. HARCOURT J. PRATT: A bill (H. R. 12160) granting an increase of pension to Elsie E. De Graff; to the Committee on Invalid Pensions.

By Mr. SNELL: A bill (H. R. 12161) granting an increase of pension to Mary A. Cromie; to the Committee on Invalid Pensions.

By Mr. SUTHERLAND: A bill (H. R. 12162) for the relief of Ned Bishop; to the Committee on the Territories.

By Mr. THOMPSON: A bill (H. R. 12163) granting an increase of pension to George Sheffield; to the Committee on Pensions.

By Mr. WELSH of Pennsylvania: A bill (H. R. 12164) for the relief of Walter B. Megee; 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:

7199. By Mr. BRUNNER: Petition of the Central Queens Allied Civic Council (Inc.), Jamaica, N. Y., urging Congress to pass favorably at an early date House bill 712, commonly known as the 44-hour bill; to the Committee on the Civil Service.

7200. By Mr. CAMPBELL of Iowa: Petition of the common council of the city of Cherokee, Iowa, memorializing Congress to enact House Joint Resolution 167, directing the President of the United States to proclaim October 11 of each year a General Pulaski memorial day; to the Committee on the Judiciary.

7201. By Mr. CULLEN: Petition of the Members of the House from Brooklyn, N. Y., and the two New York Senators for the authorization to proceed with the completion of naval work at the Brooklyn Navy Yard in order to speedily relieve the unemployment situation for the workmen of the Brooklyn Navy Yard who have been discharged pending the continuing of this work; to the Committee on Naval Affairs.

7202. By Mr. FULMER: Resolution passed by the South Carolina Bar Association, J. M. Cantey, jr., secretary, in behalf of hospital bill, H. R. 9411; to the Committee on World War Veterans' Legislation.

7203. By Mr. GARBER of Oklahoma: Petition of Local Order Branch 858, National Association of Letter Carriers, Enid, Okla., urging consideration of House bill 6603; to the Committee on the Post Office and Post Roads.

7204. By Mr. MANLOVE: Petition of John M. Graeve, 2629 South Lloyd Street, Philadelphia, Pa., and 33 other citizens of Pennsylvania and New Jersey, 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.

7205. Also, petition of E. H. Barstow and 113 other citizens of Novato, Calif., 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.

7206. By Mr. SUMMERS of Washington: Petition signed by Nesmith Ankeny, E. L. Yeager, H. A. Brockman, George Roff, and other citizens of Walla Walla, Wash., in support of legislation proposed to increase the pension of Spanish War veterans and widows of veterans; to the Committee on Pensions.

7207. Also, petition signed by Anton Bednarz, Russell W. Larson, Charles Hammer, Albert Elliott, and other citizens of Yakima County, Wash., in support of legislation proposed to increase the pension of Spanish War veterans and widows of veterans; to the Committee on Pensions.

SENATE

MONDAY, *May 5, 1930*

(Legislative day of Wednesday, April 30, 1930)

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

The VICE PRESIDENT. The Senate, as in legislative session, will receive a message from the House of Representatives.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Farrell, its enrolling clerk, announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H. R. 2667) to provide revenue, to regulate commerce with foreign countries, to encourage the industries of the United States, to protect American labor, and for other purposes; that the House had receded from its disagreement to the amendments of the Senate Nos. 195, 369, 370, 372, 373, 376, 394, 395, 396, 1035, and 1092 to the said bill, and concurred therein; that the House insisted upon its disagreement to the amendments of the Senate to the said bill relating to matters of substance Nos. 364, 371, 885, 893, 903, 904, 1004, 1006, 1091, 1093, 1095, 1128, 1129, 1130, 1131, 1132, 1133, 1134, 1135, 1138, 1139, 1140, 1141, and 1151; and that the House insisted on its disagreement to the amendments of the Senate to the said bill of a clerical nature Nos. 40, 41, 42, 43, 48, 49, 65, 66, 67, 374, 375, 377, 379, 380, 381, 383, 385, 386, 387, 895, 896, 897, 898, 899, 901, 902, 905, 906, 907, 908, 909, 910, 911, 913, 914, 915, 916, 917, 919, 920, 921, 922, 923, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 940, 942, 945, 946, 947, 948, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 987, 989, 992, 993, 995, 997, 999, 1002, 1003, 1008, 1009, 1010, 1012, 1013, 1014, 1015, 1016, 1017, 1018, 1019, 1020, 1021, 1022, 1023, 1024, 1025, 1026, 1027, 1028, 1029, 1031, 1032, 1033, 1034, 1036, 1037, 1038, 1039, 1040, 1041, 1046, 1047, 1048, 1049, 1050, 1051, 1052, 1053, 1055, 1057, 1058, 1059, 1060, 1061, 1062, 1063, 1064, 1066, 1067, 1068, 1070, 1071, 1072, 1074, 1075, 1076, 1077, 1078, 1079, 1080, 1081, 1082, 1085, 1086, 1087, 1089, 1090, 1094, 1096, 1098, 1099, 1102, 1103, 1104, 1105, 1109, 1111, 1112, 1156, 1157, 1171, and 1179.

ENROLLED BILL SIGNED

The message also announced that the Speaker had affixed his signature to the enrolled bill (S. 3249) to repeal section 4579 and amend section 4578 of the Revised Statutes of the United States respecting compensation of vessels for transporting seamen, and it was signed by the Vice President.

CALL OF THE ROLL

Mr. FESS. 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	Overman
Ashurst	Dale	Hawes	Patterson
Baird	Deneen	Hayden	Phipps
Barkley	Dill	Hebert	Pine
Bingham	Fess	Howell	Ransdell
Black	Frazier	Johnson	Robinson, Ark.
Blease	Gillett	Jones	Robinson, Ind.
Borah	Glass	Kendrick	Schall
Bratton	Glenn	Keyes	Sheppard
Brock	Goldsborough	McCulloch	Shipstead
Broussard	Gould	McKellar	Simmons
Capper	Greene	McNary	Smoot
Caraway	Hale	Metcalf	Steck
Connally	Harris	Norris	Steiwer
Copeland	Harrison	Nye	Stephens
Couzens	Hastings	Oddie	Sullivan

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

Mr. BAIRD. I wish to announce that my colleague the senior Senator from New Jersey [Mr. KEAN] is unavoidably detained from the Chamber on account of illness. I ask that this announcement may stand for the day.

Mr. NORRIS. I desire to announce that the junior Senator from Wisconsin [Mr. BLAINE] is necessarily absent in attendance upon the funeral of the late Judge Crownhart, of the Supreme Court of Wisconsin. I ask to have this announcement 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.

OFFENSES AGAINST THE CURRENCY OF FOREIGN COUNTRIES

As in legislative session,

The VICE PRESIDENT laid before the Senate a communication from the Secretary of the Treasury, transmitting a draft of proposed legislation to amend the act approved March 4, 1909, entitled "An act to codify, revise, and amend the penal laws of the United States," more generally known as the Criminal Code, for the purpose of cooperating with foreign countries in the suppression of counterfeiting currency by increasing the penalties provided in such code for offenses against the currency of foreign countries to conform to the penalties provided therein for offenses against the currency of the United States, which, with the accompanying paper, was referred to the Committee on the Judiciary.

CLAIM OF BALTIMORE CITY, MD.

As in legislative session,

The VICE PRESIDENT laid before the Senate a communication from the Comptroller General of the United States reporting further in reference to his report of February 28, 1929, under Senate Resolution 246, Seventieth Congress, first session, authorizing and directing the Comptroller General of the United States to readjust the claim of the city of Baltimore for amounts advanced to aid the United States in the construction of the works of defense of the city in 1863 and to allow reimbursement for interest paid on its bonds issued to raise amounts advanced to the United States, etc., which was referred to the Committee on Claims.

PETITIONS AND MEMORIALS

As in legislative session,

The VICE PRESIDENT laid before the Senate a communication from Samuel Colcord, of New York City (indorsed and signed by sundry other citizens), relative to the nomination of Mrs. MCCORMICK for the Senate in the recent Republican primary in the State of Illinois and expressing the belief, with reasons therefor, that adherence to the World Court on the part of this Government should not be prejudiced or influenced on account of that nomination, which, with the accompanying paper, was referred to the Committee on Foreign Relations.

He also laid before the Senate resolutions unanimously adopted by the Grand Council Fire of American Indians, at Chicago, Ill., favoring an impartial investigation into certain charges "that unmerciful and outrageous cruelties have been inflicted upon young Indian children in the Indian school at Phoenix, Ariz.," with a guaranty to employees and others who shall testify that they will not in any way be penalized or discharged for giving testimony, which were referred to the Committee on Indian Affairs.

Mr. DILL presented a petition of sundry citizens of the State of Washington, praying for the passage of the so-called Capper-Robsion bill to establish a Federal department of education, which was referred to the Committee on Education and Labor.

Mr. JONES presented resolutions adopted by Sinclair Inlet, Chapter No. 80, of the National Sojourners, at Bremerton, Wash., favoring the passage of legislation for the preservation of the U. S. S. *Olympia*, Admiral Dewey's historic flagship at the Battle of Manila Bay as a memorial, which were referred to the Committee on Naval Affairs.

Mr. TYDINGS presented a petition of sundry citizens of the States of Maryland, Massachusetts, Arizona, California, Tennessee, Virginia, West Virginia, and of Washington, D. C., praying for the passage of legislation granting increased pensions to veterans of the war with Spain, which was ordered to lie on the table.

THE TARIFF AND AMERICAN ECONOMISTS

As in legislative session,

Mr. HARRISON. Mr. President, I ask unanimous consent to have printed in the RECORD and to lie on the table, with the names, a statement signed by 1,028 economists who are known throughout the Nation protesting against the tariff bill.

The VICE PRESIDENT. Without objection, the statement will lie on the table and be printed in the RECORD.

The statement is as follows:

The undersigned American economists and teachers of economics strongly urge that any measure which provides for a general upward revision of tariff rates be denied passage by Congress, or if passed, be vetoed by the President.

We are convinced that increased protective duties would be a mistake. They would operate, in general, to increase the prices which domestic consumers would have to pay. By raising prices they would encourage concerns with higher costs to undertake production, thus compelling the consumer to subsidize waste and inefficiency in industry. At the same time they would force him to pay higher rates of profit to established firms which enjoyed lower production costs. A higher level of protection, such as is contemplated by both the House and Senate bills, would therefore raise the cost of living and injure the great majority of our citizens.

Few people could hope to gain from such a change. Miners, construction, transportation and public utility workers, professional people and those employed in banks, hotels, newspaper offices, in the wholesale and retail trades, and scores of other occupations would clearly lose, since they produce no products which could be protected by tariff barriers.

The vast majority of farmers, also, would lose. Their cotton, corn, lard, and wheat are export crops and are sold in the world market. They have no important competition in the home market. They can not benefit, therefore, from any tariff which is imposed upon the basic commodities which they produce. They would lose through the increased duties on manufactured goods, however, and in a double fashion. First, as consumers they would have to pay still higher prices for the products, made of textiles, chemicals, iron, and steel, which they buy. Second, as producers, their ability to sell their products would be further restricted by the barriers placed in the way of foreigners who wished to sell manufactured goods to us.

Our export trade, in general, would suffer. Countries can not permanently buy from us unless they are permitted to sell to us, and the more we restrict the importation of goods from them by means of ever higher tariffs the more we reduce the possibility of our exporting to them. This applies to such exporting industries as copper, automobiles, agricultural machinery, typewriters, and the like fully as much as it does to farming. The difficulties of these industries are likely to be increased still further if we pass a higher tariff. There are already many evidences that such action would inevitably provoke other countries to pay us back in kind by levying retaliatory duties against our goods. There are few more ironical spectacles than that of the American Government as it seeks, on the one hand, to promote exports through the activity of the Bureau of Foreign and Domestic Commerce, while, on the other hand, by increasing tariffs it makes exportation ever more difficult. President Hoover has well said, in his message to Congress on April 16, 1929, "It is obviously unwise protection which sacrifices a greater amount of employment in exports to gain a less amount of employment from imports."

We do not believe that American manufacturers, in general, need higher tariffs. The report of the President's committee on recent economic changes has shown that industrial efficiency has increased, that costs have fallen, that profits have grown with amazing rapidity since the end of the war. Already our factories supply our people with over 96 per cent of the manufactured goods which they consume, and our producers look to foreign markets to absorb the increasing output of their machines. Further barriers to trade will serve them not well, but ill.

Many of our citizens have invested their money in foreign enterprises. The Department of Commerce has estimated that such investments, entirely aside from the war debts, amounted to between $12,555,000,000 and $14,555,000,000 on January 1, 1929. These investors, too, would suffer if protective duties were to be increased, since such action would make it still more difficult for their foreign creditors to pay them the interest due them.

America is now facing the problem of unemployment. Her labor can find work only if her factories can sell their products. Higher tariffs would not promote such sales. We can not increase employment by restricting trade. American industry, in the present crisis, might well be spared the burden of adjusting itself to new schedules of protective duties.

Finally, we would urge our Government to consider the bitterness which a policy of higher tariffs would inevitably inject into our international relations. The United States was ably represented at the World Economic Conference which was held under the auspices of the League of Nations in 1927. This conference adopted a resolution announcing that "the time has come to put an end to the increase in tariffs and to move in the opposite direction." The higher duties proposed in our pending legislation violate the spirit of this agreement and plainly invite other nations to compete with us in raising further barriers to trade. A tariff war does not furnish good soil for the growth of world peace.

ORIGINATORS AND FIRST SIGNERS

Paul H. Douglas, professor of economics, University of Chicago.
Irving Fisher, professor of economics, Yale University.
Frank D. Graham, professor of economics, Princeton University.
Ernest M. Patterson, professor of economics, University of Pennsylvania.
Henry R. Seager, professor of economics, Columbia University.
Frank W. Taussig, professor of economics, Harvard University.
Clair Wilcox, associate professor of economics, Swarthmore College.

ADDITIONAL SIGNATURES

Alabama

University of Alabama: James Halloday.

Arizona

University of Arizona: Robert B. Pettingill.

Arkansas

University of Arkansas: Truman C. Bingham, Walter B. Cole, Kenneth Sharkey, C. C. Fichtner, A. W. Jamison, C. O. Branner, B. M. Gile.
Hendrix Henderson College: Ivan H. Grove, O. T. Gooden.

California

University of California: Ira B. Cross, Gordon S. Watkins, Stuart Daggett, M. M. Knight, Robert A. Brody, E. T. Grether, E. J. Brown, Lonn T. Morgan, Henry F. Grady, E. W. Braun, N. L. Silverstein.
Claremont College: Horace Secrist.
University of Southern California: Reid L. McClung.
University of Redlands: H. C. Tilton, Arthur D. Jacobson.
California Institute of Technology: Horace N. Gilbert.
Mills College: Glenn E. Hoover.
Stanford University: Dean W. E. Hotchkiss, Eliot Jones, Holbrook Working, Helen Cherington Farnsworth, Ada Fay Wyman, L. Elden Smith, Murray S. Wildman.
Pomona College: Kenneth Duncan, George I. Burgess, Norman Ness.
Armstrong College of Business Administration: Frank A. Haring, W. W. Diehl, J. Evan Armstrong, John H. Goff, George A. Letherman, J. Frank Day.
College of the Pacific: Robert C. Root, Luther Sharp, Laura M. Kingsbury.
Pasadena Junior College: Roscoe Lewis Ashley, Earl D. Davis, Leland M. Pryor, Fred G. Young, Louise H. Murdock, Henry P. Melnikow, Louis J. Hopkins, K. F. Berkeley, Walter W. Cooper, Howard S. Noble, L. S. Samra, Philip J. Webster, Claire Soderblom.

Colorado

University of Colorado: Dean Elmore Peterson, Frederick J. Bushee.
Colorado College: A. P. R. Drucker, J. G. Johnson, Edna Rose Groth.
University of Denver: H. W. Hudson.
State Agricultural College: D. N. Donaldson.
Colorado Wesleyan University: Clyde Olin Fisher, K. M. Williamson, Norman J. Ware.

Connecticut

Yale University: Ray B. Wosterfield, Fred R. Fairchild, Withrop M. Daniels, Jerome Davis, C. H. Whelden, jr., Hudson B. Hastings, Ralph A. Jones, A. Barr, jr., William W. Werntz, Triston R. Barnes, H. Berolzheimer, Geoffrey Crowther, Francis W. Hopkins.
Connecticut Agricultural College: Albert E. Waugh, Edward H. Gumbart, Cecil G. Tilton.
Trinity College: G. A. Kleene, George A. Suter, Henry W. Farnam, Curtis M. Geer, Charles A. Tuttle.

Delaware

University of Delaware: Claude L. Bonner, Harry S. Gabriel, J. Sidney Gould.

District of Columbia

Horace B. Drury, Frank J. Warne, Herbert O. Rogers, Arthur Sturgis, Boris Stern, Lester D. Johnson, Edith S. Gray, Arthur S. Field, W. H. Rowe, Glen L. Swiggett, John H. Gray, Jesse E. Pope, Harold Van V. Fay, Kurt Schneider, Charles E. Purans, Agnes L. Peterson, C. E. Clement, George B. L. Arner, William G. Elliot, 3d, George B. Galloway, R. M. Boeckel.
Brookings Institution: C. C. Hardy, Leverett S. Lyon, Philip G. Wright, Lynn R. Edminster, W. M. Blaisdell, Gustavus A. Weber, Frank Tannenbaum, Freda Baird.
George Washington University: Harold G. Sutton, Richard N. Owens, Belva M. Owens.
American University: Charles F. Marsh, D. A. Kinsman.
Catholic University: The Rev. John A. Ryan.

Florida

Francis M. Williams, H. Clay Armstrong, Isaac W. Bernheim.
Rollins College: Glen E. Carlson, Leland H. Jenks.
University of Florida: Harwood B. Dolbeare, Howard M. Dykman, Rollin S. Atwood, W. T. Hicks, J. G. Eldridge, J. P. Wilson, P. C. Scaglione, Huber C. Hurst.

Georgia

University of Georgia: Dean R. P. Brooks, Glenn W. Sutton, James B. Summers, Malcom H. Bryan, John W. Jenkins.
Agnes Scott College: James M. Wright.
Emory University: Edgar H. Johnson, Clark Warburton, Mercer G. Evans.

Idaho

University of Idaho: Irwin Crane.
College of Idaho: Robert Rockwood McCormick.

Illinois

University of Illinois: Merlin H. Hunter, D. H. Hoover, M. A. Weston, D. Philip Locklin, Simon Litman, George U. Sanford, Paul E. Alyer, Paul M. Vanarsdell, Edward Berman, Donald R. Taft, Horace M. Gray, Daniel Barth, jr., D. M. Dailey, R. F. Smith.
Northwestern University: Earl Dean Howard, Spencer W. Myers, Arthur J. Todd, Charles A. R. Wardwell, A. D. Theobald, Harold A. Frey, Coleman Woodbury, Robert J. Ray, E. W. Morehouse, Helen C. Manchau.
James Milliken University: Jay L. O'Hara.
Monmouth College: J. S. Cleland.
University of Chicago: H. A. Millis, J. Laurence Laughlin, Henry Schultz, Garfield V. Cox, Chester W. Wright, Stuart P. Meech, H. G. Shields, Hazel Kyrk, James L. Palmer, Paul W. Stone, Martin Taitel, Helen R. Jeter, S. H. Nerlove, F. W. Clower, John U. Nef, Howard A. Baker, Charles J. Coe, Sara Landau, Arthur M. Weimer, Hilding B. Jack, Mary V. Covey, Leo McCarthy, May I. Morgan, R. W. Baldwin, Esther Essenshade.
Knox College: R. S. Steiner.
Lewis Institute: Judson F. Lee, P. S. Mata, E. J. Fowler, Carl Vrooman, A. D. Arado, Eugene W. Burgess, Ruth M. Kellogg, S. Leon Levy, Dorothy W. Douglas, Edward Manley, Willard S. Hall, O. David Zimring, E. W. Marcellus, I. W. Mints, Roger T. Vaughan, Everett V. Stonequist, Henry C. Simons, Margaret Grobben, Howard B. Myers, Joseph E. Griffin, Gerard S. Brown, H. S. Irwin, George E. Hooker, John H. Sherman, John B. Woolsey, Harland H. Allen, Lester S. Kellogg.

Indiana

Indiana University: Thomas S. Luck, William C. Cleveland, Guy E. Morrison, James E. Moffat, Edwin J. Kunst.
Butler University: M. G. Bridenstein, Earl R. Beckner, Chester B. Camp, M. F. Gaudian.
Evansville College: Dean Long, Heber P. Walker, Paul G. Cressey.
Goseh College: Roland Yoder.
DePauw University: William R. Sherman, A. H. Woodworth.

Iowa

University of Iowa: E. B. Reuter, Richard W. Nelson, George W. Mitchell, J. L. Miller, J. E. Partington.
Drake University: David F. Owens, L. E. Hoffman, W. N. Rowlands, Herbert W. Bohlman, Herbert R. Mundhenke.
Iowa State College: Elizabeth Hoyt, John E. Brindley.
Penn College: President H. L. McCracken.
Grinnell College: Laetia M. Conard.

Kansas

University of Kansas: John Ise, Jens P. Jensen, Eugene Maynard, Domenico Gagliardo.
Kansas State Agricultural: Leo Spurrier, J. E. Karnmeyer, T. J. Anderson, jr.
Kansas Wesleyan: David Dykstro.
Southwestern College: E. R. McCartney.
Bethel College: Robert G. O. Grovewald, J. F. Moyer, H. W. Guest, W. M. Blaeh.

Kentucky

University of Kentucky: Edward Weist, James W. Martin, J. Catron Jones, C. A. Pearce, J. Phillip Glenn, Harry Best, Esther Cole, Chester W. Shull, G. W. Patton, John Kimper, Dana G. Card, Saul K. Walz, H. Bruce Price, Walter W. Jennings.

Louisiana

Tulane University: Robert W. Elsasser; J. H. Stallings, National Fertilizer Co.

Maine

John W. Bowers.
Bowdoin College: Walter B. Catlin, Phillips Mason, Morgan B. Cushing, William W. Lockwood, jr., Wilfred H. Crook.

Maryland

Theodore Marburg, Dexter M. Keezer.
Goucher College: Mollie Ray Carroll, Elinor Panconast.
St. John's College: V. J. Wyckoff.
Johns Hopkins University: Broadus Mitchell.
Western Maryland College: W. B. Sanders, W. Scott Hall.

Massachusetts

Harvard University: G. B. Roorbach, John D. Black, Carl F. Taeusch, N. S. B. Gras, Albert P. Usher, M. L. McElroy, Lawrence C. Lockley, T. H. Sanders, S. E. Harris, J. E. Dalton, Arthur W. Hanson, Donald H. Davenport, Scott Warren, Malcolm P. McNair, Murray R. Benedict, Albert O. Greef, P. T. Ellsworth, James A. Ross, jr., George P. Baker, S. S. Stratton, Robert L. Masson, Edmund P. Learned, Joseph L. Snider, Karl W. Bigelow.

Amherst College: Willard L. Thorp, George R. Taylor, A. K. Eaton.

Williams College: President H. A. Garfield, W. W. McLaren, Albert Sydney Bolles, Walter B. Smith, David Clark, Rosnell H. Whitman.

Wellesley College: Elizabeth Donnan, Lucy W. Killough, Emily Clark Brown, Mary B. Treudley.

Massachusetts Institute of Technology: James C. MacKinnon, B. A. Thresher, Carroll W. Doten.

Tufts College: President John A. Couzens.

Smith College: Frank H. Hankins, Harold U. Faulkner.

Simmons College: Sara S. Stites.

Mount Holyoke College: Alzada Comstock.

Babson Institute: James M. Matthews.

Boston University: Charles T. Andrews.

Northeastern University: Milton J. Schlagenhauf, Julian E. Jackson, B. Gabine.

Clark University: Arthur F. Lucas, S. J. Brandenburg.

Wheaton College: Edith M. White.

Herman F. Arentz, John W. Boldyreff, Dickinson W. Leavens, Francis G. Goodale, L. H. Hauter, George M. Peterson, Samuel Sigilman, E. M. Winslow, A. S. Kingsmill, Prentice W. Townsley, Gilbert A. Tapley, L. H. L. Smith, John D. Willard, Lauchlin Currye, A. E. Monroe, C. L. McAleer, Arthur M. Moore, Harry Wood, Edward S. Mason, Lucile Eaves.

Michigan

Lawrence H. Seltzer, Arthur E. Erickson, Clifford E. King.

Battle Creek College: W. E. Payne.

Western State Teachers' College: Floyd W. Moore.

University of Michigan: Dean C. E. Griffin, G. S. Peterson, Roy G. Burroughs, Carroll H. May, Robert J. Henry, Ruth M. Engle, Nathaniel H. Engle, C. F. Remer.

Michigan State College: Herman Wyngarden.

Minnesota

Carleton College: J. S. Robinson, O. C. Helwig, Paul R. Fossum, Gordon H. Ward.

University of Minnesota: Roy G. Blakey, Alvin H. Hansen, B. D. Mudgett, O. B. Jesness, R. A. Stevenson, Carl C. Zimmerman, Roland S. Vaile, Peter L. Stagswold, Glen R. Treanor, A. C. Haskin, Arthur W. Marget, O. W. Behrens, Richard L. Kozelka, J. Ross McFayden, John J. Reighard.

Mississippi

Agricultural and Mechanical College: Lewis E. Long.

Missouri

Chester W. Bigelow, S. F. Rigg.

Washington University: G. W. Stephens, J. Ray Cable, Orval Bennett, Ralph Carr Fletcher, Joseph M. Klamow, Joseph J. Senturia.

Westminster College: W. S. Krebs, Frank L. McCluer.

University of Missouri: Harry Gunnison Brown, James Harvey Rogers, Charles A. Elwood, F. L. Thomsen, B. H. Frame, C. H. Hammar, Preston Richard, D. C. Wood, H. C. Hensley, Morris D. Orten, Howard S. Jensen, Arthur S. Ennis, R. E. Curtis, George W. Baughman, O. R. Johnson.

Montana

University of Montana: Mattheas Kast.

Nebraska

Edward L. Taylor, W. G. L. Taylor, D. M. Halley.

Doane College: J. Harold Ennis, J. E. Taylor.

University of Nebraska: J. E. Lerossignol, G. O. Virtue, J. E. Kirshman, Vernon G. Morrison, Oscar R. Martin, J. C. Rankin.

Nevada

University of Nevada: Edward G. Sutherland, M. J. Webster, W. R. Blackhed, Ernest S. Brown.

New Hampshire

George W. Raynes.

University of New Hampshire: Claire W. Swonger, Carroll M. Degler, John D. Hauslein, H. J. Duncan, H. W. Smith.

Dartmouth College: Malcolm Kier, Ray V. Leffler, Robert E. Riegel, Russell D. Kilborne, W. A. Carter, Bruce W. Knight, Everett W. Goodhue, H. V. Olsen, Robert P. Lane, Louis W. Ingram, Archie M. Peisch, Stephen J. Navin, Herman Feldman, H. S. Raushenbush, Stacy May, H. F. R. Shaw, Earl R. Sikes, Lloyd P. Rice, Harry Purdy, J. L. McDonald, Nelson Lee Smith, Arthur Howe, G. Reginald Crosby, W. H. McPherson.

New Jersey

Walter H. Steinhauser, Edmund W. Foote, Augustus Smith, Franklin W. Ryan, Charles W. Lum, A. J. Duncan, Robert L. Smitley, Peter Fireman, Robert F. Foerster.

Princeton University: Frank A. Fetter, Frank Dixon, James J. Smith, Richard A. Lester, Vernon A. Mund, Denzol C. Cline, James M. Garrett, Stanley E. Howard, Donald L. Kemmerer, Frank W. Fetter, J. Douglas Brown, George F. Luthringer, Howard S. Piquet, George W. Modlin, J. W. Blum.

Rutgers University: E. E. Agger, Harry D. Gideons, Thomas W. Holland, E. L. Fisher.

New York

Columbia University: Wesley C. Mitchell, J. M. Clark, J. Russell Smith, James C. Bonbright, R. G. Tugwell, R. M. Maciver, Frederick M. Mills, Paul F. Brissenden, Robert E. Chaddock, Edward L. Thorndyke, Robert L. Hale, K. N. Llewellyn, A. H. Stockder, Edith Elmer Wood, William E. Dunkman, George Fillipetti, Edward J. Allen, Harold F. Clark, E. J. Hutchinson, B. H. Brechart, Addison T. Cutler, George Mitchell, Robert L. Carey, Elizabeth F. Baker, C. C. Williamson, Margaret Eagelson, Ralph H. Blanchard.

New York University: Wilford I. King, Myron W. Watkins, J. D. Magee, Walter E. Spahr, Maruc Nedler, Corwin D. Edwards, William E. Atkins, D. W. McConnell, A. A. Frederick, Richard A. Girard, Louis S. Reed, John J. Quigley, Carl Raushenbush, Irving Glass, Lois Maeslenold, Edith Ayres, Arthur Weeburg, Willard Friedman, Loyle A. Morrison, Randolf M. Binder, John H. Prime, John W. Wingatex, Arthur Wubniez.

Cornell University: Sumner Slighter, Walter F. Willcox, Morris A. Copeland, Paul T. Homan, S. S. Garrett, M. Slade Kendrick, James E. Boyle, Paul M. O'Leary, Lewis A. Froman, Harold L. Read, Donald English, Julian L. Woodward, W. Ross Junkin, William R. Leonard, Leonard P. Adams, John H. Patterson.

Syracuse University: Harvey W. Peck, H. E. Bice.

Colgate University: Freeman H. Allen, Albert L. Myers, E. Wilson Lyon, Sherman M. Smith, T. H. Robinson, N. J. Padelford, Everett Clair Bancroft, J. Millbourne Shortliffe.

Vassar College: Mabel Newcomer, Ruth G. Hutchinson, Kathleen C. Jackson, Herbert E. Mills.

University of Buffalo: Niles Carpenter, T. L. Norton, Newlin R. Smith, Raymond Chambers.

Union College: W. M. Bennett, Donald C. Riley, Daniel T. Selks.

Wells College: Mabel A. Magee, Jean S. Davis.

Hobart College: W. A. Hosmer.

Hunter College: Eleanor H. Grady.

University of Rochester: Roth Clausing.

Brookwood Labor College: Daniel J. Saposs.

Taylor Society: H. S. Person, managing director.

The Business Week: Virgil Jordan, editor.

The Annalist: Bernard Ostrolenk, editor.

International Telephone Securities Co.: M. C. Porty.

Second International Securities Corporation: Leland R. Robinson.

Social Science Research Council: Meredith B. Givens.

American Electric Railways Association: Leslie Vickers.

Russell Sage Foundation: Mary Van Kleeck.

Tariff Board: N. I. Stone, formerly chief statistician.

Federal Council of Churches of Christ in America: Arthur E. Suffern, Benson Y. Landis.

New York School of Social Work: John A. Fitch.

Clarkson College: Charles Leese.

Industrial Relations Counselors (Inc.): Mary B. Gilson, Murray Latimer, W. Bert, S. Regalo, James W. Zonsen, Jeanne C. Barber.

Skidmore College: Coleman B. Cheney.

College of the City of New York: Ernest S. Bradford.

St. Lawrence University: Whitney Coombs.

Alfred University: Paul Rusby.

American Management Association: Mary Rogers Lyndsay, Leona Powell.

American Association for Labor Legislation: George H. Trafton, John B. Andrews.

