C. M. Hanson, of Bricelyn, Minn., or his heirs, successors or assigns, of approximately 1¾ acres of lot 2, section 33, township 43 north, range 27 west, in the county of Mille Lacs, Minn.; to the Committee on Indian Affairs.

## PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

1023. By Mr. BACON: Petition signed by 3,610 citizens, mostly resident in New York State, protesting against the enactment of any legislation to admit aliens from Europe outside of quota restrictions; to the Committee on Immigration and Naturalization.

1024. By Mr. KENNEY: Petition of the Department of New Jersey, Reserve Officers' Association of the United States, in convention assembled, protesting against any further weakening of national defense, and in particular against any reduction in the number of officers in the Regular Army or in the amount of training given to Reserve officers; to the Committee on Military Affairs.

1025. Also, petition of the Department of New Jersey, Reserve Officers' Association of the United States, in convention assembled, protesting against any further weakening of national defense, and in particular against any reduction in the number of officers in the Regular Army or in the amount of training given to Reserve officers; to the Committee on Naval Affairs.

1026. By Mr. LINDSAY: Petition of the Industrial Chemical Sales Co., Inc., New York City, opposing House bill 3759; to the Committee on the Judiciary.

1027. Also, petition of the Women's Auxiliary of the Democratic Veterans' Organization of Kings County, Holly Club, Brooklyn, N.Y., opposing modification or cancelation of any Government insurance policies; to the Committee on Ways and Means.

1028. By Mr. MALONEY of Connecticut: Resolution of the Common Council of the City of Bridgeport, relative to commemorating the naturalization of Brig. Gen. Thaddeus Kosciusko; to the Committee on the Post Office and Post Roads.

1029. By Mr. RUDD: Petition of the Women's Auxiliary of the Democratic Veterans Organization of Kings County, Brooklyn, N.Y., opposing any modification or cancelation of Government insurance policies; to the Committee on World War Veterans' Legislation.

1030. By Mr. SANDERS: Resolution of the Texas Senate, favoring an amendment of the Wagner bill so that the Reconstruction Finance Corporation funds could be appropriated to the Texas Relief Commission to be used for the building of good roads in any section of the State; to the Committee on Education.

1031. By Mr. TARVER: Petition of T. W. Langston, of Atlanta, Ga., protesting against the harsh measures of the economy bill, and calling attention to the effects of this law; to the Committee on World War Veterans' Legislation.

1032. By Mr. TERRELL: Petition of Commissioners Court of Panola County, Tex., requesting appropriations for Federal highway building; to the Committee on Roads.

1033. By Mr. SWEENEY: Petition of the members of the congregation Knesseth Israel of Cleveland, Ohio, requesting that the United States, through its administrative and diplomatic agencies, declare to the German Government its disapproval of the inhuman and brutal treatment of Jewish citizens of Germany; to the Committee on Foreign Affairs.

1034. Also, petition of the members of the Temple on the Heights of the city of Cleveland Heights, Ohio, representing 900 families, in annual meeting assembled, deploring the situation of the Jews in Germany, and appealing to the heart of humanity to stem the growing tide of anti-Semitism and exert its influence to put an end to this program of medieval cruelty in Germany; to the Committee on Foreign Affairs.

# SENATE

## MONDAY, MAY 15, 1933

The Chaplain, Rev. ZeBarney T. Phillips, D.D., offered the following prayer:

Almighty God our Heavenly Father, with whom is the well of life and light; impart to our thirsting souls the draught of living water from Thy plenteous fountain, and increase in us the brightness of divine knowledge, that our darkened minds may be illumined by the effulgence of Thy love.

Calm Thou our spirits by that subduing power which alone can bring all scattered thoughts into captivity to Thee, that we may find that inward peace in which Thy Spirit's voice is heard, calling us to sacrificial service for the welfare of our Nation. Deal tenderly with all mankind, granting hope to the discouraged, forgiveness to the sinful, friendship to the lonely, comfort to the sorrowing, and, to us all, light at eventide. We ask it in the name of Jesus Christ our Lord. Amen.

### THE JOURNAL

The Chief Clerk proceeded to read the Journal of the proceedings of the calendar days of May 11 and 12, when, on motion of Mr. ROBINSON of Arkansas, and by unanimous consent, the further reading was dispensed with, and the Journal was approved.

### CALL OF THE ROLL

Mr. LEWIS. I suggest the absence of a quorum and move a roll call.

The VICE PRESIDENT. The clerk will call the roll.

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

| | | | |
|---|---|---|---|
| Adams | Coolidge | Hebert | Reed |
| Ashurst | Copeland | Johnson | Reynolds |
| Austin | Costigan | Kendrick | Robinson, Ark. |
| Bachman | Couzens | Keyes | Robinson, Ind. |
| Bailey | Cutting | King | Russell |
| Bankhead | Dickinson | La Follette | Schall |
| Barbour | Dieterich | Lewis | Sheppard |
| Barkley | Dill | Logan | Shipstead |
| Black | Duffy | Lonergan | Smith |
| Bone | Erickson | Long | Steiwer |
| Borah | Fess | McAdoo | Stephens |
| Bratton | Fletcher | McCarran | Thomas, Okla. |
| Brown | Frazier | McKellar | Thomas, Utah |
| Bulkley | George | McNary | Townsend |
| Bulow | Glass | Metcalf | Trammell |
| Byrd | Goldsborough | Murphy | Tydings |
| Byrnes | Gore | Neely | Vandenberg |
| Capper | Hale | Norris | Van Nuys |
| Caraway | Harrison | Nye | Wagner |
| Carey | Hastings | Overton | Walsh |
| Clark | Hatfield | Patterson | Wheeler |
| Connally | Hayden | Pope | White |

Mr. LEWIS. I wish to announce that the Senator from Kansas [Mr. MCGILL] is detained by illness. I ask that this announcement may remain for the day.

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

### MUSCLE SHOALS—CONFERENCE REPORT

Mr. SMITH submitted the following report:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5081) to provide for the common defense; to aid interstate commerce by navigation; to provide flood control; to promote the general welfare by creating the Tennessee Valley Authority; to operate the Muscle Shoals properties; and to encourage agricultural, industrial, and economic development, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter inserted by the Senate insert the following:

"That for the purpose of maintaining and operating the properties now owned by the United States in the vicinity

of Muscle Shoals, Ala., in the interest of the national defense and for agricultural and industrial development, and to improve navigation in the Tennessee River and to control the destructive flood waters in the Tennessee River and Mississippi River Basins, there is hereby created a body corporate by the name of the 'Tennessee Valley Authority' (hereinafter referred to as the 'Corporation'). The board of directors first appointed shall be deemed the incorporators, and the incorporation shall be held to have been effected from the date of the first meeting of the board. This act may be cited as the 'Tennessee Valley Authority Act of 1933.'

"SEC. 2. (a) The board of directors of the Corporation (hereinafter referred to as the 'board') shall be composed of three members, to be appointed by the President, by and with the advice and consent of the Senate. In appointing the members of the board, the President shall designate the chairman. All other officials, agents, and employees shall be designated and selected by the board.

"(b) The terms of office of the members first taking office after the approval of this act shall expire as designated by the President at the time of nomination, 1 at the end of the third year, 1 at the end of the sixth year, and 1 at the end of the ninth year, after the date of approval of this act. A successor to a member of the board shall be appointed in the same manner as the original members and shall have a term of office expiring 9 years from the date of the expiration of the term for which his predecessor was appointed.

"(c) Any member appointed to fill a vacancy in the board occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

"(d) Vacancies in the board so long as there shall be 2 members in office shall not impair the powers of the board to execute the functions of the Corporation, and 2 of the members in office shall constitute a quorum for the transaction of the business of the board.

"(e) Each of the members of the board shall be a citizen of the United States, and shall receive a salary at the rate of $10,000 a year, to be paid by the Corporation as current expenses. Each member of the board, in addition to his salary, shall be permitted to occupy as his residence one of the dwelling houses owned by the Government in the vicinity of Muscle Shoals, Ala., the same to be designated by the President of the United States. Members of the board shall be reimbursed by the Corporation for actual expenses (including traveling and subsistence expenses) incurred by them in the performance of the duties vested in the board by this act. No member of said board shall, during his continuance in office, be engaged in any other business, but each member shall devote himself to the work of the Corporation.

"(f) No director shall have financial interest in any public-utility corporation engaged in the business of distributing and selling power to the public nor in any corporation engaged in the manufacture, selling, or distribution of fixed nitrogen or fertilizer, or any ingredients thereof, nor shall any member have any interest in any business that may be adversely affected by the success of the Corporation as a producer of concentrated fertilizers or as a producer of electric power.

"(g) The board shall direct the exercise of all the powers of the Corporation.

"(h) All members of the board shall be persons who profess a belief in the feasibility and wisdom of this act.

"SEC. 3. The board shall, without regard to the provisions of Civil Service laws applicable to officers and employees of the United States, appoint such managers, assistant managers, officers, employees, attorneys, and agents, as are necessary for the transaction of its business, fix their compensation, define their duties, require bonds of such of them as the board may designate, and provide a system of organization to fix responsibility and promote efficiency. Any appointee of the board may be removed in the discretion of the board. No regular officer or employee of the Corporation shall receive a salary in excess of that received by the members of the board.

"All contracts to which the Corporation is a party and which require the employment of laborers and mechanics in the construction, alteration, maintenance, or repair of buildings, dams, locks, or other projects shall contain a provision that not less than the prevailing rate of wages for work of a similar nature prevailing in the vicinity shall be paid to such laborers or mechanics.

"In the event any dispute arises as to what are the prevailing rates of wages, the question shall be referred to the Secretary of Labor for determination, and his decision shall be final. In the determination of such prevailing rate or rates, due regard shall be given to those rates which have been secured through collective agreement by representatives of employers and employees.

"Where such work as is described in the two preceding paragraphs is done directly by the Corporation the prevailing rate of wages shall be paid in the same manner as though such work had been let by contract.

"Insofar as applicable the benefits of the act entitled 'An act to provide compensation for employees of the United States suffering injuries while in the performance of their duties, and for other purposes', approved September 7, 1916, as amended, shall extend to persons given employment under the provisions of this act.

"SEC. 4. Except as otherwise specifically provided in this act, the Corporation—

"(a) Shall have succession in its corporate name.

"(b) May sue and be sued in its corporate name.

"(c) May adopt and use a corporate seal, which shall be judicially noticed.

"(d) May make contracts, as herein authorized.

"(e) May adopt, amend, and repeal bylaws.

"(f) May purchase or lease and hold such real and personal property as it deems necessary or convenient in the transaction of its business, and may dispose of any such personal property held by it.

"The board shall select a treasurer and as many assistant treasurers as it deems proper, which treasurer and assistant treasurers shall give such bonds for the safe-keeping of the securities and moneys of the said Corporation as the board may require: *Provided*, That any member of said board may be removed from office at any time by a concurrent resolution of the Senate and the House of Representatives.

"(g) Shall have such powers as may be necessary or appropriate for the exercise of the powers herein specifically conferred upon the Corporation.

"(h) Shall have power in the name of the United States of America to exercise the right of eminent domain, and in the purchase of any real estate or the acquisition of real estate by condemnation proceedings, the title to such real estate shall be taken in the name of the United States of America, and thereupon all such real estate shall be entrusted to the Corporation as the agent of the United States to accomplish the purposes of this act.

"(i) Shall have power to acquire real estate for the construction of dams, reservoirs, transmission lines, power houses, and other structures, and navigation projects at any point along the Tennessee River, or any of its tributaries, and in the event that the owner or owners of such property shall fail or refuse to sell to the Corporation at a price deemed fair and reasonable by the board, then the Corporation may proceed to exercise the right of eminent domain, and to condemn all property that it deems necessary for carrying out the purposes of this act, and all such condemnation proceedings shall be had pursuant to the provisions and requirements hereinafter specified, with reference to any and all condemnation proceedings.

"(j) Shall have power to construct dams, reservoirs, power houses, power structures, transmission lines, navigation projects, and incidental works in the Tennessee River and its tributaries, and to unite the various power installations into one or more systems by transmission lines.

"SEC. 5. The board is hereby authorized—

"(a) To contract with commercial producers for the production of such fertilizers or fertilizer materials as may be needed in the Government's program of development and introduction in excess of that produced by Government plants. Such contracts may provide either for outright purchase of materials by the board or only for the payment of carrying charges on special materials manufactured at the board's request for its program.

"(b) To arrange with farmers and farm organizations for large-scale practical use of the new forms of fertilizers under conditions permitting an accurate measure of the economic return they produce.

"(c) To cooperate with National, State, district, or county experimental stations or demonstration farms, for the use of new forms of fertilizer or fertilizer practices during the initial or experimental period of their introduction.

"(d) The board in order to improve and cheapen the production of fertilizer is authorized to manufacture and sell fixed nitrogen, fertilizer, and fertilizer ingredients at Muscle Shoals by the employment of existing facilities, by modernizing existing plants, or by any other process or processes that in its judgment shall appear wise and profitable for the fixation of atmospheric nitrogen or the cheapening of the production of fertilizer.

"(e) Under the authority of this act the board may make donations or sales of the product of the plant or plants operated by it to be fairly and equitably distributed through the agency of county demonstration agents, agricultural colleges, or otherwise as the board may direct, for experimentation, education, and introduction of the use of such products in cooperation with practical farmers so as to obtain information as to the value, effect, and best methods of their use.

"(f) The board is authorized to make alterations, modifications, or improvements in existing plants and facilities, and to construct new plants.

"(g) In the event it is not used for the fixation of nitrogen for agricultural purposes, or leased, then the board shall maintain a stand-by condition nitrate plant no. 2, or its equivalent, for the fixation of atmospheric nitrogen, for the production of explosives in the event of war or a national emergency, until the Congress shall by joint resolution release the board from this obligation, and if any part thereof be used by the board for the manufacture of phosphoric acid or potash, the balance of nitrate plant no. 2 shall be kept in stand-by condition.

"(h) To establish, maintain, and operate laboratories and experimental plants, and to undertake experiments for the purpose of enabling the Corporation to furnish nitrogen products for military purposes, and nitrogen and other fertilizer products for agricultural purposes in the most economical manner and at the highest standard of efficiency.

"(i) To request the assistance and advice of any officer, agent, or employee of any executive department or of any independent office of the United States, to enable the Corporation the better to carry out its powers successfully, and as far as practicable shall utilize the services of such officers, agents, and employees, and the President shall, if in his opinion, the public interest, service, or economy so require, direct that such assistance, advice, and service be rendered to the Corporation, and any individual that may be by the President directed to render such assistance, advice, and service shall be thereafter subject to the orders, rules, and regulations of the board: *Provided*, That any invention or discovery made by virtue of and incidental to such service by an employee of the Government of the United States serving under this section, or by any employee of the Corporation, together with any patents which may be granted thereon, shall be the sole and exclusive property of the Corporation, which is hereby authorized to grant such licenses thereunder as shall be authorized by the board: *Provided further*, That the board may pay to such inventor such sum from the income from sale of licenses as it may deem proper.

"(j) Upon the requisition of the Secretary of War or the Secretary of the Navy to manufacture for and sell at cost to the United States explosives or their nitrogenous content.

"(k) Upon the requisition of the Secretary of War the Corporation shall allot and deliver without charge to the War Department so much power as shall be necessary in the judgment of said Department for use in operation of all locks, lifts, or other facilities in aid of navigation.

"(l) To produce, distribute, and sell electric power, as herein particularly specified.

"(m) No products of the Corporation shall be sold for use outside of the United States, its Territories and possessions, except to the United States Government for the use of its Army and Navy, or to its allies in case of war.

"(n) The President is authorized, within 12 months after the passage of this act, to lease to any responsible farm organization or to any corporation organized by it nitrate plant no. 2 and Waco Quarry, together with the railroad connecting said quarry with nitrate plant no. 2, for a term not exceeding 50 years at a rental of not less than $1 per year, but such authority shall be subject to the express condition that the lessee shall use said property during the term of said lease exclusively for the manufacture of fertilizer and fertilizer ingredients to be used only in the manufacture of fertilizer by said lessee and sold for use as fertilizer. The said lessee shall covenant to keep said property in first-class condition, but the lessee shall be authorized to modernize said plant no. 2 by the installation of such machinery as may be necessary, and is authorized to amortize the cost of said machinery and improvements over the term of said lease or any part thereof. Said lease shall also provide that the board shall sell to the lessee power for the operation of said plant at the same schedule of prices that it charges all other customers for power of the same class and quantity. Said lease shall also provide that, if the said lessee does not desire to buy power of the publicly owned plant, it shall have the right to purchase its power for the operation of said plant of the Alabama Power Co. or any other publicly or privately owned corporation engaged in the generation and sale of electric power, and in such case the lease shall provide further that the said lessee shall have a free right of way to build a transmission line over Government property to said plant paying the actual expenses and damages, if any, incurred by the Corporation on account of such line. Said lease shall also provide that the said lessee shall covenant that during the term of said lease the said lessee shall not enter into any illegal monopoly, combination, or trust with any privately owned corporation engaged in the manufacture, production, and sale of fertilizer with the object or effect of increasing the price of fertilizer to the farmer.

"SEC. 6. In the appointment of officials and the selection of employees for said Corporation, and in the promotion of any such employees or officials, no political test or qualification shall be permitted or given consideration, but all such appointments and promotions shall be given and made on the basis of merit and efficiency. Any member of said board who is found by the President of the United States to be guilty of a violation of this section shall be removed from office by the President of the United States, and any appointee of said board who is found by the board to be guilty of a violation of this section shall be removed from office by said board.

"SEC. 7. In order to enable the Corporation to exercise the powers and duties vested in it by this act—

"(a) The exclusive use, possession, and control of the United States nitrate plants nos. 1 and 2, including steam plants, located, respectively, at Sheffield, Ala., and Muscle Shoals, Ala., together with all real estate and buildings connected therewith, all tools and machinery, equipment, accessories, and materials belonging thereto, and all laboratories and plants used as auxiliaries thereto; the fixed-nitrogen research laboratory, the Waco limestone quarry, in Alabama, and Dam No. 2, located at Muscle Shoals, its power house, and all hydroelectric and operating appurtenances (except the locks), and all machinery, lands, and buildings in connection therewith, and all appurtenances thereof, and all other property to be acquired by the Corporation in its own name or in the name of the United States of America, are

hereby entrusted to the Corporation for the purposes of this act.

"(b) The President of the United States is authorized to provide for the transfer to the Corporation of the use, possession, and control of such other real or personal property of the United States as he may from time to time deem necessary and proper for the purposes of the Corporation as herein stated.

"SEC. 8. (a) The Corporation shall maintain its principal office in the immediate vicinity of Muscle Shoals, Ala. The Corporation shall be held to be an inhabitant and resident of the northern judicial district of Alabama within the meaning of the laws of the United States relating to the venue of civil suits.

"(b) The Corporation shall at all times maintain complete and accurate books of accounts.

"(c) Each member of the board, before entering upon the duties of his office, shall subscribe to an oath (or affirmation) to support the Constitution of the United States and to faithfully and impartially perform the duties imposed upon him by this act.

"SEC. 9. (a) The board shall file with the President and with the Congress, in December of each year, a financial statement and a complete report as to the business of the Corporation covering the preceding governmental fiscal year. This report shall include an itemized statement of the cost of power at each power station, the total number of employees and the names, salaries, and duties of those receiving compensation at the rate of more than $1,500 a year.