Carl Snyder, Leo Wolman, George Soule, Stuart Chase, Herbert Feis, Edward T. Devine, George P. Auld, Fabian Franklin, Lawson Purdy, Gorton James, Paul W. Paustian, Warren W. Persons, Paul Tuckerman, Charles B. Austin, Donald R. Belcher, H. T. Newcomb, Lester Kirtzleb, A. W. Kattenhous, W. W. Cumberland, M. L. Jacobson, R. D. Fleming, Dudley M. Irwin, George B. Hill, William Church Osborne, Robert F. Binkled, E. B. Patten, Wendell M. Strong, Ida Craven, Elizabeth Todd, A. D. Noyes, Robert E. Corradini, Samuel M. Dix, W. C. Wishart, Edward E. Hardy, Ernest G. Draper, M. Leo Gitelson, Harold Fields, Henry Israel, Asher Achenstein, F. L. Patton, Stanley B. Hunt, R. L. Wiseman, Shelby M. Harrison, Rufus S. Tucker, John J. Wille, R. D. Patton, William E. Johnson, Albert W. Russell, Robert T. Hill, D. J. Cowden, W. D. Gann, Melbourne S. Moyer, Herbert Fordham, Owen

Ely, Roger H. Williams, Robert M. Woodbury, May Lerner, Elsie Gluck, Paul Bonwit, Robert D. Kohn, V. Kelley, J. C. Meeder, Cyrus L. Sulzberger, Charles S. Bernheimer, Ephriam A. Karelsen, Henry C. Hasbrouck, Robert Whitten, P. M. Tuttle, F. Lewis Corser, Jeanett Kimball, Francis H. McLean, John M. Glenn, C. P. Fuller, Emily Barrofs Weber, Richard Kramer, Montefiore G. Kahn, Mary A. Prentiss, L. R. Gottlieb, Charles R. Fay, Martin Clark, John P. Munn, Otto S. Whitelock, Victor Morawetz, Clinton Colliver, Helen Sumner Woodbury, William Seagle, Helen Sullivan, Bettina Sinclair.

North Carolina

Selma Rogas, C. K. Brown, A. Currie, Maxwell G. Pangle, Carl J. Whelan.

North Carolina State College: Joseph G. Knapp.

University of North Carolina: Dean D. D. Carroll, J. Gilbert Evans, W. F. Ferger, C. T. Murchison, G. T. Schwenning, E. D. Strong.

North Carolina College for Women: Albert S. Keister.

Duke University: R. A. Harvill, J. P. Breedlove, J. H. Shields, William J. H. Colton, Christopher Roberts, E. R. Gray, B. U. Ratchford, Robert S. Smith.

Elon College: Ralph B. Tower.

North Dakota

Dana G. Tinnes, James Forgerson.

University of North Dakota: Dean E. T. Towne, J. Donald Pymm, A. G. Rowlands, Daniel J. Schwieger, J. Perlman, Spencer A. Larsen, J. J. Reilahan, Roy E. Brown, Carmen G. Blough, E. C. Koch, V. A. Newcomb, Daniel James.

Ohio

Ohio State University: Matthew B. Hammond, Milo Kimball, J. J. Spengler, Clifford L. James, E. L. Bowers, Henry J. Butterman, W. M. Duffas, Louise Stitt, Wilford J. Eiteman, Paul N. Lehocyky, N. Gilbert Riddle.

Antioch College: William M. Leiserson, Rudolf Broda, Algo D. Henderson.

Lake Erie College: Olive D. Reddick.

Wooster College: Alvin S. Testlebe, E. E. Cummins.

University of Cincinnati: Harry Henig.

Miami University: Warren S. Thompson, P. K. Whelpton, Edwin S. Todd, H. H. Beneke, Henry P. Shearman, C. H. Sandage, Howard White, Howard R. Whinson, John F. Schreiner, Wilfrid G. Richards, Carroll B. Malone, James H. St. John, F. B. Joyner, W. J. M. Neff, J. R. Dennison, J. M. Gersting, Read Bain.

Heidelburg College: Ossian Gruber.

Hiram College: J. E. Smith.

Denison University: Hiram L. Jome, Harold H. Titus, Leo A. Thaake, Charles West, Frederick E. Detweiler.

Western Reserve University: Claude Stimson, O. J. Marsh, Louis O. Foster, C. C. Arbuthnot.

Oberlin University: C. C. Bayard, Paul S. Peirce.

Case School of Applied Science: Frank T. Carleton.

Kenyon College: George M. James.

Municipal University of Akron: W. W. Leigh.

University of the City of Toledo: Clair K. Searles, Dr. I. M. Rubino, Edward D. Jones, John A. Zangerle, I. W. Appleby, Amy G. Maher, Homer H. Johnson, E. L. Oliver, Thomas M. Wolfe, Grover P. Osborne, Eugene H. Foster.

Goodyear Tire & Rubber Co.: H. L. Flanick, Royal E. Davis.

Oklahoma

Oklahoma Agricultural and Mechanical College: Orman W. Hermann, P. H. Stephens, J. T. Sanders.

University of Tulsa: A. M. Paxson, W. M. Maurer.

University of Oklahoma: Dean Paul L. Vogt, Leonard Logan, jr., John P. Ewing, Ivar Axelson, N. Grady Sloan.

Northeastern State Teachers' College: Dean Sobin C. Percefull.

Oregon

Oregon State College: E. B. Mittelman, F. L. Robinson, Alfred C. Schmidt, Curtis Kelley, Bertha Whillock, Leila Hay, E. E. Farnsworth, J. H. Irvine, H. K. Roberts.

Reed College: Clement Akerman, Blair Stewart.

Pacific University: Harold N. Burt, Harold Harward.

University of Oregon: Vernon G. Sorrell.

Pennsylvania

University of Pennsylvania: Emory R. Johnson (dean), Raymond T. Bye, Paul F. Gemmill, William C. Schluter, Stuart A. Rice, W. E. Fisher, William N. Loucks, Karl, Scholz, Clyde M. Kahler, Raymond T. Bowman, Weldon Hoot, William J. Carson.

Temple University: Russell H. Mack, William J. Douglas, S. S. Hoffer.

Wilson College: Henrietta C. Jennings.

Lehigh University: E. A. Bradford, Elmer C. Bratt.

University of Pittsburgh: Francis D. Tyson, Marion K. McKay, Colston E. Warne, Donald D. Kennedy, Vincent W. Lanfear, Hugh M. Fletcher, P. N. Dean.

Washington and Jefferson: Carl W. Kaiser.

Bryn Mawr College: Hornell Hartz.

Franklin and Marshall: Horace R. Barnes, Edward L. Iancaster, Wesley Gadd, Noel P. Laird, Harold Fischer.

Haverford College: Don C. Barrett, John G. Herndon, jr.

Pennsylvania State College: Earl V. Dye, W. E. Butt, H. W. Stover.

Drexel Institute: Edwin J. Kaschenbach, A. E. Blackstone, C. L. Nickels, Earl Spargee, W. N. McMullan.

Swarthmore College: Robert C. Brooks, Herbert F. Fraser, Troyer S. Anderson, J. Roland Pennock.

J. Henry Scattergood, Hugo Bilgram, Carl W. Fenninger, Louis N. Robinson, M. S. D'Essipri, Charles L. Serrill, John C. Lowry, Herbert S. Welsh, Raymond Symestvzdt, Alexander Fleischer.

Rhode Island

Brown University: C. C. Bosland, Willard C. Beatty.

Rhode Island State College: Andrew J. Newman.

South Carolina

Furman University: A. G. Griffin.

South Dakota

A. I. Osborne.

Tennessee.

E. P. Aldredge.

University of Chattanooga: C. W. Phelps.

Southwestern University: M. H. Townsend, Horace B. Davis.

University of the South: Eugene M. Kayden, William S. Knickenbacker, W. H. MacKellar, J. J. Davis, I. Q. Ware, George W. Nicholson, J. P. Jersey, C. B. Wilmer.

Texas

University of Texas: R. H. Montgomery, A. S. Lang.

A. and M. College: F. B. Clark, G. C. Vaughn, Thomas A. Hamilton.

Southern Methodist University: William F. Hanhart, Donald Scott, Frank K. Rader, Laurence H. Fleck.

Texas Technological College: John C. Granbery, Ormond C. Corry, Harold R. Nissley, B. F. Coldray, jr.

Utah

Latter Day Saints' College: Feramorz Y. Fox.

Vermont

University of Vermont: George C. Groat, Claude L. Stineford, L. Douglas Meredith.

Virginia

William H. Stauffer.

College of William and Mary: Shirley D. Southworth, A. G. Taylor.

Randolph-Macon: Langdon White.

Washington and Lee: Robert H. Tucker, E. E. Forebee, M. C. Robaugh, M. Ogden Phillips, R. G. Lausgobel, Dean G. D. Hancock.

University of Virginia: Wilson Gee, Charles N. Hulvey, G. R. Snavely, Abraham Berglund, A. J. Barlow, E. A. Hiniard, G. S. Starnes, William H. Wendel.

Washington

Arthur B. Young.

University of Washington: Theresa S. McMahon.

State College of Washington: Lawrence Clark.

West Virginia

University of West Virginia: E. H. Vickers, A. J. Dadisman.

Marshall College: C. E. Carpenter.

Wisconsin

Charles E. Brooks, Eldred M. Keayes, Alice E. Belcher, Ethel Wynn, R. Beckwith, J. Roy Blough, A. R. Schnaitter, Mary S. Peterson, William D. Thompson.

Lawrence College: R. H. Lounsburg, W. A. McConacha, M. M. Bober, M. M. Evans.

Beloit College: Lewis Severson, Lloyd U. Ballard, Dwight L. Palmer.

Marquette University: Lyle W. Cooper, William H. Ten Haken, Leo A. Schmidt, Oscar F. Brown, N. J. Hoffman, George W. Knick.

University of Wisconsin: Frederick A. Ogg, Edward A. Ross, William H. Kiekhofer, Selig Perlman, Alma Bridgman, Elizabeth Brandeis, Arthur Hallahan, Philip G. Fox, H. Rowland English, J. C. Gibson, Stanley Rector, George S. Wehrwein, William A. Scott, Paul A. Rauschenbush, M. G. Glaeser, I. A. Hensey, Arnold Zempel, J. L. Miller, Russell H. Baugh, J. Marvin Peterson, Harold M. Groves, Alfred W. Briggs, Margaret Pryor.

DRAINAGE AND ITS FINANCIAL OBLIGATIONS

As in legislative session,

Mr. HAWES. Mr. President, the subject of drainage and its financial obligations imposed upon certain sections of our country has been very ably discussed by Mr. Julien N. Friant, business man and farmer, student and investigator, who lives at Cape Girardeau, Mo. As there are some bills relating to this subject before the Senate, which I hope will soon receive its earnest consideration, I ask permission to insert in the RECORD Mr. Friant's statement, which is the statement of an able and well-informed authority upon this subject, made before the

Committee on Agriculture and Forestry of the Senate, and I ask also that the statement may be referred to that committee.

There being no objection, the statement was referred to the Committee on Agriculture and Forestry, and it was ordered to be printed in the RECORD, as follows:

Mr. Chairman and gentlemen of the Committee on Agriculture and Forestry, my name is Julien N. Friant. I am a farmer and a business man. In southeast Missouri I am often referred to as a civic worker. It is in that capacity I appear before you to-day, and I am happy to do it, for I honestly and sincerely feel I never advocated a more worthy cause or one that will do more good and be of greater benefit to so many of our people.

I was asked to represent the drainage districts in Missouri. I live in Cape Girardeau, in the southeastern corner of our State, and I am not personally familiar with conditions in districts in other parts of our State, but as two million of the two and one-half million acres of drained land in Missouri are located in the eight alluvial counties of southeast Missouri, I am sure an accurate statement of conditions as they exist in our section will cover the situation for our State.

In southeast Missouri we look upon this as a community matter because we understand the public nature of drainage districts and because ours is strictly a farming section. Agriculture is our basic industry. Our merchants, bankers, and professional men are all affected by it and the welfare of all our people is so dependent upon agriculture that we are all interested in this legislation.

Thirty years ago all of southeast Missouri, except the north portion of it that is in the hills and a few ridges, was an impenetrable swamp. It was subject annually to overflow from the Mississippi River and from hill streams, rivers, and creeks, draining onto the flat, level country where they lost their identity in a general overflow.

In those days the death rate from malaria was enormous and chills and ague took a terrible toll each year from our population.

About the only towns or settlements in our territory at that time which were not located either in the hills or on the ridges were little sawmill towns along the railroads. During wet spells, which usually lasted for months, logs were floated or moved to the mills on mud boats and lizards, drawn principally by oxen. That method had to be used because the softness of the ground caused wagons to mire so deep when they were loaded that teams could not pull them.

Those, gentlemen, are the conditions which obtained in southeast Missouri in 1903, when the first drainage ditch was dug. That drainage district, like all others which have been organized since that date, complied with the law by meeting the requirements of our State governing the organization of drainage districts, a part of which I quote. It is section 4477 of the Revised Statutes of Missouri, 1919, and is as follows:

COUNTY COURTS MAY CAUSE DITCHES AND DRAINS TO BE CONSTRUCTED

"When it shall be conducive to the public health, convenience, or welfare, or when it will be of public utility or benefit, the county court of any county in this State shall have the authority to organize, incorporate, and establish drainage districts."

That proves beyond the question of a doubt the public nature of drainage districts as distinguished from private enterprises. In Missouri in addition to helping agriculture they must be organized for the purpose of improving health conditions and benefiting the public generally.

I am sorry our State has no records relating to health conditions in southeast Missouri previous to 1916, but the following figures from a letter from Dr. James Stewart, State health commissioner, on this subject testify to the great benefit drainage has been to public health in our section:

Death rate per 100,000 population

	1917	1927	Percentage decrease
			Per cent
Malaria	100	32	68
Dysentery	25	5	80
Diarrhea and enteritis	53	12	77

Doctor Stewart concludes his letter as follows:

"In conclusion it might be said that while the death rate from malaria is still considered excessive in these counties, there has been a most marked reduction, largely due to the drainage and reclamation of areas in the counties considered. It is logical to conclude that there has been also a marked and uniform decrease in filth-borne diseases due to better sanitation and health organizations in this area. Obviously the reclamation and drainage of many areas in these counties has been indirectly responsible for higher standards of living, better sanitation, and official organized health endeavors, which in turn have promoted improved health conditions."

Since 1903 112 different drainage districts have been organized in southeast Missouri, ranging in size from 1,000 acres to 547,000 acres. In carrying out that program our people have dug over 3,000 miles of drainage canals, in the excavation of which they moved more dirt than was handled in the construction of the Panama Canal. In the accomplishment of that great undertaking we also voted tax burdens on ourselves which we now find we are unable to bear.

From 1903 to 1925 our drainage districts in southeast Missouri issued bonds to the extent of $29,496,408.33 and interest coupons on these bonds to the amount of $23,873,441.90, the total of which amounted to $53,369,449.52. During that time we paid off $7,126,476.42 in bonds and $12,878,885.84 in interest coupons, or a total of $20,005,362.46 in both bonds and coupons, leaving a net drainage indebtedness against the land in southeast Missouri of $33,885,087.26.

During that time there was a default on only $70,000, or approximately one-third of 1 per cent of the bonds and interest coupons that matured. Those figures are of November 15, 1925, and are taken from the report of the St. Francis and Black River Commission. They are the last official figures available. They disclose a record of which we are justly proud, and show what we can do under anything like normal conditions. I haven't the exact figures on the number of districts that have defaulted and the total amount of delinquencies since that date, but do know that at this time considerably over three-fourths the drained land in southeast Missouri is in districts that are now in default.

Our fine record of payment previous to November, 1925, does not mean either that our farmers did not encounter difficulties previous to that date. On the other hand, like farmers everywhere, they suffered terrible losses after the agricultural depression in 1921, but as long as they could sell part of their land or mortgage their farms they met their obligations in a most admirable manner. I shall refer to these difficulties in another part of my statement.

Originally southeast Missouri was covered with a heavy growth of timber, which it was necessary to clear off and remove from the land before it could be cultivated. It is conservatively estimated that from 1903 to the present time, in addition to our drainage indebtedness, our people spent $75,000,000 in clearing, fencing, and developing the land they drained. That, together with the $53,000,000 of drainage indebtedness, makes a total of $128,000,000, the amount we spent in good faith reclaiming and developing the land in southeast Missouri. It also represents a greater amount than you are being asked to appropriate under this bill for all the drainage and levee districts in the whole United States.

The above figures do not include the mortgage indebtedness against the land in southeast Missouri which, at this time, is conservatively estimated to be about $40,000,000, or two-thirds as much as all the districts are asking for under the bill you are considering.

The amount of that mortgage indebtedness, however, will not interfere in any way with our people repaying the money loaned to us by the Government if this measure becomes a law. On the other hand, it is an indication of the security back of the money that will be advanced because the drainage indebtedness will be a prior lien.

In verification of that statement and to show you it is recognized as a first lien by loan agencies, I wish to put into the record a letter on that subject. I wrote the Federal land bank in St. Louis, telling them I knew that they, like other loan companies, had practically discontinued making loans on land in drainage districts, but asked them how they appraised the land when they did make an exception and considered loans in special assessment districts. The letter reads as follows:

ST. LOUIS, MO., *February 1, 1930.*

MR. JULIEN N. FRIANT,
Cape Girardeau, Mo.

DEAR SIR: In response to your recent inquiry concerning our policy with respect to making loans in drainage or other special assessment districts, will say that inasmuch as we consider the unpaid bonded indebtedness as a first lien, such indebtedness is, therefore, deducted from the total amount loanable.

In other words, if the appraised valuation of a farm is $12,000, the approximate total amount loanable would be approximately 50 per cent, or $6,000. If the total unpaid bonded indebtedness against the land amounted to $2,000, then we would deduct that amount from the total amount loanable of $6,000 and be able to consider a loan of $4,000.

Yours very truly,

C. E. MAXWELL,
Chief Appraiser.

Since the agricultural depression caused such a great shrinkage in land values, we have been criticized sharply for spending our money so freely and going in debt so deeply to develop our country so rapidly; however, those who censure us should consider conditions existing at the time that was done. During the years in which we were developing southeast Missouri, agriculture was on a firm foundation and expanding and developing everywhere. The Department of Agriculture was encouraging production in every way possible and spending millions to bring it about.

The United States was, at that time, the world's greatest debtor nation. Our industries were not developed as they are now, and agricultural products made up the bulk of our exports. Our country needed every pound of beef, pork, and cotton, and every bushel of wheat, rye,

etc., to pay our annual invisible trade balance to Europe at that time. The horse had not yet been displaced by the tractor, the truck, and the automobile, and the power for most outdoor work was still generated from corn, oats, and hay instead of from gasoline; in fact, during those years agriculture was on a basis of equality with other economic groups in this country.

In addition to that, I want to remind you also that a large amount of our expansion took place, and a large amount of our indebtedness was contracted, during the world conflict. At that time we were told that food and fats would win the war. The Food Administrator, backed by the press, urged, and public opinion demanded, that we produce to the limit of our ability and the capacity of our land. Our people responded to that appeal, and I want to remind you, gentlemen, that in 1917, while in the midst of the greatest war in history, the little section of the country I represent practically saved the seed-corn situation for the Nation.

A late spring, which delayed planting, permitted an early frost in 1917 to catch practically all the corn over the great Corn Belt in the milk and ruined it for seed purposes. Hundreds of cars of southeast Missouri corn were shipped out of our section that year to supply the Nation with seed corn for the 1918 crop. I want to add, also, that our farmers didn't profiteer at the expense of the balance of the country, but sold it at regular farm prices. That one service alone should justify the favor we are asking of a wealthy and grateful nation which is doing so much in so many ways to reward those who came to its assistance in that great crisis.

Since the war, however, conditions have changed. America has become the world's greatest creditor nation. There has been a post-war reversal in trade balances which is causing foreign nations to seek goods to send us in payment of their debts instead of receiving them from us. After the war a high tariff was passed for the benefit of industry. The immigration law was passed for the benefit of labor. It accomplished its purpose, but decreased the demand for farm products and increased the farmer's labor costs. The railroads, the telephone and telegraph companies, and in fact, all public utilities, through laws and commissions, both State and national, that have been appointed to regulate them, have been placed upon a solid and sound financial basis. The Federal reserve system does for the banks what the Interstate Commerce Commission does for the railroads. The farmer alone of all the great economic groups is still in the slough of depression.

Do not think from what I have said that I am criticizing Congress, the Government, or any administration for coming to the rescue of large groups of its citizens as it has done for those I have mentioned. We are not asking you to undo any of those things, for those acts have not only helped the particular people they were designed to protect but have also helped the country and our people as a whole. Anyone who is unprejudiced, however, will admit they have worked an injustice on agriculture. If anyone doubts that, the following figures taken from an article by Stewart Chase in a recent issue of The Nation should be convincing, as they tell the sad story in a most striking way:

	Prices received for products	Prices paid by farmers for supplies	Wages of farm labor	Taxes on property
1914	100	100	100	100
1918	200	178	176	118
1919	209	205	206	130
1920	205	206	239	155
1921	116	156	150	217
1922	124	152	146	232
1923	135	153	166	246
1924	134	154	166	249
1925	147	159	168	250
1926	136	156	171	253
1927	131	154	170	258

They tell why the farmers' part of the national income decreased from 20 to 8 per cent; why farm bankruptcies increased over 1,000 per cent; why land values decreased more than $20,000,000,000, and why the farm debt of the Nation increased from four to fourteen billions of dollars, the latter figure being a larger amount than the war debt of European nations to this country which our Government allowed them to refund over a longer time than we are asking in this bill. They prove also why the early returns of the census enumerators are disclosing such startling losses in population by rural communities.

Prominent public men have on several occasions, when discussing the agricultural situation, stated the farmers' troubles were not caused by any one particular thing, but by a combination of various conditions, and that their difficulties were numerous and that their troubles could not be solved by any one piece of legislation, but that each problem would have to be considered and solved on its merits. The legislation we are asking for will not bring complete relief to our farmers. However it will solve the biggest and most difficult problem confronting the 5,000,000 farm people who had to undergo the expense of draining their lands which has resulted in such a great public benefit.

During the last campaign both of our great political parties promised to place agriculture on a basis of economic equality with industry. If that ever happens and the happy day comes when the farmer is permitted to sell on the same market on which he is forced to buy; when agriculture is placed under the American protective system in reality as well as in theory, in substance as well as in form, in fact as well as in fancy, and the farmer is given a protected price for that part of his crop consumed in the home market—the farmers on drained lands can then enjoy their full measure of prosperity, for this bill gives them an equality of opportunity with other American farmers.

Being a new country and importing large amounts of capital, southeast Missouri naturally suffered more severely from the the depression than the older sections of the country which have been accumulating wealth for many years. As I mentioned before, we seemed to be getting along fairly well up to 1925. Previous to that time, however, there was lots of shifting. Many farmers, unable to meet their taxes and other obligations, borrowed money on their farms; others sold part of their property in an effort to retain the balance, and did this so well that, as previously stated, there was a default of only $70,000 in their maturing drainage obligations during the time they paid off over $20,000,000 of indebtedness. During that time the farmers' taxes and other expenses continued to mount rapidly, but their income did not increase proportionately. About 1925 some of the loan companies withdrew from our section, especially from the lands in drainage districts which carry high drainage taxes.

Following 1925, weather conditions became very adverse. In 1926 we had a wet fall which caused a large part of our crops to rot in the fields and so saturated the ground, not only in southeast Missouri but throughout the Mississippi Valley, that it laid the foundation for the 1927 flood—one of the greatest in history, which swept over our country. That caused practically all the loan companies to withdraw from our section and destroyed the loan as well as the sales value of our land in drainage districts.

Notwithstanding these things, our farmers made a desperate attempt to raise a big crop in 1928. The prospects were fine up to June 1, but 22 inches of rain during that month—nearly one-half the amount of our average annual rainfall—blasted their hopes, and put them in such a desperate condition that it was difficult for them to even provide for farming their lands in 1929.

When I returned home in February, 1929, after appearing before the House Irrigation and Reclamation Committee in the interests of this bill, I found conditions even worse than I pictured them to that committee. The situation was desperate. Merchants and banks were either afraid to, or unable to finance the 1929 crop. The farmers were without feed or food. Hundreds of them were abandoning their land and moving to other places where they could be financed to make a crop.

The Cape Girardeau Chamber of Commerce, worried over the situation, asked me to go to St. Louis to see what could be done toward helping those farmers who were in such dire need. I laid the matter before Mr. Paul Bestor, then president of the St. Louis Federal Land Bank and who recently succeeded Mr. Eugene Meyer, and is now chairman of the Federal Farm Loan Board here in Washington. He asked how much credit our farmers would need to make a crop. I told him it looked like a million dollars would be required. He recommended the organization of an agricultural credit corporation with a capital of $250,000, stating on the basis on which we desired to obtain credit, the Federal Intermediate Credit Bank of St. Louis, of which he was also president, would advance a million dollars to a credit corporation of that size and that it could distribute the credit to our farmers.

I told him we could not raise that amount of money and he suggested that the St. Louis business interests would likely advance it if they were properly approached. We took the matter up with the St. Louis Chamber of Commerce which is vitally interested in agriculture. That organization was just completing the great arena to house the National Dairy Show which is now permanently located in St. Louis, and is doing more perhaps than any other chamber of commerce in the United States to advance the interests of agriculture and to cooperate with the farmers in its trade territory.

Mr. Walter Weissenberger, president of the St. Louis Chamber of Commerce, stated it was a worthy undertaking; that he would assist us, and that he believed the St. Louis business interests would put up a large percentage of this money. The matter was presented to them and they agreed to raise $200,000 of the capital stock if we would raise the other $50,000 in southeast Missouri. Through numerous subscriptions, some amounting to only $25, we raised our quota in southeast Missouri, then went back to St. Louis. The business interests of that city, including the railroads, the banks, the manufacturers, the wholesalers, and the insurance companies, subscribed $150,000. The time was short and we were anxious to get started so we secured our charter and began business with a capital stock of $200,000.

The effect was like magic, for in addition to the money loaned by the credit corporation, local merchants who were being pressed by the wholesale houses, were extended additional credit which they passed on to the farmers. Local banks, with the credit corporation to fall back

on, went into their reserves which previously they were afraid to touch and they also made loans. Outside interests, such as cotton factors, commission merchants, etc., also began advancing money, and while we did not get all our lands cultivated, it restored the confidence of our people and was a great benefit to everybody in southeast Missouri, because it stimulated business all over our section. I would like to mention also that every dollar loaned was collected, the corporation has been liquidated, and the capital stock paid back to those who subscribed it. This bill will, in a big way, do what that corporation did in a small, local way, and I will try to develop that point later on in my statement.

The accumulation of these difficulties that have confronted our farmers has caused the tax delinquencies in our drainage districts to mount to very high figures. A statement of tax collections in the Little River drainage district embracing 547,000 acres, the largest area contained in any district not only in southeast Missouri but in the entire country, should prove to you the inability of landowners to continue to meet these high drainage assessments in addition to their other taxes. The record is as follows:

Year of levy	Amount of annual levy	Amount delinquent	Per cent delinquent
1910	$122,492.98	$1,934.92	1.6
1913	277,124.68	2,583.37	.9
1914	287,682.89	2,782.72	1.0
1915	287,425.40	2,602.86	.9
1916	287,100.16	2,003.65	.7
1917	287,334.32	2,100.90	.7
1918	519,819.86	4,346.32	.8
1919	632,903.09	5,964.27	.9
1920	632,898.29	7,783.68	1.2
1921	698,367.92	10,005.47	1.4
1922	698,367.92	10,943.97	1.5
1923	698,367.92	23,745.82	3.4
1924	698,369.47	35,746.41	5.1
1925	957,391.36	64,710.43	6.7
1926	956,838.07	144,439.24	15.0
1927	956,835.70	310,926.91	32.5
1928	956,085.84	509,826.36	53.3
1929	956,088.23	764,389.12	79.9

Our newspapers are full of advertisements of tax suits and foreclosures. Hundreds of farmers have lost their homes and others are being closed out every month. If that process goes on much longer, most of the farmers on our drained lands will be sold out and will lose the homes they have worked so hard, so long, and under such great difficulties and hard living conditions to build. The number of tax sales each year is sure to increase unless you come to our assistance.

Some of our farmers are still able to pay their taxes and do the necessary improvement but they are helpless, because they are merely a part of a public enterprise and can not function as an individual.

In addition to being a crime against our civilization and a rank injustice to the thousands of people who have given their energy, their ability, their money, and the best part of their lives to developing this country, it would be a great economic waste to allow these districts to go back to swamps.

We, however, are at the end of our row. We have exhausted our resources. We are helpless in the matter and are at your mercy. As the representatives of a great and wealthy Government, we do not believe you are going to permit such an enormous public waste and private loss to take place. Neither do we think you will tolerate the menace of a great swamp in the very heart of our Nation.

Those, gentleman, are the general conditions that now confront our farmers and force us to do what others have done in the past—come to our Government for help. Our heaviest burden is our drainage tax. It ranges from $1 to $2.80 per acre per year, averaging about $1.50 per acre. Our State, county, and school taxes, of course, vary, but range from 50 cents to $1.50 per acre, making our total taxes run from $1.50 to $4.25 per acre. Interest on our mortgage indebtedness averages from $1.25 to $3 per acre, making the total carrying charges on our land from $3 to $7 per acre, which, under the depressed condition of agriculture, we can not pay.

Taxation is like water in a flood period—it is not the first 9 feet of water on a 10-foot levee, but the last foot, that causes the overflow which floods the land and destroys the property. The drainage tax is our last foot of water. It is the straw that breaks the camel's back with us, and is causing our farmers to lose their homes, representing in most cases their lifetime savings and in many instances the sacrifices of hard-working and thrifty parents ahead of them.

It is true our general taxes are high, but we can and we will pay them if we can be relieved from the excessive drainage tax burden by getting a moratorium over a period long enough for us to catch up with the maintenance work on our ditches and pay off our bond issues for schools and roads and then be permitted to refund the principal of our bonded indebtedness in smaller installments over a long period of years.

In that connection I wish to add also that our heavy tax burden absolutely prevents our farmers from cooperating with the Federal Farm Board in its program to reduce the acreage of grain and cotton crops, for, irrespective of the effect that increased production may have on the general agricultural situation, the farmer on land that has heavy drainage taxes on it is forced, whether he desires to do so or not, to make every acre produce all it is capable of doing. If he does not, either the tax collector or the company that holds the mortgage on his land will soon own it. In the interest of permitting our farmers to cooperate with the Federal Farm Board by placing them in a position where they can do so, we think your committee is justified in recommending this legislation.

Our Government has been generous to other groups of its citizens who appealed to it when they were confronted with great crises. It has been kind to the settlers on the great irrigation districts of the West, as it should have been. It made liberal settlements with the railroads for the use of their property during the war, even though many people feel that it turned the railroads back to the owners in better condition than when it received them. At your last regular session Congress advanced money at a low rate to the shipping interests, and at the same session, with full approval of the entire public of the United States, initiated the greatest flood-control program ever undertaken in the history of the world, which, in many instances, will do for other farmers what ours have had to do for themselves at their own expense.

We are not asking for a gift—just a loan. We do not desire a donation, but credit. We are not seeking charity or trying to evade or repudiate our responsibilities. On the other hand, we want to pay every penny of our debts, and are merely asking our Government to put us in a position where our farmers can meet their obligations and save their homes.

There may be a doubt in some of your minds about our ability to repay this money if it is loaned. I think, however, your fears are groundless on that score. The bill provides that the money advanced shall be a first lien. The letter I read from Mr. C. E. Maxwell, chief appraiser of the Federal land bank, shows it is recognized as such by the farm-loan branches of the Treasury Department.

The bill also provides that if the bonds outstanding against a drainage district amount to more than the Secretary of the Interior, after a thorough investigation by his department, decides should be loaned the district, the bondholders must agree to take a second lien for all the bonds they hold in excess of the amount the Secretary of the Interior is willing to loan. That is an absolute safeguard, and with that provision in the bill the only way the Government could lose is for the Interior Department to make a serious mistake, which is very unlikely to happen.