"(b) The Comptroller General of the United States shall audit the transactions of the Corporation at such times as he shall determine, but not less frequently than once each governmental fiscal year, with personnel of his selection. In such connection he and his representatives shall have free and open access to all papers, books, records, files, accounts, plants, warehouses, offices, and all other things, property and places belonging to or under the control of or used or employed by the Corporation, and shall be afforded full facilities for counting all cash and verifying transactions with and balances in depositaries. He shall make report of each such audit in quadruplicate, one copy for the President of the United States, one for the chairman of the board, one for public inspection at the principal office of the Corporation, and the other to be retained by him for the uses of the Congress. The expenses of each such audit may be paid from moneys advanced therefor by the Corporation, or from any appropriation or appropriations for the General Accounting Office, and appropriations so used shall be reimbursed promptly by the Corporation as billed by the Comptroller General. All such audit expenses shall be charged to operating expenses of the Corporation. The Comptroller General shall make special report to the President of the United States and to the Congress of any transaction or condition found by him to be in conflict with the powers or duties intrusted to the Corporation by law.

"SEC. 10. The board is hereby empowered and authorized to sell the surplus power not used in its operations, and for operation of locks and other works generated by it, to States, counties, municipalities, corporations, partnerships, or individuals, according to the policies hereinafter set forth; and to carry out said authority, the board is authorized to enter into contracts for such sale for a term not exceeding 20 years, and in the sale of such current by the board it shall give preference to States, counties, municipalities, and cooperative organizations of citizens or farmers, not organized or doing business for profit, but primarily for the purpose of supplying electricity to its own citizens or members: *Provided,* That all contracts made with private companies or individuals for the sale of power, which power is to be resold for a profit, shall contain a provision authorizing the board to cancel said contract upon 5 years' notice in writing, if the board needs said power to supply the demands of States, counties, or municipalities. In order to promote and encourage the fullest possible use of electric light and power on farms within reasonable distance of any of its transmission lines the board in its discretion shall have power to construct transmission lines to farms and small villages that are not otherwise supplied with electricity at reasonable rates, and to make such rules and regulations governing such sale and distribution of such electric power as in its judgment may be just and equitable: *Provided further,* That the board is hereby authorized and directed to make studies, experiments, and determinations to promote the wider and better use of electric power for agricultural and domestic use, or for small or local industries, and it may cooperate with State governments, or their subdivisions or agencies, with educational or research institutions, and with cooperatives or other organizations, in the application of electric power to the fuller and better balanced development of the resources of the region.

"SEC. 11. It is hereby declared to be the policy of the Government so far as practical to distribute and sell the surplus power generated at Muscle Shoals equitably among the States, counties, and municipalities within transmission distance. This policy is further declared to be that the projects herein provided for shall be considered primarily as for the benefit of the people of the section as a whole and particularly the domestic and rural consumers to whom the power can economically be made available, and accordingly that sale to and use by industry shall be a secondary purpose, to be utilized principally to secure a sufficiently high load factor and revenue returns which will permit domestic and rural use at the lowest possible rates and in such manner as to encourage increased domestic and rural use of electricity. It is further hereby declared to be the policy of the Government to utilize the Muscle Shoals properties so far as may be necessary to improve, increase, and cheapen the production of fertilizer and fertilizer ingredients by carrying out the provisions of this act.

"SEC. 12. In order to place the board upon a fair basis for making such contracts and for receiving bids for the sale of such power, it is hereby expressly authorized, either from appropriations made by Congress or from funds secured from the sale of such power, or from funds secured by the sale of bonds hereafter provided for, to construct, lease, purchase, or authorize the construction of transmission lines within transmission distance from the place where generated, and to interconnect with other systems. The board is also authorized to lease to any person, persons, or corporation the use of any transmission line owned by the Government and operated by the board, but no such lease shall be made that in any way interferes with the use of such transmission line by the board: *Provided,* That if any State, county, municipality, or other public or cooperative organization of citizens or farmers, not organized or doing business for profit, but primarily for the purpose of supplying electricity to its own citizens or members, or any two or more of such municipalities or organizations, shall construct or agree to construct and maintain a properly designed and built transmission line to the Government reservation upon which is located a Government generating plant, or to a main transmission line owned by the Government or leased by the board and under the control of the board, the board is hereby authorized and directed to contract with such State, county, municipality, or other organization, or two or more of them, for the sale of electricity for a term not exceeding 30 years; and in any such case the board shall give to such State, county, municipality, or other organization ample time to fully comply with any local law now in existence or hereafter enacted providing for the necessary legal authority for such State, county, municipality, or other organization to contract with the board for such power: *Provided further,* That all contracts entered into between the Corporation and any municipality or other political subdivision or corporative organization shall provide that the electric power shall be sold and distributed to the ultimate consumer without discrimination as between consumers of the same class, and such contract shall be voidable at the election of the board if a discriminatory rate, rebate, or other special concession is made or given to any consumer or user by the municipality or other political subdivision or cooperative organization: *And provided further,* That as

to any surplus power not so sold as above provided to States, counties, municipalities, or other said organizations, before the board shall sell the same to any person or corporation engaged in the distribution and resale of electricity for profit, it shall require said person or corporation to agree that any resale of such electric power by said person or corporation shall be made to the ultimate consumer of such electric power at prices that shall not exceed a schedule fixed by the board from time to time as reasonable, just, and fair; and in case of any such sale, if an amount is charged the ultimate consumer which is in excess of the price so deemed to be just, reasonable, and fair by the board, the contract for such sale between the board and such distributor of electricity shall be voidable at the election of the board: *And provided further*, That the board is hereby authorized to enter into contracts with other power systems for the mutual exchange of unused excess power upon suitable terms, for the conservation of stored water, and as an emergency or break-down relief.

"SEC. 13. Five percent of the gross proceeds received by the board for the sale of power generated at Dam No. 2, or from any other hydropower plant hereafter constructed in the State of Alabama, shall be paid to the State of Alabama; and 5 percent of the gross proceeds from the sale of power generated at Cove Creek Dam, hereinafter provided for, or any other dam located in the State of Tennessee, shall be paid to the State of Tennessee. Upon the completion of said Cove Creek Dam the board shall ascertain how much additional power is thereby generated at Dam No. 2 and at any other dam hereafter constructed by the Government of the United States on the Tennessee River, in the State of Alabama, or in the State of Tennessee, and from the gross proceeds of the sale of such additional power 2½ percent shall be paid to the State of Alabama and 2½ percent to the State of Tennessee. These percentages shall apply to any other dam that may hereafter be constructed and controlled and operated by the board on the Tennessee River or any of its tributaries, the main purpose of which is to control flood waters and where the development of electric power is incidental to the operation of such flood-control dam. In ascertaining the gross proceeds from the sale of such power upon which a percentage is paid to the States of Alabama and Tennessee, the board shall not take into consideration the proceeds of any power sold or delivered to the Government of the United States, or any department or agency of the Government of the United States, used in the operation of any locks on the Tennessee River or for any experimental purpose, or for the manufacture of fertilizer or any of the ingredients thereof, or for any other governmental purpose: *Provided*, That the percentages to be paid to the States of Alabama and Tennessee, as provided in this section, shall be subject to revision and change by the board, and any new percentages established by the board, when approved by the President, shall remain in effect until and unless again changed by the board with the approval of the President. No change of said percentages shall be made more often than once in 5 years, and no change shall be made without giving to the States of Alabama and Tennessee an opportunity to be heard.

"SEC. 14. The board shall make a thorough investigation as to the present value of Dam No. 2, and the steam plants at nitrate plant no. 1, and nitrate plant no. 2, and as to the cost of Cove Creek Dam, for the purpose of ascertaining how much of the value or the cost of said properties shall be allocated and charged up to (1) flood control, (2) navigation, (3) fertilizer, (4) national defense, and (5) the development of power. The findings thus made by the board, when approved by the President of the United States, shall be final, and such findings shall thereafter be used in all allocation of value for the purpose of keeping the book value of said properties. In like manner, the cost and book value of any dams, steam plants, or other similar improvements hereafter constructed and turned over to said board for the purpose of control and management shall be ascertained and allocated.

"SEC. 15. In the construction of any future dam, steam plant, or other facility, to be used in whole or in part for the generation or transmission of electric power the board is hereby authorized and empowered to issue on the credit of the United States and to sell serial bonds not exceeding $50,000,000 in amount, having a maturity not more than 50 years from the date of issue thereof, and bearing interest not exceeding 3½ percent per annum. Said bonds shall be issued and sold in amounts and prices approved by the Secretary of the Treasury, but all such bonds as may be so issued and sold shall have equal rank. None of said bonds shall be sold below par, and no fee, commission, or compensation whatever shall be paid to any person, firm, or corporation for handling, negotiating the sale, or selling the said bonds. All of such bonds so issued and sold shall have all the rights and privileges accorded by law to Panama Canal bonds, authorized by section 8 of the act of June 28, 1902, chapter 1302, as amended by the act of December 21, 1905 (ch. 3, sec. 1, 34 Stat. 5), as now compiled in section 743 of title 31 of the United States Code. All funds derived from the sale of such bonds shall be paid over to the Corporation.

"SEC. 16. The board, whenever the President deems it advisable, is hereby empowered and directed to complete Dam No. 2 at Muscle Shoals, Ala., and the steam plant at nitrate plant no. 2, in the vicinity of Muscle Shoals, by installing in Dam No. 2 the additional power units according to the plans and specifications of said dam, and the additional power unit in the steam plant at nitrate plant no. 2.

"SEC. 17. The Secretary of War, or the Secretary of the Interior, is hereby authorized to construct, either directly or by contract to the lowest responsible bidder, after due advertisement, a dam in and across Clinch River in the State of Tennessee, which has by long custom become known and designated as the Cove Creek Dam, together with a transmission line from Muscle Shoals, according to the latest and most approved designs, including power house and hydroelectric installations and equipment for the generation of power, in order that the waters of the said Clinch River may be impounded and stored above said dam for the purpose of increasing and regulating the flow of the Clinch River and the Tennessee River below, so that the maximum amount of primary power may be developed at Dam No. 2 and at any and all other dams below the said Cove Creek Dam: *Provided, however*, That the President is hereby authorized by appropriate order to direct the employment by the Secretary of War, or by the Secretary of the Interior, of such engineer or engineers as he may designate, to perform such duties and obligations as he may deem proper, either in the drawing of plans and specifications for said dam, or to perform any other work in the building or construction of the same. The President may, by such order, place the control of the construction of said dam in the hands of such engineer or engineers taken from private life as he may desire: *And provided further*, That the President is hereby expressly authorized, without regard to the restriction or limitation of any other statute, to select attorneys and assistants for the purpose of making any investigation he may deem proper to ascertain whether, in the control and management of Dam No. 2, or any other dam or property owned by the Government in the Tennessee River Basin, or in the authorization of any improvement therein, there has been any undue or unfair advantage given to private persons, partnerships, or corporations, by any officials or employees of the Government, or whether in any such matters the Government has been injured or unjustly deprived of any of its rights.

"SEC. 18. In order to enable and empower the Secretary of War, the Secretary of the Interior, or the board to carry out the authority hereby conferred, in the most economical and efficient manner, he or it is hereby authorized and empowered in the exercise of the powers of national defense, in aid of navigation, and in the control of the flood waters of the Tennessee and Mississippi Rivers, constituting channels of interstate commerce, to exercise the right of eminent domain for all purposes of this act, and to condemn all lands, easements, rights of way, and other area necessary in order to obtain a site for said Cove Creek Dam, and the flowage rights for the reservoir of water above said dam, and to

negotiate and conclude contracts with States, counties, municipalities, and all State agencies and with railroads, railroad corporations, common carriers, and all public-utility commissions and any other person, firm, or corporation, for the relocation of railroad tracks, highways, highway bridges, mills, ferries, electric-light plants, and any and all other properties, enterprises, and projects whose removal may be necessary in order to carry out the provisions of this act. When said Cove Creek Dam, transmission line, and power house shall have been completed, the possession, use, and control thereof shall be intrusted to the Corporation for use and operation in connection with the general Tennessee Valley project, and to promote flood control and navigation in the Tennessee River.

"SEC. 19. The Corporation, as an instrumentality and agency of the Government of the United States for the purpose of executing its constitutional powers, shall have access to the Patent Office of the United States for the purpose of studying, ascertaining, and copying all methods, formulae, and scientific information (not including access to pending applications for patents) necessary to enable the Corporation to use and employ the most efficacious and economical process for the production of fixed nitrogen, or any essential ingredient of fertilizer, or any method of improving and cheapening the production of hydroelectric power, and any owner of a patent whose patent rights may have been thus in any way copied, used, infringed, or employed by the exercise of this authority by the Corporation shall have as the exclusive remedy a cause of action against the Corporation to be instituted and prosecuted on the equity side of the appropriate district court of the United States, for the recovery of reasonable compensation for such infringement. The Commissioner of Patents shall furnish to the Corporation, at its request and without payment of fees, copies of documents on file in his office: *Provided*, That the benefits of this section shall not apply to any art, machine, method of manufacture, or composition of matter, discovered or invented by such employee during the time of his employment or service with the Corporation or with the Government of the United States.

"SEC. 20. The Government of the United States hereby reserves the right, in case of war or national emergency declared by Congress, to take possession of all or any part of the property described or referred to in this act for the purpose of manufacturing explosives or for other war purposes; but, if this right is exercised by the Government, it shall pay the reasonable and fair damages that may be suffered by any party whose contract for the purchase of electric power or fixed nitrogen or fertilizer ingredients is hereby violated, after the amount of the damages has been fixed by the United States Court of Claims in proceedings instituted and conducted for that purpose under rules prescribed by the court.

"SEC. 21. (a) All general penal statutes relating to the larceny, embezzlement, conversion, or to the improper handling, retention, use, or disposal of public moneys or property of the United States shall apply to the moneys and property of the Corporation and to moneys and properties of the United States intrusted to the Corporation.

"(b) Any person who, with intent to defraud the Corporation, or to deceive any director, officer, or employee of the Corporation or any officer or employee of the United States (1) makes any false entry in any book of the Corporation, or (2) makes any false report or statement for the Corporation, shall, upon conviction thereof, be fined not more than $10,000, or imprisoned not more than 5 years, or both.

"(c) Any person who shall receive any compensation, rebate, or reward, or shall enter into any conspiracy, collusion, or agreement, express or implied, with intent to defraud the Corporation or wrongfully and unlawfully to defeat its purposes, shall, on conviction thereof, be fined not more than $5,000, or imprisoned not more than 5 years, or both.

"SEC. 22. To aid further the proper use, conservation, and development of the natural resources of the Tennessee River drainage basin and of such adjoining territory as may be related to or materially affected by the development consequent to this act, and to provide for the general welfare of the citizens of said areas, the President is hereby authorized, by such means or methods as he may deem proper within the limits of appropriations made therefor by Congress, to make such surveys of and general plans for said Tennessee Basin and adjoining territory as may be useful to the Congress and to the several States in guiding and controlling the extent, sequence, and nature of development that may be equitably and economically advanced through the expenditure of public funds, or through the guidance or control of public authority, all for the general purpose of fostering an orderly and proper physical, economic, and social development of said areas; and the President is further authorized in making said surveys and plans to cooperate with the States affected thereby, or subdivisions or agencies of such States, or with cooperative or other organizations, and to make such studies, experiments, or demonstrations as may be necessary and suitable to that end.

"SEC. 23. The President shall, from time to time, as the work provided for in the preceding section progresses, recommend to Congress such legislation as he deems proper to carry out the general purposes stated in said section, and for the especial purpose of bringing about in said Tennessee drainage basin and adjoining territory in conformity with said general purposes (1) the maximum amount of flood control; (2) the maximum development of said Tennessee River for navigation purposes; (3) the maximum generation of electric power consistent with flood control and navigation; (4) the proper use of marginal lands; (5) the proper method of reforestation of all lands in said drainage basin suitable for reforestation; and (6) the economic and social well-being of the people living in said river basin.

"SEC. 24. For the purpose of securing any rights of flowage, or obtaining title to or possession of any property, real or personal, that may be necessary or may become necessary, in the carrying out of any of the provisions of this act, the President of the United States for a period of 3 years from the date of the enactment of this act, is hereby authorized to acquire title in the name of the United States to such rights or such property, and to provide for the payment for same by directing the board to contract to deliver power generated at any of the plants now owned or hereafter owned or constructed by the Government or by said Corporation, such future delivery of power to continue for a period not exceeding 30 years. Likewise, for 1 year after the enactment of this act, the President is further authorized to sell or lease any parcel or part of any vacant real estate now owned by the Government in said Tennessee River Basin, to persons, firms, or corporations who shall contract to erect thereon factories or manufacturing establishments, and who shall contract to purchase of said Corporation electric power for the operation of any such factory or manufacturing establishment. No contract shall be made by the President for the sale of any of such real estate as may be necessary for present or future use on the part of the Government for any of the purposes of this act. Any such contract made by the President of the United States shall be carried out by the board: *Provided*, That no such contract shall be made that will in any way abridge or take away the preference right to purchase power given in this act to States, counties, municipalities, or farm organizations: *Provided further*, That no lease shall be for a term to exceed 50 years: *Provided further*, That any sale shall be on condition that said land shall be used for industrial purposes only.

"SEC. 25. The Corporation may cause proceedings to be instituted for the acquisition by condemnation of any lands, easements, or rights of way which, in the opinion of the Corporation, are necessary to carry out the provisions of this act. The proceedings shall be instituted in the United States district court for the district in which the land, easement, right of way, or other interest, or any part thereof, is located, and such court shall have full jurisdiction to divest the complete title to the property sought to be acquired out of all persons or claimants and vest the same in the United States

in fee simple, and to enter a decree quieting the title thereto in the United States of America.

"Upon the filing of a petition for condemnation and for the purpose of ascertaining the value of the property to be acquired, and assessing the compensation to be paid, the court shall appoint three commissioners who shall be disinterested persons and who shall take and subscribe an oath that they do not own any lands, or interest or easement in any lands, which it may be desirable for the United States to acquire in the furtherance of said project, and such commissioners shall not be selected from the locality wherein the land sought to be condemned lies. Such commissioners shall receive a per diem of not to exceed $15 for their services, together with an additional amount of $5 per day for subsistence for time actually spent in performing their duties as commissioners.

"It shall be the duty of such commissioners to examine into the value of the lands sought to be condemned, to conduct hearings and receive evidence, and generally to take such appropriate steps as may be proper for the determination of the value of the said lands sought to be condemned, and for such purpose the commissioners are authorized to administer oaths and subpena witnesses, which said witnesses shall receive the same fees as are provided for witnesses in the Federal courts. The said commissioners shall thereupon file a report setting forth their conclusions as to the value of the said property sought to be condemned, making a separate award and valuation in the premises with respect to each separate parcel involved. Upon the filing of such award in court the clerk of said court shall give notice of the filing of such award to the parties to said proceeding, in manner and form as directed by the judge of said court.

"Either or both parties may file exceptions to the award of said commissioners within 20 days from the date of the filing of said award in court. Exceptions filed to such award shall be heard before three Federal district judges unless the parties, in writing, in person, or by their attorneys, stipulate that the exceptions may be heard before a lesser number of judges. On such hearing such judges shall pass de novo upon the proceedings had before the commissioners, may view the property, and may take additional evidence. Upon such hearings the said judges shall file their own award, fixing therein the value of the property sought to be condemned, regardless of the award previously made by the said commissioners.

"At any time within 30 days from the filing of the decision of the district judges upon the hearing on exceptions to the award made by the commissioners, either party may appeal from such decision of the said judges to the circuit court of appeals, and the said circuit court of appeals shall upon the hearing on said appeal dispose of the same upon the record, without regard to the awards or findings theretofore made by the commissioners or the district judges, and such circuit court of appeals shall thereupon fix the value of the said property sought to be condemned.

"Upon acceptance of an award by the owner of any property herein provided to be appropriated, and the payment of the money awarded or upon the failure of either party to file exceptions to the award of the commissioners within the time specified, or upon the award of the commissioners, and the payment of the money by the United States pursuant thereto, or the payment of the money awarded into the registry of the court by the Corporation, the title to said property and the right to the possession thereof shall pass to the United States, and the United States shall be entitled to a writ in the same proceeding to dispossess the former owner of said property, and all lessees, agents, and attorneys of such former owner, and to put the United States, by its corporate creature and agent, the Corporation, into possession of said property.

"In the event of any property owned in whole or in part by minors, or insane persons, or incompetent persons, or estates of deceased persons, then the legal representatives of such minors, insane persons, incompetent persons, or estates shall have power, by and with the consent and approval of the trial judge in whose court said matter is for determination, to consent to or reject the awards of the commissioners herein provided for, and in the event that there be no legal representatives, or that the legal representatives for such minors, insane persons, or incompetent persons shall fail or decline to act, then such trial judge may, upon motion, appoint a guardian ad litem to act for such minors, insane persons, or incompetent persons, and such guardian ad litem shall act to the full extent and to the same purpose and effect as his ward could act, if competent, and such guardian ad litem shall be deemed to have full power and authority to respond, to conduct, or to maintain any proceeding herein provided for affecting his said ward.

"SEC. 26. The net proceeds derived by the board from the sale of power and any of the products manufactured by the Corporation, after deducting the cost of operation, maintenance, depreciation, amortization, and an amount deemed by the board as necessary to withhold as operating capital, or devoted by the board to new construction, shall be paid into the Treasury of the United States at the end of each calendar year.

"SEC. 27. All appropriations necessary to carry out the provisions of this act are hereby authorized.

"SEC. 28. That all acts or parts of acts in conflict herewith are hereby repealed, so far as they affect the operations contemplated by this act.

"SEC. 29. The right to alter, amend, or repeal this act is hereby expressly declared and reserved, but no such amendment or repeal shall operate to impair the obligation of any contract made by said Corporation under any power conferred by this act.

"SEC. 30. The sections of this act are hereby declared to be separable, and in the event any one or more sections of this act be held to be unconstitutional, the same shall not affect the validity of other sections of this act."

And the Senate agree to the same.

Amend the title, as proposed by the Senate, so as to read: "An act to improve the navigability and to provide for the flood control of the Tennessee River; to provide for reforestation and the proper use of marginal lands in the Tennessee Valley; to provide for the agricultural and industrial development of said valley; to provide for the national defense by the creation of a corporation for the operation of Government properties at and near Muscle Shoals in the State of Alabama, and for other purposes"; and the House agree to the same.

E. D. SMITH,
JOHN B. KENDRICK,
B. K. WHEELER,
G. W. NORRIS,
CHAS. L. MCNARY,
*Managers on the part of the Senate.*

JOHN J. MCSWAIN,
LISTER HILL,
*Managers on the part of the House.*

Mr. SMITH. Mr. President, in view of the fact that the changes in the bill as passed by the Senate are not very material, and as this measure is one of considerable importance, I ask unanimous consent for the immediate consideration of the report.

The VICE PRESIDENT. Is there objection?

Mr. MCNARY. Mr. President, while I joined the Senator in making the report, a great many Senators in the Chamber desire such reports as this to go over for the day, under the rule, because they want to have an opportunity to read them; and I cannot make an exception in this case. Therefore I must object.

The VICE PRESIDENT. Let the Chair suggest to the Senator from South Carolina that the report does not have to go over until tomorrow. The only question is whether the reading of it can be completed in 30 minutes before the

Court of Impeachment shall meet. Does the Senator care to continue?

Mr. SMITH. Mr. President, I thought perhaps the Senate might be in the spirit to adopt the conference report, as it is practically in the form in which the bill passed the Senate. I thought we might save time and expedite matters by considering it now. The author of the particular bill is of the opinion that we might get through with it before the time for the Senate to convene as a Court of Impeachment. That was the reason I asked unanimous consent, which, in effect, would be suspending the rule that it must go over for a day. However, in face of the objection, I merely present the report and consent to have it lie on the table.

Mr. NORRIS. Mr. President, of course it is in order under the rules to move to consider the report; but if the Senator from Oregon or any other Senator desires more time to look into it, I shall not object to its going over. However, just as the Senator from South Carolina says, we have been over this subject almost a thousand times.

The VICE PRESIDENT. The Chair just called attention to the fact that the presentation of a report of a committee of conference is always in order, except when the Journal is being read or a question of order or motion is pending.

Mr. McNARY. Mr. President, I have said I must adhere to the policy which I have heretofore inaugurated, in fairness to Members of the Senate who are not conversant with the particular report, and I hope the Senator from South Carolina will not insist on making the motion.

The VICE PRESIDENT. Without objection, the report will lie on the table and go over until tomorrow.

### SUSPENSION OF REPORTS OF LARGE SPECULATIVE ACCOUNTS IN GRAIN FUTURES (S.DOC. NO. 61)

The VICE PRESIDENT laid before the Senate a letter from the Secretary of Agriculture, transmitting, in response to Senate Resolution 376, Seventy-second Congress, a report relative to the suspension of reports of large speculative accounts in grain futures, which, with the accompanying report, was referred to the Committee on Agriculture and Forestry and ordered to be printed, with illustrations.

### CHAIN STORES: WASHINGTON—GROCERY (S.DOC. NO. 62)

The VICE PRESIDENT laid before the Senate a letter from the Chairman of the Federal Trade Commission, transmitting, in response to Senate Resolution 224, Seventieth Congress, a report of the Commission relative to prices and margins of chain and independent distributors, which, with the accompanying report, was referred to the Committee on the Judiciary and ordered to be printed.

### CHANGE IN DATE OF THE INAUGURATION

The VICE PRESIDENT laid before the Senate a concurrent resolution of the Legislature of the State of Florida ratifying the twentieth amendment of the Constitution, fixing the commencement of the terms of President and Vice President and Members of Congress, and fixing the time of the assembling of Congress, which was ordered to lie on the table and to be printed in the RECORD, as follows:

Senate Concurrent Resolution 6

Concurrent resolution ratifying the proposed amendment to the Constitution of the United States fixing the commencement of the terms of President and Vice President and Members of Congress and fixing the time of the assembling of Congress

Whereas the Seventy-second Congress of the United States of America, at its first session in both Houses, by a constitutional amendment of two thirds thereof, has made the following proposition to amend the Constitution of the United States of America in the following words, to wit:

"Joint resolution proposing an amendment to the Constitution of the United States fixing the commencement of the terms of President and Vice President and Members of Congress and fixing the time of the assembling of Congress

"*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two thirds of each House concurring therein)*, That the following amendment to the Constitution be, and hereby is, proposed to the States, to become valid as a part of said Constitution when ratified by the legislatures of the several States as provided in the Constitution:

"'Article —

"'SECTION 1. The terms of the President and Vice President shall end at noon on the 20th day of January, and the terms of Senators and Representatives at noon on the 3d day of January, of the years in which such terms would have ended if this article had not been ratified; and the terms of their successors shall then begin.

"'SEC. 2. The Congress shall assemble at least once in every year, and such meeting shall begin at noon on the 3d day of January, unless they shall by law appoint a different day.

"'SEC. 3. If, at the time fixed for the beginning of the term of the President, the President-elect shall have died, the Vice-President-elect shall become President. If a President shall not have been chosen before the time fixed for the beginning of his term, or if the President-elect shall have failed to qualify, then the Vice-President-elect shall act as President until a President shall have qualified; and the Congress may by law provide for the case wherein neither a President-elect nor a Vice-President-elect shall have qualified, declaring who shall then act as President, or the manner in which one who is to act shall be selected, and such person shall act accordingly until a President or Vice President shall have qualified.

"'SEC. 4. The Congress may by law provide for the case of the death of any of the persons from whom the House of Representatives may choose a President whenever the right of choice shall have devolved upon them, and for the case of the death of any of the persons from whom the Senate may choose a Vice President whenever the right of choice shall have devolved upon them.

"'SEC. 5. Sections 1 and 2 shall take effect on the 15th day of October following the ratification of this article.

"'SEC. 6. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three fourths of the several States within 7 years from the date of its submission'";

Therefore be it

*Resolved by the Senate of the State of Florida (the House of Representatives concurring)*, That the said proposed amendment to the Constitution of the United States of America be and the same is hereby ratified by the Legislature of the State of Florida; be it further

*Resolved*, That certified copies of the foregoing preamble and resolution be immediately forwarded by the secretary of state of the State of Florida, under the great seal, to the President of the United States, the President of the Senate of the United States, and the Speaker of the House of Representatives of the United States.

Approved by the Governor of Florida May 10, 1933.

STATE OF FLORIDA,
*Office Secretary of State, ss:*

I, R. A. Gray, secretary of state of the State of Florida, do hereby certify that the foregoing is a true and correct copy of Senate Concurrent Resolution No. 6 as passed by the Legislature of Florida, session 1933, and filed in this office.

Given under my hand and the great seal of the State of Florida, at Tallahassee, the capital, this the 12th day of May A.D. 1933.

[SEAL] R. A. GRAY, *Secretary of State.*

### PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate the following joint resolution of the Legislature of the State of Maryland, which was referred to the Committee on Foreign Relations:

THE STATE OF MARYLAND,
EXECUTIVE DEPARTMENT.

I, David C. Winebrenner, 3d, secretary of state of the State of Maryland, under and by virtue of the authority vested in me by section 59 of article 35 of the Annotated Code of Maryland, do hereby certify that the attached is a true and correct copy of Joint Resolution No. 10 of the acts of the General Assembly of Maryland of 1933.

In testimony whereof I have hereunto set my hand and have caused to be affixed the official seal of the secretary of state at Annapolis, Md., this 12th day of May A.D. 1933.

[SEAL] DAVID C. WINEBRENNER, 3d,
*Secretary of State.*

Joint Resolution 10

A joint resolution requesting the United States Senate to ratify the treaty whereby the United States would become a member of the World Court

Whereas the platform of both major parties endorsed the World Court and approved membership therein by the United States; and

Whereas there seems to be no need for longer delay in joining the other nations of the world in supporting and maintaining said Court; and

Whereas the entrance of the United States into said Court would give great strength and comfort to those who are trying to maintain world peace by just and peaceful means; and

Whereas immediate ratification of the pending treaty for the adherence of the United States to the World Court would have a most heartening effect on the people everywhere: Therefore be it

*Resolved by the General Assembly of Maryland*, That the United States Senate be, and it is hereby, requested to ratify without delay the treaty now pending before it for the adherence of the United States to the World Court; and be it further

*Resolved*, That in the event the United States adheres to the statute of the World Court it shall make the following reservation: The code of law to be administered by the World Court shall not contain inequalities based on sex; and be it further

*Resolved*, That the representatives in the United States Senate from Maryland be, and they are hereby, urged to vote and to use their influence for the ratification of said treaty; and be it further

*Resolved*, That the secretary of state be, and he is hereby, directed to send a copy of this resolution to the President of the United States, to the President of the United States Senate, and to each representative from Maryland in the United States Senate.

Approved April 21, 1933.

The VICE PRESIDENT laid before the Senate the following joint resolution of the Legislature of the Territory of Hawaii, which was referred to the Committee on Territories and Insular Affairs:

TERRITORY OF HAWAII,
OFFICE OF THE SECRETARY.

This is to certify that hereto attached is a true and correct copy of Joint Resolution No. 2, as passed by the Legislature of the Territory of Hawaii in its regular session of 1933, the original of which is on file in this office.

In witness whereof I have hereunto set my hand and caused the great seal of the Territory to be affixed. Done at the capitol in Honolulu this 28th day of April A.D. 1933.

[SEAL] RAYMOND C. BROWN,
*Secretary of Hawaii.*

Joint resolution requesting the Congress of the United States of America to amend the Hawaiian Homes Commission Act, 1920, so as to place certain of the lands of Auwaiolimu, Kewalo, and Kalawahine, on the Island of Oahu, Territory of Hawaii, under the operation of the Hawaiian Homes Commission Act, 1920, and to confer thereon the status of Hawaiian home lands

Whereas there is no available public land in close proximity to the city of Honolulu which may be allotted under the provisions of the Hawaiian Homes Commission Act, 1920, to native Hawaiians for residence purposes; and

Whereas there are a large number of native Hawaiians in the congested tenement districts in the city of Honolulu whose condition will be greatly improved if they are enabled to secure residence lots in less-congested areas in or near said city under the terms of the Hawaiian Homes Commission Act, 1920, and thereby escape from the unhealthy conditions of said tenement districts; and

Whereas it is advisable and for the best interests of the Hawaiian race that the lands hereinafter described, which are within the limits of the city of Honolulu but are unoccupied at the present time, be brought under the operation of the Hawaiian Homes Commission Act, 1920, and be made available to native Hawaiians for residence purposes in lots not exceeding in area one half acre each: Now, therefore,

*Be it enacted by the Legislature of the Territory of Hawaii*, That the Congress of the United States of America be, and it hereby is, requested, through the Delegate to Congress from the Territory of Hawaii, to place under the operation of the Hawaiian Homes Commission Act, 1920, and to declare to be, and to confer thereon the status of, Hawaiian home lands under said act those certain parcels of land, being portions of the lands of Auwaiolimu, Kewalo, and Kalawahine, on the island of Oahu, described in the proposed bill hereinafter set forth in words and figures, which bill the said Congress is hereinafter requested to enact, such lands to be made available for allotment by the Hawaiian Homes Commission under the provisions of said act to native Hawaiians for residence purposes in lots not exceeding in area one half acre each; and to that end the Congress of the United States of America is hereby requested and urged, through said Delegate to Congress, to enact and adopt a bill amendatory of the Hawaiian Homes Commission Act, 1920, in substantially the following words and figures, to wit:

"A bill to amend sections 203 and 207 of the Hawaiian Homes Commission Act, 1920 (U.S.C., title 48, secs. 697 and 701), conferring upon certain of the lands of Auwaiolimu, Kewalo, and Kalawahine, on the island of Oahu, Territory of Hawaii, the status of Hawaiian home lands, and providing for the leasing thereof to native Hawaiians for residence purposes in lots not exceeding in area one half acre each

"*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That paragraph numbered '(4)' of section 203 of the Hawaiian Homes Commission Act, 1920 (U.S.C., title 48, sec. 697) is hereby amended to read as follows, to wit:

"'(4) On the island of Oahu: Nanakuli (3,000 acres, more or less) and Lualualei (2,000 acres, more or less) in the district of Waianae; and Waimanalo (4,000 acres, more or less) in the district of Koolaupoko, excepting therefrom the military reservation and the beach lands; and those certain portions of the lands of Auwaiolimu and Kewalo described by metes and bounds as follows, to wit:

"'(i) Portion of the government land of Auwaiolimu, Punchbowl Hill, Honolulu, Oahu, described as follows: Beginning at a pipe at the southeast corner of this tract of land, on the boundary between the lands of Kewalo and Auwaiolimu, the coordinates of said point of beginning referred to government survey trig. station "Punchbowl" being 1,135.9 feet north and 2,557.8 feet east, as shown on government survey registered map 2692, and running by true azimuths:

"'1. 163° 31' 238.8 feet along the east side of the Punchbowl-Makiki Road;

"'2. 94° 08' 124.9 feet across Tantalus Drive and along the east side of Puuowaina Drive;

"'3. 131° 13' 232.5 feet along a 25-foot roadway;

"'4. 139° 55' 20.5 feet along same;

"'5. 168° 17' 257.8 feet along Government land (old quarry lot);

"'6. 156° 30' 333.0 feet along same to a pipe;

"'7. Thence following the old Auwaiolimu stone wall along L. C. Award 3145 to Laenui, Grant 5147, (Lot 8 to C. W. Booth), L. C. Award 1375 to Kapule and L. C. Award 1355 to Kekuanoni, the direct azimuth and distance being: 249° 41' 1,303.5 feet;

"'8. 321° 12' 693.0 feet along the remainder of the land of Auwaiolimu;

"'9. 51° 12' 1,400.0 feet along the land at Kewalo to the point of beginning, containing an area of 27 acres; excepting and reserving therefrom Tantalus Drive, crossing this land;

"'(ii) Portion of the land of Kewalo, Punchbowl Hill, Honolulu, Oahu, being part of the lands set aside for the use of the Hawaii Experiment Station of the United States Department of Agriculture by proclamation of the acting Governor of Hawaii, dated June 10, 1901, and described as follows: Beginning at the northeast corner of this lot, at a place called Puu Ea on the boundary between the lands of Kewalo and Auwaiolimu, the coordinates of said point of beginning referred to Government survey trig. station "Punchbowl" being 3,255.6 feet north and 5,244.7 feet east, as shown on Government survey registered map 2692 of the Territory of Hawaii, and running by true azimuths:

"'1. 354° 30' 930.0 feet along the remainder of the land of Kewalo, to the middle of the stream which divides the lands of Kewalo and Kalawahine;

"'2. Thence down the middle of said stream along the land of Kalawahine, the direct azimuth and distance being 49° 16' 1,512.5 feet;

"'3. 141° 12' 860.0 feet along the remainder of the land of Kewalo;

"'4. 231° 12' 552.6 feet along the land of Auwaiolimu to Puu Iole.

"'5. Thence still along the said land of Auwaiolimu following the top of the ridge to the point of beginning, the direct azimuth and distance being 232° 26' 1,470.0 feet, containing an area of 30 acres. Excepting and reserving therefrom Tantalus Drive, crossing this land.

"'(iii) Together with that portion of the land of Kalawahine (25 acres more or less), makai of Tantalus Drive, and lying between the portion of the land of Kewalo above described and the so-called "Kalawahine lots", in the District of Honolulu.'

"SEC. 2. Paragraph numbered (3) of subsection (a) of section 207 of the Hawaiian Homes Commission Act, 1920, as amended (U.S.C., title 48, sec. 701), is hereby amended by adding thereto immediately following the end thereof, an additional proviso, reading as follows, to wit:

"'*Provided further*, That the portions of the lands of Auwaiolimu, Kewalo, and Kalawahine on the island of Oahu under the control of the commission, shall be leased only for residence purposes in individual lots not exceeding in area one half acre per lot.'

"SEC. 3. This act shall take effect on and after the date of its approval."

SEC. 2. The Secretary of Hawaii is hereby requested and directed to forward certified copies of this joint resolution to the delegates to Congress from Hawaii, to the Secretary of the Interior, and to the President of the Senate and the Speaker of the House of Representatives of the Congress of the United States.

Approved this 26th day of April A.D. 1933.