I am not familiar with drainage districts in other States, but so far as southeast Missouri is concerned you need have no fear about every dollar that is loaned to our farmers being repaid to the Government. Our security is excellent. Our soil is fertile, as I have shown you. Our growing season is long and our rainfall is ample. We are located only a short distance from the geographical center of the United States and near the center of population, which moves closer to us each census. We are accessible to towns, railroads, and markets, and the State is now constructing as fine a system of hard-surfaced roads, including feeder or farm-to-market roads, as will be found in any agricultural section of the United States. These roads are being built and are to be maintained by the State from automobile licenses and gasoline taxes and not by a direct tax on the land.

We produce every crop that grows in the Temperate Zone; in fact, in southeast Missouri the three staple crops on which both man and beast depend—corn, wheat, and cotton—grow side by side in the same field and each produces excellent yields. We get a crop of wheat or oats, also a crop of cowpeas or soybeans, off of the same land the same year, which not only gives us two money crops a year but permits us to rotate our crops and increases the fertility of our soil each year.

Since our swamps are drained, the stagnant water removed, and the sanitary conditions improved, our people have become as healthy as they are most any place in the Mississippi Valley. We are well supplied with schools as our educational advancement has kept pace with our physical development. Grade schools are available to children in all of our newly developed sections, and each town of any consequence has a consolidated high school.

Our past performance in meeting our obligations should be your assurance of what you can expect from us in the future, for any group of people who can pay off $20,000,000 over a period of 22 years while they are developing their country and default in only $70,000, can certainly be classified as reliable. Very few business enterprises of any kind or character can show a better record. It is the best guaranty we can offer you of our future performance with a lightened load and under anything like normal conditions.

Looking at it from another angle, if in the early stages of our development, when our drainage enterprises were in the experimental stage, when our land was in timber and we had no roads, schools, or churches; when health and social conditions were bad and educational facilities were lacking, private investors were willing to accept our lands as security, are they not now, in their present developed condition, worth many times their bonded indebtedness?

There is another point I want your committee to consider. Since the crash in the stock market last fall and the resultant slowing down of

all commercial enterprises which brought about a large amount of unemployment, every branch of our Government has been doing everything it could to stimulate business. Industrial conferences have been called, income taxes have been reduced, and hundreds of millions of dollars have been appropriated for building enterprises. Has it occurred to you that this bill and the amount of money you appropriate under it will perhaps do more to stimulate all lines of business than the same amount of money spent in any other way or for any other purpose?

The farms of those who are cultivating drained lands are in a bad condition all over the country. The houses, barns, and other buildings need repairs or replacement. The fences are in bad shape and the farm equipment has been allowed to run down. The farmers themselves are discouraged, depressed, and despondent. If this tax burden is even temporarily removed from their shoulders, it will restore not only their own confidence but the confidence of investors in their ability to make good and meet their obligations. That will restore their credit. Business is based upon credit, and credit is based upon confidence. If the drainage tax burden is lifted or lightened, reservoirs of credit that are now closed to farmers on land in drainage districts will again be open to them.

Their renewed confidence will cause them to catch up on their delayed improvements. They will repair their houses, their barns, their fences, and other improvements, or replace them with new ones. They will buy modern farm equipment, and many of them will also purchase necessities and conveniences for their homes which for many years they have been denying themselves and their families while most other American citizens have been enjoying them. It will have the same effect in the drainage areas over the country everywhere which the establishment of the credit corporation I referred to had on southeast Missouri.

The bill you are considering, gentlemen, is practical and helpful farm relief. There is no doubt about its economic soundness. It can be put into operation at once and its beneficial effects will be felt immediately. It is applicable to all drainage and levee districts which can qualify and it will bring real relief. Its enactment would be like lifting a wet blanket off the shoulders of farmers in drainage districts everywhere and it would put new life, hope, and enthusiasm into those who are farming these lands.

We are asking for it as a farm relief measure, but as I have tried to show you, we feel you are justified in doing it from the standpoint of bettering public health, improving transportation, preserving a national asset, and in stimulating business for which so much money is being appropriated in other directions; also from the standpoint of doing justice to 5,000,000 American citizens who have exhausted their resources in undertakings of tremendous benefit to the public.

What other appropriation could Congress make that would reach as far, benefit as many people, and do as much good as the money appropriated under the terms of this bill?

Before closing, I want to quote the words of our only living ex-President which are most appropriate at this time. On March 5, 1930, less than 60 days ago, the San Carlos irrigation project which is to reclaim 80,000 acres in the Florence-Casa Granda Valley of Arizona at a cost of $5,500,000 was dedicated.

Standing on the parapet of the huge dam which impounds the waters of the Gila River and which has been named for him, President Coolidge dedicated the project to the "advancement of religion, education, better homes, and a better country."

President Coolidge was speaking of land which was being supplied with water at a cost of $70 per acre. We are pleading for land which has been reclaimed at an average cost of less than $10 per acre.

President Coolidge had a vision of a development that is to take place on land reclaimed from a stubborn but healthy desert. We are trying to protect a development that has taken place on land reclaimed from a treacherous and sickly swamp.

President Coolidge was thinking of happy homes yet to be built, and we are appealing for once happy homes about to be lost.

All, however, are part and parcel of our great American Nation which is interested in all of its citizens.

We, therefore, appeal to you to treat us as you have treated others; do for drainage and levee districts what you have done for irrigation districts, and without any risk or cost to the Government, give us an opportunity to save our homes.

REPORTS OF COMMITTEES

As in legislative session,

Mr. CONNALLY, from the Committee on Banking and Currency, to which was referred the bill (S. 3171) for the relief of Edward C. Compton, reported it with an amendment and submitted a report (No. 597) thereon.

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

S. 319. A bill granting an increase of pension to Irene Rucker Sheridan (Rept. No. 598); and

S. 3646. A bill granting an increase of pension to Mary Willoughby Osterhaus (Rept. No. 599).

Mr. COPELAND, from the Committee on the District of Columbia, to which was referred the bill (S. 4242) to fix the salaries of the Commissioners of the District of Columbia, reported it without amendment and submitted a report (No. 600) thereon.

Mr. BRATTON, from the Committee on Public Lands and Surveys, to which was referred the bill (S. 497) to provide for the erection and operation of public bathhouses at Hot Springs, N. Mex., reported it with amendments and submitted a report (No. 601) thereon.

Mr. McNARY, from the Committee on Public Lands and Surveys, to which was referred the bill (H. R. 3717) to add certain lands to the Fremont National Forest in the State of Oregon, reported it without amendment and submitted a report (No. 602) thereon.

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

S. 4259. A bill granting the consent of Congress to the Louisville & Nashville Railway Co. to construct, maintain, and operate a railroad bridge across the Ohio River at or near Henderson, Ky. (Rept. No. 603); and

H. R. 11046. An act to legalize a bridge across the Hudson River at Stillwater, N. Y. (Rept. No. 604).

Mr. STEIWER, from the Committee on the Judiciary, to which were referred the following bills, reported them severally without amendment and submitted reports thereon:

S. 1792. A bill to provide for the appointment of an additional district judge for the southern district of California (Rept. No. 605);

S. 1906. A bill for the appointment of an additional circuit judge for the fifth judicial circuit (Rept. No. 606);

S. 3229. A bill to provide for the appointment of an additional district judge for the southern district of New York (Rept. No. 607); and

S. 3493. A bill to provide for the appointment of an additional circuit judge for the third judicial circuit (Rept. No. 608).

Mr. STEIWER also, from the Committee on Claims, to which was referred the bill (S. 1299) for the relief of C. M. Williamson, C. E. Liljenquist, Lottie Redman, and H. N. Smith, reported it with amendments and submitted a report (No. 609) thereon.

Mr. HEBERT, from the Committee on the Judiciary, to which was referred the bill (H. R. 8574) to transfer to the Attorney General certain functions in the administration of the national prohibition act, to create a bureau of prohibition in the Department of Justice, and for other purposes, reported it with amendments and submitted a report (No. 610) thereon.

He also, from the same committee, to which was referred the bill (H. R. 9557) to create a body corporate by the name of "Textile Foundation," reported it without amendment and submitted a report (No. 611) thereon.

Mr. NYE, from the Committee on Public Lands and Surveys, to which was referred the bill (S. 1183) to authorize the conveyance of certain land in the Hot Springs National Park, Ark., to the P. F. Connelly Paving Co., reported it without amendment and submitted a report (No. 612) thereon.

Mr. ROBINSON of Indiana, from the Committee on Pensions, to which was referred the bill (H. R. 11588) granting pensions and increase of pensions to certain soldiers and sailors of the Civil War and certain widows and dependent children of soldiers and sailors of said war, reported it with amendments and submitted a report (No. 613) thereon.

Mr. GOULD, from the Committee on Immigration, to which was referred the bill (H. R. 10960) to amend the law relative to the citizenship and naturalization of married women, and for other purposes, reported it with amendments and submitted a report (No. 614) thereon.

ENROLLED BILL PRESENTED

As in legislative session,

Mr. GREENE, from the Committee on Enrolled Bills, reported that on to-day, May 5, 1930, that committee presented to the President of the United States the enrolled bill (S. 3249) to repeal section 4579 and amend section 4578 of the Revised Statutes of the United States respecting compensation of vessels for transporting seamen.

REPORTS OF NOMINATIONS

As in executive session,

Mr. HASTINGS, from the Committee on the Judiciary, reported the nomination of Robert M. Vail, of Pennsylvania, to be United States marshal, middle district of Pennsylvania, which was placed on the Executive Calendar.

Mr. HALE, from the Committee on Naval Affairs, reported the nominations of sundry officers in the Navy, which were placed on the Executive Calendar.

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

OPERATIONS OF THE FEDERAL RESERVE SYSTEM

As in legislative session,

Mr. DENEEN. Mr. President, from the Committee to Audit and Control the Contingent Expenses of the Senate I report back favorably Senate Resolution 71, submitted by Mr. KING on May 24, 1929, which was referred to the Committee on Banking and Currency, reported by that committee with an amendment, and referred then to the Committee to Audit and Control the Contingent Expenses of the Senate. I ask for the immediate consideration of the resolution.

The VICE PRESIDENT. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution, which had been reported originally from the Banking and Currency Committee with an amendment to strike out all after the word "*Resolved*," and insert:

That in order to provide for a more effective operation of the national and Federal reserve banking systems of the country the Committee on Banking and Currency of the Senate, or a duly authorized subcommittee thereof, be, and is hereby, empowered and directed to make a complete survey of the systems and a full compilation of the essential facts and to report the result of its findings as soon as practicable, together with such recommendations for legislation as the committee deems advisable. The inquiry thus authorized and directed is to comprehend specifically the administration of these banking systems with respect to the use of their facilities for trading in and carrying speculative securities; the extent of call loans to brokers by member banks for such purposes; the effect on the systems of the formation of investment and security trusts; the desirability of chain banking; the development of branch banking as a part of the national system, together with any related problems which the committee may think it important to investigate.

For the purpose of this resolution the committee, or any duly authorized subcommittee thereof, is authorized to hold hearings, to sit and act at such times and places during the sessions and recesses of the Seventy-first and succeeding Congresses until the final report is submitted, to employ such clerical and other assistants, to require by subpœna or otherwise the attendance of such witnesses and the production of such books, papers, and documents, to administer such oaths, and to take such testimony, and make such expenditures as it deems advisable. The cost of stenographic services to report such hearings shall not be in excess of 25 cents per hundred words. The expenses of the committee, which shall not exceed $15,000, shall be paid from the contingent fund of the Senate, upon vouchers approved by the chairman.

The amendment was agreed to.

The resolution as amended was agreed to.

INVESTIGATION RELATIVE TO ADDITIONAL NATIONAL PARKS

As in legislative session,

Mr. DENEEN, from the Committee to Audit and Control the Contingent Expenses of the Senate, reported back favorably without amendment the resolution (S. Res. 252) reported by Mr. NYE from the Committee on Public Lands and Surveys on April 23, 1930, which was read, considered by unanimous consent, and agreed to, as follows:

Resolved, That Resolution No. 316, agreed to February 26, 1929, authorizing and directing the Committee on Public Lands and Surveys to investigate the advisability of establishing certain additional national parks, hereby is continued in full force and effect until the end of the Seventy-first Congress.

BILLS INTRODUCED

As in legislative session,

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

By Mr. KENDRICK:

A bill (S. 4347) granting a pension to Dora Ivey (with accompanying papers); to the Committee on Pensions.

By Mr. SIMMONS:

A bill (S. 4348) for the relief of Charles C. Bennett; to the Committee on Claims.

A bill (S. 4349) granting an increase of pension to Eliza J. Surles; to the Committee on Pensions.

A bill (S. 4350) to provide for the commemoration of the Battle of Fort Fisher, N. C.; and

A bill (S. 4351) to amend the act entitled "An act to enable the mothers and widows of the deceased soldiers, sailors, and marines of the American forces now interred in the cemeteries of Europe to make a pilgrimage to these cemeteries," approved March 2, 1929, as amended; to the Committee on Military Affairs.

By Mr. BARKLEY:

A bill (S. 4352) to amend paragraph (4) of section 1 and paragraph (3) of section 3 of the interstate commerce act; to the Committee on Interstate Commerce.

By Mr. CONNALLY:

A bill (S. 4353) for the relief of the Orange Car & Steel Co., of Orange, Tex., successor to the Southern Dry Dock & Ship Building Co.; to the Committee on Claims.

By Mr. TYDINGS (for Mr. NORBECK):

A bill (S. 4354) granting an increase of pension to Caroline Brunson; to the Committee on Pensions.

By Mr. WALSH of Massachusetts:

A bill (S. 4355) granting a pension to Catherine M. Hayward; to the Committee on Pensions.

By Mr. HATFIELD (for Mr. GOFF):

A bill (S. 4356) granting a pension to Columbia A. Dumire (with accompanying papers); to the Committee on Pensions.

By Mr. NORRIS:

A bill (S. 4357) to limit the jurisdiction of district courts of the United States; to the Committee on the Judiciary.

By Mr. CAPPER:

A bill (S. 4358) to authorize transfer of funds from the general revenues of the District of Columbia to the revenues of the water department of said District, and to provide for transfer of jurisdiction over certain property to the Director of Public Buildings and Public Parks; to the Committee on the District of Columbia.

By Mr. McNARY:

A bill (S. 4359) for the relief of Frederick R. Sparks; to the Committee on Civil Service.

A bill (S. 4360) for the relief of Michael E. Gaffney; to the Committee on Claims.

By Mr. GLENN:

A bill (S. 4361) for the relief of Clarence Joseph Deutsch; to the Committee on Naval Affairs.

By Mr. FRAZIER:

A bill (S. 4362) granting an increase of pension to Emma Bascom (with accompanying papers); to the Committee on Pensions.

By Mr. WATSON:

A bill (S. 4363) granting a pension to Mary A. Daniel (with accompanying papers); and

A bill (S. 4364) granting an increase of pension to Emily Tillison (with accompanying papers); to the Committee on Pensions.

AMENDMENTS TO RIVER AND HARBOR BILL

As in legislative session,

Mr. BLACK submitted an amendment and Mr. McNARY submitted three 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.

AMENDMENTS TO INTERSTATE BUS BILL

As in legislative session,

Mr. GLENN submitted three amendments intended to be proposed by him to the bill (H. R. 10288) to regulate the transportation of persons in interstate and foreign commerce by motor carriers operating on the public highways, which were ordered to lie on the table and to be printed.

AMENDMENT OF OLEOMARGARINE ACT

As in legislative session,

Mr. GOLDSBOROUGH submitted an amendment intended to be proposed by him to the bill (H. R. 6) an act to amend the definition of oleomargarine contained in the act entitled "An act defining butter, also imposing a tax upon and regulating the manufacture, sale, importation, and exportation of oleomargarine," approved August 2, 1886, as amended. which was ordered to lie on the table and to be printed.

STANDARDS FOR FOODS

As in legislative session,

Mr. COPELAND submitted an amendment intended to be proposed by him to the bill (S. 1133) a bill to amend section 8 of the act entitled "An act for preventing the manufacture, sale, or transportation of adulterated or misbranded or poisonous or deleterious foods, drugs, medicines, and liquors, and for regulating traffic therein, and for other purposes," approved June 30, 1906, as amended, which was ordered to lie on the table and to be printed.

THIRTEENTH ANNUAL REPORT OF FEDERAL FARM LOAN BOARD

As in legislative session,

Mr. McNARY submitted the following resolution (S. Res. 257), which was referred to the Committee on Printing:

Resolved, That 3,000 additional copies of House Document No. 212, Seventy-first Congress, second session, entitled "Thirteenth Annual Report of the Federal Farm Loan Board for the Year Ended December 31, 1929," be printed for the use of the Senate Document Room.

BARONIAL ESTATES IN GEORGETOWN COUNTY, S. C.

As in legislative session,

Mr. BLEASE. Mr. President, I ask unanimous consent to have printed in the RECORD an article from the South Carolina Gazette, Columbia, S. C., written by Mr. Charles S. Murray, headed "Baronial Estates in Old South Setting in Georgetown."

There is mentioned in this article much interesting history, including a reference to the home of Governor Alston, the son-in-law of Vice President Aaron Burr.

The home mentioned as being moved from Newberry, S. C., to the plantation of Mr. Sage, formerly belonged to one of my mother's brothers, Mr. J. D. Smith Livingston, and in this home I have enjoyed many a pleasant occasion.

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

[From the South Carolina Gazette, Columbia, S. C.]

BARONIAL ESTATES IN OLD-SOUTH SETTING IN GEORGETOWN

By Charles S. Murray

At the head of the Winyah Bay, 14 miles from the Atlantic Ocean, lies the little city of Georgetown. Caressed by the warm air currents from the Gulf Stream, which provides the region with a climate almost subtropical in its nature, Georgetown and its environs bask in the rays of a friendly sun when its sister citys of the Northland are shivering under blankets of ice and snow.

Where the Black and Sampit Rivers meet and pour their waters into the placid bay nature has provided an ideal setting for a winter resort. Here the yachts of the restless tourists can find a sheltered haven; here hunting expeditions can be staged under the most favorable conditions; here gather thousands of ducks to feed on the wild rice; and here is found exquisite scenery which rivals any on the Atlantic seaboard.

Hoary oaks draped with festoons of Spanish moss, queer twisted grapevines, occasional palmettos, winding paths leading through dense green forests of pine, burnished copper rivers, pale-green marshland, and fine old colonial homes and grounds are a constant delight to the stranger who has only known the coast of South Carolina by reputation, and who admits at once that "the half has never been told."

Described often as a hunter's paradise, Georgetown County has much to offer the sportsman who is looking for new fields in which to display his prowess. Here ducks, quail, wild turkey, doves, rice birds, rail, fox, deer, and other game is found in abundance, and the disciple of Nimrod seldom returns from a day's hunt disappointed.

Deer drives begin the 1st day of September and continue throughout the season; the ducking period is from November to February, while the laws give the hunter an ample opportunity to seek other game. 'Possum hunts are great sport, as attested by members of the winter colony, several of whom have spent the entire night on the trail of these queer little animals. Regular fox hunts are staged from time to time, and turkey and bird shooting have their ardent devotees. The creeks are full of oysters, clams, turtles, fish, and other sea foods.

Georgetown has splendid facilities for boating, tennis, golfing, and motoring. The golf course, situated just outside the city limits, is splendidly laid out and is said to be one of the best in this part of the country. Bridle paths through the pleasant forests beckon the horseman on and on, while graded dirt and sand-clay roads furnish the motorists who are wearied with traffic-jammed highways a welcome diversion.

An airport has recently been established near the city, and although it has not been fully equipped, it provides a landing place for the planes that visit Georgetown occasionally.

A commodious and well-protected seaplane base is located on the bay near the city docks. The thousand miles of navigable streams provide a playground for those interested in water sports. A speed boat can be given full rein around Georgetown.

Georgetown County is rich in romance and history. The town itself is the second oldest in the Carolinas, being settled about 1700 by a band of Englishmen holding grants from the lords proprietors. The city was laid off in 1721 and soon became a port of much activity for the planters in the district, whose indigo and cattle, followed by rice and turpentine, developed a large trade with Great Britain.

Among the old plantations in the county are Belle Isle, now an azalea garden of rare beauty, opened to the public three years ago; Hopsewee, the home of Thomas Lynch, a signer of the Declaration of Independence; Arcadia, where Washington was once entertained, now the home of Isaac E. Emerson; Windsor, once the home of Governor Allston and owned by Paul D. Mills, of New York; and Brook Glenn, the scene of Julia Peterkin's Scarlet Sister Mary.

For the past 15 years or more a number of wealthy northerners have spent the winter months in Georgetown County, many of whom own estates which compare in size to some of the smaller principalities of Europe. Every year several new members are added to the colony, and now the news that some wealthy man has acquired five or six thousand acres of land in this section is no longer regarded as anything out of the ordinary.

Bernard M. Baruch, noted New York financier and native South Carolinian; Isaac E. Emerson, known far and wide as the Bromo Seltzer king; Jesse Metcalf, of New York; and Thomas A. Yawkey, New York millionaire, are counted as the largest landholders in the county. Mr. Baruch holds title to over 20,000 acres, Mrs. Emerson to 33,000, Mr. Yawkey to 15,000, and Mr. Metcalf about the same. These tracts, made up of ante bellum plantations, are all used primarily as hunting preserves, and include highlands, swamps, and abandoned rice fields.

On these preserves are found old plantation homes, remodeled to suit the needs of the new owners, or handsome hunting lodges furnished with every comfort and luxury imaginable.

A list of the winter colonists includes H. L. Smith, of Philadelphia; Mrs. Emory, of Baltimore; Dr. Henry Norris, of Bryn Mawr, Pa.; William E. Ellis, also of Bryn Mawr; R. M. Reeves, of New York; Mrs Susan B. Reeves, of New York; Mrs. Caroline Ramsley, of Wilmington, Del.; John A. Miller, of New York; Allan Wood, 3d, of Bryn Mawr; J. K. Hollis, of New York; Paul D. Mills, of New York; C. W. Tuttle, of Auburn, N. Y.; Don E. Kelley, of New York; E. G. Chadwick, of New York; Willis E. Fertig, of Titusville, Pa.; E. C. Seibles, of New York; J. S. Holliday, of Indiana; D. L. Pickman, of Boston; Vincent Mulford, of New York; B. G. McIntyre, of Edwood, Mo.; and Henry M. Sage, of New York.

Among the newcomers in the community are listed Don M. Kelly, who recently purchased 8,000 acres on the Black River; E. G. Chadwick, who owns "The Wedge"; and Vincent Mulford, who bought the property known as "Bates Hill," containing 10,000 acres, and who has turned his holdings over to the Winyah Gun Club, of which he is a member.

Mrs. Caroline Ramsey, of Wilmington, Del., holds title to part of a large island near the Santee River. She has recently built an airport on her property and frequently makes trips from Wilmington to her southern home in her Bellancha plane. Mrs. Ramsey's plane was the first to alight on the airport at Georgetown.

The four large hunting clubs which control thousands of acres of the finest hunting preserves in the county are widely known, since their membership rolls include some of the wealthiest men in America. John Philip Sousa, Tris Speaker, and other notables have been entertained at these clubs in recent years. Among the members are William N. Beach, Marcus Dailey, C. C. Meyer, and W. J. Knapp, all of New York.

The Santee Club, situated in the heart of the Santee section, the Winyah Club, near the Peedee River, and the Kinlock Gun Club, near the Santee, conclude the list of hunting clubs in the section. The lodges are the last word in comfort and are equipped with everything that a sportsman could possibly need. Furnished in rustic style, with heavy crossbeams, and fireplaces that can burn 4 or 5 foot logs, these lodges compare in magnificence with any in the South. They all have their own electric and refrigerating plants.

Mr. Baruch arrived in Georgetown several weeks ago and will probably spend the entire winter at "Hobcaw Barony." Only the most urgent business can make Mr. Baruch tear himself away from his estate during the months of December, January, and February. He never tires of talking about the climate of the South Carolina coast, which he styles "the best in the world."

Mr. Emerson has been at "Arcadia" since the 1st of December. He seldom visits Georgetown for he finds his plantation home too engrossing. He entertains constantly and on a lavish scale.

Last year Mr. Emerson brought his million-dollar yacht to Georgetown and for a month or more it plied between his home on the Waccamaw River and Georgetown on errands for its owner. This craft was built in Germany during the spring of 1928, and was used by Mr. and Mrs. Emerson while cruising the waters of southern Europe last summer.

Mr. and Mrs. Paul D. Mills took up their abode in their Georgetown dwelling after the Thanksgiving holidays. They had as their guests for a few days Mr. and Mrs. Ector Munn, of New York.

About a year and a half ago Mr. Mills purchased the old Mills house, in which legend has it Washington was once entertained. The house, which had fallen into ill repair, was remodeled and enlarged, but Mr. Mills was careful to preserve every board that could be salvaged. The wainscoting in the mansion is particularly fine, and every piece has been replaced.

Mr. Mills is also owner of "Windsor" plantation on the Black River.

Mr. and Mrs. Henry M. Sage, who have leased Belle Isle Garden for a period of 10 years, have moved a century old colonial house from Newberry, S. C., to the garden site. They have been spending the holidays at Belle Isle with a number of friends.

The Taylor property, situated in the city near the Mills residence, has been acquired by Paulding Fosdick and Harold Sands, of New York. The house has been remodeled and Mr. Fosdick has made extensive improvements on the water front.

Mr. and Mrs. Jesse Metcalf are now occupying their hunting lodge at Hasty Point, located a few miles south of Georgetown. Last season

Mr. and Mrs. Metcalf had as their guests Dr. Henry Chapman, of the American Museum of National History; Dr. Gilbert Parsons, president of the Audubon Society, and Miss Rachel Rouser, of New York.

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. OVERMAN. Mr. President, very little has been said about the remarkable career of Judge Parker on the Court of Appeals. It has not been mentioned much except by the able Senator from Rhode Island [Mr. HEBERT], who discussed it somewhat when there was a very small attendance of Senators. A lawyer has made a statistical analysis of the decisions by Judge Parker which I think Senators ought to hear. Out of 184 cases heard by the court, he wrote 100 of the opinions. I ask that the statement may be read at the desk.

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

The Chief Clerk read as follows:

JUDGE PARKER'S DECISIONS—SOME OF THE IMPORTANT CASES IN WHICH HE HAS WRITTEN OPINIONS

To the EDITOR OF THE NEW YORK TIMES:

It has been suggested by a few that the judicial career of Judge Parker has not been sufficiently "outstanding." It is worth while, therefore, to consider it briefly.

Appointed by President Coolidge to the bench of the United States Circuit Court of Appeals for the Fourth Circuit in October, 1925, the first decision in which Judge Parker participated was handed down November 23 of that year, and the first case in which he wrote the opinion of the court was decided January 12, 1926. In a little over four years he has participated in the decisions of hundreds of cases, having actually written the opinions of his court in no less than 150 litigations. They cover a large and varied field of legal subjects. These include such topics as admiralty, adverse possession, bankruptcy banks, bills and notes, carriers, colleges (liability of for torts), contracts, corporations, counties, courts, criminal law, eminent domain, fraudulent conveyances, injunctions, insurance, interstate commerce, labor litigation, municipal corporations, negligence, patents, police power, practice and procedure, principal and agent, prohibition, railroads, rate regulation, sales, search and seizure, suretyship, taxation, trespass.

Judge Parker was the author of the opinion in the case of Ettlinger against the Trustees of Randolph-Macon College, in Virginia, in which had been asserted the liability in damages of that institution for injuries to a student who had jumped from the window of a burning building, involving the responsibility of educational institutions generally for the negligence of their officers and employees. In this case Judge Parker decided that a nonstock corporation, operating an educational institution without expectation of profit, acquiring the property through charitable gifts and bequests and charging less than cost for board and tuition, was an eleemosynary organization, and as such was not liable for injuries to a student because of the negligence of the officers, agents, or servants of the institution.

Another interesting case, involving originality in the application of old principles to new conditions, turned upon the contention that the death of one insured under an accident policy, which resulted from drinking what was supposed to be an ordinary gin cocktail, but which in reality contained wood alcohol, was a consequence of an accidental cause within the purview of the policy. The affirmative of this proposition was sustained by Judge Parker.

In a prosecution for selling intoxicating liquor pursuant to a plan for entrapment, the defendant, informed of the designs of the prohibition-enforcement officers, accepted the money, but delivered a jar of water instead of liquor. It was urged on the part of the United States that because the defendant had accepted the money which was paid, agreeing to deliver intoxicating liquor in return, he was guilty of a violation of law, though liquor was not in fact delivered. But "the offense of illegally selling liquor," ruled Judge Parker, "is not committed by a bargain or executory contract for a sale."

In his opinion in "search and seizure" cases Judge Parker has frequently upheld the liberty of the individual. "The rights guaranteed by the fourth amendment are not to be encroached upon or gradually depreciated by the imperceptible practice of courts or by well-intentioned but mistakenly overzealous executive officers," announced Judge Parker.

But where the evidence has fairly shown a violation of the national prohibition act Judge Parker has been for strict enforcement. Thus in a case which arose in West Virginia, Judge Parker sustained the forfeiture of an automobile proved to be the property of a wife living with her husband, where the vehicle had been used in the transportation of intoxicating liquor by the husband under circumstances which were suspicious as to the wife's knowledge or connivance.

Then, too, Judge Parker's court, in judgments in which he has concurred, has decided cases for as well as against organized labor. In one such case it was held that the officers of a labor union would not be bound by a decree of injunction issued some years previously against their predecessors in office, determining the rights of parties as of that time. In this case (decided in 1926) it was also declared that an injunction against labor-union officials would not be deemed to prohibit the use of lawful propaganda to increase union membership.

It is interesting also to consider that the official reports of decisions indicate a surprisingly small number of cases in which Judge Parker wrote the opinions for his court which have been reversed on appeal to the United States Supreme Court. In fact, only two such examples have been noted, and of these one was not reversed on the merits but because, though the controversy had become academic, an injunction was still in existence and, as the Supreme Court said, "to dismiss the appeals would leave the injunction in force." The only other reversal of a case in which Judge Parker wrote which has come to my attention was where Judge Parker had decided that a Federal intermediate credit bank could not maintain an action in a district court of the United States, the act of Congress under which the bank was organized providing that the bank, for the purposes of jurisdiction, should be deemed a citizen of the State where it is located. There was strong analogy from decided cases for this position.

Judge Parker's judicial record is significant in another respect. There have been extremely few dissenting opinions by the other members of the circuit court of appeals in cases in which Judge Parker has written the opinion of the court. In fact, only one such example has been observed, and on this occasion, on appeal to the United States Supreme Court, Judge Parker's opinion was sustained.

Judge Parker also wrote for a unanimous court the opinion in the very important case of the United States against Virginia Shipbuilding Corporation, sustaining a judgment in favor of the United States and against that corporation and one of its subsidiaries for an amount which, including interest, was over $16,000,000.

LAWYER.

NEW YORK, *April 28, 1930.*

Mr. BLEASE. Mr. President, I ask to have read at the desk the telegram which I send forward.

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

The Chief Clerk read as follows:

DETROIT, MICH., *May 2, 1930.*

COLE. BLEASE,

Care United States Senate:

You were right when you said Parker last hope of South because colored people have blocked his appointment, and we will defeat every other office seeker from States who deny our people full racial equality. We demand judges who will repeal election laws like those in South Carolina.

DETROIT COLORED PEOPLES' UNION.

Mr. BLEASE. Mr. President, in connection with the nomination of Judge Parker I desire to read a brief extract from an editorial in the New Leader of the issue of April 26, 1930, as follows:

When the leadership of the National Association for the Advancement of Colored People stirred the negro voters in every corner of the country with an exposé of Parker's enmity to the political freedom of their race the G. O. P. leaders wrung their hands. The 10-6 vote in the Senate Judiciary Committee rejecting Parker was made inevitable by the protest of these two elements.