LAWRENCE M. JUDD,
*Governor of the Territory of Hawaii.*

The VICE PRESIDENT also laid before the Senate the following joint memorial of the Legislature of the Territory of Alaska, which was referred to the Committee on Indian Affairs:

TERRITORY OF ALASKA,
OFFICE OF SECRETARY FOR THE TERRITORY.

I, Karl Theile, secretary of Alaska and custodian of the great seal of said Territory, do hereby certify that I have compared the annexed copy of Senate Joint Memorial No. 9 of the Alaska Territorial Legislature, 1933, with the original thereof, and that the same is a full, true, and correct copy of said original now on file in my office.

In testimony whereof I have hereunto set my hand and affixed hereto the seal of the Territory of Alaska at Juneau, the capital, this 2d day of May A.D. 1933.

[SEAL] KARL THEILE,
*Secretary of Alaska.*

Senate Joint Memorial 9 (by Mr. Walker)

*To the President of the United States and to the Congress of the United States and to the Honorable A. J. Dimond, Delegate to Congress from Alaska, and to the Commissioner of Indian Affairs:*

Your memorialist, the Legislature of the Territory of Alaska, in eleventh regular session assembled, do most respectfully represent that:

Whereas the vital-statistics records show that more than three times as many persons die in the Territory of Alaska from tuberculosis than from any other cause, and further that practically

all of the victims of the white plague are natives, and the 1930 census shows there are 29,983 natives in the Territory—5,990 in the first division, 8,686 in the second division, 7,298 in the third division, and 8,009 in the fourth division; and

Whereas the only facilities for handling this dreaded disease among the natives, as reported by the medical director connected with the Bureau of Indian Affairs, consists of an annex to the native hospital in Juneau, Alaska; that this institution is not nearly large enough to care for the Indian patients in this immediate vicinity, and that frequently it has been necessary to refuse admittance to many needy cases, which necessitates returning these patients to their families and further exposing others and spreading the disease; that this single institution has demonstrated the wisdom of maintaining such institutions in every division of the Territory, and the need for such places is urgent;

Now, therefore, we, your memorialists, petition the Congress of the United States to appropriate sufficient funds for the Bureau of Indian Affairs to construct and operate such institutions in each of the four judicial divisions of the Territory and at such places as the said Bureau of Indian Affairs shall deem advisable.

And your memorialists will ever pray.

Passed by the senate April 24, 1933.

ALLEN SHATTUCK,
*President of the Senate.*

Attest:

AGNES F. ADSIT,
*Secretary of the Senate.*

Passed by the house April 28, 1933.

JOE MCDONALD,
*Speaker of the House.*

Attest:

C. H. HELGESEN,
*Chief Clerk of the House.*

A true copy:

AGNES F. ADSIT,
*Secretary of the Senate.*

The VICE PRESIDENT also laid before the Senate the following joint memorials of the Legislature of the Territory of Alaska, which were referred to the Committee on Territories and Insular Affairs:

TERRITORY OF ALASKA,
OFFICE OF SECRETARY FOR THE TERRITORY.

I, Karl Theile, secretary of the Territory of Alaska and custodian of the great seal of said Territory, do hereby certify that I have compared the annexed copy of Senate Joint Memorial No. 6 of the Alaska Territorial Legislature, 1933, with the original thereof, and that the same is a full, true, and correct copy of said original now on file in my office.

In testimony whereof, I have hereunto set my hand and affixed hereto the seal of the Territory of Alaska, at Juneau, the capital, this 2d day of May A.D. 1933.

[SEAL]

KARL THEILE,
*Secretary of Alaska.*

Senate Joint Memorial 6 (by Mr. Lomen)

*To the President of the United States and to the Congress of the United States and to the Honorable A. J. Dimond, Delegate to Congress from Alaska:*

Your memorialists, the Legislature of the Territory of Alaska, in eleventh regular session assembled, do most respectfully represent that—

Whereas mining is the basic industry of the Territory of Alaska upon which a large percentage of the population is directly and indirectly dependent; and

Whereas about 98 percent or more of the area of Alaska is public land and contains great potential mineral resources, auriferous deposits, and large areas where mineralized gold-bearing quartz occurs, as has been determined by the United States Geological Survey; and

Whereas these vast areas of public lands are to a large extent unprospected, unappropriated, and not subject to taxation by the Territory nor the United States, and yield no revenue to the Government of either the United States or the Territory of Alaska; and

Whereas the future development of all industries in Alaska, including agriculture and lumbering, depends on the development of the mining industry; and

Whereas this Nation and the whole world are greatly in need of increased gold production as a means of rehabilitating industry and reviving and stabilizing commerce, and aiding in a recovery of prosperity and normal conditions; and

Whereas many of the most promising mining areas in Alaska are in comparatively inaccessible districts not supplied with transportation facilities available to the average prospector; and

Whereas the Government of the United States has in the past assisted in the colonization of her undeveloped territories and possessions by means of various subsidies and inducements to those willing to pioneer unsettled and undeveloped districts and territories, and the Government can, with comparatively small expense, render more aid in the development of Alaska and in the production of gold than has ever been heretofore rendered in the opening up and development of other unsettled and undeveloped possessions of the country; and

Whereas if gold production is stimulated and mining encouraged, colonization can be accomplished, new cities and towns established, agriculture and lumbering encouraged and stimulated, and unemployment relieved and gold production greatly increased by the extension of the necessary encouragement to prospecting; and

Whereas both the Army and the Navy of the United States have many airplanes which are idle during peace times, and have a trained personnel competent to pilot and operate such planes, which could be used to the great advantage of Alaska and the Nation and the whole world in prospecting for gold;

Now, therefore, your memorialists petition that the Senate and the House of Representatives of the United States enact into law without delay a bill to assist in the prospecting of the great undeveloped area of Alaska by authorizing the organization of a prospecting and development army, which shall serve for a definite term of enlistment, officered by competent geologists, engineers, and prospectors, and recompensed on the basis of a small wage, together with an interest in such discoveries as may be made of mineral-bearing lodes and placers; and that machinery be set up in said bill for the authorization of the use of Government airplanes in transporting men and supplies to the areas to be prospected; and that sufficient appropriation be made to carry the expense of such an army of prospectors for a period of 5 years.

And your memorialists will ever pray.

Passed the senate April 20, 1933.

ALLEN SHATTUCK,
*President of the Senate.*

Attest:

AGNES F. ADSIT,
*Secretary of the Senate.*

Passed the house April 27, 1933.

JOE MCDONALD,
*Speaker of the House.*

Attest:

C. H. HELGESEN,
*Chief Clerk of the House.*

A true copy:

AGNES F. ADSIT,
*Secretary of the Senate.*

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TERRITORY OF ALASKA,
OFFICE OF SECRETARY FOR THE TERRITORY.

I, Karl Theile, secretary of Alaska and custodian of the great seal of said Territory, do hereby certify that I have compared the annexed copy of Senate Joint Memorial No. 8 of the Alaska Territorial Legislature, 1933, with the original thereof, and that the same is a full, true, and correct copy of said original now on file in my office.

In testimony whereof, I have hereunto set my hand and affixed hereto the seal of the Territory of Alaska, at Juneau, the capital, this 3d day of May A.D. 1933.

[SEAL]

KARL THEILE,
*Secretary of Alaska.*

Senate Joint Memorial 8 (by Mr. DeVane)

*To the President of the United States, the Congress of the United States, the Department of Agriculture, and the Department of the Interior, and to the Delegate to Congress from Alaska:*

Your memorialist, the Legislature of the Territory of Alaska, respectfully represents that:

Whereas the Congress of the United States has granted the President of the United States broad powers to reorganize the executive department of the Government, to prevent duplication of various departments, and to reduce governmental expenses; and

Whereas the Alaska Game Commission of the Department of Agriculture has built up an expensive and oppressive bureau costing the taxpayers of the United States more than $100,000 per annum, to wit: 1931, $97,450; 1932, $106,290; 1933, $103,566; and

Whereas the activities of the Alaska Game Commission have largely been and are oppressive and repugnant to a large majority of the people of the Territory of Alaska, especially since no distinction is made between commercial trappers and native Indians whose sole means of sustaining themselves is hunting, trapping, and fishing. They have made unreasonable, oppressive, and unenforceable regulations governing the taking and marketing of skins of fur-bearing animals resulting in large financial losses and great inconvenience to trappers and fur dealers who have all their resources invested in the fur industry; and

Whereas the Alaska Game Commission has ceased to represent the views of a majority of the permanent population of the Territory.

Wherefore your memorialist respectfully requests that the repeal of the Alaska game laws and abolishment of the Alaska Game Commission be made at the earliest possible date and that the Alaska Legislature be given full authority to make and enforce laws and regulations not inconsistent with the general laws of the United States and the treaties of the United States with other nations governing fur and game in Alaska and that pending such transfer of authority to the Legislature of the Territory of Alaska the President of the United States immediately reorganize the Alaska Game Commission by appointing a new commission, two

members of which shall be men actively engaged in the raw-fur industry.

That native Indians be exempted from the provisions of the Alaska game law and its regulations to the extent that they be allowed to take game for food when in need of food for themselves and families and such fur as may be required for clothing at all times regardless of any law regulation.

And your memorialist will ever pray.

Passed by the senate, April 21, 1933.

ALLEN SHATTUCK,
*President of the Senate.*

Attest:

AGNES F. ADSIT,
*Secretary of the Senate.*

Passed by the house April 28, 1933.

JOE MCDONALD,
*Speaker of the House.*

Attest:

C. H. HELGESEN,
*Chief Clerk of the House.*

A true copy:

AGNES F. ADSIT,
*Secretary of the Senate.*

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TERRITORY OF ALASKA,
OFFICE OF SECRETARY FOR THE TERRITORY.

I, Karl Theile, secretary of Alaska and custodian of the great seal of said Territory, do hereby certify that I have compared the annexed copy of Senate Joint Memorial No. 11 with the original thereof and that the same is a full, true, and correct copy of said original now on file in my office.

In testimony whereof I have hereunto set my hand and affixed hereto the seal of the Territory of Alaska at Juneau, the capital, this 5th day of May A.D. 1933.

[SEAL]

KARL THEILE,
*Secretary of Alaska.*

Senate Joint Memorial 11 (by Mr. Bragaw)

*To the President of the United States, the President of the United States Senate, the Speaker of the House of Representatives, the Secretary of Commerce, the Commissioner of the Bureau of Fisheries, and the Delegate from Alaska:*

Your memorialist, the Legislature of Alaska, in regular session assembled, respectfully represents:

I. That whereas the act of Congress of June 18, 1926, entitled "An act to amend section 1 of the act of Congress of June 6, 1924, entitled 'An act for the protection of the fisheries of Alaska, and for other purposes'", in the first section of said act, and its first proviso, declares, "That every such regulation made by the Secretary of Commerce shall be of general application within the particular area to which it applies, and that no exclusive or several right of fishery shall be granted therein, nor shall any citizen of the United States be denied the right to take, prepare, cure, or preserve fish or shellfish in any area of the waters of Alaska where fishing is permitted by the Secretary of Commerce" (44 U.S. Stat.L. 752).

II. That whereas under the authority of the several United States fishery laws applicable to the public waters in Alaska the Secretary of Commerce has heretofore made and promulgated rules and regulations having the force of laws to control and protect the salmon fisheries in those waters; these rules and regulations are found in the Department of Commerce Circular No. 251, nineteenth edition, dated December 20, 1932, signed officially by E. F. Morgan, Acting Secretary of Commerce, with some subsequent amendments issued by the same official.

III. That whereas False Pass (Isanotski Strait), separating Unimak Island from the western end of the Alaska Peninsula, and Ikatan Bay lie wholly within the Alaska Peninsular area, Ikatan Bay and False Pass constitute the first opening coming westward along the Alaska Peninsula from the Pacific Ocean through and into Bristol Bay, and affords the first chance the Pacific salmon hordes have as they swim north and westward from their winter resorts in the more southerly Pacific waters to enter Bristol Bay en route to their natural spawning beds in the streams and lakes at the head of Bristol Bay; False Pass (Isanotski Strait) is a very narrow and shallow body of water, and at low tide the salmon do not pass; when the spring run of Bristol Bay red salmon are seeking their spawning grounds through False Pass, they huddle in countless millions in Ikatan Bay, the southern entrance to False Pass, waiting for the rising tide, on which they go through the pass into Bristol Bay. Ikatan Bay is the natural gathering place of the greatest and most valuable horde of Alaska red salmon to be found along the Alaskan coast; a monopoly of the trap privileges in taking and canning these fish in that bay and pass is of exceeding great value.

IV. That whereas paragraph 23, page 13, of Circular 152, nineteenth edition, as amended in additional Alaska fishery regulations issued and signed by the Secretary of Commerce on January 6, 1933, provides: "The use of any trap for the capture of salmon is prohibited except as follows: 1. Unimak Island: Along the coast on the west and south sides of Ikatan Bay from a point on False Pass (Isanotski Strait) indicated by a marker to a point"—including the lower part of False Pass and the whole west and south shore of Ikatan Bay—"and 2, the mainland along the north side of Ikatan Bay within 2,500 feet of a point"—there fixed; traps are prohibited at all other places along the shores of False Pass and Ikatan Bay. Paragraph 10, page 13, also provides: "The use of floating traps for the capture of salmon is prohibited." Paragraph 12 provides: "The use of purse seines for the capture of salmon is prohibited"—in False Pass and Ikatan Bay. Paragraph 19 provides: "Commercial fishing for salmon by gill nets, including drift nets and set nets, is prohibited west of 161° west longitude, exclusive of waters along the Bering Sea coast"—False Pass and Ikatan Bay are west of 161°. Paragraph 20 provides: "Commercial fishing for salmon by means of stake nets, except along the Bering Sea coast, is prohibited." Paragraph 2, page 12, of the rules and regulations governing the Alaska Peninsular area, provides: "In the waters along the south side of the Alaska Peninsula from Cape Tolstoi to Castle Cape, including the waters of Shumagin and other adjacent islands, the 36-hour closed period for salmon fishing prescribed by section 5 of the act of June 6, 1924, is hereby extended to include the period from 6 o'clock p.m. of Saturday of each week until 6 o'clock p.m. of the Wednesday following, making a weekly closed period of 96 hours," etc. Paragraph 3, following, provides: "In all other waters of this area the 36-hour closed period for salmon fishing prescribed by section 5 of the act of June 6, 1924, is hereby extended to include the period from 6 o'clock a.m. of the Saturday of each week until 6 o'clock a.m. of the Monday following, making a weekly closed period of 48 hours", etc. Ikatan Bay and False Pass lie about 100 miles west of the region described in paragraph 2; the weekly closed period in Ikatan Bay and False Pass is but 48 hours long, thus having under these rules and regulations 2 days each week longer fishing period than any other waters in any part of the Alaska Peninsular area, it has more protection under the rules and regulations and less restrictions than any other fishery in the Territory.

V. That whereas it appears to us from available information that the exclusive and almost unrestricted right to take Alaska salmon from False Pass and Ikatan Bay has long been under the ownership and control of the P. E. Harris Co. and the Pacific American Fisheries Co., two non-Alaskan corporations engaged in taking and canning salmon in said waters; that both these companies have long maintained salmon fish traps in the mouth of False Pass and on the west and south sides of said pass and bay; that in the fishing season of 1932 the Harris Co. took the salmon from False Pass and Ikatan Bay and canned 252,824 cases of forty-eight 1-pound cans to the case; that the Pacific American Fisheries Co. in that season took the salmon from the same waters and canned 69,824 cases of forty-eight 1-pound cans to the case; a total of 322,781 cases, containing 15,493,488 pounds—nearly 8,000 tons—of Alaska salmon from False Pass and Ikatan Bay; the average price of similar grades of Alaska salmon from the 10 years past, including 1932, is the sum of $6.88 per case; at that 10-year average price the 322,781 cases taken from False Pass and Ikatan Bay by these two companies in 1932 would be $2,220,733; the average price per case for that salmon in 1932, however, was reduced to the sum of $4.06 per case, but at that 1932 average price (the lowest in 10 years) the value of the 1932 False Pass and Ikatan Bay pack was $1,310,490, all of which belonged to the two said companies; that the cost of production of canned salmon in False Pass and Ikatan Bay is exceedingly low; all their salmon are caught in traps belonging to the companies which are located in the mouth of False Pass and on the west and south shore of Ikatan Bay; they transport their fish from their own traps in their own boats and scows to their own near-by canneries, and there they are prepared and canned;

VI. That whereas it appears to us from a fair consideration of the said fishery rules and regulations so heretofore approved and enforced by the Secretary of Commerce in their application to the natural conditions which exist at False Pass and Ikatan Bay that the Harris Co. and the Pacific American Fisheries Co., with the connivance and permission of those who make and enforce the rules and regulations are allowed to carry on their own exclusive and several right of fishery in one of the most important salmon streams in Alaska, and under unfair and illegal conditions are permitted to obstruct the ascent of these great salmon hordes in their efforts to reach their spawning grounds in the streams and lakes at the head of Bristol Bay; to secure for themselves an unfair and illegal advantage to the injury of the salmon industry by blocking the streams through which the fish get into Bristol Bay with traps set in the flow of the stream and thus violate the spirit of the act of Congress which forbids the establishment of traps at or near the flow of salmon streams; that the unfair but friendly rules and regulations prepared and enforced at this place by the Secretary of Commerce have created an unfair and illegal monopoly of right in these two cannery and trap companies, give them special privileges not possible to accord to any other person or company, and exclude all other persons and companies, Alaska and/or the Union or other fisherman from fishing in this location, thereby violating the spirit and letter of the act of Congress of June 10, 1926:

Wherefore your memorialist, the Legislature of the Territory of Alaska, in regular session assembled, does most earnestly request that the United States authorities take such immediate action to reduce the number of traps and restrict the days of fishing equal to those allowed in adjacent districts, and that such further action be taken as will prevent any person or company from acquiring an exclusive or several right of fishery therein, and that

all American purse seiners and gill netters be given equal right to fish therein while protecting the free flow of salmon through the False Pass stream.

And so your memorialist will ever pray.

Passed the senate May 2, 1933.

ALLEN SHATTUCK,
*President of the Senate.*

Attest:

AGNES F. ADSIT,
*Secretary of the Senate.*

Passed the house May 4, 1933.

JOE MCDONALD,
*Speaker of the House.*

Attest:

C. H. HELGESEN,
*Chief Clerk of the House.*

A true copy:

AGNES F. ADSIT,
*Secretary of the Senate.*

The VICE PRESIDENT also laid before the Senate a petition and a letter in the nature of a petition from sundry citizens of New Orleans, La., praying for a senatorial investigation relative to alleged acts and conduct of Hon. HUEY P. LONG, a Senator from the State of Louisiana, which was referred to the Committee on the Judiciary.

He also laid before the Senate a memorial of sundry citizens of the State of Ohio, and two letters in the nature of memorials from citizens of Louisiana, endorsing Hon. HUEY P. LONG, a Senator from the State of Louisiana, condemning attacks made upon him and remonstrating against a senatorial investigation of his alleged acts and conduct, which were referred to the Committee on the Judiciary.

He also laid before the Senate resolutions adopted by Commissioners' Courts of Bandera, Bexar, El Paso, and Live Oak Counties, and a mass meeting of business and professional men of the Thirteenth Congressional District of Texas at Wichita Falls, all in the State of Texas, endorsing the program of President Roosevelt and favoring the adoption of a public-works program providing highway construction in the State of Texas, which were referred to the Committee on Education and Labor.

He also presented a resolution adopted by the Veterans' Association of Summit County, Akron, Ohio, protesting against the operation of the so-called "Economy Act", particularly in the cases of wounded veterans, which was referred to the Committee on Finance.

He also presented a resolution adopted by South Texas Chapter, the Disabled Emergency Officers of the World War, of San Antonio, Tex., relative to new regulations and instructions covering the "causative factor" in connection with the cases of emergency officers of the World War, which was referred to the Committee on Finance.

He also laid before the Senate a resolution adopted by the Brooklyn (N.Y.) Division of the Cosmopolitan Twine and Paper Association, Inc., protesting against the treatment of and discrimination against Jews in Germany, which was referred to the Committee on Foreign Relations.

He also presented a memorial of members of Martha Board Chapter, National Society Daughters of the American Revolution, of Augusta, Ill., remonstrating against the recognition of the Soviet Government of Russia, which was referred to the Committee on Foreign Relations.

He also laid before the Senate resolutions adopted by the Allied Patriotic Societies of New York City, N.Y., protesting against the passage of legislation tending to break down existing laws and Executive orders restricting immigration, which were referred to the Committee on Immigration.

He also presented resolutions adopted by Phoenix Camp, No. 1, United Spanish War Veterans, of Phoenix, Ariz., protesting against the operation of the so-called "Economy Act" and regulations thereunder, especially as it affects pensions of veterans, and their dependents, of the Spanish-American War, which were ordered to lie on the table.

Mr. COPELAND presented a resolution adopted by Columbia Council, No. 64, Sons and Daughters of Liberty, of Ridgewood, N.Y., favoring the passage of legislation further to restrict immigration into the United States, which was referred to the Committee on Immigration.

He also presented a resolution adopted by the Allied Patriotic Societies, Inc., of New York City, N.Y., favoring the enforcement of the Executive order instructing consuls to enforce strictly the clause of the present immigration law having the effect of excluding immigrants and aliens seeking employment in the United States, and protesting against the enactment of legislation granting certificates of legal entry to aliens who have entered the country illegally, which was referred to the Committee on Immigration.

He also presented a resolution adopted by the New York Committee of the National Woman's Party, of New York City, N.Y., favoring the passage of legislation granting women equality in nationality rights with men, which was referred to the Committee on Immigration.

He also presented a resolution of the New York Committee of the National Woman's Party, of New York City, N.Y., favoring adoption of a proposed amendment to the Constitution granting equal rights to men and women, which was referred to the Committee on the Judiciary.

He also presented a resolution adopted by the Building Material Men's Association of Westchester County, Inc., of Scarsdale, N.Y., favoring the passage of legislation to modify or permit a more liberal interpretation of the anti-trust laws so as to aid in the restoration of business profits, which was referred to the Committee on the Judiciary.

He also presented a petition of the Taxpayers' Organization of Jamestown, N.Y., praying for the passage of legislation establishing a uniform minimum hourly wage rate of 50 cents and a maximum working week throughout the United States, with the exception of enlisted men under the Government, which was referred to the Committee on Education and Labor.

He also presented a petition of retail and wholesale meat dealers of New York State, praying for the imposition of adequate tariffs on importations of animal, marine, and vegetable oils and fats, and the oil content of such oils and fats and of raw materials from which they are processed, and on hides and skins, which was referred to the Committee on Finance.

He also presented a resolution adopted by the Brooklyn Council, Kings County, Department of New York, Veterans of Foreign Wars of the United States, favoring the imposition of a tax on income derived from all governmental obligations, which was referred to the Committee on Finance.

He also presented a resolution adopted by the Allied Patriotic Societies, Inc., of New York City, N.Y., protesting against the adoption of measures placing officers of the Regular Army on furlough with half pay, which was referred to the Committee on Appropriations.

He also presented a resolution adopted by citizens and organizations of the State of New York, protesting against any reduction in the military or naval forces of the United States or in the training or personnel of the civilian components thereof, which was referred to the Committee on Appropriations.

He also presented the memorial of Dr. Raiford T. Wainock, of Portland, Me., remonstrating against the furlough of certain officers of the Public Health Service, which was referred to the Committee on Appropriations.

He also presented a memorial of sundry citizens of Brooklyn, New York City, and vicinity, in the State of New York, remonstrating against the passage of legislation providing for the retirement of Government employees after 30 years' service, which was referred to the Committee on Appropriations.

He also presented a resolution adopted by the Civil Service Forum, of New York City, N.Y., protesting against the compulsory retirement of Government employees after 30 years' service "almost without any opportunity to adjust their lives or living conditions", which was referred to the Committee on Appropriations.

He also presented resolutions adopted by the Northside Democratic Association of the Borough of Queens, of Corona; the Small Home and Property Owners Defense League of South Shore, Staten Island; the Property Owners Association of Middle Village, Long Island; and the Central Queens Transit Association, of Hollis, Long Island, all in the State of New York, protesting against the passage of Senate

bill 1137, the home loan mortgage bill, in its present form, and favoring the making of certain amendments thereto, which were referred to the Committee on Banking and Currency.

He also presented memorials of members of the Jeffersonville Synagogue, of Jeffersonville, and of sundry citizens of New York City and Brooklyn, all in the State of New York, remonstrating against the persecution of, and alleged outrages committed against, the Jews in Germany, which were referred to the Committee on Foreign Relations.

He also presented resolutions adopted by the Brooklyn Division of the Cosmopolitan Twine and Paper Association, of Brooklyn; the Metropolitan Conference of Temple Brotherhoods; a mass meeting of citizens of Saratoga Springs, comprising members of all creeds; the Men's Club of the Progressive Synagogue, of Brooklyn; members of the United Brotherhood of Janina, of Brooklyn; and the Hudson District of the Zionist Organization of America, of Hudson, all in the State of New York, protesting against the persecution of, and alleged outrages committed against, the Jews in Germany, and favoring the use by the Government of its good offices in the premises, which were referred to the Committee on Foreign Relations.

He also presented resolutions adopted by the Owen Roe Club of New York and the United Irish-American Societies of New York, opposing the cancelation or further reduction of debts owed to the United States by foreign nations, which were referred to the Committee on Foreign Relations.

He also presented resolutions adopted by Central Islip Council, No. 1816, of Central Islip; Penataquit Council, No. 564, of Bay Shore; Champlain Council, No. 441, of Elmhurst; Ridgewood Council, No. 1814, of Brooklyn; Brooklyn Council, No. 60, of Brooklyn; and Columbus Council, No. 126, of Brooklyn, all of the Knights of Columbus, and the Brooklyn Alumni Sodality, of Brooklyn, all in the State of New York, protesting against recognition of the Soviet Government of Russia, which were referred to the Committee on Foreign Relations.

He also presented a resolution adopted by the Twenty-eighth Ward Taxpayers' Protective Association of Brooklyn, N.Y., favoring the restoration of the former 2-cent postage rate, which was ordered to lie on the table.

He also presented a resolution adopted by the Erie County Committee, the American Legion, Department of New York, protesting against the operation of the so-called "Economy Act" and Executive orders issued thereunder affecting the pay and allowances of disabled veterans of the World War, which was ordered to lie on the table.

### LIGHTHOUSE STATION, PORTSMOUTH, N.H.

Mr. KEYES. Mr. President, I present a concurrent resolution adopted by the New Hampshire Legislature protesting against the lowering of the standard of the lighthouse station in Portsmouth Harbor, N.H., by the substitution of an unattended light and the elimination of the fog bell, and ask that it may be printed in the RECORD and referred to the Committee on Commerce.

The resolution was referred to the Committee on Commerce and ordered to be printed in the RECORD, as follows:

STATE OF NEW HAMPSHIRE, 1933.

Concurrent resolution protesting against the lowering of the standard of the lighthouse station in Portsmouth Harbor

Whereas the Federal Government contemplates the substitution of an unattended light and the elimination of the fog bell: Therefore be it

*Resolved by the Senate of the State of New Hampshire (the House of Representatives concurring)*, That the State of New Hampshire protest against any lowering of the standard of this station as detrimental and dangerous to shipping; and be it further

*Resolved*, That a copy of these resolutions be sent to the Members of the New Hampshire delegation in the Congress.

May 11, 1933.

Attest:

[SEAL] ENOCH D. FULLER,
*Secretary of State.*

### RECENT MEASURES AFFECTING VETERANS

Mr. ROBINSON of Indiana presented resolutions adopted by the Veterans' Society of Summit County, Ohio, which were ordered to lie on the table and to be printed in the RECORD, as follows:

Resolution adopted by the Veterans' Association, Summit County Unit, Akron, Ohio, May 5, 1933

Whereas Congress recently enacted legislation of vital concern to veterans of wars of this country and directly affecting the welfare of 11,000,000 citizens, this legislation is of great length and highly technical; and

Whereas this legislation of such vast importance and grave consequences was considered by a special committee of the House of Representatives for only 3 minutes and then reported favorably for passage under a special rule denying amendment and limiting deliberation to 40 minutes and immediately put upon its passage; and

Whereas the Members of the House of Representatives were not permitted to have copies of the said legislation but passed the measure without seeing the bill; and

Whereas said law provides that "any person who served in the active military or naval service and who is disabled as a result of disease or injury incurred in line of duty * * * may be paid a pension" and fails completely to assure that the wounded and service-disabled man or his dependents shall receive any assistance from the Federal Government, and that the thousands of our comrades suffering from tuberculosis, from gas, and additional thousands now insane due to shock or shell fire and battle horror are precluded from reestablishing their claim because of their inability due to helplessness; and

Whereas a single appointive subordinate official has complete and final jurisdiction over every claim of every veteran or his dependents and that this decision "shall be final and conclusive * * * and no court of the United States shall review such decision"; and

Whereas such legislation specifically encourages the extravagant and unprincipled policy of private pension bills, thereby opening wide the door of politics in the matter of veterans' affairs; and

Whereas officers and employees of the Government receive a small reduction of salary for one year, while the reductions and eliminations of veterans' compensation are permanent; and

Whereas there was no emergency for such legislation, as it does not become effective until July 1, 1933, and that Congress had ample opportunity to give the question the time and deliberation that the gravity of the subject should have received: Now, therefore, be it

*Resolved by the Veterans' Association, Summit County Unit*, (1) That the method of passing this legislation be vigorously condemned as violative of the principles of representative government and contrary to the spirit and intendment of the Constitution of the United States;

(2) That the vesting of power in the discretion of a single official to deny the right of a wounded veteran help from the Government is a harsh, cruel, and unjust exercise of power of government in a Republic;

(3) That the sweeping denial of the right of appeal to the courts of justice of our country is a dangerous and insidious attack upon the fundamental institution of American Government and that private pensioning is an unfair discrimination; be it further

*Resolved*, That the Congressmen of Ohio who have the courage to vote against this vicious assault upon the principles of government cherished by our citizens and fought for on fields of battle, even though these Congressmen were threatened with political ostracism for their stand, be commended as a splendid example of real courage and faith in the representative government, maintaining the principle that "government of the people, by the people, and for the people shall not perish from the earth"; be it further

*Resolved*, That copies of this resolution be forwarded to the President of the United States, the Senators and Representatives in Congress from Ohio, the Director of the Budget, the Administrator of Veterans' Affairs, the Vice President of the United States, and the Speaker of the House of Representatives.

CHAS. DICK.
L. D. ETNIRE,
JOHN D. HOTCHKISS.
CLYDE B. MACDONALD.
KARL S. TUCKER.
WALTER B. WANAMAKER.
GEO. M. LOGAN,
*Chairman.*

### TREATMENT OF JEWS IN GERMANY

Mr. ROBINSON of Indiana also presented a resolution forwarded to him by Rabbi Milton Steinberg, president of the Indianapolis (Ind.) Zionist District, protesting against the treatment of Jews in Germany, which was referred to the Committee on Foreign Relations and ordered to be printed in the RECORD, as follows:

*Be it resolved*, That the Indianapolis Zionist District of Indianapolis, Ind., views with pain and horror the persecution of the Jews of Germany; that its moral sensibilities have been outraged by authenticated reports of physical violence done against these people by systematic, legal exclusion of Jewish citizens from all contemporary German life, and by the persistent attempts of the German Government to reduce to the stage of degradation and

terror 600,000 Jews of Germany, whose only offense has been that they were born Jews.

That the Indianapolis Zionist District of Indianapolis, Ind., petitions you to express its sentiments and to exert your influence so that the Government of the United States may make official protest against such barbarous behavior of a modern, civilized nation and may use its moral influence in an attempt to check such excesses.

That the Indianapolis Zionist District of Indianapolis, Ind., petitions you to lend your efforts toward the amelioration of the lot of these persecuted Jews, and that it urges you to recommend a temporary loosening of immigration restrictions from Germany so as to permit for refugees from religious intolerance a haven in our United States.

That copies of the resolution be forwarded to our Representatives in Congress and to the Honorable Cordell Hull, Secretary of State.

This resolution was duly executed by the above-named organization on the 11th day of May, 1933.

Respectfully submitted.

RABBI MILTON STEINBERG,
*President of Indianapolis Zionist District.*

Mr. BARBOUR. Mr. President, I ask unanimous consent to have printed in full in the RECORD and appropriately referred a resolution adopted on March 27, 1933, at a mass meeting held in Asbury Park, N.J., protesting against the intolerant policy of the Hitler government toward the Jewish people in Germany. In this manner I want to draw to the attention of the Congress the demands of this group of representative citizens.

There being no objection, the resolution was referred to the Committee on Foreign Relations and ordered to be printed in the RECORD, as follows:

Whereas a protest has been made heretofore on the 27th day of March 1933, at the high school auditorium in the city of Asbury Park, county of Monmouth, and State of New Jersey, against the intolerant policy of the Hitler government in relation to the Jews of Germany, in which protest participated the lay and spiritual leaders of Jewish, Catholic, and Protestant religions of the Monmouth county seaboard, as well as civic, political, and industrial leaders of said county; and

Whereas this formal protest was delivered to the State Department of our Federal Government and to the German Ambassandor, Wilhelm von Prittwitz; and

Whereas verified and confirmed reports from Germany have since that time brought to America, day after day, the news of a systematic and thorough exclusion of Jews from the civic and political life of Germany by the Hitler government, an exclusion which expresses itself in the elimination of Jews from all federal, state, and local offices, the wholesale dismissal of Jewish physicians, the forced retirement of Jewish professors and instructors from the colleges and universities and smaller educational institutions; the ejection of Jewish judges from the courts; the expulsion of Jewish lawyers from the bar; the limitation and restriction of the attendance of Jewish students in all the higher educational institutions: Therefore be it

*Resolved, at this meeting of American-Jewish citizens of the county of Monmouth, State aforesaid, held this 10th day of May 1933, at the Synagogue Sons of Israel, in the city of Asbury Park, county of Monmouth, and State aforesaid,* That we do hereby most emphatically condemn the unjust, intolerant, and outrageous anti-Semitic measures, policies, and discriminations of the Hitler regime; and be it further

*Resolved,* That we do hereby call upon the Honorable W. WARREN BARBOUR, and the Honorable HAMILTON F. KEAN, United States Senators for the State of New Jersey, and also upon the Honorable WILLIAM H. SUTPHIN, Congressman of the Third Congressional District of the State of New Jersey, to raise their voice of protest in the Halls of the United States Congress and move for the adoption of the resolution by the Congress and the Senate denouncing the unjust, unwarranted, and inhuman exclusion of Jews from the civic, political, and professional life of the country in which they have lived over 1,600 years and to which they brought untold glory and distinction in every field of endeavor; and be it further

*Resolved,* That we call upon the Honorable Franklin D. Roosevelt, President of these United States, to use his good offices in behalf of the oppressed and persecuted Jews in Germany.

Respectfully submitted by the resolutions committee.

MEYER COHEN,
*Rabbi of Congregation Sons of Israel, Asbury Park, N.J.*
SYDNEY DIERDEN,
*President Congregation Sons of Israel, Belmar, N.J.*
RALPH B. HEADRON,
*Rabbi, Temple Beth El.*
BENJAMIN FREEDMAN,
*President Asbury Park Hebrew School.*
LOUIS I. MILLER,
*President Congregation Sons of Israel, Asbury Park, N.J.*

REPORT OF THE INDIAN AFFAIRS COMMITTEE

Mr. BRATTON, from the Committee on Indian Affairs, to which was referred the bill (S. 691) to authorize appropriations to pay in part the liability of the United States to the Indian pueblos herein named, under the terms of the act of June 7, 1924, and the liability of the United States to non-Indian claimants on Indian pueblo grants whose claims, extinguished under the act of June 7, 1924, have been found by the Pueblo Lands Board to have been claims in good faith; to authorize the expenditure by the Secretary of the Interior of the sums herein authorized and of sums heretofore appropriated, in conformity with the act of June 7, 1924, for the purchase of needed lands and water rights and the creation of other permanent economic improvements as contemplated by said act; to provide for the protection of the watershed within the Carson National Forest for the Pueblo de Taos Indians of New Mexico and others interested, and to authorize the Secretary of Agriculture to contract relating thereto, and to amend the act approved June 7, 1924, in certain respects, reported it with an amendment to the title and submitted a report (No. 73) thereon.

REGULATION OF BANKING

Mr. GLASS. I am directed by the Committee on Banking and Currency unanimously to report back favorably with amendments the bill (S. 1631) to provide for the safer and more effective use of the assets of Federal Reserve banks and of national banking associations, to regulate interbank control, to prevent the undue diversion of funds into speculative operations, and for other purposes, and later I shall attempt to secure its consideration.

The VICE PRESIDENT. The bill will be placed on the calendar.

INVESTIGATION OF SALE OF MILK AND DAIRY PRODUCTS IN DISTRICT

Mr. KING. From the Committee on the District of Columbia I report back favorably without amendment the resolution (S.Res. 76) to investigate conditions respecting the sale and distribution of dairy products in the District of Columbia. I ask permission to file a report later.

The VICE PRESIDENT. Without objection, permission is granted. The resolution will be placed on the calendar.

ENROLLED BILL PRESENTED

Mrs. CARAWAY, from the Committee on Enrolled Bills, reported that on today, May 15, 1933, that committee presented to the President of the United States the enrolled bill (S. 7) providing for the suspension of annual assessment work on mining claims held by location in the United States and Alaska.

BILLS AND JOINT RESOLUTION INTRODUCED

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

By Mr. WHITE:

A bill (S. 1659) to authorize an increase in the number of directors of the Washington Home for Foundlings; to the Committee on the District of Columbia.

(By request.) A bill (S. 1660) providing for the clearance of certain American vessels where a fine has been imposed under the laws of the United States; to the Committee on Commerce.

By Mr. BARBOUR:

A bill (S. 1661) granting a pension to Minnie Wild; to the Committee on Pensions.

By Mr. NEELY:

A bill (S. 1662) granting an increase of pension to Caspar Hartmann; to the Committee on Pensions.

By Mr. STEPHENS:

A bill (S. 1663) granting an increase in pension to Mary L. Burgess; to the Committee on Pensions.

A bill (S. 1664) for the relief of Shelby Howell Batson; to the Committee on Military Affairs.