I had inserted in the RECORD April 18, 1930, a letter addressed to President Hoover in reference to Judge Parker. I now ask that letter of Carl Murphy, president of the negro paper, Afro-American, be published in the RECORD.

BALTIMORE, MD., *April 25, 1930.*

Senator COLEMAN BLEASE,

Senate Office Building, Washington, D. C.

SIR: I am sending you under separate cover this week the April 29 issue of the Afro-American containing excerpts of editorials on the Parker confirmation from 13 negro weeklies and a list of 36 individuals and organizations throughout the country who have sent in protests against Judge Parker.

We have also marked an editorial in the Afro-American on the subject.

We sincerely hope the Parker confirmation will be voted down.

Very respectfully yours,

THE AFRO-AMERICAN CO.,
CARL MURPHY, *President.*

I also ask unanimous consent to have printed in the RECORD a few newspaper articles and editorials. The first is an article from the Afro-American headed "Whole Country Stirred Against Judge Parker"; another is an editorial from the New Leader, a socialist newspaper published in New York, headed "The Parker Battle; a Fine Fight"; also an editorial from the same paper headed "Judge Parker," of the issue of Saturday,

April 26, 1930; and an editorial from the Detroit Free Press of Friday, April 25, 1930, entitled "Senatorial Courtesy."

Mr. President, I wish to call especial attention to the statement in the article herein inserted from the Afro-American, a negro paper, page 3, column 4, April 26, 1930, which says:

DE PRIEST busy. Representative OSCAR DE PRIEST has been busy all the week lining up Senate votes against Judge Parker.

The VICE PRESIDENT. Without objection, the article and editorials will be printed in the RECORD.

The article and editorials are as follows:

[From the Afro-American of April 26, 1930]

WHOLE COUNTRY STIRRED AGAINST JUDGE PARKER—BARRAGE OF PROTESTS DESCENDS UPON CONGRESS FROM ALL QUARTERS—DE PRIEST BUSY—CONGRESSMAN LINES UP VOTES IN SENATE

NUTTER ASKS WATSON FOR PUBLIC VOTE

Senator JAMES WATSON,
Washington, D. C.:

The negroes of New Jersey are unalterably opposed to the confirmation of Judge Parker. If confirmed, we will seek revenge at the polls in the next general election. A Republican Senator can not be elected in New Jersey with the negro vote against him, particularly when he is dry.

President Hoover read the negro out of the party, tried to imprison Perry Howard and other negro leaders, and now he is trying to condone disfranchisement and lynching by the appointment of Judge Parker on the United States Supreme Bench.

We appeal to you to vote against his confirmation because you have been our friend and a friend of justice. Give us a public vote so we may count noses. We await your verdict.

ISAAC H. NUTTER.

ATLANTIC CITY, N. J.

WASHINGTON.—The Senate Judiciary Committee voted 10 to 6 Monday to report unfavorably the nomination of Judge John J. Parker, of North Carolina, to be Associate Justice of the United States Supreme Court.

After a long debate the committee voted 10 to 4 to reject Senator OVERMAN'S motion to invite Judge Parker to explain his labor decision and alleged utterances concerning negroes.

The vote on the report was as follows:

THEY VOTED RIGHT

Republicans: Borah, Idaho; Blaine, Wisconsin; Deneen, Illinois; Robinson, Indiana; Steiwer, Oregon; Norris, Nebraska.

Democrats: Ashurst, Arizona; Caraway, Arkansas; Dill, Washington; Walsh, Montana.

THEY VOTED WRONG

Republicans: Hastings, Delaware; Gillett, Massachusetts; Hebert, Rhode Island; Waterman, Colorado.

Democrats: Overman, North Carolina; Stephens, Mississippi.

NEW YORK.—What has developed into one of the bitterest of nationwide political struggles is being led by the National Association for the Advancement of Colored People against President Hoover's surrender to the South in the name of Lily White Republicanism by insisting upon his nomination of Judge John J. Parker, of North Carolina.

The National Association for the Advancement of Colored People opposition to Judge Parker is based squarely upon his flouting of the fourteenth and fifteenth amendments to the United States Constitution, and on his being unfit therefore to sit on the highest tribunal of the Nation.

The New Telegram Saturday published a pool showing that the present line-up of Senators is 45 against to 44 in favor of Parker.

QUAKERS PROTEST

The Society of Friends in Philadelphia (Quakers) have officially notified the National Association for the Advancement of Colored People that they have written to President Hoover and to all Senators opposing the Parker nomination.

Many thousands of telegrams and letters are pouring in upon Washington from all parts of the United States denouncing the attempt to make appointment to the United States Supreme Court the football of partisan politics. Every branch of the National Association for the Advancement of Colored People throughout the country, particularly those in the northern and border States, is actively enlisting all possible aid.

Speaking of the National Association for the Advancement of Colored People campaign, the Washington correspondent of the Christian Science Monitor writes: "This is the first time that the negro in an organized campaign is making himself felt in a powerful political manner. That this influence will be exercised in many other matters henceforth is regarded as inevitable."

RAISE CRY OF COMMUNISM

An attempt is now being made by those forces in the South who are supporting President Hoover to raise the cry of "Communism among negroes" in order to discredit those who are seeking to uphold the standards of the United States Supreme Court and the sanctity of the Federal Constitution by opposing the seating on the Nation's supreme tribunal of a man who, like Judge Parker, would advocate disfranchising the negro for political advantage.

WHAT PARKER SAID

Judge Parker is quoted as having made statements in 1920, which he has not yet denied or repudiated. The Greensboro Daily News of April 19, 1920, quotes him as follows:

PARKER'S VIEWS IN 1920

"The Republican Party in North Carolina has accepted the amendment in the spirit in which it was passed and the negro has so accepted it. I have attended every State convention since 1908 and I have never seen a negro delegate in any convention that I attended. The negro as a class does not desire to enter politics. The Republican Party of North Carolina does not desire him to do so.

"We recognize the fact that he has not yet reached that stage in his development where he can share the burdens and responsibilities of government. This being true, and every intelligent man in North Carolina knows that it is true, the attempt of certain petty Democratic politicians to inject the race issue into every campaign is most reprehensible.

"I say it deliberately, there is no more dangerous or contemptible enemy of the State than men who for personal or political advantage will attempt to kindle the flame of racial prejudice or hatred * * * the participation of the negro in politics is a source of evil and danger to both races and is not desired by the wise men in either race or by the Republican Party of North Carolina."

WARNING ISSUED

The National Association for the Advancement of Colored People issued a warning that reliable informants have given information of pressure being brought on negroes, officeholders, and others to indorse Judge Parker.

Every negro church, lodge, woman's club, and individual is urged to telegraph at once to his United States Senators urging a vote against Judge Parker.

SENATOR FESS CHALLENGED

The National Association for the Advancement of Colored People to-day telegraphed Senator FESS, of Ohio, administration spokesman, asking him what negroes of any importance had indorsed Judge Parker, pointing out that Doctor Shepard is president of a State school supported by State funds, and citing 181 affidavits of outstanding negro citizens of North Carolina opposing Judge Parker, and directly challenging Senator FESS whether he believes in enforcement of all amendments to the Constitution.

SEVEN STUDENTS WIRE PROTEST

Seven southern colored and white students from the Brookwood Labor College, at Pocana, N. Y., wired Senator NORRIS Monday protesting the Parker appointment on the ground of his labor record and race prejudice.

WHITE IN WASHINGTON

Walter White, secretary of the National Association for the Advancement of Colored People, was in Washington this week and said that protests from all parts of the country against the Parker nomination were coming in.

He also announced the receipt of a telegram from Senator NORRIS asking for a photostat copy of the newspaper report of the speech made by Judge Parker 10 years ago when he cast aspersions upon negroes as voters.

DE PRIEST BUSY

Representative OSCAR DE PRIEST (Republican, Illinois) has been busy all the week lining up Senate votes against Judge Parker.

It is understood that Senator OTIS F. GLENN (Republican, Illinois) is opposed to the Parker nomination and that Senator CHARLES S. DENEEN (Republican, Illinois), a member of the Judiciary Committee, has not committed himself.

JUDGE PARKER IS 44

Judge Parker, of the fourth United States circuit district, is 44 years old and weighs 200 pounds. He was a Democrat until 1908, when he changed over into the Republican Party. He was defeated for Congress and defeated for governor in 1920, announcing in all his speeches that he never wanted any negro votes and he would be happy if they would vote the Democratic ticket.

His Democratic opponent was an organizer of the Red Shirts, the antinegro institution founded by Senator SIMMONS, whose business it was to frighten all colored people away from the polls.

He lost the governorship by more than 77,000 votes, but President Coolidge gave him a commission as judge.

WHITE PRESS DIVIDED

Washington newspapers are divided. The Washington Post favors Parker. The Washington Daily News is opposing Parker, and the Washington Star, as usual, is neutral.

HARD SUMS UP SITUATION

William Hard, white news man, described the situation this week as follows:

First. The Republican presidential campaign managers of 1928 discarded all efforts to please negroes in favor of efforts to please southern whites.

Second. The existing Republican administration has appointed virtually no negroes to office.

Third. The negro division of the national committee under John R. Hawkins has been closing down.

Fourth. John J. Parker, of North Carolina, accused of opposing negro participation in politics, has been nominated to be a justice of the Supreme Court of the United States.

According to Hard, the Parker appointment is of minor importance and yet is significant because it is a match which sets a heap of previous discontent on fire. In other words, it is the straw which breaks the camel's back.

PRESS ON PARKER

INSULTS TO THE NEGRO

"Mr. Hoover seems to have gone far afield to add insult to injury to the negro, most loyal supporter of his party.

"In his zeal to compensate the white South for its recent wholesale entry into Republican ranks, and his endeavor to hold them, the President has stopped at nothing short of contempt toward the negro wing of the party."—Boston Chronicle.

DARE NOT CONFIRM

"We dare not confirm Judge Parker. We must seek another man whose mind is free from racial and religious prejudices."—Chicago Bee.

HIS OWN RACE

"Not only negroes are demanding the rejection of Parker but a vast number of citizens of his own race are raising a protest against him."—Indianapolis Recorder.

PRESIDENT'S DISREGARD

"If ever there was evidence of a President's disregard for opinion and welfare of a great number of his constituents, it is being shown in this particular case."—Chicago Defender.

TAKEN FOR A RIDE

"It begins to look as though the North Carolina politician might be taken for quite a ride before he is firmly seated on the Supreme Bench. Perhaps after a few more trys President Hoover may come to consider the desirability of nominating to the Supreme Court a genuinely intelligent and liberal jurist."—New York Nation (white).

WOULD NULLIFY FIFTEENTH AMENDMENT

"The nomination of Judge Parker acquires special importance from the fact that if he is confirmed Republicans will have openly condoned the nullification of the fifteenth amendment."—Philadelphia Record (white).

WHOSE AMENDMENT IS GORED

"It all depends upon whose amendment is gored. President Hoover has hardly strengthened his appeal for observance of all laws, willy-nilly, by nominating for the Supreme Bench a gentleman who has openly advocated the practical nullification of the fourteenth and fifteenth amendments."—Heywood Broun (white), Scripps-Howard newspapers.

SOCIAL EQUALITY

"For Judge Parker to be defeated because of his common-sense view on the subject of complete social and political equality between the races would be in the nature of a disgrace."—Richmond (Va.) Times-Dispatch (white).

HELL-RAISING VAMPIRE

"The qualified negro voters of North Carolina do not appear to have resented the views of Judge Parker but are reported to have voted strongly for him as the Republican candidate for governor.

"It is the hell-raising political vampires of New York and Boston who are fighting the Parker combination purely on color-line contention."—Atlanta Constitution (white).

TWO GREAT MINDS

"Judge John J. Parker, of North Carolina, does not think the negro has reached the stage in his development where he should participate in politics.

"Two great minds seem to be running in the same channel. The negro does not think that Judge Parker has reached the place in his development where he should be allowed to sit on the Supreme Bench."—Black Dispatch, Oklahoma City, Okla.

DEMAND A SHOWDOWN

"Yes; the negro must have a showdown with President Hoover. Yes; the President wants to pay North Carolina for her electoral vote. What about the electoral vote made possible by the negro in Missouri, Pennsylvania, West Virginia, Ohio, Kentucky, Tennessee, and New York? We have not as yet heard of any reward."—Kansas City American.

UNCLE TOMS

"Dr. James E. Shepard, of Durham, N. C., indorses Judge Parker for the Supreme Court in spite of the fact that Parker is opposed to negroes participating in politics.

"This is so much like Prof. Kelly Miller's apology for the President's failure to appoint an Afro-American member to the Haitian commission that the two ought to be known as 'Uncle Toms.'"—Cleveland Gazette.

SOUTHERNERS AS JUDGES

"Because of their deep-seated racial prejudice and bias, very few southern men have been made members of the United States Supreme Court; for a judge must be free from racial antipathy and intolerance as it is humanly possible to be, and the southern atmosphere does not breed this species of jurists to any marked degree."—Houston (Tex.) Informer.

BADLY ADVISED

"President Hoover, we believe, has been taking some very bad advice on racial matters. Some one has evidently persuaded him that the southern way of handling colored people is the better way. Nothing is more plain from the trouble and turmoil that attend race relations in the South than that the southern way is the wrong way.

"We can not help believing that the Quaker and engineer is sound at heart on the race question. We are convinced, however, that he should get a new set of friends and consultants."—New York News.

JUDGE PARKER IS UNFIT

"In the confirmation of Judge Parker the United States Senate will say to the 15,000,000 or more negroes in America that it does not believe in that part of the Constitution which gives the negro a right to participate in politics."—The Carolina Times, Durham, N. C.

THE NEGRO TREMBLES

"It does not take a United States Senator to know or believe that such a man as Judge Parker has not the proper judicial temperament for a seat on the Supreme Court Bench. The most ignorant and illiterate negro would tremble to think his case lay in the hands of the author of such sentiments."—Louisville News.

NATIONAL ASSOCIATION FOR THE ADVANCEMENT OF COLORED PEOPLE ON THE JOB

"More power and influence to the National Association for the Advancement of Colored People, the guardian of our citizenship rights. Join the local branch to-day, and thereby help answer your prayers."—St. Louis (Mo.) Argus.

PARKER IS UNFIT

"A Lincoln lost the Senatorship from Illinois for principle's sake, and became President. A Parker sought a governorship by subverting principle and will lose a Supreme Court judgeship."—Kansas City Call.

NATIONAL BAR ASSOCIATION FIGHTS PARKER

PHILADELPHIA.—Senator JOSEPH R. GRUNDY has been asked by the National Bar Association, composed of 300 colored attorneys, to vote against confirmation of Judge John J. Parker, of the North Carolina Supreme Court, as Associate Justice of the United States Supreme Court. Raymond Pace Alexander is president of the association.

Mr. Alexander wrote:

"Pennsylvania is now waging a great political battle in which the Senate seat, of which you are now the holder, is in dispute. The colored people of Pennsylvania are anxiously awaiting your decision and your vote on the confirmation of Judge Parker's name. We trust you will give due respect to the 300,000 negroes of Pennsylvania, your constituents."

Mr. GRUNDY, in reply, which also was made public by Alexander, said:

"When this nomination comes up in the Senate any opposition that may develop to it will, of course, be discussed pro and con, and, in casting my vote, I shall be guided by the facts as brought out in the discussion at that time, and as disclosed by such study and consideration as I may be able to give the matter in the meanwhile.

"I am very glad to have the views of your association, and shall bear them in mind in reaching a conclusion."

WHY LABOR IS OPPOSED TO JUDGE PARKER

Organized labor is opposed to Judge John J. Parker for the United States Supreme Court because he granted an injunction which the United Mine Workers of America opposed.

This injunction declared in effect that a so-called "yellow-dog" contract is valid. A "yellow-dog" contract, in the language of organized labor, is one under which men are employed on condition that they will join no labor union.

The employer thus takes advantage of a job-seeker's distress to force a surrender of his rights. Labor claims that a "yellow-dog" contract is signed by the worker who is forced to do it in order to gain employment and assure food and shelter for himself and family.

While labor has fought Judge Parker, the New York Evening Post says that the negro opposition and the balance of power which the

negro vote in several States have caused the opposition to grow to a point that led William Green, president of the American Federation of Labor, to say that a canvass of the Senate showed that Judge Parker would be defeated.

COMMITTEE GETS 36 PROTESTS AGAINST PARKER, ONLY THREE BOOSTS

WASHINGTON.—In addition to the letter of indorsement from Doctor Shepard, president of the North Carolina College for Negroes, only two other negroes hastened to the defense of Judge Parker, filing letters urging his confirmation with the Senate Judiciary Committee.

The first is from one M. K. Tyson, who signs himself as the national executive secretary of the National Association of Negro Tailors, Designers, and Dressmakers, Raleigh.

The other is from Dr. Hubert H. Craft, of Monroe, was sent to Senator OVERMAN, and claims to carry with it the prayers of the colored people of Monroe for the confirmation of Judge Parker.

Among the protestants are the following:

National Association for the Advancement of Colored People, Walter White, acting secretary.

William T. B. Hill, American Legion, Philadelphia.

East End Political Club, Cleveland, Ohio, Claybourne George, president.

Committee on race relations, Society of Friends, Ruth Verlenden Poley and Robert Gray Taylor, cooperating chairmen, Philadelphia.

Independent Order of Elks of the World and the civil liberties committee, by Robert J. Nelson.

Judge Haynes Holmes, Community Church, New York City.

Kansas City (Mo.) branch National Association for the Advancement of Colored People, John L. Love, president.

Baltimore African Methodist Episcopal Preachers' Meeting, J. E. Lee, chairman.

Parsons (Kans.) branch National Association for the Advancement of Colored People, Scott Williams, president.

Park Street African Methodist Episcopal Church and citizens of Marion, Ohio, by Rev. G. F. Cooper.

W. M. Trotter, Boston, Equal Rights League.

The Afro-American Co., Carl Murphy, president.

William H. Harris, Athens, Ga.

Roxbury Civic Club, George L. Gordon.

Brookwood Labor College, Katonah, N. Y.

The Bloomington and Normal branch National Association for the Advancement of Colored People, P. Henderson, secretary.

Roberts Deliberating Club, Youngstown, Ohio.

Chicago branch National Association for the Advancement of Colored People, Dr. Herbert A. Turner, president.

H. H. Taylor, chairman Negro Republican Party, on behalf of 750,000 North Carolina negroes.

Communist Party of the United States Majority Group, Benjamin Gitlow, secretary.

Massachusetts Women's Club, Mrs. Minnie T. Wright, president.

Henry F. Arnold, Baltimore.

Heman F. Whaley, superintendent New York State Department of Labor.

Lodis E. Austin, editor Carolina Times, Durham, N. C.

Elizabeth Glendower Evans, Brookline, Mass.

R. McCants Andrews, Durham, N. C.

International Labor Defense, national office, J. Louis Engdahl, general secretary.

Bishops, general offices, finance board and church extension board of the African Methodist Episcopal Church.

John L. Finch, Lexington, N. C.

Calvin Lane, New York.

Miss Mary W. F. Speers, Washington, D. C.

A. J. Bradley, Troy, N. Y.

Edward H. Butts, Huntington, W. Va.

Robert N. Owens, St. Louis, Mo.

L. E. Graves, president Raleigh Emancipation Society.

E. D. W. Jones, bishop seventh Episcopal district, African Methodist Episcopal Zion Church.

Hulett S. Pankey, Brooklyn, N. Y.

Helen Foss Wood, Wynnewood, Pa.

Murray Schwager, New York.

Omaha Guide, representing 30,000 colored citizens of Omaha, Nebr.

More than 100 affidavits filed with the committee that Judge Parker, in 1920, made speeches, and was quoted in the press of the State in utterances inimical to the political rights and prerogatives of qualified negro electors, which statements have never been denied. Signed by J. H. Johnson, Hercules Smith, W. H. Hannum, Charles L. Rouse, Le Roy Cheshire, J. D. Richards, Walter J. Hughes, John W. Haygood, of Salisbury, and 114 others from Durham, Evansville, Halifax, New Hanover, Orange, and Wilson Counties, N. C.

Quite a large number of other protests have been filed by colored citizens and organizations with the several Senators, which to date have not been assembled in the files of the committee, and are therefore not included in this list.

[From the New Leader, of April 26, 1930]

THE PARKER BATTLE—A FINE FIGHT

Not for a long time has there been anything in Washington more encouraging than the piling up of public, and hence of senatorial sentiment, against the confirmation of John J. Parker to the Supreme Court Bench which has usurped to itself such enormous powers of social legislation. Every shade and faction of labor is united on this issue. The colored citizens of America have found their voice. If the thing keeps up the man who wanted to exclude negroes from the political life of his State, * * * will not be confirmed. May not this success hearten us to further efforts and show once more what solidarity of action can do?

[From the New Leader, of Saturday, April 26, 1930]

JUDGE PARKER

Rejection by a Senate committee of the nomination of Judge Parker to the Supreme Court is a distinct victory for the forces opposed to present reactionary trends. Those who share in this victory are the trade unions, the socialists, and organizations for the protection of negroes against discrimination. Whether President Hoover will risk a fight for his choice by forcing the issue in the Senate is doubtful as certain reactionary Senators are against him.

We wish that we could say that the adverse report against Parker was prompted by opposition to his reactionary views, but a candid consideration of the facts makes this impossible. Political considerations, not disagreement with Parker's reactionary views, induced the reactionary members of the committee to vote against Parker. This is a year of congressional elections, and with the prosperity bladder sadly deflated G. O. P. leaders have no desire to invite special opposition from two sources.

* * * * * * *

[From the Detroit Free Press of Friday, April 25, 1930]

SENATORIAL "COURTESY"

In reporting adversely on the nomination of Judge John J. Parker to be Associate Justice of the Supreme Court of the United States without offering the judge a chance to appear and reply to the attacks of his foes, the Judiciary Committee of the Senate lays itself directly open to a charge that it has been guilty of cowardice and gross unfairness.

The finding of the committee is made on the basis of ex parte testimony, the person under scrutiny being denied his day in court and shunted aside as one beneath consideration. Such treatment would not be given the most wretched criminal in any responsible court in the United States. We doubt whether any company of legislators except a company of Senators would be guilty of such gross violation of decency and individual rights.

Beside being unfair to Judge Parker the conduct of the Judiciary Committee is an affront to the whole body of the Senate. We do not see how Members having a sense of duty and a realization of what they owe to themselves as men can do otherwise than demand that its report be ignored in disposing of the nomination at issue unless the committee consents to withdraw its present findings and give Judge Parker the courtesy and opportunity to which he is entitled.

Mr. GLENN. Mr. President, I send to the desk a telegram which I have received from John L. Lewis, president of the United Mine Workers of America, and a letter from Van A. Bittner, chief representative of the United Mine Workers of America in northern West Virginia, which I ask may lie on the table and be printed in the RECORD.

There being no objection, the telegram and letter were ordered to lie on the table and to be printed in the RECORD, as follows:

HAZLETON, PA., *May 4, 1930.*

Hon. OTIS F. GLENN,
Senate Office Building, Washington, D. C.:

Our country is the only civilized Nation where citizens are prevented by judicial decree from joining the trade union of their choice. Under the Red Jacket decision, written by Judge Parker, 312 coal companies in southern West Virginia successfully prevent their 50,000 employees from joining the United Mine Workers of America. Even under English law, so freely quoted by many of our jurists, such an outrageous application of the injunctive writ would be impossible. It is no defense of Judge Parker for Senators to assert that in writing the Red Jacket decision he merely followed the precedent created by the Supreme Court in the Hitchman decision, which validated "yellow-dog" contracts. No Senator has justified either the Hitchman decision or the "yellow-dog" contracts. If the Hitchman decision is subversive of human rights and intrudes wantonly upon the privileges of citizens, it does not necessarily follow that Judge Parker should be confirmed because he blindly adheres to this principle. Both the "yellow-dog" contracts and the Red Jacket decision of Judge Parker are repugnant to millions of Americans who have every earnest desire to preserve our American institutions. One of the best ways to preserve those institutions is to have them

function in a manner that accords justice and extends protection to all of our citizens. The workers of this country recognize in Judge Parker a judicial enemy, and with every respect to the United States Senate I assert that the confirmation of Parker will be in the highest degree destructive of confidence and harmful to the influence of the judicial and legislative branches of our Government.

JOHN L. LEWIS.

WASHINGTON, D. C., *May 2, 1930.*

Hon. OTIS F. GLENN,
United States Senate, Washington, D. C.

DEAR SENATOR GLENN: In a speech made yesterday by Senator HATFIELD, of West Virginia, urging the confirmation of Judge Parker as Associate Justice of the Supreme Court, the attitude of the United Mine Workers of America bringing the miners of West Virginia in the union and the position of our organization against the so-called "yellow-dog" contract was attacked.

Senator HATFIELD said: "There has never been any major labor controversy between the miners of West Virginia and the producers of West Virginia coal, except such controversies as have been incited by competitors and producers of coal from other States. The mine workers and operators of West Virginia entered into a contract providing that the employees in the West Virginia mines would not join the union during their term of employment. This situation was brought about, I am told, by the reported coalition between the United Mine Workers and the central competitive operators in an effort to curtail the mining industry of the State of West Virginia, and because of this combination the nonunion coalition developed, which furnished the basis for the Red Jacket case."

The best evidence to refute this statement is a report of the committee of the United States Senate that investigated conditions in the coal mines of West Virginia in 1913, and again the investigation of the Interstate Commerce Committee of the United States Senate as to conditions in the West Virginia coal fields in 1928.

The records of the United Mine Workers of America, since the inception of the organization, prove beyond peradventure of doubt that the only purpose of the United Mine Workers of America in organizing the mine workers of West Virginia is to improve the standard of living of the miners and their dependents.

Referring to the wages of the miners of West Virginia, Senator HATFIELD said: "The coal miner in West Virginia is the highest paid mine worker in America, notwithstanding the handicap of the industry, according to statistics I have which I will discuss briefly."

This contention is disproven by the facts developed during the investigation of conditions in the coal-mining industry by the Interstate Commerce Committee of the United States Senate in 1928.

Under nonunion conditions enforced by the "yellow-dog" contract, protected by injunctive writ upheld by Judge Parker in the Red Jacket case, the miners of West Virginia are virtually enslaved. A starvation wage basis is in effect. Just a few weeks ago in a public school in the Scott's Run coal field in West Virginia, out of a total of 52 school children, it was necessary to dismiss 28 pupils due to the fact that they were undernourished to such an extent that it was impossible for them to pursue their studies.

The prevailing wage rates for the larger coal fields of West Virginia are $4 per day for work inside the mines and $2.08 per day for workmen employed on the outside and for labor around coal mines. The 8-hour day has been destroyed.

Notwithstanding the law of West Virginia gives miners the right to elect checkweighmen for the purpose of protecting the weight of the coal which they mine, there are practically no checkweighmen on the mine tipples, and coal companies take the definite position that if the miners elect checkweighmen they will close the mines.

Accident rates in the mines of West Virginia are mounting at an awful rate, due to the demoralized condition of the coal-mining industry as a result of the destruction of the stabilizing influence of the United Mine Workers of America. On January 16, 1930, addressing the Panhandle Coal Mining Institute, Robert M. Lambie, chief of the West Virginia Mining Bureau, said:

"The mine accident rate in West Virginia was mounting, and ascribed the condition to the fact operators were prevented from providing proper supervision and inspection because of the economic situation confronting the industry. Coal mining is the only major industry in the world that was not on a stable basis, with no set price for coal and no set price for labor."

Violence, intimidation, and starvation were the very forces used to compel the miners of West Virginia to sign the "yellow-dog" contracts. The injunction upheld by Judge Parker in the Red Jacket case in effect legalizes this form of violence, intimidation, and starvation.

Coal miners of this country have faith in our American institutions. Ours is the greatest Government on the face of the earth, but we must remind you that industrial liberty is destroyed in the mining fields by the enforcement of the "yellow-dog" contract.

Therefore, in the name of the miners and their dependents in West Virginia, we urge upon the Senate of the United States the refusal of the confirmation of Judge Parker for associate justice of the Supreme Court.

Very truly yours,

VAN A. BITTNER,
Chief Representative United Mine Workers of America in Northern West Virginia.

Mr. STEPHENS. Mr. President, in order that I may not occupy the time of the Senate unduly, I now ask to be permitted to insert in the RECORD, at appropriate places in my remarks, certain excerpts from the decisions of the Supreme Court taken from the record of the testimony before the subcommittee, and also some extracts from newspapers, and other appropriate quotations.

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

Mr. STEPHENS. Mr. President, it occurs to me that when the name of a person is sent to the Senate by the President of the United States, and it becomes the duty of the Senate to pass upon his confirmation, in a very large sense the procedure here should be that of a trial in court. President Hoover has sent to the Senate the name of Judge John J. Parker, of North Carolina, for a position on the Supreme Court Bench. The question of his confirmation is now before us. The issue, as I see it, is his fitness and his qualifications for that high office. Such considerations are legitimate matters for discussion; but, Mr. President, the debate in this instance has gone far beyond what I deem to be the legitimate issues in the case.

Never was such effort made to find, not a reason but an excuse, to vote against the confirmation of an appointee as have been made in this instance. I regret to say that all the bias and blindness that partisan warfare produces have been in evidence. Charges which reflected on the integrity of Judge Parker have been made, when an investigation of the record would have disclosed their falsity. The fact that the charges thus made did not have the slightest basis of truth is evidence of the malignant spirit of their author.

Conclusions have been drawn from the language of the opinion of Judge Parker in the Red Jacket case as indicating his views with reference to union labor, which were wholly unwarranted. It is surprising to me that some of those conclusions should have been reached by those who have announced them. In some instances, Mr. President, severe strictures have been passed upon Judge Parker. Words that blister and burn have been used; words that stung like a blow or cut like a lash have been uttered. His high character has been besmirched, only to bring him into contempt, and thereby further the efforts to defeat his confirmation.

Mr. President, as I have already suggested, many arguments have been made that are not really relevant to the subject, that are not pertinent to the issue. I shall call attention to some of them before reaching what I consider to be the main point at issue.

Mr. President, a few days ago when the Senator from Tennessee [Mr. MCKELLAR] was addressing the Senate in opposition to the confirmation of Judge Parker he directed attention to, and had inserted in the RECORD, a letter written by Hon. Joseph M. Dixon. I desire now to send to the desk and have the clerk read a letter with reference to the matter referred to by the Senator from Tennessee.

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

The Chief Clerk read as follows:

OFFICE OF THE ATTORNEY GENERAL,
Washington, D. C., May 3, 1930.

Hon. HUBERT D. STEPHENS,
United States Senate.

MY DEAR SENATOR: In view of the discussion as to the extent political considerations entered into the nomination of Judge Parker, it is desirable that the facts should be stated. This discussion seems to have been aroused by publication of a letter from ex-Governor Dixon to one of the President's secretaries, advancing political reasons for the nomination. As to this letter, I can assure you that, prior to its recent publication, the President never saw it and knew nothing of it. It seems to have been sent over from the Executive Offices and placed in the files of this department as a matter of routine. Because one out of many hundreds of letters of indorsement gave political reasons for the appointment, the assumption is hardly justified that such reasons brought about the nomination.

Upon the death of Justice Sanford, in response to the President's request for suggestions as to a successor, I undertook an inquiry into the qualifications of a number of judges and lawyers, particularly from the third, fourth, fifth, and ninth circuits, which are not represented on the Supreme Court. An impressive showing was made as to the quali-

fications of Judge Parker. He has been indorsed by 2 United States circuit judges, 10 United States district judges, a large number of State judges, the president and 5 former presidents of the American Bar Association, 22 presidents of State and county bar associations, a number of United States Senators, including the Senators from his home State, and the governor and former governors of that State, and by hundreds of members of the bar and prominent citizens, not only from the fourth circuit, but from the country at large. These indorsements come alike from members of both political parties and are evidence that no narrow politics entered into the matter.

I made a painstaking inquiry into Judge Parker's judicial work and examined all of the opinions he has written as a circuit judge, numbering over 125. No fair-minded lawyer could read these opinions without being satisfied that Judge Parker has legal ability of the highest order, qualifying him to sit on the highest court. They show him to be a lawyer of sound judgment, fair-minded and sincere to a high degree, without any egotism or affectation, with a wide and accurate knowledge of legal principles, and a prodigious worker. They disclose all the qualities which, added to his vigorous youth, should enable him to serve with distinction on the highest court of the land. A study of Judge Parker's decisions reveals him as one of the outstanding circuit judges of the country. His personal character was shown to be above reproach and his integrity unquestioned.

This information was laid before the President with the recommendation that Judge Parker be nominated. Justice Sanford was from the South and a Republican. While locality is not controlling, it is never ignored, and the fourth circuit had not been represented upon the court for 60 years. It seemed that the appointment of Judge Parker to succeed Justice Sanford would be in accordance with tradition and should be well received throughout the country.

With respect to the political faith of a successor to Justice Sanford, the tradition which requires that the Supreme Court be kept nonpartisan was fully satisfied by the presence of three Democrats upon the bench, and under these circumstances it was considered entirely appropriate and in accordance with tradition and historical practice for the President to nominate a member of his own party who possessed the necessary qualifications. Beyond this, no State or National politics entered into the matter.

Respectfully yours,

WILLIAM D. MITCHELL,
Attorney General.

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

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

Mr. STEPHENS. I yield.

Mr. CARAWAY. Did the Senator ask the Attorney General what he meant by the remarkable statement that a recommendation made to the President never reached the President?

Mr. STEPHENS. I never discussed the letter with the Attorney General.

Mr. CARAWAY. Did not the Senator have some curiosity to know by what process a recommendation in the files addressed to the President was withheld from the President?

Mr. STEPHENS. I do not know whether it was purposely withheld or not. I made no inquiry about that. I noticed, of course, what the letter said.

Mr. CARAWAY. If it was not purposely withheld, how does the Attorney General know that it did not reach the President?

Mr. STEPHENS. It may have been that the Attorney General knew that such a suggestion should not have been made.

Mr. CARAWAY. But it was not addressed to the Attorney General. It must have gone to the President before it reached him.

Mr. STEPHENS. Ah, no; the record shows that the letter was sent by Mr. Newton, to whom it was addressed, to the Department of Justice.

Mr. CARAWAY. But it was sent to Mr. Newton with a direct request that it be laid before the President and called to his attention.

Mr. STEPHENS. That may be; but there is nothing in the record to show or to suggest that it was ever brought to the attention of the President. In fact, he states here that it was not; why, I can not answer.

Mr. CARAWAY. It is a curious thing if the President is not allowed to see the recommendations of judges he is expected to nominate.

Mr. STEPHENS. I presume that he saw perhaps all of them, unless it be this particular letter. This was not a legitimate suggestion—not at all. The Attorney General recognized that it was not. He states that it was not considered; that he acted in this matter solely upon the information that he had with regard to the character and the capacity and the qualifications of Judge Parker.

Mr. CARAWAY. Oh, no; he said more than that. He said that Judge Parker was a Republican, and it was thought well to name a Republican, and that he was from the fourth circuit, and he thought it well to give the nomination to the fourth circuit; so he was himself passing upon a political reason for an appointment, and withholding from the President a letter addressed to him.

Mr. STEPHENS. No; not a letter addressed to the President or to the Attorney General, but one addressed to one of the President's secretaries. It was very proper, as I see it, for the Attorney General to look to the fourth circuit. For 60 years no man had been appointed to the Supreme Court from that circuit. There were men of intelligence and ability and character there who were entitled to be considered for this high position; and it happened that Judge Parker was believed by the people of that circuit to be the outstanding man for the place. Therefore he was considered; and one reason why he was considered was that both of the Senators from the State of North Carolina indorsed him as to qualifications and as to fitness. Other United States Senators indorsed him. Two circuit judges indorsed him. A large number of State judges indorsed him. Ten United States district judges indorsed him. The president of the American Bar Association and five ex-presidents of that association indorsed him. The present Governor of the State of North Carolina indorsed him. Two or three ex-governors indorsed him. He was largely indorsed from various sections of the country; so it was not surprising that he should be seriously considered for appointment and finally appointed to this position.

May I say, with reference to the fact that Judge Parker is a Republican, that we understand the situation. We know that the party in power usually sees to it that the majority of the members of that court are members of that party. That is done by both parties, Democratic and Republican; so that there is nothing in that that is subject to criticism, in my judgment.

Mr. WHEELER. Mr. President——

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

Mr. STEPHENS. I yield.

Mr. WHEELER. Does the Senator think that these indorsements that were made were not shown to the President of the United States?

Mr. STEPHENS. I presume they were, except for what has been said about this particular matter.

Mr. WHEELER. It is inconceivable to me that some of these indorsements were withheld from the President and others were not, particularly when Mr. Dixon—who is the Assistant Secretary of the Interior, and very close to the President of the United States—wrote a letter to Secretary Newton and asked him to call the matter to the President's attention. To say that that letter, particularly, was not called to the President's attention, when other letters were, on the face of it does not look reasonable.

Mr. STEPHENS. It may not look reasonable to the Senator from Montana, but I am entirely willing to accept the statement contained in the letter because of the character of the man who wrote it—Attorney General William D. Mitchell—a man whose integrity and whose high character, so far as I know, have never been questioned. I am entirely willing for any Senator who desires to do so to challenge the statement of the Attorney General, Mr. Mitchell; but so far as I am concerned, it is entirely accepted by me. It is entirely likely that the Attorney General made an investigation, as he stated, that he satisfied himself as to the qualifications of Judge Parker, submitted his report to the President, and gave him a list of those who had indorsed Judge Parker. I do not know what course the Attorney General pursued, but it is probable that he followed the course which I have suggested.

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

Mr. STEPHENS. I yield.

Mr. BLACK. The Senator made one statement that I imagine he probably would limit. I understood him to say that the investigation showed that Judge Parker was the outstanding man of the fourth circuit. I imagine the Senator meant that the investigation showed that he was the outstanding Republican of the fourth circuit. I do not think the Senator meant that the investigation showed him to be the outstanding man for the position in either party in that circuit.

Mr. STEPHENS. What I intended to say was that the investigation showed that Judge Parker is one of the outstanding lawyers and one of the greatest jurists in that circuit.

Mr. BLACK. I called the Senator's attention to the matter because the statement made was that the investigation showed that he was the outstanding man for the position in the fourth circuit.

Mr. STEPHENS. I think that is absolutely true with reference to those who were actually considered for appointment.

Mr. BLACK. That is what I thought.

Mr. STEPHENS. That is what I had in mind when I made the remark.

Mr. BLACK. That is what I thought the Senator meant—that only Republicans were considered, and that the investigation, in the Senator's judgment, showed that Judge Parker was the outstanding man of the fourth circuit who was considered for the place. I understood that because I understood no Democrat was considered.

Mr. STEPHENS. I understand not; no, sir. Naturally, my remarks were directed to those who were considered for the position.

I have no criticism of President Hoover because he followed the policy that has been the policy of Presidents who were members of the other party—the Democratic Party—my party. Judge Sanford was a Republican. The President was appointing a Republican to succeed him. It may happen in the near future that a Democrat on the bench will retire; and I have no doubt that the same policy will be followed by President Hoover when that shall happen—that a Democrat will be appointed. I think, if he should not follow that policy, he would be subject to very severe criticism.

Mr. FESS. Mr. President——

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

Mr. STEPHENS. I yield.

Mr. FESS. If the Senator will permit an interruption——

Mr. STEPHENS. Certainly.

Mr. FESS. The Senator will recall that upon the death of Salmon P. Chase, President Grant appointed Caleb Cushing. I make this statement with apologies to the Senator from Nebraska. Caleb Cushing had been the outstanding Democrat in the country. As the Senator will recall, he was the chairman of the Democratic convention in Baltimore, and also when it adjourned to meet in Charleston, S. C.; but he was regarded as one of the great lawyers of the country. When he was appointed as Supreme Court judge, to take the place of Salmon P. Chase, there was an outbreak of opposition on the part of radical Republicans on the ground that Grant was going out of the party to select a man. The result, however, was changed by this incident:

There had been found in certain documents that had been in the possession of the Confederacy, among other letters, a letter that Caleb Cushing had written to Jefferson Davis. All that he had written was a recommendation of a young man who had been educated up here somewhere, and had gone back to Texas. Caleb Cushing had been a personal friend of Jefferson Davis, both having been in the Cabinet, and this was a friendly letter. When that letter came to light in this body, it created such a storm that Caleb Cushing was not rejected, but they did not reach a vote and the President withdrew his name.

There is a very remarkable incident of a letter that meant nothing being the determiner in the appointment of a Chief Justice—and we lost the service of Caleb Cushing on that bench.

Mr. STEPHENS. I thank the Senator for his contribution.

Mr. President, since Judge Parker's name has been sent to the Senate I have heard expressions like this one:

"I am unwilling to help President Hoover pay his political debts because North Carolina went for him."

I have no interest in Mr. Hoover's political debts, nor have I any desire to lend him assistance in making payments of such debts. But it occurs to me that if Judge Parker is to be rejected because he comes from a State which went for President Hoover in 1928 in the Southland, he will be restricted and limited in the territory from which he may make his selection.

I am unwilling to allow any such thing to influence me. The logic of it is that South Carolina is the only State in the fourth circuit which could furnish a judge, the other four States having gone for the President. If the President should go to the State of Texas, to the State of Florida, or to the State of Tennessee, the same thing might be said.

I recall that in 1928 Tennessee voted for President Hoover. Yet when President Hoover appointed Judge Tate to a place on the Interstate Commerce Commission, I heard no charge that he was paying any political debt. I remember how active my good friend the senior Senator from Tennessee [Mr. McKELLAR] was in his support of Judge Tate.

While I am on this subject I want to direct attention to the fact that in making this selection the President appointed a real Republican. He did not go off and seek to find a "Hoovercrat," thereby lending encouragement, perhaps, to some who had left the Democratic Party to stay out of it. The oft-repeated statement that Hoover is seeking to retain North Carolina in the Republican column is a severe criticism of the people of that great State in that it insinuates that they can be bought; that they can be swept away from the Democratic faith simply because a citizen of their State, and a lifelong Republican at that, was appointed to high office.

I give President Hoover credit for having great intelligence. He realizes that what happened in the Southland in 1928 was the result of a political spasm, the result of abnormal conditions, the result of a situation that will not soon present itself again. Not for many years, if ever, will the deciding issues of the 1928 campaign be presented to the American people. I shall not, of course, enter into a discussion of those things now. The President knows what happened in the State of Virginia. On the first opportunity it went back to the Democratic fold, and I can not believe he is so lacking in intelligence that he would endeavor in such a manner as has been suggested to hold North Carolina in the Republican ranks. He knows that is absolutely impossible.

A few days ago in the debate here in this Chamber my good friend the senior Senator from Arizona [Mr. ASHURST] referred to Judge Parker as a weakling. I feel that my good friend, fair-minded and well-intentioned as he is, really did not mean to use the word "weakling" in the sense in which it was taken to have been used. I hope he did not.

Mr. ASHURST. Mr. President——

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

Mr. STEPHENS. I yield.

Mr. ASHURST. I always listen with instruction to the able Senator from Mississippi. He and I have collaborated on various public measures, and I have found him to be a tower of strength for the right upon many occasions. I honor him, I respect him, I admire him for standing by his guns in defense of this nomination, which he approves.

So far from apologizing for calling the nominee a weakling, I repeat it, and say that new and additional evidence has been supplied convincing me that his nomination is an injustice to the American people.

I said in my remarks the other day that that measure of due caution which should cause the President to send to the Senate the names of high-class men was not employed upon this occasion. When I said that, I did not know of the letter which has been written by the Assistant Secretary of the Interior, and I now say, call the lobby committee together and you will find that Federal judgeships or other appointments to office are being offered for votes for this nominee.

So far from withdrawing my charge, I assert that many of his supporters are approaching the frontier line of culpability.

Mr. STEPHENS. Mr. President, of course, I knew my good friend would become most vehement and eloquent in any reply he might make.

Mr. ASHURST. Mr. President, will the Senator yield again?

Mr. STEPHENS. I yield.

Mr. ASHURST. Yes; and a Senator is a spineless cactus who would sit silent when he sees that upon the United States Supreme Bench there is about to be placed a man, who may serve for a generation, who will do more to weaken the Federal judiciary than anything that has been done in 140 years, is too weak to serve the public greatly.

The Constitution of the United States is what the judges say it is. Never with my vote will a man be put on the Supreme Bench who has such a cluster of odium about his nomination as surrounds this whole transaction.

Call the lobby committee together and see what strange fish you will bring up from the depths, that are working to put over the Parker nomination.

Mr. STEPHENS. Mr. President, so far as I am concerned, I should be very glad to have the lobby committee make any investigation it cares to make. I have noticed that this lobby committee has not been inactive, it has not laid down on the job, it has been going out in search of those things which should be investigated, and, in many ways, has been doing splendid work. I trust that they will not lose interest in the investigation of any matter that is a proper subject of investigation, and if there is anything in connection with the appointment of Judge Parker or his confirmation that is improper, let it be investigated.

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

Mr. STEPHENS. I yield.

Mr. CARAWAY. Does the Senator think it is becoming that men who are candidates for office, or expect to be, should make it almost impossible for one to walk the corridors of this Capitol without being lobbied with in the interest of the confirmation of Judge Parker? I know the Senator has not escaped that lobby. Two ex-governors of North Carolina, if not three, have haunted

the corridors here and the rooms of Senators until it became almost intolerable. The Senator is aware of that.

Mr. STEPHENS. I have seen one ex-governor.

Mr. CARAWAY. How did the Senator shut his door to keep the other one out? I do not know.

Mr. STEPHENS. Neither of them has ever been to my office, so far as I know. I saw one as he was leaving the Senate Office Building the other day and as I was entering. We chatted two or three minutes about the matter. I also saw the same person for a few minutes in the reception room of the Senate.

Mr. CARAWAY. Any minute the Senator looked out he would see one of them.

Mr. STEPHENS. I think that only three men from the State of North Carolina, men who are not in public life here in Washington, have mentioned this matter to me, and I shall be very glad to refer to them. I shall refer to one of them right now.

Judge Yates Webb, a judge in the State of North Carolina, talked to me perhaps 5 or 10 minutes about this man. I served for several years with Judge Webb when we were Members of the House of Representatives. He was an outstanding figure in that body, the chairman of the Judiciary Committee, really the man who handled the legislation in the House which is commonly known as the Clayton Act. He is as fine a character as I have ever met, as honest as any man I ever knew.

Judge Webb—and I cite him as a Democrat—refutes, in my mind, the charge that has been made that Judge Parker is a weakling. I recall what Judge Webb said to me. He said, "STEPHENS, there is not a finer character in the State of North Carolina, there is not a better lawyer in the State of North Carolina, there is not a man better fitted for this high position than Judge Parker."

It may be that he is included here in the 10 United States district judges who indorsed Judge Parker to the President of the United States.

Mr. SIMMONS. Mr. President, will the Senator yield that I may make a suggestion to him in connection with his comments on the statement of Judge Webb as to the qualifications of Judge Parker?

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

Mr. STEPHENS. I yield.

Mr. SIMMONS. The fact is that the bar of North Carolina, composed largely of Democratic lawyers, met at Pinehurst last week and passed resolutions unanimously indorsing his qualifications, his character, his impartiality, his fitness, and indorsing his appointment.

Mr. STEPHENS. I might state in the same connection that only a few days ago in the city of Richmond, Va., 318 lawyers met and gave Judge Parker the highest indorsement as to character and qualifications.

Mr. SIMMONS. Virginia is one of the States in Judge Parker's circuit.

Mr. STEPHENS. Yes. I am told that the lawyers in South Carolina, another State in that circuit, have indorsed him almost unanimously, and so throughout the other States in the fourth circuit men in all walks of life, judges, lawyers, business men, men in more humble stations than some possess, have given him the highest indorsements with reference to character and qualifications.

Ah, Mr. President, when I remember all those things I am willing to stand in this body and to deny that Judge Parker is a weakling. It is so easy to use an epithet. It is so easy to characterize a person harshly. But I ask now where is the evidence in the record or elsewhere that Judge Parker is a weakling?

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

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

Mr. STEPHENS. Certainly.

Mr. ASHURST. I am not retreating from or in any sense withdrawing my statement. I do not, of course, reflect upon the private life of the nominee. When I use the word "weakling" I refer to his deficiencies as a man of great strength of character, great learning, and great intellect so far as applies to the Supreme Court of the United States. Possibly the Senator would appoint this nominee to a judgeship in the State of Mississippi, but I am convinced that the Senator as governor would never appoint the nominee to a life judgeship in the State of Mississippi.

When we reflect, as the Senator does, that the Supreme Court of the United States is the most powerful tribunal in the world, because what that court says is the law, and properly so, therefore, in my judgment, we should use much care in scanning the merits, the record, the attainments—intellectual, legal, and otherwise—of a nominee for that tribunal.

Measured by the judges of the past who have sat on that great bench, measured by the judges of the present who now sit upon that bench, the Senator would become ridiculous to pretend to compare this nominee with any judge now on that bench or who has sat on the bench in the Senator's lifetime.

Where is the evidence of his being a weakling? Sir, when a man, following precedent or giving precedent as his excuse, is too indolent intellectually to write an opinion of his own, but, following precedent, puts his hand to a paper, the legal effect of which would be a most odious form of slavery for working men who are unable to protect themselves, I can not support his nomination. The practical effect of the "yellow-dog" decision is to make slaves of the workingmen. Surely, the Senator does not want any other evidence of weakness than what Judge Parker has written himself down to be. It seems to me, in the language of a Biblical quotation often used by another Senator, "By their fruits ye shall know them."

Mr. STEPHENS. That is a very familiar quotation in this Chamber.

Mr. ASHURST. In this morning of the twentieth century, when mankind is asking for a larger degree of liberty, the "yellow-dog" decision is a rank injustice; it is an angry scar upon American jurisprudence. A capable judge, a man of great intellectual capacity, would have said, "Precedent or no precedent, I shall be a maker of precedents and I shall never follow a precedent that would tend to enslave men who are unable to help themselves." I thought we fought that out a decade ago. I did not think that in this time we would have to stand in the Senate and fight with stubborn courage to keep such decisions from being galvanized into existing law.

Mr. STEPHENS. Mr. President, of course I am in thorough accord with my friend the Senator from Arizona with reference to the great importance of the judiciary. I also agree with him with reference to what he said about the great care that the Senate should observe in considering a man for a place on the Supreme Court of the United States. I am glad that the Senator has defined himself in the use of the word "weakling." As I understand him it comes down to the single proposition that Judge Parker followed precedent. I shall not discuss that matter at this time; I shall do so later.

But while I have my good friend the Senator from Arizona in mind I want to say that although I feel that his reference to Judge Parker as being a weakling is unkind and unjust and erroneous, yet he has been no more unjust or unkind to Judge Parker than he has been with regard to the present members of the Supreme Court and many others who have sat on that bench. I think immediately following his characterization of Judge Parker as a weakling he discussed the "yellow dog" contract, so called. I shall not discuss that contract now. As I view the situation, it is not a legitimate matter for discussion with reference to the confirmation of Judge Parker. What I am getting at is that the Senator from Arizona said:

> No one is fit to sit as a Justice of the United States Supreme Court, where are involved the destinies of 120,000,000 people and the ever-present and complex propositions of State and National sovereignty, who upholds the "yellow dog" contract.

I repeat, Mr. President, that in that language he declared the present members of the Supreme Court and many others who have been on that court as being unfit to sit on that bench. In the Hitchman case, which has been discussed at length during this debate, and for following which Judge Parker has been severely criticized, we find the utterance of a man now on the Supreme Bench, the utterance of a man who is regarded as one of the greatest friends of labor in the United States, the man for whom the Senator from Nebraska [Mr. NORRIS] said the other day that many millions of men, women, and children pray each night. I quote the language of that great judge. I know that my friend from Arizona admires him greatly and agrees with me when I say that he is indeed a great judge. What did Mr. Justice Brandeis say in his dissenting opinion in the Hitchman case? The Senator was talking about "yellow dog" contracts. Let me read again his expression as it is found in the RECORD:

> No one is fit to sit as a Justice of the United States Supreme Court, where are involved the destinies of 120,000,000 people and the ever-present and complex propositions of State and national sovereignty, who upholds the "yellow dog" contract.

The "yellow dog" contract was involved in the Hitchman case, and yet there Mr. Justice Brandeis declared that it was a legal contract.

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

Mr. STEPHENS. Let me first read what Mr. Justice Brandeis said. I quote:

In other words, an employer, in order to effectuate the closing of his shop to union labor, may exact an agreement to that effect from his employees.

What kind of an agreement? An agreement not to join a labor union.

The agreement itself—

Says Justice Brandeis—

being a lawful one, the employer may withhold from the men an economic need—employment—until they assent to make it.

Now I yield to the Senator from Arizona.

Mr. ASHURST. Mr. President, no matter who should render a decision the effect of which would be to enslave men, I should not retreat from my position. The Senator from Mississippi is an able lawyer; he is a member of the Judiciary Committee, but if he can not refine and distinguish the cases, I am powerless to help him. The Senator knows as well as I know that Mr. Justice Brandeis does not judicially uphold the "yellow dog" contract.

Mr. STEPHENS. I have only his words here.

Mr. ASHURST. I ask the Senator to read all of them. If the Senator will read all the opinion, he will see that I do not need to and shall not retreat from my position. I do not want to interrupt or destroy the symmetry of the Senator's speech and I never should have arisen had he not directly referred to me.

Mr. STEPHENS. I am not interested so much in symmetry as I am in facts, and I am entirely willing to discuss any facts which are pertinent to the issue.

Mr. ASHURST. I am perfectly willing, if the Senator is anxious to have me, to prolong the controversy.

Mr. STEPHENS. I am not requesting it. I am submitting myself to the will and wishes of the Senator.

Mr. ASHURST. If the Senator wishes, I shall sit here during his speech, and such of his thrusts as I am unable to parry he will find I have the fortitude to endure; but I reassert that there is nothing that has been shown to me that would convince me that the Supreme Court of the United States has ratified or upheld "yellow dog" contracts.

Mr. STEPHENS. Of course, Mr. President, lawyers, like other men, differ in their construction of circumstances and of decisions.

Mr. ASHURST. May I make a last interruption of the Senator?

Mr. STEPHENS. I yield to the Senator.

Mr. ASHURST. Will the Senator permit me to say that I end the colloquy as I entered into it, with sincere admiration for the Senator's zeal, and the ability with which he puts forth his case. As he has well said, lawyers may differ. If it had not been that people differ, the Senator and I would not have made a living as lawyers.

Mr. STEPHENS. That is quite true.

Mr. President, I can not understand how anyone can seriously controvert the statement that the Supreme Court has time and time again upheld what is commonly known as the "yellow dog" contract. There are many decisions of the Supreme Court wherein this matter has been discussed and wherein the so-called "yellow dog" contract has been held to be valid. If this were not true, why the language of Mr. Justice Brandeis? I am not defending that contract here; I am not discussing its provisions; I am not saying whether or not a contract of that kind should be prohibited. I shall, perhaps, within the very near future have an opportunity to give my views upon that subject, because there is now pending before the Judiciary Committee, which doubtless will report it very soon, a bill commonly known as the anti-injunction bill, in connection with which this particular question will be considered. However, Mr. President, let me pass to another subject.

I have referred to the character of some of the statements that have been made with regard to Judge Parker and some of the criticisms of him that have come to the Judiciary Committee and to Members of this body. I hold in my hand a letter from International Labor Defense, which is located in New York City. There are stated in it bluntly certain propositions the advancement of which causes me to say in this connection that the Senator from Ohio [Mr. FESS] and the Senator from Delaware [Mr. HASTINGS] are both, in a large measure, correct when they state that the fight now being waged is not an assault upon Judge Parker, the individual, but upon the integrity of the Supreme Court itself. I read from this letter as follows:

Our objections to Judge Parker grow out of our ceaseless struggle against the whole capitalist judicial tyranny.

Again they say this:

Judge Parker's selection—

Now, mark the language—

as all previous appointments to the United States Supreme Court, is a class appointment to an important instrument of the capitalist class government.

The letter makes a sweeping charge against every man who has ever been appointed to that high office.

May I suggest, Mr. President, that the very tenor of the statement refutes its validity as an argument? I want to say further that, in my view, such attacks upon the courts of the land act as a kind of ferment to generate contempt, distrust, and hate. It is a part of the effort to overthrow a great tribunal, which is one of the great bulwarks protecting the liberties and rights of all the people.

Now, Mr. President, I wish to proceed to discuss what I believe to be a legitimate issue in this case. If there is anything in the decisions of Judge Parker which would justify his rejection for a position on the Supreme Court Bench, it is entirely proper that it should be brought to the attention of the Senate for discussion; and if the facts warrant a denunciation of the man on that account there should be a declaration that he is unfit to serve in that position. I have not been able to reach the same conclusion with reference to the Red Jacket case that has been reached by able Senators who are opposing the confirmation of Judge Parker.

I think the Senator from Idaho [Mr. BORAH] suggested two or three times in the course of his discussion of this question that if Judge Parker's decision in the Red Jacket case were to rest solely and alone upon the Hitchman case, then he would not be inclined to criticise it; but he suggested two points which I desire to challenge. The first is that Judge Parker went further in the Red Jacket case with regard to one particular matter, the question of the right of employees to persuade their coworkers to join the union, than any other judge had ever gone. In this connection, I desire to call attention to the petition for certiorari in the Red Jacket case.

The questions presented by the petition for writ of certiorari were twofold:

First. Did the District Court of the United States for the Southern District of West Virginia and the circuit court of appeals have jurisdiction in the cases above set forth under the Sherman Antitrust Act and the Clayton Act, on the ground that the petitioners were engaged in a conspiracy in restraint of interstate trade and commerce?

Second. Did the district court of the United States and the circuit court of appeals err in enjoining and restraining the 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 the discussion of the second question, the petitioners' brief set forth two suggestions of error:

First. The district court and circuit court of appeals erred in holding that the petitioners were engaged in a conspiracy in violation of the Sherman and Clayton Acts.

Second. The error in enjoining petitioners from peaceably persuading respondents' employees to cease work and join the miners' union.

Surely, if Judge Parker had gone further than any judge had ever gone, Judge Brandeis, although the writ was denied, would have called attention to this fact and he would have put in a vigorous protest and would have denounced the opinion of Judge Parker. But he was silent. Why? My conclusion is that he recognized that Judge Parker had followed the law.

Mr. President, practically the same holding was made in the Hitchman case; and, again, I think it will appear that in Two hundred and eighty-second Federal Reporter and Two hundred and eighty-eighth Federal Reporter the exact language used by Judge Parker in the Red Jacket case had been used in the case of injunctions passed upon in those two cases; and they were decisions, if I mistake not, which were made by Federal courts in the Fourth Judicial Circuit. As to the question of precedent, as I recall the rule of law, individual judges on the circuit bench are bound by precedents of their own circuit. So Judge Parker in the Red Jacket case was simply following not only what the Supreme Court of the United States had approved, but he was following also what had been approved by the court in the very circuit in which he was serving.

Lest I forget it, let me say in this connection that it was thrown out in the hearings by Mr. Green that the Red Jacket decision was really a two-judge decision; that one of the judges died before the opinion was read from the bench.

It is true, Mr. President, that one of the judges died, but it was stated in connection with the delivery of the opinion that

he had concurred in it except for some slight reference to a matter of jurisdiction in regard to one or two individuals. More than that, the judge who died was one of the judges who had held to the same rule in one of the cases to which I have referred. That statement was merely thrown out by the witness in order to weaken, if possible, the argument in behalf of Judge Parker, just as was the suggestion that Judge Parker had been appointed special district attorney to try a case or two when the notorious Harry M. Daugherty was Attorney General. There were many gentlemen of the highest character who were connected with him and against whom no criticism was ever directed. Judge Parker's connection related only to a few special cases.

Mr. President, the able Senator from Idaho based his criticism of Judge Parker upon the fact, as he says, that he did not follow the holding of the Supreme Court in the Tri-City case. He is not inclined to criticize him for following the Hitchman case, but he does criticize him for ignoring, as he says, a later holding of the Supreme Court in the Tri-City case.

It has already been pointed out in this debate that one difference between the Tri-City case and the Hitchman and Red Jacket cases is that there were contracts in the Hitchman and Red Jacket cases, and that no contract was involved in the Tri-City case. I shall not argue that point; but it is an important distinction. It occurs to me, however, that there is another very great distinction between the Red Jacket case and the Tri-City case.

In the Hitchman case an international organization, the United Mine Workers of America, was the defendant. In the Red Jacket case the same international organization was the defendant. What is this international organization, the United Mine Workers of America? It is an organization that comes from Canada and reaches down to the Gulf. It covers both the United States and Canada. It has a membership of hundreds of thousands of men.

The labor organization involved in the Tri-City case was a local organization. The purposes of the international organization and the local organization were not the same. Their efforts were not directed to the same end, nor along the same exact lines.

Chief Justice Taft recognized this distinction between the two situations. He rendered the opinion in the Tri-City case. He uttered what is a well-understood rule of law—that each case must turn on its own circumstances. I have already pointed out the difference between the two situations. Now, let us see what Chief Justice Taft had to say in the Tri-City case.

He was discussing there two situations. He discussed at length the Clayton Act, the rights of employers and employees. He made a specific holding with reference to two men, Cook and Churchill, who had abandoned their employment and who were endeavoring to cause trouble there. He made a specific holding as to those two men. Then he passed on to the labor-union side of the matter. He says here:

> The counsel for the steel foundries rely on two cases in this court to support their contention.

That is, the contention that had been approved in the Hitchman case.

> The first is that of the Hitchman Coal & Coke Co. * * * 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 compe tition with the mines of Ohio and other States.

Mark you, it is admitted that the effort of those who were made defendants in the Red Jacket case was an effort to interfere with, to restrain interstate commerce.

> The plan thus projected was carried out in the case of the complainant company by the use of deception and misrepresentation—

And so forth.

It is argued that because of the fact that reference was made in the Hitchman case to unlawful conduct, to violence, and so forth—things that gave evidence of malice—the case is not on all fours with the Red Jacket case; but let us see. Chief Justice Taft says:

> This court held—

He is talking now about the situation that existed when the Hitchman case was before it—

> 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.

But he does not stop there. He gets back to the large membership of this organization and the purposes of the international organization, and he says:

> 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.

Ah, Mr. President! Three or four times in this decision Chief Justice Taft stressed the proposition that he was dealing in the instant case with a local union. He discussed the right of men to organize in order that they might benefit by an increase in wage. He referred to the fact that different individuals in the same community have the right to organize in order that there may be an equality of wage in that community; but, as I have just said, he pointed out, in the language which I have read, the remoteness of any benefit that could come through this international organization.

So he says:

> The Hitchman case was cited in the Duplex case, but there is nothing in the ratio decidendi of either which limits our conclusion here—

Why not? Because the conditions of the parties were different; the situations were not the same.

> There is nothing in the ratio decidendi of either * * * which requires us to hold that the members of a local——

Mark the language—

> of a local labor union and the union itself—

What union? The local union, of course—

> do not have sufficient interest in the wages paid to the employees of any employer in the community to justify their use of lawful and peaceful persuasion to induce those employees to refuse to accept such reduced wages and to quit their employment.