By Mr. KING:

A bill (S. 1665) to provide for the establishment and maintenance, under the Bureau of Mines, of a research station at Salt Lake City, Utah; to the Committee on Mines and Mining.

By Mr. COPELAND:

A bill (S. 1666) to carry out the findings of the Court of Claims in the case of the Wales Island Packing Co.; to the Committee on Foreign Relations.

A bill (S. 1667) to amend section 177 of the Judicial Code; to the Committee on the Judiciary.

A bill (S. 1668) for the relief of Charles F. Bond, receiver of the partnership of Thorp & Bond, New York, N.Y.;

A bill (S. 1669) for the relief of Cowtan & Tout, Inc.;

A bill (S. 1670) for the relief of Etna Watch Co.;

A bill (S. 1671) for the relief of B. Lindner & Bro., Inc.;

A bill (S. 1672) for the relief of Louis Godick;

A bill (S. 1673) for the relief of Valle & Co., Inc.;

A bill (S. 1674) for the relief of Epstein Underwear Co.;

A bill (S. 1675) for the relief of Sorenson & Co., Inc.;

A bill (S. 1676) for the relief of Bengol Trading Co., Inc.;

A bill (S. 1677) for the relief of Schapiro Bros.;

A bill (S. 1678) for the relief of A. & M. Karagheusian, Inc.;

A bill (S. 1679) for the relief of J. Henry Miller, Inc.;

A bill (S. 1680) for the relief of the estate of George B. Spearin, deceased;

A bill (S. 1681) for the relief of the Snare & Triest Co.;

A bill (S. 1682) for the relief of the North American Dredging Co.;

A bill (S. 1683) for the relief of the Standard Dredging Co.;

A bill (S. 1684) to confer jurisdiction on the Court of Claims to certify certain findings of fact, and for other purposes;

A bill (S. 1685) for the relief of A. W. Duckett & Co., Inc.;

A bill (S. 1686) for the relief of H. P. Converse & Co.;

A bill (S. 1687) authorizing the Court of Claims of the United States to hear and determine the claims of the estate of George Chorpenning, deceased;

A bill (S. 1688) for the relief of Messieurs M. Aronin & Sons;

A bill (S. 1689) for the relief of Robbins-Ripley Co., Inc.;

A bill (S. 1690) for the relief of the Bowers Southern Dredging Co.;

A bill (S. 1691) for the relief of the Sound Construction & Engineering Co., Inc.;

A bill (S. 1692) for the relief of the Compagnie Generale Transatlantique;

A bill (S. 1693) for the relief of the International Mercantile Marine Co.;

A bill (S. 1694) for the relief of the city of New York;

A bill (S. 1695) for the relief of Messrs. Stein & Blaine;

A bill (S. 1696) for the relief of M. T. Stark, Inc.; and

A bill (S. 1697) for the relief of W. K. Webster & Co.; to the Committee on Claims.

By Mr. SHEPPARD:

A bill (S. 1698) for the relief of Frank S. Fischer; to the Committee on Military Affairs.

A bill (S. 1699) to prevent the loss of the title of the United States to lands in the Territories or territorial possessions through adverse possession or prescription (with accompanying papers); to the Committee on Territories and Insular Affairs.

By Mr. ROBINSON of Arkansas:

A joint resolution (S.J.Res. 54) limiting the operation of sections 109 and 113 of the Criminal Code; to the Committee on Agriculture and Forestry.

### AMENDMENT TO INDEPENDENT OFFICES APPROPRIATION BILL

Mr. STEPHENS submitted an amendment proposing that the unexpended balance of the appropriation "International Radiotelegraph Conference, Madrid, Spain, 1933", shall be available for the payment to Eugene O. Sykes of an amount equal to the amount he would have received as salary from February 23 to March 20, 1933, both inclusive, as a member of the Federal Radio Commission, intended to be proposed by him to House bill 5389, the independent offices appropriation bill, which was referred to the Committee on Appropriations and ordered to be printed.

### REGULATION OF BANKING—AMENDMENTS

Mr. CONNALLY submitted two amendments intended to be proposed by him to the bill (S. 1631) to provide for the safer and more effective use of the assets of Federal Reserve banks and of national banking associations, to regulate interbank control, to prevent the undue diversion of funds into speculative operations, and for other purposes, which were ordered to lie on the table and to be printed.

### COST OF ELECTRICAL DISTRIBUTION

Mr. COSTIGAN. Mr. President, I submit a resolution and ask that it be printed in the RECORD and lie on the table.

The resolution (S.Res. 80) was ordered to lie on the table, as follows:

Whereas growing interest is manifest throughout the Nation on the part of householders, both urban and rural, as to present and future uses of electricity and reasonable rates chargeable therefor; and

Whereas a considerable, if not controlling, factor in the cost of rural and domestic electric service is reported to be the expense of distributing transmitted current between local substations and the customers' meters; and

Whereas it is responsibly alleged by engineers that the service companies keep no record of this important distribution cost and that the subject has never been discussed before any engineering society; that technical literature does not deal with it; and that only rarely has it been considered in electric rate cases:

*Resolved*, That the Federal Power Commission is hereby requested to furnish the Senate with a report summarizing such information as may be available indicating the cost of electrical distribution expressed in cents per kilowatt-hour under varying service conditions, as contrasted with the more widely known costs of electrical generation and electrical transmission.

### INVESTIGATION BY TARIFF COMMISSION

The VICE PRESIDENT. The Chair lays before the Senate a resolution coming over from a previous day, which will be read.

The resolution (S.Res. 68) submitted by Mr. REED on the 3d instant was read as follows:

*Resolved*, That the United States Tariff Commission is hereby directed to investigate, for the purpose of section 336 of the Tariff Act of 1930, the differences in the cost of production between the domestic article and the foreign article, and to report at the earliest date practicable upon goat, kid, and cabretta leathers.

Mr. REED. Mr. President, this is a resolution merely asking a study and information, but no other action. It is in the usual form. The Senate has passed a great many such resolutions.

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

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

Mr. REED. I yield.

Mr. KING. My recollection is that a similar resolution, or at least a resolution dealing with the same commodity, has been before the Senate within the past 4 or 5 months.

Mr. REED. Oh, I do not think so. There has been no investigation of this particular variety of leather. It can be done by the Tariff Commission in a very short time.

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

### MESSAGES FROM THE PRESIDENT

Messages in writing from the President of the United States submitting several nominations were communicated to the Senate by Mr. Latta, one of his secretaries.

### COMPENSATION OF DISABLED VETERANS AND THEIR DEPENDENTS

Mr. CAPPER. Mr. President, I ask unanimous consent to have printed in the RECORD two letters. The first is a letter received by me from Ernest A. Ryan, adjutant of the Kansas Department of the American Legion. The second is a copy of a letter delivered by myself to President Roosevelt, urging more of humanity and honorable dealing on the part of the Veterans' Administration in dealing with disabled veterans and with the widows and dependents of veterans.

It is my belief, Mr President, that everyone is beginning to realize and ready to admit that the Veterans' Administration and the Budget Department have gone far beyond what Congress intended or the country desired in administering the provisions of the Economy Act affecting veterans. I know that I never intended such drastic cuts for veterans suffering from wounds and disabilities connected with the veterans' service in the Army or Navy. I sincerely hope that statement from the White House last week means that there will be more of justice and less of uncalled-for cruelty

in the revision of regulations and in the reviews of individual cases of these veterans.

Mr. President, the honor of this Government is just as important as a balanced Budget—and the Nation's honor is involved in taking adequate care of deserving disabled veterans. I send the letters to the desk.

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

OFFICE OF ADJUTANT,
KANSAS DEPARTMENT, THE AMERICAN LEGION,
*Topeka, May 10, 1933.*

Hon. ARTHUR CAPPER,
*United States Senate, Washington, D.C.*

DEAR SENATOR CAPPER: I presume that you have been besieged with communications from all parts of Kansas in regard to the recent regulations which have been put into effect governing pensions and compensations to World War veterans and Spanish War veterans.

I have completed my Fifth Congressional District meeting and I state to you frankly that I have never seen such a wholehearted and indignant uprising on the part of legionnaires in Kansas as there is over this legislation. That the legislation is unfair is not even being denied by the Veterans' Administration itself; and the extent to which the power voted the Administration under the Economy Act has been used, I am sure, far exceeds your expectations and the expectations of other members of the Kansas delegation who voted for the measure.

I presume it was your thought that the reductions in veterans' expenditures would affect largely those men who could not connect their disabilities with their war service and possibly a few others who could not prove their need for compensation at the time. However, this is not the manner in which the Economy Act has operated. The regulations issued subsequent to the act have proven extremely cruel to needy veterans who contracted their disabilities in active war service.

I can point to you instances in Kansas of outstanding veterans, with whom you are personally acquainted, who will suffer reductions in their service-connected compensations of as much as 40 to 60 percent. I believe in previous years that the Veterans' Administration has been correct and fair in the allowing of presumption of service connection in tubercular and mental cases, even when they extended the date as far as January 1925. Under recent regulations presumptive service connection is wiped out in these types of cases, and we find men heretofore totally disabled with tuberculosis and mental diseases who now will receive only $20 per month under the nonservice provision of the new regulations.

I do not think that I need bring it home to you that hundreds and thousands of these men are going to be thrown upon the charity rolls of their local communities during the coming months, and this is coming at a time when local communities cannot possibly make provision for their care. I think you will agree with me that it is far more equitable that the burden at this particular time could much better be borne from Federal income taxes paid largely by corporations and individuals who built their fortunes during the war than by placing this tax in the form of a charity assessment on the backs of the personal and real property taxpayer in our local communities.

Whole I am presenting no particular brief in behalf of nonservice cases, these being the least worthy of those who have been upon the Government pension rolls, I want to recall to your mind that even the drastic provisions of the recent regulations make provision for $20 per month for men totally disabled and who cannot connect their disability with service.

Undoubtedly these injustices have been called to your attention previously by individual legionnaires and service men who with their families have been affected by the recent action of Congress and the administration. I know and appreciate the fine service that you have rendered the World War veterans, and especially Kansas veterans, ever since we came home from service. I know that you still have that same appreciation for their war-time service and that same sympathy for their welfare in peace time.

I am asking you to present these problems, as you best see fit, not only to the Veterans' Administration but if necessary to the President himself. It will also be appreciated if you will see fit to call attention to the people of Kansas to what I am sure you now recognize to be the rank injustices of the recent Veterans' Administratiton regulations.

Thanking you in advance for your cooperation now and expressing again our appreciation for your loyal services in the past, I am,

Sincerely yours,

ERNEST A. RYAN,
*Adjutant, Kansas Department.*

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WASHINGTON, *D.C., May 13, 1933.*

Hon. FRANKLIN D. ROOSEVELT,
*President of the United States,*
*The White House, Washington, D.C.*

DEAR MR. PRESIDENT: I have just received from Ernest A. Ryan, adjutant of the Kansas Department of the American Legion, a protest against the hurried discharge of hundreds of needy veterans from the national military home at Leavenworth. My information is that nearly 1,000 of these, practically none of them with any other means of support, are being discharged. Certainly, they cannot get jobs of any kind at this time. The local communities are not in shape to care for them adequately in addition to the heavy burdens already imposed upon them by the great army of unemployed in the country.

It was with heartfelt approval I read the statement from the White House Wednesday morning to the effect that there would be careful review of service-connected cases, and also of regulations affecting nonservice cases where the veterans are clearly disabled or destitute. It seems to me that is fair and just not only to the veterans in question but also to the country.

In regard to the Leavenworth situation, I believe Adjutant Ryan has sent you a telegram urging you to suspend all further discharges until the review of the regulations contemplated in the Wednesday morning statement by Mr. Early can be made.

Permit me to join Adjutant Ryan in that plea.

Permit me to urge that until the regulations are reviewed these disabled veterans be allowed to remain in the homes. Surely it is more equitable and more humane to discharge only those clearly entitled to such discharge after review than it is to cast them out now by the hundreds and then later allow some of them to return.

I realize this is a most difficult problem. I realize that you are doing everything in your power to handle the situation with justice to all and in a humane spirit. But I do want to urge that no needy disabled veteran be discharged upon public charity at a time when the local communities are straining every resource to take care of the large numbers of destitute already on their hands. And may I express the hope that immediate steps will be taken by the Veterans' Administration to correct the most glaring inequalities in the regulations now in force, and that pending these adjustments those likely to be affected by the change not be thrown out to shift for themselves at a time when this is practically impossible.

With sincere regards,

ARTHUR CAPPER.

## MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Haltigan, one of its clerks, announced that the House had passed without amendment the following bills of the Senate:

S. 1410. An act to amend section 207 of the Bank Conservation Act with respect to bank reorganizations; and

S. 1415. An act to amend sections 5200 and 5202 of the Revised Statutes, as amended, to remove the limitations on national banks in certain cases.

The message also announced that the House had disagreed to the amendments of the Senate to the bill (H.R. 5040) to extend the gasoline tax for 1 year, to modify postage rates on mail matter, and for other purposes; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. DOUGHTON, Mr. RAGON, Mr. SAMUEL B. HILL, Mr. TREADWAY, and Mr. BACHARACH were appointed managers on the part of the House.

## ENROLLED BILL SIGNED

The message further announced that the Speaker had affixed his signature to the enrolled bill (S. 7) providing for the suspension of annual assessment work on mining claims held by location in the United States and Alaska, and it was signed by the Vice President.

## VETERANS' ALLOWANCES AND ADJUSTED-SERVICE CERTIFICATES

Mr. VANDENBERG. Mr. President, I ask unanimous consent to have printed in the RECORD two letters, one with respect to the allowances of veterans and the other with reference to the present movement in behalf of the payment of adjusted-service certificates. Preceding the letters are brief statements prepared by me, which I ask may also be printed in the RECORD.

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

Mr. President, two phases of veterans' legislation are involved in wide-spread discussion at the present time. One phase deals with excessive and indefensible reductions in service-connected disability allowances in violation of all the assurances which were given to Congress at the time of the passage of the so-called "Economy Act." Another phase deals with the renewed movement in behalf of present payment of adjusted-service compensation certificates. The only possible way in which I can hope to respond to the large number of inquiries that are coming to me upon this score is to ask the Senate's unanimous consent that two typical correspondence exhibits be printed in the RECORD.

The first exhibit deals with the so-called "bonus problem." The following typical letter was received from Mr. Stanley Banyon, editor of the News-Palladium, at Benton Harbor, Mich.:

"There is considerable discussion of the proposition that if the new administration is to attempt controlled inflation of the currency, as a stimulus to economic recovery, there ceases to be any sound reason why the so-called 'soldiers' bonus' should not now be included among those 'maturing obligations of the Government' to be paid with so-called 'greenbacks' at once. It seems to me that under a greenback program of controlled inflation the bonus question is a totally different question than it was 1 year ago. I do not discuss whether the inflation program is wise. That has been settled. We are to have it. Since we are to have it, I ask about the bonus as part of it. We all have great respect for your opinion on a matter of this nature, and I think your State would welcome any public statement you might care to make on the subject."

My self-explanatory reply follows:

"The so-called 'bonus problem' is substantially different today, in the light of the passage of the inflation bill, than it was previously. If the Federal Government is to embark upon the reissue of so-called 'greenbacks' under the general terms of the old act of 1862, for the purpose of meeting certain maturing obligations of the United States Government, it seems to me that a thoroughly sound case can be made out in favor of paying adjusted-compensation certificates in this fashion immediately. Therefore, if we are to have limited inflation as is the new administration's plan, I considered it logical and preferable to include the 'bonus' among those 'maturing obligations' which the President shall be thus authorized to pay in this fashion. I voted accordingly.

"There are several specific reasons which sustain this conclusion. I am glad to submit them to the approval of your judgment.

"First. There is more actual advantage to the Federal Treasury in using the major portion of the contemplated $3,000,000,000 of 'greenbacks' in paying off this particular 'Government obligation' than any other. The new inflationary law requires an annual 4-percent sinking fund to retire these 'greenbacks.' (A 'greenback' is a piece of paper money representing the Federal Government's promise to pay, without specific collateral value assigned to support it.) This annual sinking-fund obligation, in respect to the 'greenbacks' necessary to pay the bonus, would be about $25,000,000 per year less than the annual payment which otherwise must continue to be made into the maturity fund to pay the bonus in 1945. In other words, there would be an actual and substantial budgetary advantage today in using the contemplated 'greenbacks' to anticipate these bonus maturities. This is the exact reverse of the situation 1 year ago when we were not committed to inflation as a policy and when, on any other basis, the cash payment of the bonus would have more than doubled the already yawning deficit which was threatening to wreck the public credit.

"Second. The purpose of this inflation is said to be the encouragement of commerce through the increase in the volume of currency. I never have believed that the volume of currency is as important as the velocity of its turn-over—as witness the fact that we have as big a volume (barring hoarding) today as in the peak days of 1928. Certainly there must be velocity as well as volume—there must be the use as well as the creation of new money—if inflation is to serve any useful purpose. The payment of the bonus would produce swifter decentralized distribution and use than the payment of any other existing Government obligation. Therefore, if we are to try this inflationary stimulus—and that question is no longer open to argument—the present payment of the bonus best serves the end in view. Any argument to the effect that this money would be swiftly swallowed up and would soon cease to affect the situation, as was the case when the first 50 percent was made available upon my initial motion 2 years ago, is simply an argument against the utility of the contemplated limited inflation—with the exception that it must be remembered that the first payment was not in inflated money.

"Third. The present payment of the bonus in 'greenbacks'—if we are to pay any Government obligations in 'greenbacks'—would serve a collateral public purpose which is absent in the payment of any other existing Government obligations. It would take every World War veteran in the country off of local relief rolls for a considerable time to come. This would help relieve local welfare responsibilities and would aid the situation in cities and towns and States—even up to the Reconstruction Finance Corporation and its advances to the States for welfare purposes. Certainly there is a particular obligation to veterans in this connection.

"Fourth. The fact that the face of these adjusted-compensation certificates are not due until 1945—heretofore a compelling argument against anticipated payment of the 1945 value—ceases to be other than an academic consideration if the present payment be included within the already legalized 'greenback' limitation. Indeed, it were far better for the Government's reputation for good faith to thus inexpensively anticipate these particular 'maturing obligations' than, as in the case of other 'maturing obligations' contracted to be paid in gold, to repudiate the gold clause and force payment of gold obligations in paper money. Certainly I would not force a veteran to take 'greenbacks' in 1933 if he prefers to wait for other and different payment in 1945. But certainly I would give him the option at once, under all these circumstances and for these compelling reasons.

"This entire argument is predicated upon the fact that it already has been decided that the President shall have authority to issue up to $3,000,000,000 in 'greenbacks' to pay 'maturing obligations' of the Government as he sees fit. In other words the advisability of this type of inflation has ceased to be in argument. The only remaining argument, as I see it, is the choice of 'obligations' to be paid. I have warned before—and I warn again that 'printing-press money' is a dangerous experiment. It is too much like the opium habit—a progressive curse. The German Republic doubled her currency with 'printing-press money' in 2 years. The next doubling occurred in 2 months; the next in 2 weeks; the next in 2 days. It finally had to be stabilized on the amazing basis of 1,000,000,000,000 to 1. We must protect America against that debacle at any cost. The American inflation now proposed is limited to $3,000,000,000 in 'greenbacks.' They are protected by a 25-year sinking fund. They are limited to use on existing obligations of the Federal Government. It is to be fervently prayed that our self-restraint will keep us within limits. But since the power to proceed as indicated is now created and no longer open to argument, I believe that the power should also be created to include adjusted-service compensation certificates within the definition of those 'maturing obligations' entitled to present and immediate payment.