Mark you, he says the benefit is remote where an international union is involved, but that there is nothing in their holding in that case to require them to say that the local men can not organize, can not engage in peaceful persuasion and other conduct of like character.

> For this reason we think that the restraint from persuasion included within the injunction of the district court was improper.

Ah, Mr. President! It seems to me that there is the broadest distinction between the Red Jacket case, the Hitchman case, and the Tri-City case. I think that Judge Parker recognized that, because, as I recall, in some portion of the decision in the Red Jacket case he said that the Tri-City case had no application to the case upon which he was passing.

Mr. President, there is another thing in connection with the Red Jacket case to which I want to call attention now. I regret that the Senator who made use of the expression is not present, but I shall quote from the RECORD where he was discussing Judge Parker and his decision in the Red Jacket case. I can see him now, in that characteristic manner of his, saying:

> His every expression in the Red Jacket decision shows his enthusiastic belief in the decision which he rendered.

The author of the language just quoted was laboring under the impression that Judge Parker in the Red Jacket case showed savage opposition to organized labor. Let me call attention to certain parts of the opinion in the much-discussed Red Jacket case:

> It may be conceded that the purposes of the union, if realized, would affect wages, hours of labor, and living conditions, and that the power of its organization would be used in furtherance of collective bargaining, and that these things would incidentally affect the production and price of coal sold in interstate commerce. And it may be conceded further that by such an extension of membership the union would acquire a great measure of control over the labor involved in coal production. But this does not mean that the organization is unlawful. Section 6 of the Clayton Act (38 Stat. 731; Comp. St. sec. 8835f), provides:
>
> "That the labor of a human being is not a commodity or article of commerce. Nothing contained in the antitrust laws shall be construed to forbid the existence and operation of labor, agricultural, or horticultural organizations, instituted for the purposes of mutual help, and not having capital stock or conducted for profit, or to forbid or restrain individual members of such organizations from lawfully carrying out the legitimate objects thereof; nor shall such organizations, or the members thereof, be held or construed to be illegal combinations or conspiracies in restraint of trade under the antitrust laws."

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:

"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. * * * 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."

What was the controversy in the Red Jacket case?—

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.

In reference to this Judge Parker said:

[13] 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. In such cases section 20 of the Clayton Act has no application. American Foundries *v.* Tri-City Council (257 U. S. 184, 202, 42 S. Ct. 72, 66 L. Ed. 189, 27 A. L. R. 360); Duplex Printing Press Co. *v.* Deering (254 U. S. 443, 471, 41 S. Ct. 172, 65 L. Ed. 349, 16 A. L. R. 196); Bittner *v.* West Virginia-Pittsburgh Coal Co. (C. C. A. 4th, 15 F. (2d) 652, 658).

Mr. President, I have read many times Judge Parker's language in the Red Jacket case, and I have been unable to find anything there which indicates that he displayed any enthusiasm, any passion, in the consideration of this matter. He dealt with it as a judge should have dealt with it, in a calm, cool, dispassionate way, discussing the facts and applying the law to those facts. There is not a single line, indeed, there is not a single word in the entire decision which indicates what his personal views may be upon the matters at issue.

Ah, the Senator from Nebraska [Mr. NORRIS] said the other day, "I do not criticize him especially for following that Hitchman case. There is no special criticism about that." But in effect he said, "Oh, if he had only uttered a sentence or two in order to show his sympathy."

Mr. President, occupying the position he did, I feel that it would have been highly improper for Judge Parker to do anything more than he did, discuss the facts and apply the law to those facts. I am going a little further and be very frank; I can not see how there was anything in that record and in the history of that litigation that called for any expression of sympathy from him in passing upon the case. It appeared in the record that from five to seven thousand of those strikers went down into a certain county, defied the officers of the law, and violated the law in many respects. Then is this man to be criticized because he did not go out of his way to express sympathy?

When the able Senator was speaking the other day, calling attention to the fact that it appeared in one of the reports that there were five or six hundred husky policemen, weighing 200 pounds or more, down there protecting property, these 5,000 or 7,000 men to whom I have referred came to my mind, and it occurred to me that those policemen would not have been there if it had not been necessary in order to prevent the law from being defied and trampled under foot in the way attempted.

Mr. President, I have the greatest sympathy with the man who labors. I recognize, as does Judge Parker, that human labor is not a commodity, that man is a personality and not a machine, that men have a right to organize in order to advance their own conditions. I believe in all those things, but I believe, further, that the law must be upheld, and that the rights of others must be protected, as well as the rights of union labor.

On many occasions in the House and in this body I have gladly supported measures of interest and importance to labor unions. I voted against the Esch-Cummins law, and things of that kind. I am glad to support labor unions where I believe their demands are based upon right and reason, and when I do not believe that their demands are based on right and reason I shall, without the slightest hesitation, oppose their wishes.

Mr. President, we must stand for the institutions of government. We must have respect for law and for those who announce the law. When the fathers of the Constitution wrote that great instrument they devised a system of checks and balances. I believe that one thing they had in mind was that the Supreme Court of the United States should stand as a check against the unreasonable demands of men.

Ah, Mr. President, it has happened more than once that fanaticisms have become national epidemics. It has happened that able men in the United States have stood for the recall of judicial decisions, in effect advocating that the principles and policies of law should be decided by a primary election. I can not agree with any such doctrine.

I have already occupied too much time, but I want to say a word or two about the man Judge Parker. Even those who are opposing him have uttered certain words of commendation and have paid certain compliments to Judge Parker as a man. They have been careful to say, "I cast no aspersion upon his character." But it occurs to me that these are but frostbitten compliments; they are really an insult when taken in connection with what almost invariably follows, that he is so devoid of human sympathy, that he is so unacquainted with political conditions, with economic conditions, with a line of thought followed by many of our people and of interest to them, that he is unfitted, incapacitated, or unwilling to do justice between man and man or to decide these questions without following along after some other man, and announcing, as one Senator said, "I am a me-too judge."

In that connection I shall insert some language from Chief Justice White upon the question of precedents. He used the expressions:

Settled rules of law.

Established construction.

The injustice and harm which must always result from overthrowing a long and settled practice sanctioned by the decisions of this court.

He said:

If rules and maxims of law were to ebb and flow with the taste of the judge, or to assume that shape which in his fancy best becomes the times; if the decisions of one case were not to be ruled by, or depend at all upon former determinations in other cases of a like nature, I should be glad to know what person would venture to purchase an estate without first having the judgment of a court of justice respecting the identical title which he means to purchase? No reliance could be had upon precedents; former resolutions upon titles of the same kind could afford him no assurance at all. Nay, even a decision of a court of justice upon the very identical title would be nothing more than a precarious temporary security; the principle upon which it was founded might, in the course of a few years become antiquated; the same title might be again drawn into dispute; the taste and fashion of the times might be improved, and on that ground a future judge might hold himself at liberty (if not consider it his duty) to pay as little regard to the maxims and decisions of his predecessor

as that predecessor did to the maxims and decisions of those who went before him. Fearne on Contingent Remainders (London ed. 1801, p. 264). * * *

* * * * * * *

The conservation and orderly development of our institutions rests on our acceptance of the results of the past and their use as lights to guide our steps in the future.

* * * * * * *

In the discharge of its function of interpreting the Constitution this court exercised an august power. It sits removed from the contentions of political parties and the animosities of factions. It seems to me that the accomplishment of its lofty mission can only be secured by the stability of its teachings and the sanctity which surrounds them. If the permanency of its conclusions is to depend upon the personal opinions of those who, from time to time, may make up its membership, it will inevitably become a theater of political strife and its action will be without coherence or consistency.

* * * * * * *

By the foresight of the fathers the construction of our written Constitution was ultimately confided to this body, which, from the nature of its judicial structure, could always be relied upon to act with perfect freedom from the influence of faction and to preserve the benefits of consistent interpretation. The fundamental conception of a judicial body is that of one hedged about by precedents which are binding on the court without regard to the personality of its members. Break down this belief in judicial continuity, and let it be felt that on great constitutional questions this court is to depart from the settled conclusions of its predecessors, and to determine them all according to the mere opinion of those who temporarily fill its bench, and our Constitution will, in my judgment, be bereft of value and become a most dangerous instrument to the rights and liberties of the people.

Mr. President, precedent must have a binding force or there will be a hodgepodge of judicial thought, an olio of judicial rules and procedure. There must be the constant in the current of the changing. The law must have a definite crease—not a zigzag one, turning this way and that. Everyone seems to recognize this except some of the persons who criticize Parker for following precedent.

Mr. President, it has been said that this man is a weakling, that he is unfit to serve upon the bench, that he is not friendly to certain classes of people in the Nation. I feel very sure that these statements came as a surprise to those people who have known Judge Parker for many years.

From the Governor of the State of North Carolina there comes a splendid letter with reference to the character of this man, and I imagine it is typical of the opinion held by those people in North Carolina who have known him so long. I read from a letter from O. Max Gardner, Governor of North Carolina:

I have absolute confidence in the integrity and essential soundness of his intellectual processes, and I can not believe for an instant that he would be unfair to either the most powerful or the most humble citizen of this country. His whole outlook and philosophy as a man and as a judge could not, in my opinion, be more accurately epitomized than by the inscription over the entrance of the chapel at the University of North Carolina.

Then he quotes it:

What doth the Lord require of thee but to do justice and love mercy and walk humbly with thy God?

Ah, Mr. President, from every section of the five States comprising that circuit court district there come letters of commendation, letters which praise Judge Parker in the highest way.

I have reached the conclusion from listening to what has been said to me in person, and from what has been said through these communications, that whether you enter the doorways of Judge Parker's intellect or look through the windows of his spirit you will find full proof that John J. Parker is a man.

He is a man who has felt the hand of poverty, one who has come up through many trials and tribulations, a prodigious worker, as has been said, a man of ambition, a man of ability, a man of the warmest sympathies, the broadest outlook, and the highest integrity. Yet we are asked to reject him simply because some class or other in our country feel that he would be unfair to them.

Mr. President, I shall not discuss at any length one phase of opposition to Judge Parker. I shall not give my personal views upon the so-called negro question. I am going to say—and I regret that the Senator is not in his seat now—that only a day or two ago the junior Senator from New York [Mr. WAGNER] offered the grossest insult to the people of the South that has been offered in a generation. I shall not characterize it in his absence.

I can not see how any Senator from the Southland would have the "gall" to go to the President of the United States and ask him to appoint some southern man to a position on the Supreme Court Bench if Judge Parker is to be rejected either because he is a citizen of a State that voted for President Hoover or because of opposition to Judge Parker because of his views on the negro question.

There is not an honest, decent, respectable white man in the South who does not hold the same views on that question that Judge Parker holds, and yet, Mr. President, I want it thoroughly understood that that would not disqualify a real man from sitting on the Supreme Court Bench. I recall that Chief Justice White, an ex-Confederate soldier, sat on and presided over that great tribunal; I recall that L. Q. C. Lamar, from my own State, a soldier and an officer in the Confederate Army, sat there. Mr. Justice McReynolds is there now. Other men from the Southland have sat on that bench, and I defy any man to point out where anyone of those men from the South who ever graced that bench has ever been anything but entirely fair to all classes and to all races, whether they were rich or poor, whether they were employers of labor or members of a labor union, or whether they were white or black.

If southern Senators cause the rejection of Judge Parker, it will be a Samsonian victory. They will pull down the temple of hope and opportunity upon every lawyer in the great Southland, who has an ambition to serve on the Supreme Court of the United States. Many of the Nation's greatest lawyers reside in that section. The South is still a part of the Nation, and I shall not, by my vote, virtually declare her citizens ineligible for service on our highest tribunal. In this connection and under the permission granted to me by the Senate I shall have printed as an appendix to my remarks an article by Frank R. Kent, the correspondent of the Baltimore Sun, which appeared in the April 28 edition of the Sun concerning the Parker case.

Mr. President, I must conclude. I want to say in conclusion that I have studied the situation from every angle. If I believed that Judge Parker would be unfair to any class of our citizens, if I believed that he would deny them their full rights under the law, I would think him unfitted for this high position; but the whole course of his life—social, professional, judicial—indicates to me that he is qualified in every respect for the place, and that even-handed justice will be dealt out by him, no matter who might apply to his court. Therefore, Mr. President, I shall with great pleasure cast my vote for the confirmation of Judge Parker.

[From the Baltimore Sun, Monday, April 28, 1930]

THE GREAT GAME OF POLITICS

By Frank R. Kent

THE PARKER CASE

WASHINGTON, April 27.—* * * Although it is not quite certain, the chances are the appointment will be rejected. If it is, it will be because Republican Senators in the border States and the Middle Western States and Northern States, where the negro is a big factor in their party, and in some the dominant factor, fear that a vote for Judge Parker will damage or destroy them politically. The other reasons urged against him, plus the disposition of some to oppose anything or anybody Mr. Hoover offers, would be enough to insure opposition from a considerable number of Democrats and Progressives, but not nearly enough to prevent his confirmation. His rejection—if he is rejected—will be due solely to negro fear of regular Republican Senators who have to vote openly. No one denies this. No one denies that if the vote could be taken in executive session Parker would be confirmed. No one denies that if it were not for the opinion he expressed on the subject of negro suffrage, an opinion in which most Republican Senators who will vote against him privately concur, he would be confirmed in open session.

These being the facts, it is interesting to speculate on the logical result of rejection. What it seems to mean is that from now on the entire South will be barred from representation on the Supreme Court. It will be agreed generally that no President can find a man of either party in that section qualified to serve as a Supreme Court judge who does not share Judge Parker's views on the question of the negro in politics. If the negro leaders in the States outside the South can prevent Senate confirmation of Parker, they can prevent confirmation of any future presidential selection who feels the same way on this subject.

With the Parker rejection a matter of record, any President would feel it futile to nominate any man from the South for the highest court. It amounts to Republican Senators from the North saying, in effect, "You must not nominate any man who does not feel that the negro in politics is a beneficent influence, or, if he feels that he is not a beneficent influence, has successfully hidden the feeling." This would let the South out for all time. Certainly, when Justice McReynolds retires a year hence, as he has indicated, it would be absurd for Mr. Hoover to consider southern men for that vacancy. The Parker rejection would compel him to limit himself to States where the Republican material

was acceptable to the negro leaders, and if that would not be playing politics it is hard to think what would be.

It will be interesting to watch this roll call, interesting to see the votes of the southern Democrats as well as the regular Republicans. It will be a revealing affair. Nearly 20 years ago Senator BORAH, who will vote against Judge Parker for other reasons, stood up in the Senate and in a magnificent address told his Republican colleagues they were a lot of hypocrites on the negro question; that they felt one way in their hearts and talked one way in private, but voted and talked the other way in public.

There have been few truer words spoken in the Senate. There has never been a better demonstration of their truth than in the present situation. And when the debate on the Parker appointment occurs this week there will be much oratory about his alleged conservative or reactionary trend, about his unfairness to labor, about his political and judicial record, and about Mr. Hoover, but there will be remarkably little about his attitude toward the negro in politics, although that will be uppermost in the minds of every regular Republican on the floor. That is the tender spot. That is the one thing they walk around as if it were a swamp. It is hypocrisy at its height.

Mr. WATERMAN obtained the floor.

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

The VICE PRESIDENT. The clerk will call the roll.

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

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

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 Colorado yield to me for a few moments?

Mr. WATERMAN. I yield to the Senator.

Mr. WALSH of Montana. Mr. President, the remarks of the Senator from Mississippi [Mr. STEPHENS], to which the Senate has just listened, prompt me to take the floor this afternoon. The criticism of the conduct of Judge Parker in the so-called Harness case originated with a letter from Mr. Ralph E. Hayes, a highly reputable gentleman who was private secretary to the Hon. Newton D. Baker when he was Secretary of War. He charged among other things that the attorneys representing the Government had endeavored to secure oaths from witnesses appearing before the grand jury that they would not disclose the character of their testimony before the grand jury.

Mr. Merrick, speaking for the attorneys for the Government, he being one of them, sent the memorandum which was inserted in the RECORD by the Senator from Ohio [Mr. FESS] on April 29, in which he denied that any effort was made to exact an oath from the witnesses before the grand jury, but admitted that they endeavored to secure the same effect by injunctions to them. In his letter Mr. Merrick says:

> As to Mr. Hayes's statement that Government counsel were trying to obtain oaths of secrecy from the witnesses who appeared before the grand jury, permit me to state that this is not true. The witnesses were advised that the deliberations of the grand jury were confidential, and they were asked not to publish or discuss anything that occurred in the grand-jury room.

Accordingly, Mr. President, the admission is that, while an oath was not exacted, the jurors were charged not to disclose anything that transpired. The matter was brought to the attention of the judge then presiding in the court in which the proceedings were pending, Judge William E. Baker, and what transpired in that connection is disclosed by an article appearing in the Hagerstown Globe of July 28, 1923, from which I read, as follows:

> United States District Judge William E. Baker, at Elkins, W. Va., delivered a new charge to the special grand jury which, it is said, has been investigating the contract between the Government and the United States Harness Co., of Charles Town for the past three weeks. When the grand jury was empaneled on July 2, Judge Baker delivered a charge on the law of conspiracy. Much surprise was expressed when he called the grand jury into the court and again instructed them.
>
> This unusual event was explained by some of the points emphasized in Judge Baker's charge.

It was complained by the attorneys representing certain of the defendants that, at the instigation of the special assistants to the Attorney General who had been sent down from Washington to conduct this case, every witness who appeared before the grand jury was warned that he must not, under penalty of the law, disclose to the attorneys for the harness company officials any testimony given before the grand jury. The court in respect to the matter took occasion to say this:

> This grand jury is composed of men of affairs who are familiar with the procedure of the courts. Court proceedings are controlled by law, and none of us can be too often reminded of that fact. The grand jury is one of the greatest constitutional bodies ever established for the protection of the citizens. The most powerful officer of the Government has no right to require a citizen to answer any accusation until and unless the grand jury is convinced by legal evidence that the citizen should be called into court to answer. The grand jury ought not to hear anything but legal evidence and should not pay any attention to hearsay, mere opinion, report, rumor, or suspicion. You ought not to indict any citizen unless the evidence is so strong that, unexplained and uncontradicted, it in your opinion would warrant a conviction on an open trial. The attorneys for the Government who attend your session should assist you in developing facts known to the witnesses, but they have no right to take any part in, or be present at, your deliberations, and they have no right to comment on the testimony before you. While members of the grand jury should observe the rule of secrecy, I instruct you that this rule of secrecy does not extend to citizens who testify before you. If you have mistakenly undertaken to administer an admonition of secrecy to those citizens, you will desist from such practice.

Mr. President, I call attention to the fact that Mr. Merrick admits that is what they did; they admonished the witnesses that they were to observe secrecy with respect to the testimony which they gave. The court said further:

> Citizens don't come here as witnesses because they want to. When a citizen is subpœnaed he is required to leave his home to attend this court and testify to all facts known to him. When he has so testified he is discharged and his right to communicate with whomsoever he pleases, on whatever subject he pleases, is not one which changed from what it was before subpœna was served on him. You are further charged that it is the right of the attorney for persons whose conduct may be investigated by your body to seek to obtain the names of witnesses who may appear before you and to learn from such witnesses any facts within their knowledge. There is no rule requiring the names of witnesses who appear before a grand jury to be kept secret. It has been the practice in this court to have grand jury witnesses sworn by the clerk in open court, which fact itself indicates that there is no secrecy about this matter. The attorney for any citizen whose conduct has been under investigation before you has a legal right to inquire of witnesses, whether subpœnaed by the Government or not, as regards any facts known to those witnesses. Indeed, it is the duty of a lawyer who has been employed to represent citizens of this country to diligently and carefully seek to obtain all the information that any witness might have about his client's case. This particular charge is given you upon the request of a member of this bar, to the end that no injustice may result from any impression you may have received that an attorney could not legally and properly seek to ascertain any facts which any witness may have knowledge of.

So, Mr. President, it appears that these attorneys were rebuked twice by the court for their conduct in this case, and not only were they rebuked twice but they were rebuked by two different judges concerned in the trial of the controversy. This article continues:

> It was noticeable that Judge Baker's charge created quite a sensation.
>
> It is recalled that nearly two years ago Judge Baker held that the President of the United States had no power to cancel the Harness Co. contract and, although President Harding had declared the contract void, Judge Baker upheld an injunction which prevented the Government from taking harness from the company's premises at Charles Town. This injunction had been originally issued by Judge W. M. Wood, of Jefferson County, in July, 1921, when a body of armed soldiers had entered Charles Town and attempted to take harness which the Government claimed from the company's factory at that place. It was said at the time that Judge Wood's injunction was issued within less than an hour after the soldiers, led by an attorney from the Department of Justice and an Army colonel, had started to take out harness over the protest of the harness company's officers. Under Judge Baker's ruling, after the case had been taken by the Government from the Jefferson County Circuit Court to the United States district court,

his injunction was held in effect for nearly two years. It was recalled at Elkins that Judge Baker's opinion in this case was a particularly vigorous one and that it upheld the right of the citizen to appeal to the courts even against an order signed by the President of the United States himself.

I want to advert to another paragraph of this memorandum thus put in the record as a defense of the acts and omissions of Judge Parker. It concludes as follows:

While the trial judge directed a verdict of acquittal after all the evidence was in, both for the prosecution and for the defense, that is not the final test of whether or not the Government made out a case. It was the judgment of one man against many, including a number of Members of Congress and several attorneys in the Department of Justice and quite a number of Army officers and former Army officers who knew the facts. It is easier to conceive how one man might be mistaken than it is for a dozen or more. The members of the jury were not given an opportunity to make their finding, but, as above stated, were directed by the court to acquit the defendants. From that verdict the Government had no right of appeal. It was, therefore, a 1-man verdict which foreclosed the Government's rights after more than a dozen persons, many of them of considerable eminence, both as lawyers and as legislators, had expressed the view that the defendants had violated the law.

I call attention to the fact that it is urged the several Members of Congress believed the defendants to be guilty. It will be recalled that an extensive investigation of this subject was had before a committee of the House of Representatives, and it would not be surprising at all if several Members of the House should think that they had violated the law; but notice, the letter says "several attorneys of the Department of Justice" believed the defendants had violated the law.

That indicates, Mr. President, as the fact is, that there was a divergence of opinion among the lawyers of the Department of Justice even as to whether there was any ground for the prosecution. Finally several Army officers thought they were guilty.

Mr. President, I call attention to the fact that this gentleman who was one of the lawyers for the prosecution undertakes to say that in this case there was a 1-man verdict; that it was contrary to the judgment of some other men. That is not the case at all. When the judge directs a jury to return a verdict for the defendant he does not express any opinion about the question as to whether the defendant is guilty or is not guilty. He directs a verdict only when he reaches the conclusion that no reasonable man could reach the conclusion that the defendant is guilty. If the evidence is in any wise doubtful, if different persons might fairly reach a separate and distinct conclusion with respect to the matter, he has no right to instruct the jury to return a verdict but must submit the case. So it is not a question of the judgment of one man against that of some other men at all; it is the declaration of one man that, under the evidence adduced in the case, no reasonable man could fairly reach a conclusion that the defendant was guilty.

Mr. WATERMAN. Mr. President, I have some doubt whether I have any justification or excuse for trespassing upon the time of the Senate after so wide a discussion of the pending question. I have rather profound convictions with reference to the Constitution of the United States and to the courts constructed under its authority. It seems to me that the discussion upon the pending question, which is, as I understand, Shall the Senate confirm the nomination of Judge Parker? has gone very wide and has resulted in confusion in the minds of many Senators, and in the public press the whole tenor and effect of the editorial system has been torn asunder. There is no common understanding in the press with reference to exactly what the pending question is. Sometimes they refer by means of opprobrious terms to a contract supposed to be the pivot upon which certain litigation turned.

I do not propose to attempt to make any particular argument on constitutional law, or any particular argument upon the jurisdiction of courts of equity in this country under the authority of the Constitution; but I do propose to lay the foundation upon which I may build an argument which, I think, will support the conclusions which I shall ultimately reach.

In the first place, we start with certain things that are definite, that are certain, that were declared by the fathers of the Republic.

Section 1 of Article III of the Constitution provides:

The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish. The judges, both of the Supreme and inferior courts, shall hold their offices during good behavior, and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

Section 2 relates to the subjects over which the judicial authority of the United States under the Constitution has jurisdiction:

SEC. 2. The judicial power shall extend to all cases, in law and equity—

There is no limitation whatsoever upon that clause—

all cases, in law and equity—

There is no exception. Whatever was understood to be a case at law or a suit in equity at the time this Constitution was adopted was drawn within the jurisdiction of the Federal courts—

in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority—

If there is any limitation, the limitation is embraced within the language which I have last quoted—

to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party; to controversies between two or more States; between a State and citizens of another State; between citizens of different States; between citizens of the same State claiming lands under grants of different States; and between a State, or the citizens thereof, and foreign States, citizens or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a State shall be party, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned—

And I have read them—

the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations as the Congress shall make.

And then it goes on to certain other things with reference to crimes, of treason and the punishment of treason, which are not, I think, material to anything that may be said under the pending proposition.

Immediately upon the adoption of the Constitution, or shortly thereafter, 10 amendments to the Constitution, as adopted originally, were proposed. Those 10 amendments were ratified by the necessary number of States, and became a part of the Constitution as though originally contained therein.

Amendment No. 5 provides:

No person shall be held to answer for a capital, or otherwise infamous crime, * * * nor be deprived of life, liberty, or property, without due process of law.

That is a prohibition upon the supreme authority of the United States. That amendment came from the people of America. It came from the then existing 14 States; and that prohibition extended to every function of the Federal Government, bound the Federal Government in every department, continues to bind the Federal Government in every department, including all of its judicial structure, and can not be legitimately overthrown except by a constitutional amendment.

Do not forget that, Senators. Those of you who are lawyers will remember it well enough. You have it in mind anyhow; but those of you who are not lawyers, please bear that in mind as you proceed with the consideration of the question now before the Senate.

Early in the law, a right of action existed at law whenever a third party intervened as between the two parties to a contract, and, by intervening, inflicted any injury upon either of the contracting parties.

I said "a right of action at law"—in other words, a legal right—but that does not tie the execution of the legal process to an action at law. Whenever there comes into being a situation where the facts under consideration are susceptible of invoking the principles of equity jurisdiction in such form that the jurisdiction of the court may be drawn to attach itself to the subject matter of the proposal, then, whenever there is an inadequate remedy at law, or whenever there is a multiplicity of suits involved, equity may draw to itself jurisdiction of the entire subject matter, no matter what it may be; and when it draws to itself the subject matter as laid in that form it will draw to itself every controversy that is incident to and interwoven with the main controversies of the proceeding. No lawyer, I dare say, will question that proposition.

Contract rights are property. No court has ever declared, so far as I know, that a legitimate, binding contract between parties is not susceptible of enforcement and is not the subject of property and property rights under the fifth amendment to the Constitution. I shall draw the Senate's attention first in that connection to the Angle case, in One hundred and fifty-first United States Reports, at page 1.

On page 10 the court said:

That which attracts notice on even a casual reading of the bill * * * is the fact that while Angle was actively engaged in executing a contract which he had with the Portage Co.—a contract whose execution had proceeded so far that its successful completion within the time necessary to secure to the Portage Co. its land grant was assured, and when neither he nor the Portage Co. was moving or had any disposition to break that contract or stop the work—through the direct and active efforts of the Omaha Co. the performance of that contract was prevented.

There is the subject matter of this suit.

On page 25 the court said:

Passing now to the other of the two objections, it may be conceded that an action at law would lie for the damages sustained by the Portage Co. through the wrongful acts of the Omaha Co. Indeed, that is a fact which underlies this whole case. Yet, while an action at law would lie, it does not follow that such remedy was either full or adequate.

The mere fact that a remedy at law exists under a particular situation is not of itself a denial of equity jurisdiction of the subject matter of the controversy. The question then is whether or not, under the circumstances appearing in the case, the remedy at law is full, sufficient, and will settle all of the controversies nestled about the main controversy in the suit at bar.

Again, the court cites Pomeroy on equity jurisdiction with reference to certain situations; but I do not consider it important enough for me to waste the time of the Senate to read it.

More than 20 years ago it happened that I became enlisted by the railroad companies doing business in the Rocky Mountain territory over a situation which grew out of what was known as the scalping of tickets sold by railroads with a nontransferable provision in the ticket contract. I proceeded, or thought I did, to work out a scheme—because at that time the law in connection with that subject matter had not been well settled—by which that offense against the nontransferable tickets of railway companies could be stopped.

I thought I could spell out equity jurisdiction upon the basis that there was no remedy at law adequate, and, further, to avoid a multiplicity of suits, because thousands and thousands and thousands of similar tickets were issued to individual purchasers and found their way into the hands of ticket scalpers in large numbers, who advertised them, as most of us remember, upon the sidewalks and in the windows along the streets of the different cities throughout the country. So I began some suits upon that theory. While I was making a little progress, the Supreme Court of the United States came into the controversy and handed down a decision in 1907, entitled Bitterman *v.* The L. & N. Railroad Co. (207 U. S. 205).

In that case the parties were represented by some very prominent lawyers of the country. The case was ably briefed and well argued, and the opinion was written by Mr. Justice White, to my mind one of the most humane of men, one of the men who had judicial equilibrium equal to that of any of the judges of recent years, a man who was impartial to the last, utter limit, a man who spoke firmly when he spoke, but always justly, and whose decisions were founded upon what he thought was the proper construction of the Constitution and the laws of his country. I could, if my tongue were eloquent enough, pay a tribute to that great Chief Justice like the tributes which have been paid in days gone by to John Marshall, the first great Chief Justice of the Supreme Court, but I do not imagine any tribute I might pay to Mr. Chief Justice White would help very much in determining the issues as they are here framed.

In the case to which I have referred, which involved the right of ticket scalpers, so-called, to invade the contract relations between railroads and individual purchasers of tickets, which sounds back into the very constitutional proposition with which I started out, and upon which the so-called Red Jacket case ultimately finds its basis, Mr. Justice White, then a Justice, and not the Chief Justice, as appears on page 222 among other things said:

Any third person acquiring a nontransferable reduced-rate railroad ticket from the original purchaser, being therefore bound by the clause forbidding transfer, and the ticket in the hands of all such persons being subject to forfeiture on an attempt being made to use the same for passage, it may well be questioned whether the purchaser of such ticket acquired anything more than a limited and qualified ownership thereof, and whether the carrier did not, for the purpose of enforcing the forfeiture, retain a subordinate interest in the ticket amounting to a right of property therein which a court of equity would protect.

Certain cases were referred to and authorities were cited, and then the justice said:

We pass this question, however, because the want of merit in the contention that the case as made did not disclose the commission of a legal wrong conclusively results from a previous decision of this court. The case is Angle *v.* Chicago, St. Paul, etc., Railway Co. (151 U. S. 1)—

To which I have just adverted—

where it was held that an actionable wrong is committed by one who "maliciously interferes in a contract between two parties and induces one of them to break that contract to the injury of the other." That this principle embraces a case like the present—that is, the carrying on of the business of purchasing and selling nontransferable reduced-rate railroad tickets for profit to the injury of the railroad company issuing such tickets—is, we think, clear. It is not necessary that the ingredient of actual malice in the sense of personal ill will should exist to bring this controversy within the doctrine of the Angle case. The want and disregard of the rights of a carrier causing injury to it, which the business of purchasing and selling nontransferable reduced-rate tickets of necessity involved, constitute legal malice within the doctrine of the Angle case.

Mr. President, I shall divert my argument for a moment right there, a little prematurely, perhaps. The contract which has been bandied around here and characterized in opprobrious terms is not a vicious contract, and I shall demonstrate that later on, I think? That contract, as was said in the Red Jacket case, is substantially as follows:

It is recognized by a large percentage of the mines of the United States which are known as union mines and are operated on the "closed union shop" basis; that is to say, no laborers are employed in or about such mines who are not members of the union. Complainants operate their mines nonunion on the "closed nonunion shop" basis; that is, their employees are notified that the company will not employ union men and accept employment with that understanding, and in the case of most of them the employees have entered into contracts that they will not join the union while remaining in the service of the employer.

That is what is called a "yellow dog" contract. The union miners in this country have been for years—and they have the right to do it—forcing employers to make a contract that they will not employ in any department of their works any man, woman, or child who is not union affiliated. Nobody finds any fault with that. They have a right to do that. The proposition is, what were the means and methods of bringing about that contract, not what the contract is?

Mr. President, let me say right now that the controversy in the Red Jacket case was not a controversy between the employees of the Red Jacket Co. and the Red Jacket Co. There is not a scintilla of evidence in this record that any employee of the Red Jacket Co. was asking more wages or complaining about wages. There is no evidence in the record anywhere that any employee of the Red Jacket Co. was complaining about working conditions in any respect. There is nothing in the record, from beginning to end, which discloses anywhere that there was any controversy between the employees of the Red Jacket Co. and the Red Jacket Co. itself. The employees of the Red Jacket Co. were not parties to the litigation, directly or indirectly. So far as the record shows, there might not have been any employees at that time. Undoubtedly, if the record speaks the truth, the unions would not have permitted the Red Jacket Co. to have had a peaceably employed employee within its works.

The defendants in the Red Jacket case were not employees, any of them, of the Red Jacket Co., not one. The defendants in that suit were not even attorneys for the employees of the Red Jacket Co. They had no relation of agency to the employees of the Red Jacket Co. any more than I have. They were interlopers, at the best. They were interested none whatsoever in the interrelations of the company and the employees. They could not be, in the very nature of things, because they were not parties; they did not represent the parties; they were not connected in any way with the output of the mines; they were not contractors, even, in connection with the mines or the works, or otherwise.

What legal connection did the defendants, who were intervening and interfering with the contract relations between the Red Jacket people and their employees have that authorized them to invade the processes being carried on under and by force of contracts which were peaceably made and, so far as we know from this record, no one on earth was objecting to, so far as those who were interested in the contract were concerned?

There was no controversy whatever between the employees and the complainant, the employer, none whatsoever. There was no basis upon which an interference could be predicated. The only thing these outsiders who were made defendants to the suit were seeking to bring about was to compel or to require or to persuade, if you please, the employees of the Red

Jacket Co. to default their contract and sever relations with their employer and join the union.

Right there I might say that very able Senators, for whom I have the highest personal regard and respect, whose abilities are recognized not only by my feeble self but by others better able to recognize them, have said that this contract was void, not as a fiat but as a judgment of the speaker that, in his opinion this "yellow dog" contract, so called, was void.

This contract or contracts similar in form, or perhaps better, have been upheld as to their legality, if I can read the English language, by a unanimous decision of the Supreme Court of the United States. I refer to no other case than the so-called Hitchman case. There was a dissent by three judges and an opinion written by Mr. Justice Brandeis. I am not quarreling with Mr. Justice Brandeis. I have no opprobrious terms to use in connection with him. I think his mental processes are among the keenest the country affords. I have no doubt of his integrity and his honesty. But when he came to write that dissent in the Hitchman case he did not say that a contract of the kind about which I am talking was not a valid contract if properly made and for a proper consideration.

In the Bitterman case, to which I shall recur for the time being and approach in another way the subject which I have just left, the Supreme Court, through Mr. Justice White, said:

> The wanton disregard of the rights of a carrier causing injury to it, which the business of purchasing and selling nontransferable reduced-rate tickets of necessity involved, constitute legal malice within the doctrine of the Angle case. We deem it unnecessary to restate the grounds upon which the ruling in the Angle case was rested or to trace the evolution of the principle in that case announced, because of the consideration given to the subject in the Angle case and the full reference to the authorities which was made in the opinion in that case.
>
> Certain it is that the doctrine of the Angle case has been frequently applied in cases which involved the identical question here at issue—that is, whether a legal wrong was committed by the dealing in nontransferable reduced-rate railroad excursion tickets. * * *
>
> Indeed, it is shown by decisions of various State courts of last resort that the wrong occasioned by the dealing in nontransferable reduced-rate railroad tickets has been deemed to be so serious as to call for express legislative prohibition correcting the evil.

On page 225 the court said:

> The contention that, though it be admitted for the sake of the argument, that the acts charged against the defendant "were wrongful, tortious, or even fraudulent," there was no right to resort to equity because there was a complete and adequate remedy at law to redress the threatened wrongs when committed is, we think, also devoid of merit.

I may refer again right here to the Red Jacket case. This contract was not the great pivotal point of the decision in the Red Jacket case in the Circuit Court of Appeals of the Fourth Circuit. The great question involved in the circuit court of appeals was a question of jurisdiction of the case at all. The question of the contract was a mere incident to the general litigation of the propositions involved in the case, as also was that portion of the decree which went against the shipping of food, and so forth, to the union people who were occupying the houses of the complainant within the complainant's property. These were not the pivotal questions in that case. These particular questions might have been able to invoke the jurisdiction of a court of equity. There were other things that were involved in that case.

The great question of invasion of the rights of people to do business, to strike, the destruction of property, picketing, and various other things were involved when that suit was begun, and, of course, any lawyer useful for any purpose called upon to address himself to the court by petition for injunction to relieve the situation would put within the confines of his complaint allegations bearing upon every proposition going to any right which was incident to the controversy anywhere or under any conditions. If he did not do that, he would not be fit to practice law, in my opinion.

I say again the great question in the Red Jacket case was whether the court had jurisdiction of the subject matter at all. That question was resolved by the lower court—that is, by the district judge—in favor of the jurisdiction. The case went to the circuit court of appeals, before Judge Parker was ever thought of as a judge upon that court, upon a review of an interlocutory injunction, and in that case, in Two hundred and eighty-eighth Federal Reporter, it will be found that those questions were first threshed out, jurisdiction upheld, and the law for the future progress of that suit practically laid down. That is what anyone will find if he will go back to the Two hundred and eighty-eighth Federal Reporter.

Mr. SHIPSTEAD. Mr. President——

The PRESIDING OFFICER (Mr. BLEASE in the chair). Does the Senator from Colorado yield to the Senator from Minnesota?

Mr. WATERMAN. I yield.

Mr. SHIPSTEAD. Where did the question of jurisdiction arise and upon what ground?

Mr. WATERMAN. As to whether or not the complaint stated facts sufficient to bring the subject matter of the bill within equitable principles and equity jurisdiction.

Mr. SHIPSTEAD. It was not based upon section 4 of the Sherman antitrust law?

Mr. WATERMAN. It was not. As I said, it was based upon the elementary general principles which have existed for hundreds of years in English and American law, which would be sufficient to attract the jurisdiction of the Federal court in equity.

Mr. SHIPSTEAD. The reason why I asked the question is because I have not seen the petition filed for equity jurisdiction.

Mr. WATERMAN. It is not in any record that I have yet seen.

Mr. SHIPSTEAD. I was told that jurisdiction was conceded because of section 4 of the Sherman antitrust law.

Mr. WATERMAN. The record here is not sufficient to say that that is not so. The question of jurisdiction was fought from the beginning to the very end, even by an application for a writ of certiorari in the Supreme Court of the United States. It was always in contest, and when that question was resolved in favor of jurisdiction, the other questions were immediately drawn within the compass of the jurisdiction so predicated, and the court was bound to settle the entire controversy which the parties had placed before it.

That is the rule in equity, always has been, and always will be. Whenever we can invest a court of equity with jurisdiction on the ground that there is not an adequate remedy at law, or whenever we can invest it with jurisdiction on the ground that it will prevent a multiplicity of suits—that is, prevent suing a thousand people in a thousand different suits—that couples with it also the question, if we undertake to sue individually people by the thousand for the same cause of action, whether or not the remedy will be adequate for any purpose whatsoever. There are other grounds of equity jurisdiction, of course; but I am speaking of those two particularly.

Mr. SHIPSTEAD. As a rule, the judge decides whether he has jurisdiction?

Mr. WATERMAN. Of course, he has to do so. There is no one else to decide it.

Mr. SHIPSTEAD. Does not the Senator think Congress changed that rule when it enacted the Sherman antitrust law, in section 4, placing jurisdiction in courts of equity?

Mr. WATERMAN. There are certain things that Congress can do in connection with the courts, no doubt. Congress has a right to regulate, to some extent at least, the method of practice. But the Senator will note that whenever we come to proceedings in equity the Supreme Court of the United States itself lays down the full and complete regulations and rules for practice in a court of equity in the Federal courts. It is the outgrowth of law, and that is about the size of it. It is the outgrowth of the honest judgment of judges who have gone before. They have built up this system. But the Constitution of the United States sanctioned that thing and declared that a contract for a consideration and valid as between the parties was a property right and could not be taken away by legislation.

Mr. SHIPSTEAD. The right of contract?

Mr. WATERMAN. The right of contract.

Mr. SHIPSTEAD. The sacred right of contract?

Mr. WATERMAN. Yes; it may be called sacred.

Mr. SHIPSTEAD. But it is usually based on the freedom of contract.

Mr. WATERMAN. A contract entered into, of course, is a free contract or else it is entered into under duress Any contract that is procured by fraud or duress is a useless thing.

The Senator from Nebraska [Mr. NORRIS] the other day, in addressing himself to the pending question, inadvertently stated and then corrected himself that in relation to the levying of an income tax the Constitution had been amended and the amendment was declared unconstitutional. Of course the moment he bethought himself he knew the statement was wrong and that he had erred in it, unfortunately, and then he stated what the fact was. The fact was that the Congress attempted to levy an income tax not in conformity with the constitutional manner then existing, and the Supreme Court declared the legislation void because it contravened the Constitution of the United States.

What happened? What happened was that which should happen always under the same conditions; it should happen in this case, if the people want to correct or to change the situation. Congress immediately proposed an amendment to the Constitution of the United States, known now as the sixteenth amendment—the income-tax amendment. It was ratified by the necessary number of States and became a part of the Constitution. In other words, there was an amendment to the Constitution itself in which everybody acquiesced.

On the other hand, there was a 5 to 4 decision on the question whether or not Congress could enact legislation levying an income tax under the then constitutional provision. Five judges said Congress could not do so; four said Congress could; but the people solved the difficulty by adopting an amendment to the Constitution which is satisfactory to everybody. So I think I shall be able to demonstrate shortly that the so-called "yellow-dog" contract which is complained about is a legitimate and valid contract.

The brilliant Senator from Idaho [Mr. BORAH] said that, in his opinion, the contract was void. I think he went pretty strong on that, but that may be his judgment and his belief.

Mr. BORAH. Not "may be" but is.

Mr. WATERMAN. Very well, we will put it that way. If the fifth amendment means what it says, and what the court says it means, unless the contract was without consideration, or invalid for some other reason—and I know there are things about which people can not contract; every lawyer recognizes that—it was valid. However, the Senator from Idaho and I differ right there. I think it is a valid contract if it is not brought about by duress or fraud; and as to the consideration, a person may grant a consideration by putting himself alone under an obligation. If I am right about it, then the way to get rid of this kind of a contract is to amend the fifth amendment, and so frame it that everybody will know that a contract is nothing; that it is not enforceable; that it may be broken up by disinterested outside parties, notwithstanding the protests of its makers on both sides. All I ask is that it shall be done in a constitutional manner; and if the people of America shall say that such a contract is constitutional, nobody will get on the band wagon and ride along with the proposition any more joyfully than will I, because I am a believer in the ability and good faith and the hopes and the aspirations of the American people, and also in the Constitution of the United States and the method by which it must be changed.

Mr. SHIPSTEAD. Mr. President——

The PRESIDING OFFICER. Does the Senator from Colorado yield to the Senator from Minnesota?

Mr. WATERMAN. I yield.

Mr. SHIPSTEAD. I do not want to interfere with the Senator's argument; I do not want to break the continuity of his remarks in the RECORD unless it shall be agreeable to him. Sometimes it breaks up a Senator's argument to be interrupted, and I do not want to do that.

But I agree with the Senator as to the contract he mentioned, under which railroad companies secured an injunction to enjoin people who had bought tickets under contract at a reduced rate from selling them to third parties. I never previously heard of the case, but it seems that would be reasonable.

Mr. WATERMAN. That is the law.

Mr. SHIPSTEAD. On the other hand, if it is convenient to the Senator, I wish he would now explain why the contract in controversy in the Red Jacket case can be placed upon the same basis of legality in morals and in law as the contract to which he has referred.

Mr. WATERMAN. If the Senator will be patient with me for a little while, I think I can satisfy, so far as I am able to satisfy, the Senator's inquiry.

Mr. BORAH. Mr. President——

Mr. WATERMAN. I yield to the Senator from Idaho.

Mr. BORAH. As I am compelled to leave the Chamber in a few moments, I am going to ask to interrupt the Senator. Does he agree with me that if this contract were wanting in consideration it would be void, notwithstanding the fifth amendment?

Mr. WATERMAN. It is not a contract under those conditions, of course.

Mr. BORAH. Exactly. Well, calling it a contract we say the contract is void for want of consideration. The Senator will also agree with me, will he not, that if it is such a contract as is contrary to the public welfare or to public policy it would also be void notwithstanding the fifth amendment?

Mr. WATERMAN. Yes; with certain limitations. There is not any doubt about that proposition. The Senator from Idaho and I can not make a contract to run a gambling institution, start it running under a contract, and get under cover—either one of us or both of us—on the ground that we have a valid contract. We can not do that. That outstandingly is a contract that is not protected by the law. No gambling contract is considered by the law.

Mr. BORAH. Well, let us assume a different kind of contract than that of gambling, because I would rather get in better company than that. A railroad company can not make a contract relieving itself from liability for negligence.

Mr. WATERMAN. Certainly it can not.

Mr. BORAH. Such a contract is void, notwithstanding the fifth amendment.

Mr. WATERMAN. It is not a contract. A railroad company can not, of course, make a contract relieving itself from liability on account of its own negligence.

Mr. BORAH. No; nor can it make a contract against the public welfare.

Mr. WATERMAN. I am not so certain as to what the Senator may declare or what I may declare to be the public welfare.

Mr. BORAH. The Senator and I perhaps differ now about what is the public welfare, but if we were agreed that this kind of a contract was contrary to the public welfare we would both agree that it was void notwithstanding the fifth amendment.

Mr. WATERMAN. When the Senator says the "public welfare" does he use that term in the same sense that he would use the term "public policy"?

Mr. BORAH. Yes; in this discussion I do.

Mr. WATERMAN. I thought the Senator did. If a contract is against public policy—and by that I mean a declared public policy, declared, it may be, legislatively or it may be judicially, but declared somewhere authoritatively—if it is against public policy the Senator and I can not enter into such a contract and get away with it; that is all.

Mr. BORAH. The Senator will recall that Justice Day in his dissenting opinion in the Coppage case——

Mr. WATERMAN. That is the Kansas case?

Mr. BORAH. Yes; held that the contract was void because it was contrary to public policy. It was a dissenting opinion, but he cited a number of authorities, including the Supreme Court, as to what constitutes public policy, when a contract is void, and so forth. So the discussion between the Senator and myself would resolve itself into a question of trying to agree upon what would be against public policy.

Mr. WATERMAN. Exactly; but the decision of the Justice to whom the Senator refers in the Coppage case amounts to just about as much in determining what is public policy as the expressions of the Senator and myself in this Chamber.

Mr. BORAH. I think more than that.

Mr. WATERMAN. I do not think so.

Mr. BORAH. I think more than that, for the reason that several times in the history even of the Supreme Court of the United States the minority opinion has become the majority opinion.

Mr. WATERMAN. That is true; there is no doubt about that.

Mr. BORAH. So we will hope while the light holds out to burn.

Mr. WATERMAN. But when the Supreme Court has trenched itself about as it has by its declarations in connection with contracts and the fifth amendment, and has said that it is beyond the power of legislation to change it, what can be done about it except to amend the Constitution?

Mr. BORAH. Amend the court.

Mr. WATERMAN. I do not like that way; I do not like to have it go out to the inferior judges of this country nor to the Justices of the Supreme Court that the Senate of the United States, which is not a judicial body, which is not vested with the power of judicial authority, having nothing whatsoever to do with it except in the form that we are doing it now—I do not want it to go out as a threat that any man who comes up for appointment or for promotion upon the Federal bench of this country has got to get his ear to the Senate Chamber to find out what Senators want him to do.

Mr. BORAH. Mr. President——

The PRESIDING OFFICER. Does the Senator from Colorado yield further to the Senator from Idaho?

Mr. WATERMAN. I yield.

Mr. BORAH. There have been a number of objections made to nominees for the Supreme Bench, but objections have never been made in our history, so far as I know, on the ground that the nominee was a man lacking in character or lacking in integrity. The objections have always been raised because of the views he entertained with reference to some public question. Take, for instance, the great fight which was made upon Taney. Nobody doubted his intellectual capacity; he was a lawyer of extraordinary ability; he was a classical scholar, and in every sense a gentleman; and no one assailed him in those respects; but the reason why Webster and Clay and Calhoun and Ewing and other men of the time opposed him was because of his views upon certain public questions.

Mr. WATERMAN. I am aware of that.

Mr. BORAH. And that is the only reason we are opposing the nominee in this instance; at least, it is the only reason why I am opposing him.

Mr. WATERMAN. I know very well the Senator has declared upon the floor here that Judge Parker is an utter and absolute impersonality, so far as he is concerned. That is likewise true so far as I am concerned. I do not know the gentleman; I know nothing about him except what has been brought out in this debate. I am speaking, however, from a little different platform than is the Senator from Idaho. I look upon the Constitution as a document that is amendable only in a certain way provided in the instrument itself, and I think that is the way in which it should be amended.

Mr. BORAH. I agree with that.

Mr. WATERMAN. I do not think it should be amended by the method of importuning or threatening any candidate for office or by criticizing the courts or by criticizing a judge or by criticizing a decision or by bringing about a changed opinion in a politican forum, as I think we are doing at the present time.

Mr. BORAH. But the Senator will agree with me that there is a limit. For instance, if a nominee should entertain communistic views——

Mr. WATERMAN. I would certainly be against him.

Mr. BORAH. Yes. So there is a limit. It is just a question as to what shall be the limit.

If the Senator will permit me further, I think that the sustaining of this contract, maintaining, and enforcing it through the process of injunction, is a very serious matter, and I think a court which entertains that view must necessarily come under legitimate discussion. The Senator differs with me as to that and thinks that it is not so serious; in fact, he thinks the contract is valid; but if I should go a step farther and present a nominee here who said that he did not believe in the Constitution or who was a communist the Senator would be as much opposed to him as I would be.

Mr. WATERMAN. I think I would be more violent in opposition to him than would the Senator from Idaho.

Mr. BORAH. Possibly the Senator would be more violent, but not more in earnest. [Laughter.]

Mr. WATERMAN. Mr. President, as the Senator is compelled to leave the Chamber in a few moments, I will somewhat change the course of my argument and discuss further the question which we have been talking about. I was not here when the nomination of Mr. Justice Brandeis was sent to the Senate, but I know that there was a storm of protest against his nomination. The Senator was here, and knows all about it, and probably participated in the contest.

Mr. Justice Brandeis, in the Hitchman case, considering a contract substantially like the Red Jacket contract, does not quarrel with the contract. He quarrels more with the consideration—that is, if there was a consideration for it—more with the consideration, possibly, but more particularly still on the ground that what was done did not breach the contract, assuming that there was one. The Senator will agree with me on that; and I think his whole discussion and his conclusion turns upon the proposition that there was not in any sense of the word a breach of the contract actually by the employees.

Now, I want to go ahead a little with the Hitchman case, because I can not but feel that there has gone forth to the country from this debate an erroneous notion about what is at stake in the discussion of this confirmation. I think that has arisen more from the use of an unwarranted and contemptuous adjective in describing this contract than anything else. It has become a shibboleth among the people of the country and the newspapers of the country; and when they characterize it as a "yellow-dog" contract they think that takes the place of all argument in condemnation of the instrument itself. It does not; but it would seem from newspaper comments and conversations that I hear among people who are not lawyers that they have become completely obsessed with the notion that there is something vicious about this contract, something dirty about it, something contemptible about it, something that should not be permitted to exist in American jurisprudence.

That is what I think about it.

Now I am coming to the discussion of the Hitchman case. I had intended to quit long before this; but before I proceed I am going to say this much: I am sorry the Senator from Idaho did not remain here. I think he would have liked to remain and listen to what I have further to say. The little colloquy that took place between us shows that we are fundamentally not so far apart. He believes this so-called "yellow-dog" contract is a contract without consideration and void as against public policy. I consider it to be a contract for a consideration and one perfectly legitimate to be made without duress as between an employer and an employee. There is where we finally land. I say, if you want to take away the power to make that sort of a contract, amend the Constitution of the United States; put it in such form that it will meet with the approval of the American people as a whole, or as a majority.

Mr. SHIPSTEAD. Mr. President, do I understand the Senator to say that he does not think it is a bad contract?

Mr. WATERMAN. I do not. I can not for the life of me understand why it is different in spirit or different in purpose or different in morals than a contract which is required by a union to be made by an employer that he will not employ anybody but union men; that if he does, they will strike. If the Senator can picture any difference, any differential, by means of which it can be said that one is moral and the other is immoral, I want him to take my time to do it.

Mr. SHIPSTEAD. The reason why I asked the Senator the question is because, as far as I know, he is the first man who has risen on the floor of the Senate to defend that contract.

Mr. WATERMAN. That is the reason why I am in this argument this afternoon—to defend it from the legal standpoint; nothing else.

Mr. SHIPSTEAD. Not from the moral standpoint?

Mr. WATERMAN. I do not know what a moral contract is. My training from youth up has been along the lines of trying to determine what was a legal, binding, enforceable contract. I think I can understand, and the Senator as well as I, what is meant by moral turpitude, what is meant by moral uprightness, what is meant by doing unto others what we want them to do unto us. Those are the moral aspects of things; but when I make a contract with you that I will serve you for a year in a given capacity at a certain place for so much money, and then John Jones comes along and threatens me and tells me that I have not any business to go on with Senator SHIPSTEAD under that contract, and I had better break it, or something will happen to me, does the Senator think that that outsider has a right to come in and break up our relations that are satisfactory to both of us; that we both approve; that each entered into for a consideration and intending to carry out? Does he think that third man has a right to intervene as between him and me, who are peaceable and satisfied by reason of our contract relations, and break up our contract? Now, that is illegal, and it is immoral for him to do it besides.

Mr. SHIPSTEAD. If all the things that the Senator enumerates as entering into the making of the contract were true—that it was agreeable to all parties; that there was no duress used, and so on—I would agree with the Senator.

Mr. WATERMAN. The record shows that what I say is true; and the Senator may read the record from beginning to end, and he can not call me down on a single statement that I make with reference to those contracts.

Mr. SHIPSTEAD. We have heard a great deal about these "yellow-dog" contracts.

Mr. WATERMAN. I know it. They have just been called "yellow-dog" contracts, with all the following of immorality that can be gathered out of that opprobrious term. That is all there is in it.

Mr. SHIPSTEAD. The history of them in general, so far as I am familiar with them, is very bad. In this case the Senator says there was not any duress.

Mr. WATERMAN. There was not.

Mr. SHIPSTEAD. There was free will on both sides.

Mr. WATERMAN. There was.

Mr. SHIPSTEAD. There was a consideration on both sides.

Mr. WATERMAN. There was.

Mr. SHIPSTEAD. If all those things were true, I would agree with the Senator; but I have not convinced myself that all those things are true.

Mr. WATERMAN. That is why I wish the other Senators in this body would listen to what I have to say, and read this RECORD, and not condemn an inoffensive, innocent, moral man because they fasten upon the thing upon which he passed this contemptuous term, and then let the people carry it over and besmirch him with it.

I am not afraid of this. This is "easy pickings" so far as I am concerned. I am not disturbed about it at all. As I said to the Senator from Idaho, if a man came in here, nominated for public office, and you could bring the evidence here to show me that he was for the subversion of this Government or of any proposition in the Constitution of the United States, I should be one of the first, and I should be as gallant as I could, to stop him from being confirmed.

Mr. President, I am not going to get through as quickly as I thought I was.

In the Hitchman case, in Two hundred and forty-fifth United States Reports, at page 229, the opinion was written by Mr. Justice Pitney, speaking for the Supreme Court. He spoke for

himself and five other judges. Mr. Justice Brandeis, in dissenting, spoke for himself and two other judges. On page 233 Mr. Justice Pitney said, among other things, referring to the bill upon which this case was predicated:

The general object of the bill was to obtain an injunction to restrain defendants from interfering with the relations existing between plaintiff and its employees in order to compel plaintiff to "unionize" the mine.

There is the gist of the whole case.

What happened?

It seems that the miners of the Hitchman Co. were nonunion. They had agreed similarly in the form that I refer to in connection with the Red Jacket case. The Hitchman Co. was working in that part of West Virginia where they were all nonunion, closed mines. They were producing in that section of the country a far better and a far more desirable coal than the coals that entered into competition with it. The union men in Ohio and Kentucky and elsewhere felt the sting of the competition arising from this better coal produced in West Virginia. They thought there might be some remedy for it somewhere, and so they conceived the notion that the only thing to do was to unionize West Virginia, and they set about to do it. Then trouble began.

They had an emissary that they sent out by the name of Hughes; and on page 245 it is said, referring to Hughes.

He arrived at that mine—

Of the plaintiff—

some time in September, 1907, and remained there or in that vicinity until the latter part of October, conducting a campaign of organization at the Hitchman and at the neighboring Glendale and Richland mines.

The evidence shows that he had distinct and timely notice that membership in the union was inconsistent with the terms of employment at all three mines and a violation of the express provisions of the agreement at the Hitchman and Glendale.

Notwithstanding that, he proceeded to unionize, in a sense, by taking away nonunion people who had contracted to remain such, and getting them to join the union.

On page 248, it is said:

In short, at the time the bill was filed—

That is, the suit begun—

defendants, although having full notice of the terms of employment existing between plaintiff and its miners, were engaged in an earnest effort to subvert those relations without plaintiff's consent, and to alienate a sufficient number of the men to shut down the mine, to the end that the fear of losses through stoppage of operations might coerce plaintiff into "recognizing the union" at the cost of its own independence. The methods resorted to by their "organizer" were such as have been described. The legal consequences remain for discussion.

Omitting some, on page 249:

The facts we have recited are either admitted or else proved by clear and undisputed evidence and indubitable inferences therefrom.

The proceedings of the international and subdistrict conventions were shown by the introduction of official verbatim reports, properly authenticated. It is objected that these proceedings, especially in so far as they include the declarations and conduct of others than the answering defendants, are not admissible because the existence of a criminal or unlawful conspiracy is not made to appear by evidence aliunde. The objection is untenable. In order that the declarations and conduct of third parties may be admissible in such a case, it is necessary to show by independent evidence that there was a combination between them and defendants, but it is not necessary to show by independent evidence that the combination was criminal or otherwise unlawful.

Omitting the citation of authorities and some other matters, I proceed to 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 resolve 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 workingman 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.

That is what the Supreme Court said.

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, 38) 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.

That is the crucial point in this great contest.

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.

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.

So I might continue, but I do not consider this important. The rule, as laid down in the English law, is that whenever a third party without excuse interferes in the contract relations of two other parties, that is evidence of malice enough upon which to found an action, and to proceed either at law or in equity, as the conditions may permit.

Now, I want to come in this case to Mr. Justice Brandeis's dissent, at page 207. Mr. Justice Brandeis said:

It is urged that a union agreement curtails the liberty of the operator. Every agreement curtails the liberty of those who enter into it.

Giving up of a liberty by a contractee is sufficient consideration in and of itself to support the contract, as far as he is concerned. Therefore I say that when an employee, in consideration of getting a job, agrees that he will not join a union, the consideration on the one hand is the giving him of a job, to which he is not entitled except as the employer sees fit to give it to him, and also when he, in turn, for the getting of that employment, gives up a part of his personal liberty, to wit, his ability to join a union. Nothing clearer was ever brought forth in a legal discussion that these questions, as they appear to me.

Continuing the dissent, Mr. Justice Brandeis said:

The test of legality is not whether an agreement curtails liberty, but whether the parties have agreed upon something which the law prohibits or declares to be otherwise inconsistent with the public welfare.

That is just the proposition which the Senator from Idaho and I were discussing a little while ago.

The operator by the union agreement binds himself: (1) To employ only members of the union; (2) to negotiate with union officers instead of with employees individually the scale of wages and the hours of work; (3) to treat with the duly constituted representatives of the union to settle disputes concerning the discharge of men and other controversies arising out of the employment. These are the chief features of a "unionizing" by which the employer's liberty is curtailed. Each of them is legal. To obtain any of them or all of them men may lawfully strive and even strike. And, if the union may legally strike to obtain

each of the things for which the agreement provides, why may it not strike or use equivalent economic pressure to secure an agreement to provide them?

It is also urged that defendants are seeking to "coerce" plaintiff to "unionize" its mine. But coercion, in a legal sense, is not exerted when a union merely endeavors to induce employees to join a union with the intention thereafter to order a strike unless the employer consents to unionize his shop. Such pressure is not coercion in a legal sense. The employer is free either to accept the agreement or the disadvantage. Indeed, the plaintiff's whole case is rested upon agreements secured under similar pressure of economic necessity or disadvantage. If it is coercion to threaten to strike unless plaintiff consents to a closed union shop, it is coercion also to threaten not to give one employment unless the applicant will consent to a closed nonunion shop. The employer may sign the union agreement for fear that labor may not be otherwise obtainable; the workman may sign the individual agreement for fear that employment may not be otherwise obtainable. But such fear does not imply coercion in a legal sense.

In other words, an employer, in order to effectuate the closing of his shop to union labor, may exact an agreement to that effect from his employees. The agreement itself being a lawful one, the employer may withhold from the men an economic need—employment—until they assent to make it. Likewise an agreement closing a shop to nonunion labor being lawful, the union may withhold from an employer an economic need—labor—until he assents to make it.

Then he proceeded, under the fifth heading, as found on page 272, and this is where he goes off. He does not say that the contract is bad, he does not denominate it a "yellow-dog" contract, he does not characterize it in any way as disreputable, he does not say it is illegal, but he says here, and this is the ground of his dissent:

The contract created an employment at will; and the employee was free to leave at any time. The contract did not bind the employee not to join the union; and he was free to join it at any time. The contract merely bound him to withdraw from plaintiff's employ if he joined the union. There is evidence of an attempt to induce plaintiff's employees to agree to join the union; but none whatever of any attempt to induce them to violate their contract.

What did they attempt to do? Whenever a body of men try to bring about an agreement that certain things will not be done, what is the difference between that and carrying it out, as far as their engagements are concerned?—

Until an employee actually joined the union he was not, under the contract, called upon to leave plaintiff's employ. There consequently would be no breach of contract until the employee both joined the union and failed to withdraw from plaintiff's employ. There was no evidence that any employee was persuaded to do that or that such a course was contemplated.

That is where Mr. Justice Brandeis goes wrong. He does not declare that these contracts are wrongful, or immoral, or unjust, or illegal, or unfair; he declares that what was done in the Hitchman case by these interlopers, as between the employee and the employer, was not a breach of the contract. That is where the court split, and that is the condition upon which the dissent is founded.

I shall not consume any time further with that. For a few moments before quitting I shall go to the Tri-City Council case.

In the Hitchman case the contract between the employees and the employer that the employees would not join the union was not dissimilar from the contract in the Red Jacket case. The legal effect was practically the same; the phraseology might differ a little.

Very able lawyers in this body have attempted to differentiate the Hitchman case and to draw it out of this controversy by referring to the Tri-City case (257 U. S. 184). I shall not spend a great deal of time on the Tri-City case. I think I can make Senators understand it by a brief reference.