"I want to add that 'bonus marches' upon Washington, no matter how nobly meditated, have a most unfortunate effect upon these veterans' problems. No one would deny veterans, singly or in groups, the sacred right of petition. But when petitioners encamp upon the Capitol more or less indefinitely, there is an element of physical compulsion, whether intended or not, which emphasizes the threat above and beyond the petition itself. This inevitably has the exact reverse from the intended effect upon legislators."

The second exhibit which I desire to submit has to do with the rules and regulations announced by the United States Veterans' Bureau and the Bureau of the Budget in respect to reductions in pensions and disability allowances pursuant to the so-called "Economy Act." There are unexpected inequities and severities in the administrative rules and regulations which represent the form in which this Executive authority is to be exercised. Some of these inequities are more violent than those in the old order which it was sought to purge. Actual battle casualties have been reduced in allowances from 35 percent to 55 percent, sometimes even more. Total reductions of 72 percent in World War allowances and 66 percent in Spanish War allowances cannot be defended—either on the basis of justice, or on the basis of the driving need for economy which I support, or on the basis of the assurances given Congress when the "Economy Act" was passed. There must be a rational revision of these rules and regulations or "economy" inevitably will suffer from just such a reaction as previously hit prior allowances themselves. A typical letter on this subject from George A. Osborne, editor of the News at Sault Ste. Marie, Mich., was answered by me as follows:

"This will reply to your letter with its enclosed news article describing the contemplated reduction from $90 per month to $8 per month in the disability allowance to a veteran who 'received a volley of machine-gun bullets in the abdomen' while fighting in France in direct contact with the enemy and who thus was permanently disabled.

"Any such treatment of a veteran with direct service-connected disability is not only an affront to the humanities and to American patriotic sensibilities, but it also is a direct violation of the assurances which were given Congress at the time the President asked for special powers in the so-called 'economy bill.' I shall not only emphatically protest this action; I also shall use it as a further demonstration that the economy bill is being administered under rules and regulations never remotely contemplated when Congress was asked for the bill by the President in the dire emergency which he confronted the second week in March.

"Some of these rules and regulations, recently announced by the Budget Director, are shocking beyond words in their effects. They cannot be justified even in the name of 'economy'—to which we all must rigidly commit ourselves—because illogical and illegitimate economy simply invites reaction against all economy.

"Ten days ago the national commander of the American Legion, which is seeking patriotically to uphold the President's hands in his economy needs, protested to the President against some of these unexpected regulations. I promptly wired the commander at Indianapolis headquarters of the Legion, under date of May 5, as follows:

"'I want you to know that I emphatically agree with your statement that "those to whom President Roosevelt has intrusted administration of the Economy Act have gone far beyond what his spokesmen in Congress promised would be the extreme limit of the burden to be imposed upon veterans." The Legion certain is justified in asking a review of the new orders, particularly as affecting battle-front service-connected disabilities.'

"On May 12 President Roosevelt ordered his Budget Director and his United States Veterans' Bureau to review these offensive rules and regulations. They ought to be reviewed and they ought to be purged. I am perfectly sure that the veterans themselves are willing to again make their fair share of contribution to the country's needs. But no exigency on earth could justify anything remotely approximating a cut from $90 per month to $8 per month in the case of a veteran who was disabled in action in such an instance as you present. Unfortunately, this is not an isolated case. I am amazed that any administrators could conceive such ruthlessness.

"It is physically impossible for my office facilities to pursue each individual Michigan case which falls under the new bans. But I shall be glad to make an example of the particular case which you submit. It could not be expected that the necessary cut-backs in veterans' allowances would not bring a storm of protests. But neither should it have been expected that the cut-

backs would invade legitimate allowances in any such fashion as we now contemplate. I feel particularly offended because I insisted upon assurances to the contrary when the bill originally was in the Congress.

"I am hopeful that the review which the President has ordered will correct some of these aggravated situations. If not, they must be corrected otherwise. I understand that already it has been determined not to abandon regional offices of the United States Veterans' Administration at once. This would have been another grievous error, since it would have centralized these millions of claims in Washington and prolonged, perhaps by years, their adjudication in many instances."

STIMULATION OF BUSINESS

Mr. NYE. Mr. President, I ask unanimous consent to have printed in the RECORD an article entitled "Program to Stimulate Business", by James M. Thomson, appearing in the New Orleans Item.

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

[From the New Orleans Item]

PROGRAM TO STIMULATE BUSINESS

By James M. Thomson

Senator COSTIGAN, Democrat, of Colorado, has offered a bill in the United States Senate providing for a $6,000,000,000 public-works program. This bill contemplates an expenditure of $5,000,000 a day for 2 years.

Senator COSTIGAN is an able and progressive Democrat. I am more than happy to see identified with the bill the name of Senator CUTTING, a Republican, of New Mexico, and the name of Senator ROBERT LA FOLLETTE, of Wisconsin. Senator CUTTING is an interesting character. He is a scion of a very wealthy New York family who moved to New Mexico on account of his health. He is in his forties and is a bachelor. He is reputed to be worth a good many millions of dollars of inherited money. It is greatly to his credit that Senator CUTTING has taken almost uniformly from the time he entered the Senate the fight of the people. He deserted the Republican Party and supported Franklin Roosevelt in the last election. He made some of the best speeches that were made for Roosevelt. He represents a type of western progressive leadership which should have a voice in the councils of the administration.

Perhaps the greatest compliment that can be paid Senator ROBERT LA FOLLETTE, of Wisconsin, another young man, is to state that he is a worthy son of a great father. When American history is written the senior La Follette will rank as one of the really great Americans of his time.

I don't know how the Senate will line up on this bill, but it will be surprising to me if another Member of the Senate, a wealthy Republican, does not line up with these gentlemen for a $6,000,000,000 bond issue. I refer to Senator COUZENS, of Michigan. Senator COUZENS is a former partner of Henry Ford. He sold out his business for a good many millions of dollars. He is understood to have his money in the safest type of investment. It is clearly to his credit that the Michigan Senator has tried to stand uniformly for what he considers the popular interest. He refers to the attitude of Senator CUTTING and Senator COUZENS because it is popularly supposed that rich men in public life and whose investments may be in bonds or mortgages are considered to be influenced by their money in their vote and in their attitude. My personal contacts with men of this type have been rather refreshing. They are very often men desirous of legislation in the interest of the people.

I noted when America went off the gold payment abroad that J. P. Morgan came out in a statement not only approving the Government's action but approving inflation. When I started out several weeks ago to urge inflation or reflation on the Government I never expected to find myself in Mr. Morgan's company within a few weeks.

The point that I want to make is that in urging the issuance of five or six billion dollars by the Government to put the people to work, I do not believe that I am radical but think that I am business-like and conservative.

Interest on $6,000,000,000 is $180,000,000 a year at 3 percent, and if the Federal Government splits this money with the States and with the cities which need money and starts a vast employment program in this country, I for one expect to see business so stimulated that the Federal Government will increase its revenue by a billion dollars a year from income and other forms of taxes.

I have heretofore presented the argument that the loss to the country in increased wealth which can be got from employing 12,000,000 people now unemployed will be $5,000,000,000 a year. Public improvements are not a liability to a nation; they are an asset to a nation, and expenditure for public improvements is wise.

All the surplus wealth of Russia goes each year into public improvements. A great part of the surplus wealth of Italy goes each year into public improvements. France has put her surplus wealth into military equipment and has loaned it to her European allies for military purposes. In my opinion, Great Britain made a terrible mistake in inaugurating the dole and in maintaining millions of idle people for 10 or 12 years at British expense. The country had far better have issued public-improvement bonds and have put those people to work.

The United States does not need great military expenditures, I know.

DEPOSIT OF GOLD AND GOLD CERTIFICATES

Mr. STEIWER. Mr. President, I ask unanimous consent to have printed in the RECORD an article appearing in a Colorado paper written by Hon. C. S. Thomas, formerly a Member of this body.

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

Shakespeare once defined gold as the visible god. Whatever its physical qualities, it was always and still is the most formidable deity ever worshiped by mankind. Even when the first commandment was voiced on Sinai, the Jews were imaging the golden calf at the foot of the mountain. Moses destroyed their statue, but he could not dethrone the metal which until quite recently men and women were privileged to see, albeit the bulk of it was buried in the ground from whence it came.

We, or some of us, therefore, know that it is yellow, bright, and heavy. Also that by reason of the supernatural qualities with which it has been endowed it measures and shifts the values of all things spiritual and material. Moreover, the more fortunate of the people until recently, could actually acquire and enjoy meager portions of it; while theoretically, those possessed of other forms of money might demand its conversion into gold as the only real money in the habitable world, those contending for other standards being neither honest, intelligent, nor trustworthy. The metal failed to function and then abdicated. Yet the gold god is too sacred to be seen. Its fires burn too brightly for mortal eyes to gaze upon.

The leader of American Democracy, ostensibly invested by Congress with the purple of unlimited power, last week issued an old-fashioned Russian "ukase" commanding all citizens (they are still so designated) by or before May next to deposit with the financial authorities all gold and gold certificates in their possession in exchange for other forms of money. Failing this, the President by the same edict subjects them to arrest, indictment, and on conviction to a maximum fine of $10,000 or sentence of imprisonment for a term of 10 years or both. The visible god of Shakespeare is thereby clothed with invisibility and the single standard transformed from a human agency into a thing of omnipotence.

Under the law as written, gold is legal tender for the satisfaction of all human obligations. He who demands and he from whom it is demanded have no alternative but compliance with its terms. It was thus enacted at the behest and by the command of the single-standard powers and until yesterday it functioned as "the law of the land." But the President by his "ipse dixit" has assumed to repeal it.

The owner of paper money is not only prohibited from demanding its redemption in gold, he is commanded under the sanction of the penal code to exchange with the Treasury for its paper. Although his own, he may not even retain it save at the risk of his liberty. Its mere possession after May 1 becomes a felony eo ipso, not by act of Congress but by Executive order based on legislative delegation of authority.

With all due acknowledgement of the best of intentions, with which hell is said to be paved, I assert that this Executive order is the most deadly and appalling attack upon the integrity of the American Constitution thus far encountered since its ratification. Only by abdication can the Congress so legislate. Its Members falsify their oath of office when they so ordain. The President has no more power to exercise the authority thus conferred than he had before the effort was made to confer it. The plea of necessity would be farcical, if the incident were not so tragical in its reaction upon American institutions.

If the assertion were true that the salvation of the Republic or of the gold standard required this extreme policy, which it is not, then neither is worth the sacrifice. The latter has long been a curse and will so continue as long as the public interests are sacrificed upon its altar. Moreover, the Government has but to stretch out its hand and grasp the remedy; a fact which the world keenly realizes while its chancelleries willfully shut their eyes to it and will have none of it. If on the other hand, penalizing by edict those rightfully possessing and entitled to the use of gold is within the Executive power, especially in times of peace, then no right of the American citizen is safe from the exercise of despotic power.

The Nation has traveled far and fast on the road to centralization since the Civil War, but it is somewhat melancholy to reflect that the Democratic Party under Wilson and Roosevelt has done more to demolish State boundaries and trample upon the fundamentals of the bill of rights than its opponent, which for three quarters of a century we have bitterly denounced for its disregard of constitutional limitations. And the bitter pill is now coated with gold, whose bar sinister, branded by fraud on the Nation's forehead in 1873, dictating its policy for 60 years, itself bankrupt in morals and in fact and doomed to early extinction, has now dragged Democracy into the fathomless pool of repudiation. "Alas, it is not in our stars but in ourselves that we are underlings."

Comes at this juncture the economic statement that owing to expansion of debt and destruction of values, the Nation's liabilities

exceed its assets. If this be true, bankruptcy is in sight and repudiation, is inevitable. Is it surprising that gold as usual has between two days to run to its cover disappeared in the gloaming and left the Nation to the elements and to fate?

C. S. THOMAS.

MOTHER'S DAY—ADDRESS BY SENATOR NEELY

Mr. COSTIGAN. Mr. President, I ask unanimous consent to have printed in the RECORD an address in commemoration of Mother's Day delivered over the radio yesterday by the eloquent Senator from West Virginia [Mr. NEELY].

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

MOTHER'S DAY

For more than 19 centuries mankind has had three unfailing sources of inspiration to heroic efforts, great accomplishments, and sublime achievements. For more than 1,900 years the three words that represent these ever-flowing fountains of inspiration have charmed the ears, brightened the hopes, and thrilled the hearts of all the children of men. They have incited the genius that has produced the most exquisite pictures ever painted, the most beautiful poems ever written, the most melodious songs ever sung—songs, poems, and pictures that have given us sunshine for our shadows, joy for our sorrows, smiles for our tears, and intimated to us the endless bliss of immortality in that "realm where the rainbow never fades", where no one ever grows old, where friends never part and loved ones never, never die.

These three mighty, magic, and inspiring words are "Jesus", "Home", and "Mother."

The first of them impelled Charles Wesley to write:

"Jesus, lover of my soul,
Let me to Thy bosom fly;
While the nearer waters roll,
While the tempest still is high.

"All my trust on Thee is stayed;
All my help from Thee I bring;
Cover my defenseless head
With the shadow of Thy wing.

"Hide me, O my Savior, hide,
Till the storm of life is past;
Safe into the haven guide,
O receive my soul at last."

What unspeakable consolation, born of boundless faith in the everlasting Father's imperishable love for His erring children, is revealed in this beautiful hymn. Its music, "like a sea of glory, has spread from pole to pole."

The second of our magic words prompted John Howard Payne to compose that deathless song that has been sung and played around the world. Millions of weary wanderers on foreign strands have been transported upon the wings of imagination back to the romantic scenes of their childhood, to the picturesque paths which their infancy knew, to the happy days of the long ago by that soothing symphony of sublime sentiment:

"Mid pleasures and palaces though we may roam,
Be it ever so humble there's no place like home!
A charm from the sky seems to hallow us there,
Which, seek through the world, is ne'er met with elsewhere.

"Home, Home, sweet, sweet home!
There's no place like home!"

And the last of this tranquilizing trinity of wondrous words, with the stirring force of the celestial muse of Isaiah, impelled Elizabeth Akers Allen to write the following pathetic, appealing, and rapturous poem that is destined to live until the everlasting hills, "The vales stretching in pensive quietness between", and "old ocean's gray and melancholy waste", shall be no more:

"Backward, turn backward, O Time, in your flight,
Make me a child again just for tonight!
Mother, come back from the echoless shore,
Take me again to your heart, as of yore;
Kiss from my forehead the furrows of care,
Smooth the few silver threads out of my hair
Over my slumber your loving watch keep;
Rock me to sleep, Mother, rock me to sleep!

"Backward, flow backward, O tide of the years!
I am so weary of toil and of tears—
Toil without recompense, tears all in vain,
Take them, and give me my childhood again!
I have grown weary of dust and decay,
Weary of flinging my soul-wealth away;
Weary of sowing for others to reap;
Rock me to sleep, Mother, rock me to sleep.

* * * * * *

"Mother, dear mother, the years have been long
Since I last listened your lullaby song:
Sing, then, and unto my soul it shall seem
Womanhood's years have been only a dream.
Clasped to your heart in a loving embrace,
With your light lashes just sweeping my face,
Never hereafter to wake or to weep—
Rock me to sleep, Mother, rock me to sleep."

Kings and potentates and parliaments have proclaimed holidays, thanksgiving days, and emancipation days for observance by the people of various kingdoms and countries and states. But Miss Anna Jarvis, a distinguished woman of West Virginia, has established Mothers' Day in the love, in the devotion, and in the throbbing heart of the humanity of all the world.

Today we venerate the sacred name and memory of mother. We laud the virtue, extol the spirit of self-sacrifice, and eulogize the loving kindness of every mother living; and in imagination, with bowed heads, grateful hearts, and generous hands lay new wreaths of the freshest, the fairest, and the most fragrant flowers upon the graves of all the mothers who have gone from the fitful land of the living into the silent land of the dead. In this hour of sober and serious reflection we realize that everyone who treads the globe owes his birth to the unspeakable agony of a mother. From mother's breast the baby first was fed. In mother's arms the baby first was lulled to sleep. Mother, in the twilight hour of baby's existence, breathed the fervent prayer:

"That He who stills the raven's clamorous nest,
And decks the lily fair in flowery pride,
Would, in the way His wisdom sees the best,
For her darling child provide; but chiefly
In her loved one's heart, with grace divine preside."

Then, as the days grew into the months and the months lengthened into the years mother's life became a continuous round of solicitude, service, and sacrifice for her child.

Mother's hands made the first dress that baby ever wore. Mother's deft fingers made playthings for the little one that filled his eyes with wonder and his heart with joy.

A splinter in baby's finger, a briar in baby's foot, or a bruise on baby's toe became an affliction of such momentous consequence that only mother could heal it; only mother could banish its ache; only mother could exile its pain; only mother could smile away the tears it caused to flow down baby's cheeks.

And a little later mother, like an inexhaustible encyclopedia of universal knowledge, informed her baby about the birds and the beasts and the flowers and the trees. She discussed with him the cause of day and night; of winter's storm and summer's calm; the mysteries of the earth and sea and sky. She explained as best she could the marvels of the sun and moon and stars and the grandeur of the far-off milky way.

And the little one at night, upon his knees, at mother's side, with mother's hand upon his head, learned to say in the lisping accents of childhood:

"Now I lay me down to sleep,
I pray the Lord my soul to keep:
If I should die before I wake,
I pray the Lord my soul to take.
And this I ask for Jesus' sake.
Amen."

Thus from the day of the birth of her babe, "toiling, sorrowing, rejoicing onward through life mother goes", generously giving the best of her thought and energy and effort and life to make of her child a successful, useful, and righteous woman or man.

But until—

"The stars are old,
And the sun grows cold,
And the leaves of the judgment book unfold"—

no one will ever know the full measure of service the mothers of earth have constantly rendered their children.

The following touching story illustrates the fact that the average mother is ever ready to sacrifice as sublimely for her child as the mother pelican is said to sacrifice for her young by feeding them the lifeblood from her breast:

A poverty-stricken Italian woman was, by the death of her husband, compelled to work hard in a "sweatshop" to support her three little children. A humane organization learned that this unfortunate woman was in the last stage of consumption and endeavored to take her from her task. But she resisted and continued to work until she died of a hemorrhage. During this martyr's last moments someone inquired of her why she had worked so hard and so long, and she gasped, "I had to work to get the grub for the kids."

Greater love than this has no woman shown. She laid down her life for her children.

Just such love as this poor, dying Italian woman had for her children every other mother has for her own.

In token of our appreciation of the great boon of maternal devotion which we all enjoy, or have enjoyed in the days gone by, let us habitually exalt the name, commemorate the memory, and sing the praises of our mothers, and let us devoutly beseech our Heavenly Father to love them and keep them, and shower His richest blessings upon them forever and forever.

"O mother, thou wert ever one with nature,
All things fair spoke to my soul of thee;
The azure depths of air,
Sunrise and starbeam, and the moonlight rare,
Splendors of summer, winter's frost, and snow,
Autumn's rich glow, bird, river, flower, and tree.