In the Tri-City case there was no contract whatever between the employers and the employees. The employees, for a consideration, worked so many hours a day in certain places for the employers. There was no contract of any such kind or character as existed in the Hitchman case or the Red Jacket case. It was brought within the terms of the twentieth section of the Clayton Act by reason of conditions which had developed in the case. The opinion of the court was written by Mr. Chief Justice Taft. It was concurred in by Mr. Justice Holmes; it was specially concurred in by Mr. Justice Brandeis; and it was dissented from by Mr. Justice Clarke. So we have Mr. Justice Holmes in the Tri-City case going over body and soul to the opinion of the Chief Justice, who was speaking for the court, and we have Mr. Justice Brandeis going over to the extent of saying, "Mr. Justice Brandeis concurs in substance in the opinion and the judgment of the court." I do not know whether that would be called a special concurrence or not.

Bear in mind always that there was no contract between employees and employers in the Tri-City case, nothing that could be breached or trenched upon by outside parties. There was a strike, and an injunction was applied for. Jurisdiction was founded, as I recollect it, upon diversity of citizenship. At page 195 the court said that there were assignments of error in the circuit court of appeals. The principal one, about which discussion has ranged here, was that the court of appeals, approved by the Supreme Court, modified the lower court's injunction with reference to picketing and with reference to getting people to leave the employer and join the strike or become members of the union. There was no contract violated. But the situation was so radically different from what we have been discussing that it is useless to go into a refined discussion of the distinctive features of the different cases. However, I am going to call attention to page 202, where the court said:

It has been determined by this court that the irreparable injury to property or to a property right, in the first paragraph of section 20 [of the Clayton Act], includes injury to the business of an employer, and that the second paragraph applies only in cases 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, and not to such disputes between an employer and persons who are neither ex-employees nor seeking employment. * * * The prohibitions of section 20, material here, are those which forbid an injunction against, first, recommending, advising, or persuading others by peaceful means to cease employment and labor.

That is, where there is no contract between employer and employee; and when the Hitchman case and the Duplex case were cited and called to the attention of the Supreme Court of the United States as having a bearing upon this case in which there was no such contract, the Supreme Court clearly stated that the Hitchman case and the Duplex case had no bearing whatsoever upon the Tri-City case. It must have been because of the difference between the first two cases and the Tri-City case in the fact that in the first two cases the contract was with relation to engaging to be members of the union, and in the third case, the Tri-City case, there was no such contract. At page 210 the court said:

The elements essential to sustain action for persuading employees to leave an employer are, first, the malice or absence of lawful excuse; and, second, the actual injury.

They used the terms "malice or absence of lawful excuse." Those two terms are are absolutely synonymous or they refer to two different and distinct things. If they are synonymous the conclusion is that malice in the sense of ill will does not have to exist at all; but if they refer to two different things, then the absence of lawful excuse, if it appears, in trying to break up an employment between an employer and an employee, is malice in and of itself and does not have to be express.

Every proposition in the Hitchman case on the question, so far as it refers, of breaking into and breaking up the relations of employer and employee, remains uncriticized in the Tri-City case.

I shall leave that case now, though I do want to say before I do so that some days ago the Senator from Alabama [Mr. BLACK]—I believe it was he, though I am not sure—referred to the injunction in the Red Jacket case which restrained the union and people associated from sending food and money to employees of the Red Jacket Co. who had broken their contract with the Red Jacket Co. and still maintained themselves in the Red Jacket houses. As a matter of fact, all that attorneys for the defendants in that case devoted to that particular proposition in their brief covers 1 printed page out of 235 pages, and so I ask that that portion of the brief which I shall indicate may be inserted in the RECORD at this point.

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

The matter referred to is as follows:

IV. THE DISTRICT COURT ERRED IN THE FOURTH PARAGRAPH OF ITS DECREE

In the final decree the court enjoined the defendants "from aiding or abetting any person or persons to occupy or hold without right, any house or houses or other property of the plaintiffs, or any of them, by *sending money or other assistance to be used* by such persons in furtherance of such unlawful occupancy or holding." [Italics ours.]

In the several bills in these cases it is charged that former employees of the plaintiffs were in possession of houses owned by the plaintiffs which are necessary to the operation of their mines, and that such former employees declined to vacate their houses. What the agreement was by which the said houses were occupied by these persons does not appear, nor does it appear by what right such persons claimed to occupy the houses, but we submit that a Federal court of equity had no jurisdiction to determine the question of right of possession, and especially to make such an indefinite order enjoining the defendants "from aiding

or abetting any person" from occupying or holding "without right, any house or houses or other property of the plaintiffs." Under such an injunction, the defendants might, thinking that a person occupying a house had a just right to do so, aid him in defense of his right, and if it should be adjudged that the person had no right to occupy the house, the defendant might find himself in violation of the indefinite injunction granted by the district court.

The men occupying these houses were members of the union and on a strike and were entitled to their union *benefits*, and section 20 of the Clayton Act provides that no injunction shall prohibit any person "from paying or giving to or withholding from any person engaged in such dispute, any strike benefits or other moneys or things of value."

We submit that this question of the right of possession of houses should have been left to the State courts where the property is situate and where the rights of the parties could be properly determined.

Mr. WATERMAN. The injunction complained of in that feeble way is not an injunction which forbade the furnishing of money, food, and supplies to the employees of the Red Jacket Co. in the possession of those houses. It was an injunction restraining the feeding and supplying of people who had ceased to be employees of the Red Jacket Co. and who were living under the auspices of the union and were trespassers under the laws of West Virginia by continuing to exist in the houses of the company.

That is all I care to say about that matter. I want to comment now upon some cases cited by the junior Senator from New York [Mr. WAGNER] in his argument the other day, which appear in the CONGRESSIONAL RECORD of April 7 last at pages 6574 et seq. I did not hear the able Senator's argument, but I read some portions of it. I think he did not clearly state what happened in the New York cases, the opinions which he caused to be inserted in the RECORD, as I have stated, because it is said in the opinion of the court, in speaking of the situation, that it was not a quarrel between the employees and the employer but was a quarrel between the employees and a brotherhood created by the employees or some of them from the ranks of the employers' service. Out of that situation the litigation arose, and the court said:

The relations of the plaintiff and its employees are based on consent. Each has freedom of contract. The plaintiff has not entered into any contracts with the individual workers which binds the plaintiff to employ them for any definite period. The employees are not bound to continue in the plaintiff's employ longer than they desire. Employment is terminable at the will of either party at a moment's notice. We speak now only of those relations which, according to the allegations of the moving papers, existed at the time the injunction was granted. We do not pass upon the effect of new arrangements which, the plaintiff's brief suggests, have been made since that time. Possibly they might present other questions than those which may be raised upon the present record.

The court said further:

The plaintiff may doubtless determine for itself the conditions of employment upon its railways which will in its opinion best assure its own interests and the interests of the public, provided it can induce sufficient workers to accept these conditions. It may refuse to employ workers who will not accept a condition or make an agreement that they will not join a particular union or combination of workers while in the plaintiff's employ. Doubtless such a condition, if imposed and accepted, lessens the power of the workmen to compel an employer to meet demands of the workers. The workmen may refuse to accept employment based on such conditions or on any other conditions which the employer chooses to impose. Demands of workmen may sometimes be fair and sometimes unfair. Combinations give the workmen a power of compulsion which may work harm to their employer, the public, and even to themselves. Where the workmen do not combine they may be compelled by force of economic circumstances to accept unfair terms of employment. Such conflicting considerations of economic policy are not primarily the concern of the courts. Freedom of contract gives to workers and employers the right to fix by individual or collective bargaining the terms of employment acceptable to both. Unless the workers have by agreement, freely made, given up such rights, they may without breach of contract leave an employment at any time separately or in combination, and may demand new terms of employment which in turn must be fixed by bargain.

* * * * * * *

The union may argue the greater effectiveness of its own methods, the validity of its own principles. Where employees have freedom of choice a labor union may not be accused of malicious interference when it urges the employees to make that choice in its favor, even though that choice may involve termination of present employment and consequent disruption of a business organization. This court has not yet been called upon to decide whether employees may lawfully be urged to make a choice in breach of a definite contract.

In the other case it is apparent that the New York court entertained the same opinion for which Judge Parker is here criticized, for—quoting from page 6579, first column of the RECORD—the court says:

The court at special term is bound to follow the decisions of the court of appeals.

That is a principle which is recognized in all civilized communities where the English principles of the common law and of equity exist.

Mr. President, I think I have now covered about all that I care to cover in connection with this matter except two points: First, after Judge Parker wrote the opinion for the circuit court of appeals in the Red Jacket case the parties applied to the Supreme Court of the United States, as the statute provides, for what is known as a writ of certiorari, which empowers the Supreme Court to go down into the lower court and secure the entire record and bring it up before it, the Supreme Court thus possessing itself of the whole case and being able to determine whether it has been rightfully or wrongfully decided. The writ of certiorari is issued for the purpose of giving the Supreme Court of the United States the power to correct any errors that may be pointed out in the proceedings of the lower court and to keep the various circuit courts of appeal and the various district courts of the country in a uniformity of decision. That is what the writ of certiorari is for. It is to compel by the force of that writ the courts inferior to the Supreme Court to follow the principles enunciated and the decisions laid down by the Supreme Court of the United States. It appeals to me when this writ was applied for in the Supreme Court to review the Red Jacket case that if the lawyers for the respondents put up any sort of a plea showing that the Circuit Court of Appeals of the Fourth Judicial Circuit had either contravened any decision of the United States Supreme Court or had departed from the law in a single jot or tittle, they would have brought the record of the case to the Supreme Court and had it reviewed, because if it had been pointed out that a lower court—the Parker court—was attempting to subvert and overturn the Supreme Court of the United States and its decisions, the Supreme Court would have asked no further questions but would have brought up the record, reviewed it, and corrected it, if necessary.

The presumption is altogether to the end that the Supreme Court of the United States, when the application was made for the writ of certiorari, was satisfied with the decision in the Red Jacket case as conforming to the previous decisions of the Supreme Court of the United States; and its action can not be construed in any other way, unless it be said that the Supreme Court of the United States was itself in default.

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

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

Mr. WATERMAN. I yield.

Mr. FESS. If the Senator will permit me, I made an inquiry of a judge of the circuit court whether under the circumstances the decision of Judge Parker was subject to criticism, and he frankly said that from the facts that are admitted he did not suppose that there was any circuit judge in the United States who would have acted differently from the way in which Judge Parker acted; and it was a Democratic judge with whom I talked.

Mr. WATERMAN. In writing the opinion of the court in the Red Jacket case, in my judgment as a lawyer of some experience, Judge Parker was compelled, in good morals, in good conscience, by the sanctions of the law, and the decisions of the Supreme Court of the United States, to follow the judgment of the superior court.

There is one other question that I advert to, because it might be regarded as peculiar if I did not refer to it. Certain challenges of Judge Parker's fitness have come to me on the ground that he is opposed to the negro and to the fourteenth and fifteenth constitutional amendments. Wherever those have come to me, I have telegraphed back asking for the reasons upon which those making the challenge predicated their opposition, and I never as yet have had an answer setting forth a reason. I have examined everything that I could get hold of in connection with the charges against Judge Parker emanating from the negroes, and I have not found that he has given expression to any view at all at any time which is subversive of any interest or legal right or constitutional right that the negroes may have. I prefer that others who have given this particular phase of the question more attention than I have and are probably more familiar with it should discuss it, but it is certain that in no judicial opinion ever rendered by Judge Parker or in which he has concurred has any assault ever been made upon any right

of the negroes in the United States, who are citizens of the United States, or upon any constitutional right accorded them by the fourteenth and fifteenth amendments.

The VICE PRESIDENT. The Chair lays before the Senate for reading the following telegram.

The legislative clerk read as follows:

NEW YORK, N. Y., *May 3, 1939.*

Hon. CHARLE CURTIS,

United States Senate, Washington, D. C.:

Kindly inform the honorable Senate that the directors and advisers of the National News Service throughout the United States reiterates its indorsement of the confirmation of Hon. John J. Parker for United States judge. This is the sentiment that we have found through our correspondence throughout the country. We are as Americans opposed to dictation from any union, society, or clique from all angles, favoring at all times the independence of our judiciary.

HENRY W. ROSE,
Manager National News Service,
FRANKLIN BALLARD,
Secretary.

UNAUTHORIZED ENTRY OF SENATORS' OFFICES

Mr. McKELLAR. Mr. President, I shall detain the Senate for only a few moments on another matter than that which is now pending.

Mr. President, on Saturday night last some one entered my offices and went through all my desks, files, and papers. Of course, I do not know what was wanted, but probably some Secret Service agents or somebody else desired to get something for their benefit and to my detriment. It seems to me to be quite unnecessary to "pull off" raids of this kind in the Senate Office Building. If the raiders would notify Mr. Alden which offices they wanted to enter, I have no doubt Mr. Alden, who is a very delightful gentleman, would arrange with Senators so that their offices could be examined by such Secret Service agents. Fortunately, so far as I know, there was nothing in my office that would interest anybody, and I am quite sure whoever raided it got a water haul; but I can not help but wonder, in these days of Secret Service agents, when Secret Service agents are set upon Federal judges, when Secret Service agents are set on Members of the Senate—for this is not the first time such an incident has occurred; I believe the office of the Senator from Arkansas [Mr. CARAWAY] was entered some time ago—and when Secret Service agents are entering into every department of Government, I am just wondering where it is all going to end and whether any good is accomplished by the activities of Secret Service agents. I myself am opposed to secrecy. I think the Government's business ought to be done in the open. It ought to be done in the open by the legislative branch, by the judicial branch, and by the executive branch. Secrecy in government means bad government.

At any rate, Mr. President, all I desire to say now is that I can see no reason for the raiding of Senators' offices, and I hope such raids may cease by whomsoever they are conducted. I am told that we have a very efficient Secret Service. How true it is I do not know. It may be efficient, but certainly it leaves a man's office in a very disorderly looking condition, as I found out on Sunday morning.

I may say to the Secret Service agents of the Government, if they were the ones who raided my office, that if they will apply to me I shall be happy to let them go through all my papers and desks. I ask only that they will give me a little notice in advance and agree to put the papers back where they found them and leave the desks and files in proper shape. Indeed, I invite them, when they want to find out something about my office, instead of coming in the nighttime, to come in the daytime, get my consent, and go through all the files and desks regardless. Speaking seriously, Mr. President, if we had a cheka, as they have in Russia, there might be some excuse for such a proceeding. I hope it will not occur again.

Mr. SMOOT. Mr. President, about three weeks ago I had the same experience as the Senator from Tennessee has had. The only articles which were stolen, so far as I know, were two new pens lying upon my desk, which I had just purchased a short time before. I never thought, however, that it was done by Secret Service agents; I thought it was done by some employees of the building.

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

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

Mr. SMOOT. I yield.

Mr. McKELLAR. So far as I know, nothing was stolen from my office, but it presented a scene of great disorder. The desks were all open, the drawers open, the files were open, and the papers disarranged. The office was in such a condition that things had to be restored to their places, of course; but I do not know that anything was stolen. It just looked as if somebody had been going through the files and through the desks to find something.

Mr. SMOOT. I have not missed anything from my office except the pen and penholder. I still believe that they were taken by employees in the building rather than Secret Service men. I do not think Secret Service men would have stolen the pens. They may have done it, but I doubt it. I think, though, since attention has been called to the matter, that some steps ought to be taken to see that it shall not happen again.

Mr. McKELLAR. Yes; I hope that will be done. It seems to me that such an occurrence as this is utterly without excuse.

Mr. SMOOT. It is.

Mr. McKELLAR. I am not blaming any of the officials for it, because I do not think they are to blame. The superintendent can not be kept there all the time; but surely, with this public notice, whoever is interested in going through Senators' rooms or desks and papers ought to be willing to let them alone.

Mr. BROCK. Mr. President, I had a similar experience in my office. I lost my desk pad and a couple of pens, as the Senator from Utah [Mr. SMOOT] did, about two weeks ago.

Mr. McKELLAR. It is getting to be a common occurrence.

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. FESS. Mr. President, a little earlier in the day, just about 1 o'clock or thereabouts, the senior Senator from Arizona [Mr. ASHURST], in a colloquy with the Senator from Mississippi [Mr. STEPHENS], made a statement that is run in the papers—I see it in the Star—as follows:

The Arizonian said "Judgeships are being promised in return for a vote for Parker."

I deeply regret that a statement of that kind should be made by a Senator. I can understand how people outside who might be interested in the matter might say it; but when my friend from Arizona says it, it disturbs me greatly.

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

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

Mr. FESS. I yield.

Mr. ASHURST. I said Federal judgeships are being offered—I will not say to Senators—but to a Senator if he will vote for confirmation. I stand on that statement and challenge you to call the lobby committee on that statement. I do not retreat one inch, but reassert that around this nomination and contest for confirmation there clusters an odium almost unparalleled in American history.

Mr. FESS. Mr. President, the statement was made in the press yesterday or the day before to the same effect, that ambassadorships were offered, and names were even mentioned of persons to whom offers were said to have been made.

Mr. ASHURST. Mr. President, I did not mention ambassadorships.

Mr. FESS. No; I am speaking of the newspapers.

Mr. ASHURST. I have not heard that any ambassadorships have been offered. I am speaking of Federal judgeships.

Mr. FESS. Whenever any one makes the statement on his own authority that judgeships are offered, and makes it in connection with the Senate debates, the insinuation—and I can not understand any other inference than that—is that the one who makes the appointments made the offer. Otherwise, the statement would not have any meaning at all.

If the Senator means by this statement that the President, who makes these appointments, is offering judgeships, I shall want to have that statement contested; and I here and now state to him that I think it is incompetent that any one should make that statement in reference to the President.

Mr. ASHURST. Mr. President, I did not say that the President was making offers. The Senator will search the RECORD in vain for any such statement from me. I said that some of those who are urging confirmation are offering appointments. I did not say "the President." All that the President did on this matter, so far as I know, was to nominate an unfit person for this judicial office and then refuse to divulge the names of those who recommended such person. I hope the Senator will not attempt to read into my remarks something I did not say.

Mr. FESS. Mr. President, will the Senator permit me to have a little time?

Mr. ASHURST. In the Senator's own time, certainly.

The VICE PRESIDENT. The Senator from Ohio declines to yield further.

Mr. FESS. The Senator has made an explanation which is satisfactory to me; but when he said that judgeships were being offered, since no one can offer a judgeship outside of the appointing power, the natural inference must be that the President was making such offers.

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

The President has been brought into this controversy, not by the Senator from Arizona, but by my able friend the Senator from Ohio. Senators will bear me out that I did not bring into this contest the name of the President. I said, "those seeking confirmation." The Senator, however, is too ingenuous and is too frank a man, to pretend that there are not in this administration and in this Capitol men who are able to make promises and have them complied with in that regard.

Mr. FESS. No, Mr. President; I would not accept that statement. I do not believe that it is credible or possible that any promise of this character binding the President could be made, because the Senator believes, as I believe, that that could not be done with the President of the United States.

Mr. ASHURST. The Senator then is such a babe in the woods that I do not perceive how he could have advanced so far in American politics. [Laughter.]

Mr. FESS. Mr. President, it is not a question of the exact language, whether the pronoun "he" or the term "President" is used, in order to get at the meaning of the sentence. The statement was made that judgeships were being offered. Now, if somebody is saying to somebody else that "a judgeship might be given to you," what does that mean? The Senator himself would not accept that as being at all significant unless the statement was on behalf of some one else who had authority; and what I am deploring is the ease with which we in the Senate make statements that can be thus interpreted, that there is something corrupt in the administration's interest in having this nomination confirmed.

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

Mr. FESS. I yield.

Mr. ASHURST. I repeat that it was not I, but the able Senator from Ohio, who brought into this controversy the name of the President.

Mr. FESS. The Senator will let me state that the Senator from Ohio was justified in doing it in order to have the statement of the Senator himself that he did not refer to the President.

Mr. ASHURST. The able Senator has performed a duty in that regard. Surely some one ought to speak for the President in that behalf; and the Senator, so far as I am concerned, is exempt from any criticism from me.

Mr. FESS. I am very much obliged to the Senator.

Mr. ASHURST. I have assured the Senator that I did not use the term "the President." I said, "some of those who are interested"; and I do not mean all of those interested, because many good men, many worthy men, in the Senate and out of the Senate, are in favor of this confirmation and would reject with indignation and scorn any offer of any kind.

Mr. FESS. Certainly.

Mr. ASHURST. My challenge stands. Call your lobby committee and put Senators on the witness stand. I assert that around this nomination and around this contest for confirmation there clusters an odium heavier than I have heretofore seen in my 18 years in the Senate; and when the truth gets a hearing history will tell of these events. I am not making a wholesale charge against those who are in favor of this confirmation. There is my able friend from North Carolina [Mr. OVERMAN], who sits with me on the Judiciary Committee. I believe his motives are as high and as pure as those actuating any Senator. Of course he is exempt, and likewise his colleague [Mr. SIMMONS] is exempt, from criticism. I believe the North Carolina Senators would be the first to reject any improper influence, but I repeat: Call your lobby committee and ask Senators "Who has tried to induce you to vote for this nominee and what have you been offered to vote for confirmation?"

I am not a member of the lobby committee. I have been offered nothing, and nobody has tried to influence me; but Senators have told me that they have, and I believe them; and have told me with a circumstantiality of detail that would preclude the possibility of an error that lobbying for this nominee is in progress. Why not, then, call the lobby committee?

Mr. FESS. If the Senator exempts the Senators from North Carolina, will he exempt the Senators from Ohio?

Mr. ASHURST. I certainly will and do. The general condemnation of the lobby existing in behalf of Judge Parker did not embrace nor include any Senators. I do not believe that one single Senator has offered anybody anything to vote for the nominee, and I do not believe there is a Senator here who would fail to reject with contempt any offer made to him.

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

Mr. ASHURST. Certainly; but I do not think I have the floor.

Mr. FESS. I yield to the Senator.

The VICE PRESIDENT. The Senator from Ohio has the floor. Does he yield to the Senator from Indiana?

Mr. FESS. I do.

Mr. WATSON. I have had a little something to do with the fight that is on; and I am wondering if the Senator by any sort of innuendo or insinuation refers to me?

Mr. ASHURST. Mr. President, I have known the Senator from Indiana many years. I have known him since his hair was as black as the raven's wing, in his young days. I of course exempt the Senator from Indiana from all criticism, and I do not appreciate being placed into the position of having said that any Senator is culpable. I repeat, if need be, for the RECORD and for the public that I here publicly exculpate every Senator, and I here say that I have not even heard a whisper that any Senator has offered anybody anything or has succumbed to any offer made to him. Can I make my statement more sweeping? I can not.

Mr. WATSON. No; that is very sweeping.

Mr. ASHURST. I believe that if the Senator from Indiana took a position on any public question, and somebody should approach him even in jest on such a matter, he would not entertain it, but would repulse it hastily and angrily, as he should.

Mr. WATSON. I thank the Senator. That is a very full and frank statement. I feel that I might say this, if the Senator will yield to me.

Mr. FESS. I yield.

Mr. WATSON. In all my conferences with Senators, or with persons that I have asked to see Senators, there has never at any time been any suggestion of anything of that kind, nor have I heard of it except from the lips of my dear friend from Arizona.

Mr. ASHURST. I hope the Senator now believes that I have not included him or any other Senator in my statement that lobbying was going on for Judge Parker.

Mr. WATSON. Oh, no.

Mr. ASHURST. I trust I am understood.

Mr. WATSON. I understand that thoroughly; and I thank the Senator. At the same time I should be very glad indeed, so far as I am concerned, to have any kind of an investigation made of the matter.

Mr. ASHURST. Let me say further that the last attitude I want to assume in the Senate is that of the Pharisee, who, whilst pointing to the width of his phylacteries, tells how good he is and how bad other men are. That is the last attitude I want to assume; and I hope that neither the Senator from Indiana nor any other Senator would attribute that attitude to me.

Mr. WATSON. Not at all; under no circumstances.

Mr. ASHURST. But this high judicial office is as important a matter as ever can come before the Senate; and in controverting the assertion that I am actuated by some partisan spirit, let me say that I have been no small factor in aiding to confirm a long line of judges, Democratic and Republican, and that in my 18 years of service here this is the first time I have ever seen fit to oppose the confirmation of a judge of the Supreme Court of the United States. I do not even recall that I ever opposed the confirmation of a nominee for circuit judge, or even for district judge; and you can count on the fingers of one hand the nominees for important offices whom I have opposed in my service. So, therefore, the charge that I am moved by any partisanship falls harmless against the record I have offered.

Mr. FESS. Mr. President, I think the Senator has made it perfectly clear that what was said had no reference to the head of the Government and none to any Senator. If men are talking here and there, we can not control what they are saying. In times of contest some things may be said which ought not to be said, but in this debate I think there has been very fine poise and very little personality. I think the debate has been held on a fairly high plane.

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

Mr. FESS. What I wanted to get before the Senate was that the statement made that judgeships were being offered in return for a vote for Parker, at a time of heated contest, that statement being made in the Senate, was a very serious statement, it semed to me. I was in the chair when the statement was made, and it impressed me that it was a very serious state-

ment to be made here by a responsible Senator, and by one with the respect of the country which the Senator from Arizona enjoys.

Mr. ASHURST. Will the Senator yield?

Mr. FESS. I yield.

Mr. ASHURST. It was a serious statement, the most serious statement I ever made in the Senate. I learned of the matter on Friday. I reflected Friday afternoon, and I reflected Saturday and yesterday. I conversed with one of the ablest Senators in this body about it. I informed the members of the press, but said to them that I hoped they would withhold it until I could make a further investigation.

Surely, after reflecting on it all these hours, and having had it related to me by a Senator whom I believed, I was driven to the necessity of divulging it to the Senate, or of withholding it. The Senator, under similar circumstances, would reveal it.

Let me say further as to our debates in the Senate, when I was somewhat younger and possibly more hot-blooded, and not so tranquil and calm in debate as I am now, I probably said things which rasped the sensibilities of Senators and other persons. But I have always held in view the privilege which Senators have. I felt and realized how helpless a citizen is who can not enter here and make a denial. I realized how helpless the ordinary individual is, and I myself have on not a few occasions been among the first to deplore statements reflecting on persons who, under our rules, could not reply.

Therefore I have used in my senatorial career punctiliousness with respect to what I say about third persons who can not be heard here to make reply.

When on a certain date I announced that the Executive had not used that care in making this nomination which other Executives have observed, I was not aware of the letter which was later read by the Senator from Tennessee. It was confirmation of what I had said.

Mr. FESS. Mr. President, will the Senator permit me there——

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

Mr. FESS. I have the floor, but I have yielded to the Senator. If the Senator will permit, the Senator does not mean by that that since the President has been making known the indorsements of the various nominees, he failed to do it in this case because of some particular letter?

Mr. ASHURST. No; I do not say that. I say circumstances running through a case gather strength as they go. Every lawyer here knows that it is the small things which make the great things; the circumstances which go through a case gather strength as they go.

Mr. FESS. The Senator will agree with me, will he not, that the President doubtless never saw the letter which has been offered here?

Mr. ASHURST. I assume that if the President had seen it, we would never have had it here.

Mr. FESS. That is my assumption.

Mr. ASHURST. It would never have reached the light of day if the President had seen it.

Mr. FESS. It was an indiscreet letter, one the Senator would not write, and one I would not write.

Mr. ASHURST. I am not going to be put into the attitude of making severe strictures as to the gentleman who wrote the letter.

Mr. FESS. We are referring now to the Dixon letter.

Mr. ASHURST. Yes. I am not going to be put into the attitude of singling out the gentleman who wrote the letter and making him the target of all our shafts. It just so happens that through an unfortunate misadventure his letter came to the surface. That there are others more incriminatory, that there are other letters and communications on the same nomination more damnable than that letter, I have no doubt. It just so happens that this came to the surface. When you go out upon the ocean and see strange fish bobbing up on the surface, by the doctrine of probabilities there are others more peculiar hidden under the surface.

Mr. FESS. Does the Senator mean that the more damnable letters had anything to do with the appointment?

Mr. ASHURST. The letters were written and the appointment was made. They mortise in together.

Mr. FESS. The appointment was made after consulting with more Democrats than with Republicans.

Mr. ASHURST. Would the fact that Democrats were consulted make this nomination sacrosanct? Is that what the Senator is trying to argue?

Mr. FESS. It would be an answer to the Senator's political argument.

Mr. ASHURST. The President had a right to appoint a Republican, a good Republican. That does not offend me. If the President had appointed a man of great learning, well known, of high character, and great intellectuality, I think we could disregard the letters and the circumstances surrounding the appointment. It is the nominee's lack of judicial ability, the lack of courage, the lack of talent, the lack of training, the lack of experience against which I inveigh.

Mr. FESS. Mr. President, we have the opinion of the Senator from Arizona as to the lack of integrity, the lack of ability, the lack of competency, on the one side, and we have the president of the American Bar Association and ex-presidents of the American Bar Association, the bar associations of the various States, of the district, individual men, great lawyers, of great renown, men for whose talent the Senator from Arizona has the highest respect, the very highest respect. as I know he has; we have those opinions on the other side, and I am perfectly willing to let the matter rest right there.

Mr. ASHURST. If the Senator will yield, the able Senator has brought in the President to align me against the President.

Mr. FESS. No; the Senator has exculpated the President.

Mr. ASHURST. He is now going to align me against the bar associations. All right. Since the Senator has brought the bar association into this issue, let me say that it required enormous pressure to get the committee of the bar association to consent to recommend and indorse this nominee. Ask for the particular members of the bar association, and ascertain from them the enormous work it required to induce them to recommend this nominee, and you will see that that indorsement does not stand up as it should. Since the Senator has brought in the bar association, I say that the nominee is persona non grata with the bar association. Call the roll of the bar association and you will find out the facts.

Mr. FESS. Mr. President, the executive committee of the American Bar Association was in the gallery to-day for two hours. I had the pleasure, as well as the opportunity, of talking with different officers of the executive committee. The statement of the Senator is a very strange statement in comparison with what they have said to me, which is to the effect that while they do not care to take any part in any nomination, their statement in reference to the character of this man is just as fine as you would want made about your own or I would want made about mine.

Mr. ASHURST. With the Senator's consent, I propound to him a question. I believe in his ingenuousness and his frankness; I believe that he, in his able way, has defended this administration when it was right as well as when it was wrong—and all administrations are here entitled to be defended—I will ask the able Senator from Ohio if he believes that if the American Bar Association had been asked to name an appointee for this judgeship it would ever have named this nominee?

Mr. FESS. Under the circumstances, I think they would have, being here in the fourth circuit district, known as the Supreme Court justice district, and not having had an appointment for 60 years, I should think the bar association would have named this man.

Mr. ASHURST. In reply, I do not think the American Bar Association would have, in a remote excursion of its imagination, ever thought of naming this man.

Mr. FESS. Mr. President, the Senator from Arizona is entitled to his opinion as I am entitled to mine. I rose simply to get an expression as to what he meant by judgeships being offered in exchange for a vote. I was afraid that that was a reflection on the administration, a charge that would go over the country, that appointments or confirmations are bought.

Just the other day I read in the paper that ambassadorships were offered and that judgeships were offered, and the names of men were mentioned. I talked with one of the men whose name was mentioned and he said, "There is absolutely not a scintilla of basis for that statement." Yet that goes all over the country as a sensational statement, that here is a contest in which there is such an ambassadorship offered. Nobody can appoint an ambassador except the President, and nobody can appoint a Federal judge except the President. When such a statement is made it does have a bad effect on public opinion.

Mr. ASHURST. I do not attempt to escape the criticism implied by the Senator.

Mr. FESS. I accept the statement the Senator has made.

RECESS

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

The motion was agreed to; and the Senate (at 5 o'clock p. m.) took a recess in open executive session until to-morrow, May 6, 1930, at 12 o'clock meridian.