"Mother, thou wert in love's first whisper,
And the slow thrill of its dying kiss;
In the strong ebb and flow of the resistless tides of joy and woe;
In life's supremest hour thou hadst a share,
Its stress of prayer, its rapturous trance of bliss.

"Mother, leave me not now when the long shadows fall athwart the sunset bars;
Hold thou my soul in thrall till it shall answer to a mightier call,
Remain thou with me till the holy night puts out the light
And kindles all the stars."

Mr. LONG subsequently said: Mr. President, there was ordered to be printed in the RECORD this morning, at the request of the Senator from Colorado [Mr. COSTIGAN], an address by the Senator from West Virginia [Mr. NEELY]. I understand that will be printed in the ordinary small type, will it not, unless I am able to get an order from the Committee on Printing to the contrary?

The VICE PRESIDENT. The Chair understands that the law provides that it shall be printed in small type unless authorized to the contrary by the Joint Committee on Printing.

Mr. LONG. I want to get authority from the Printing Committee to have it printed in the ordinary type of the RECORD. Will I have to have the request referred to the Printing Committee?

The VICE PRESIDENT. It will require action of the Joint Committee on Printing.

Mr. LONG. Of the two Houses?

The VICE PRESIDENT. Yes.

Mr. FLETCHER. Mr. President, was the request referred to the Joint Committee on Printing?

The VICE PRESIDENT. No; it was not.

Mr. FLETCHER. The law requires such matter to be printed in a certain type.

The VICE PRESIDENT. Yes; and the law requires action by the Joint Committee on Printing.

### CARE OF VETERANS—DAYTON (OHIO) SOLDIERS' HOME

Mr. ROBINSON of Indiana. Mr. President, I desire to read a letter from Lawrence Andrews, of the editorial department of the Dayton Journal, with reference to the disabled veteran who was discharged from the Dayton Soldiers' Home in his underwear. That story was denied to some extent later in the day after it had been placed in the RECORD.

The Senator from South Carolina [Mr. BYRNES] had some matter incorporated in the RECORD that seemed to be somewhat at variance with the original story. I now have a communication from the Dayton Journal, which reads as follows:

DAYTON, OHIO, *May 12, 1933.*

Hon. ARTHUR R. ROBINSON,
*Senate Office Building, Washington, D.C.*

DEAR SENATOR: The United Press Association, under date of May 12, under a Washington, D.C., date line, carried the following story:

"WASHINGTON, May 12.—Perry M. Long, of Dayton, Ohio, may have left the soldiers' home minus his pants, but the Roosevelt economy program has nothing to do with the incident, Veterans' Administrator Frank T. Hines has informed Congress.

"C. W. Wadsworth, director of the soldiers' homes for the Veterans' Bureau, and F. C. Runkle, manager of the home in question, were the authorities given by Hines for the denial. The two termed the affair 'A carefully staged publicity stunt.'

"Hines' statement was placed in the CONGRESSIONAL RECORD by Senator BYRNES, Democrat, of South Carolina, after Senator ROBINSON, Republican, of Indiana, had placed in the RECORD a news item from the Dayton (Ohio) Journal, in which Long was quoted as saying he had been told on leaving the home, 'Orders is orders; you will have to take them off.'

"A picture with the item showed Long standing in his underwear, shirt, and shoes."

If you want to make liars out of two Government officials, namely, C. W. Wadsworth, director of soldiers' homes for the Veterans' Bureau, and F. C. Runkle, manager or governor of the Dayton home, in their assertion that the above affair was a carefully staged publicity stunt, just write to me or either of the following men: Irwin Rohlfs, former assistant prosecuting attorney of Montgomery County, residing at 1818 Ravenwood Avenue, Dayton, Ohio; Frank Humphrey, former municipal judge and prominent local Democratic leader, residing at 817 St. Agnes Avenue, Dayton, Ohio; Russell Schlafman, treasurer of the Montgomery County Veterans' Association, well-known local Democrat, residing at 410 Burns Avenue, Dayton.

Any of these men will be glad to furnish you with their own affidavits and affidavits from other persons who know the facts; that the above-referred affair did take place; that P. M. Long had no alternative but to turn in his clothes; that employees of the quartermaster's department at the home laughed when Long walked out in his underwear; that a stranger picked Long up just inside the home gates and took him to Ruebenstein's store, left him in the machine and went in and bought him a suit of overalls, and then took Long home; that Long is a tuberculosis patient; that he took a Civil Service examination for a Government position at Wright Field, Government aviation field near Dayton, but that they refused him the position because a physical examination showed him to be suffering from tuberculosis.

Either of the above-mentioned men can cite you dozens of equally pitiful cases and back up their assertions with affidavits if you will request them. One of the latest cases to come to their attention is that of a former soldier who received frozen feet while on duty in the Yukon; had part of his feet amputated, crippling him for life, and was discharged from the Army because of his disability as shown by his papers; that he has been receiving $60 a month pension, which is all that he has, and that this has just been cut to $18 a month. Perhaps that does not come under the Roosevelt economy program either, but I am prepared to send you photostatic records and affidavits to substantiate those facts.

Perhaps you will be interested to learn that since April 1, 1933, approximately 2,000 former service men have been sent out of the soldiers' home; that these men were turned loose in hundreds of cases without any funds whatever as charges on our local government and welfare agencies; that it was necessary for the veterans' association to open a temporary shelter in an old building in the heart of the downtown section, and that 55 men are now housed there with 15 of them compelled to sleep on the floor while cots are stored away at the home—cots which they formerly slept on.

It may interest you to know that the veterans association at first attempted to take care of these men by voluntary subscription and funds raised from benefits; that the burden became so heavy that they demanded that county commissioners, under the State law, appropriate immediately the sum of $254,000 for soldiers' relief to be raised by an additional half mill levy on over-burdened real estate; that the county commissioners did provide food and transportation for a number of veterans back to their homes, and finally were compelled to seek aid from the State relief commission, and that these needs are now being met by Reconstruction Finance Corporation funds. In other words a part of the burden of caring for indigent and disabled veterans is being borne by the Government out of Reconstruction Finance Corporation funds instead of the soldiers' home budget and at a greater per capita cost than formerly. Yet it is all a part of the "economy program."

You will find also, Senator, that all of the former soldiers in this city who are fighting for justice and fair play to be given their comrades, are men who do not themselves receive pensions, but who are insisting that those veterans who are in need be taken care of adequately by the Government.

The wide publicity given the Long story and picture has put officials at the soldiers' home on their guard, but at that time there was no alternative for Long but to turn in his clothes, and if you want an affidavit from Long I am certain that you can get it.

A rigid investigation of the manner in which the economy law is being enforced here would not be amiss and would be welcomed by 12,000 local veterans.

Sincerely yours,

LAWRENCE ANDREWS,
*Editorial Department, The Dayton Journal.*

P.S.—I am enclosing story that appeared on front page of Dayton News today. Suggest that you force Veterans' Bureau to make public correspondence they exchanged with Gov. F. C. Runkle, manager of Dayton home, on Long incident so you will have Runkle's story in black and white.

Even convicts discharged from Federal penitentiaries are given a suit of clothes and some cash.—L. A.

As will be noted, the writer suggests that the correspondence which passed between the Veterans' Bureau here in Washington and the Soldiers' Home in Dayton be made public. I am trying to get copies of that correspondence, and when I do I shall place them in the RECORD.

Mr. President, I understand the same situation exists all over the United States where veterans' hospitals are located, and there are some 54 or 55 of them. What a cruel thing it is! This administration will be known for its infamous so-called "economy act" long, long years after we are all dead and gone.

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

The VICE PRESIDENT. Does the Senator from Indiana yield to the Senator from Illinois?

Mr. ROBINSON of Indiana. Certainly.

Mr. LEWIS. May I ask the Senator from Indiana who it is in charge of that home at Dayton representing the National Government?

Mr. ROBINSON of Indiana. F. C. Runkle.

Mr. LEWIS. How long has that official head been in charge of this particular locality and department?

Mr. ROBINSON of Indiana. I do not know of my own knowledge, but I understand about 2 years or more.

Mr. LEWIS. He is not a new appointee?

Mr. ROBINSON of Indiana. I think not. I think he is getting his orders from Washington, however. He is just administering the law as he is told to administer it under these inhuman regulations that the President and his chief executioner, Mr. Douglas, have promulgated.

Mr. LEWIS. I understand the Senator from Indiana merely deduces his idea that whatever transpired there was a result of orders obtained from Washington, but the Senator has no knowledge of such facts?

Mr. ROBINSON of Indiana. I think I will have some correspondence in the next day or so that passed between Washington and Dayton that will settle that question.

THE CALENDAR

The VICE PRESIDENT. Morning business is closed. The calendar is in order. The clerk will state the first business on the calendar.

JOINT RESOLUTION AND BILL PASSED OVER

The joint resolution (S.J.Res. 15) extending to the whaling industry certain benefits granted under section 11 of the Merchant Marine Act, 1920, was announced as first in order.

Mr. KING. I ask that that go over.

Mr. COPELAND. Mr. President, will not the Senator agree that the resolution may be considered at some day in the near future?

Mr. KING. I do not want to make any commitment in advance. I think the measure is so important and, to my way of thinking, so improper, not to say obnoxious, that I should not want to consider it under any limitation of debate. If it comes up in the proper way, in a way that does not involve limitation of debate, I shall have to take my chances.

Mr. COPELAND. Will the Senator withhold his objection just a moment?

Mr. KING. I will withhold it for a moment.

Mr. COPELAND. The resolution has to do wholly with the matter of an industry which is not associated with those matters which the Senator thinks are evil, connected with the American merchant marine. It has to do with the whaling industry and it is important at this time that there should be a reorganization of part of the work in order that there may be brought about an increase in the business. However, I shall not press the matter at this time.

The VICE PRESIDENT. On objection, the joint resolution goes over.

The bill (S. 682) to prohibit financial transactions with any foreign government in default on its obligations to the United States was announced as next in order.

Mr. JOHNSON. That may go over.

The VICE PRESIDENT. The bill will be passed over.

IMPEACHMENT OF HAROLD LOUDERBACK

The VICE PRESIDENT. The hour of 12:30 o'clock having arrived, under the order of the Senate, the Senate is now in session sitting as a Court of Impeachment for the trial of articles of impeachment against Harold Louderback, judge of the United States District Court for the Northern District of California.

The managers on the part of the House of Representatives—Hon. HATTON W. SUMNERS, of Texas; Hon. RANDOLPH PERKINS, of New Jersey; Hon. GORDON BROWNING, of Tennessee; Hon. U. S. GUYER, of Kansas; Hon. J. EARL MAJOR, of Illinois; and Hon. LAWRENCE LEWIS, of Colorado—were announced by the secretary to the majority (Mr. Leslie L. Biffle) and conducted to the seats assigned them.

The respondent, Harold Louderback, appeared with his counsel, Walter H. Linforth, Esq., and James M. Hanley, Esq., and took the seats provided for them.

The VICE PRESIDENT. The Sergeant at Arms will make proclamation.

The Sergeant at Arms made the usual proclamation.

The VICE PRESIDENT. The Journal of the proceedings of the last session of the Senate sitting as a Court of Impeachment will be read.

Mr. ASHURST. Mr. President, I ask unanimous consent that the reading of the Journal of the last previous session of the Senate sitting as a Court of Impeachment may be dispensed with and that the Journal may stand approved.

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

The Chair is informed by the Secretary of the Senate that on April 29, 1933, Representative HATTON W. SUMNERS, chairman of the managers on the part of the House of Representatives heretofore appointed to conduct the impeachment against Harold Louderback, United States district judge for the Northern District of California, filed with him, as said Secretary, under authority of House Resolution No. 108, the following documents:

1. The replication of the House of Representatives to the answer of said Harold Louderback to the articles of impeachment, as amended; and

2. A statement making more specific an allegation contained in article 5 of the articles of impeachment, as amended.

In order that they may be incorporated in the printed proceedings, the Chair lays before the Senate, sitting for the trial of the said impeachment, the said documents, which will also be printed for the use of the Senate.

The documents are as follows:

REPLICATION OF THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA TO THE ANSWER OF HAROLD LOUDERBACK, DISTRICT JUDGE OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF CALIFORNIA, TO THE ARTICLES OF IMPEACHMENT, AS AMENDED, EXHIBITED AGAINST HIM BY THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA

The House of Representatives of the United States of America, having considered the several answers of Harold Louderback, district judge of the United States for the Northern District of California, to the several articles of impeachment, as amended, against him by them exhibited in the name of themselves and of all the people of the United States, and reserving to themselves all advantages of exception to the insufficiency, irrelevancy, and impertinency of his answer to each and all of the several articles of impeachment, as amended, so exhibited against the said Harold Louderback, judge as aforesaid, do say:

(1) That the said articles, as amended, do severally set forth impeachable offenses, misbehaviors, and misdemeanors as defined in the Constitution of the United States, and that the same are proper to be answered unto by the said Harold Louderback, judge as aforesaid, and sufficient to be entertained and adjudicated by the Senate sitting as a Court of Impeachment.

(2) That the said House of Representatives of the United States of America do deny each and every averment in said several answers, or either of them, which denies or traverses the acts, intents, misbehaviors, or misdemeanors charged against the said Harold Louderback in said articles of impeachment, as amended, or either of them, and for replication to said answers do say that Harold Louderback, district judge of the United States for the Northern District of California, is guilty of the impeachable offenses, misbehaviors, and misdemeanors charged in said articles, as amended, and that the House of Representatives are ready to prove the same.

HATTON W. SUMNERS,
*On Behalf of the Managers.*

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IN THE MATTER OF THE IMPEACHMENT AGAINST HAROLD LOUDERBACK, DISTRICT JUDGE OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF CALIFORNIA, IN THE SENATE OF THE UNITED STATES

MAKING MORE SPECIFIC AN ALLEGATION CONTAINED IN ARTICLE 5, ARTICLES OF IMPEACHMENT, AS AMENDED

Whereas on April 17, 1933, the managers on the part of the House of Representatives, in the impeachment against Harold Louderback, filed an amendment to article 5 of the Articles of Impeachment, which contains the following language:

"It also became a matter of newspaper comment in connection with that receivership matter and others that theretofore, about 1925 or 1926, the said Gilbert had been appointed by the said Harold Louderback when the said Harold Louderback was a judge of the Superior Court of California, an appraiser of certain real estate, the said Harold Louderback well knowing at the time of such appointment that the said Gilbert was without any qualification to appraise the value of such real estate, and in truth the said Gilbert never saw said real estate, and that the said Gilbert did not undertake to assist in the appraisal of said real estate, only signing the report which was presented to him, for which services he was allowed the sum of $500."

And whereas said language and allegation was objected to by counsel for Harold Louderback by a motion to strike out said language on the ground that the said Harold Louderback was not advised of "the time or times (of) said acts were committed by respondent", or "in what action or actions, proceeding or proceedings such alleged acts occurred" whereupon the managers agreed with counsel for the said Harold Louderback that they would endeavor to give to said counsel more exact information with regard to said transaction, and failing to do so by the 5th of May the said allegations would be withdrawn and no evidence of-

fered in their support, counsel for the said Harold Louderback agreeing that they would exert themselves to try to ascertain the facts with regard to the transaction referred to and advise the Managers.

Since such agreement and understanding the managers have ascertained more definite information with reference to this transaction, and now allege the facts to be that on or about April 5, 1927, in the matter of the estate of Howard Brickell, no. 46618, pending in probate that said Harold Louderback appointed the said Guy H. Gilbert an appraiser of property of said estate and also appointed with him as appraiser of said property Sam Leake, referred to in said article 5 of the Articles of Impeachment as amended; that on or about December 21, 1927, the said Harold Louderback made an order awarding to the said Guy H. Gilbert and to the said Sam Leake the sum of $500 each for their services; which information has been furnished to the said counsel for Harold Louderback.

HATTON W. SUMNERS, *Chairman,*
*On Behalf of the Managers.*

Mr. KING. Mr. President, I offer the resolution which I send to the desk.

The VICE PRESIDENT. The Senator from Utah offers a resolution, which will be read.

The resolution was read, considered by the Senate, and agreed to, as follows:

*Ordered,* That the opening statement on behalf of the managers shall be made by one person, to be immediately followed by one person who shall make the opening statement on behalf of the respondent.

Mr. ASHURST. Mr. President, I would not resort to such an unseemly thing as even to intimate that either statement should be attenuated beyond what is absolutely necessary; but it might be well for the Senate sitting as a Court of Impeachment to be advised as to how long the honorable managers on the part of the House desire to take for their statement, and how long the attorneys for the respondent will require. I am sure there is no disposition on the part of the Senate to limit the time. The rule permits an hour on each side.

The VICE PRESIDENT. Do the managers on the part of the House desire to make a statement as to the length of time they desire to address the Senate?

Mr. Manager SUMNERS. Mr. President, the managers on the part of the House cannot anticipate the exact length of time required to make the opening statement, but we do not believe we will require an hour. We think we can finish in less time than an hour.

The VICE PRESIDENT. Do counsel for the respondent desire to make any statement about the probable length of time they will desire?

Mr. HANLEY. Mr. President, I will say to the Chair and to the Senators that I think we will consume about an hour.

Mr. Manager SUMNERS. Mr. President, the managers on the part of the House would like the privilege of having the clerk of the Committee on the Judiciary in attendance to assist the managers with regard to the documents they shall use.

Mr. ASHURST. Mr. President, I apologize to the Senate sitting as a court and to the managers on the part of the House and to the attorneys for the respondent, but I trust I shall not be required to ask the managers or the attorneys to elevate their voices. Audition is extremely important. In the Senate Chamber, to be heard at all, one must lift his voice almost to an oratorical pitch. If the honorable managers and the honorable attorneys and the witnesses desire any audition—and that is what we seek—I beg of them to speak so that they may be heard.

Mr. Manager SUMNERS. Mr. President, we will endeavor to conform to the suggestion made by the Chairman of the Committee on the Judiciary of the Senate, and we appreciate the suggestion made.

The VICE PRESIDENT. Is there objection to the request of the managers on the part of the House to have the clerk of the Judiciary Committee sit with the managers? The Chair hears none, and permission is granted.

Mr. Manager SUMNERS. Mr. President, we desire to submit a further request, namely, that Mr. Bianchi, a member of the bar of San Francisco, who has been requested by the managers to assist them in the development of the facts of this case, and who is here, be permitted to sit with the managers.

The VICE PRESIDENT. Is there objection?

Mr. HANLEY. We will ask the chairman of the managers whether or not Mr. Bianchi is to be a witness. If he is, we should say that he should not be present.

Mr. Manager SUMNERS. Mr. President, it is not anticipated that Mr. Bianchi will be a witness; but the managers do not propose to foreclose their opportunity and privilege of putting him on the stand if they should deem it necessary.

The VICE PRESIDENT. Let the Chair suggest——

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

The VICE PRESIDENT. The Senator from New Mexico will state it.

Mr. BRATTON. Under the rules of the Senate, the point is to be decided by the Chair without debate and without comment.

The VICE PRESIDENT. The point of order is sustained.

Let the Chair suggest to the managers on the part of the House and to counsel for the respondent that it has been suggested to the Chair, in view of the statement made by the Senator from Arizona as to the difficulty in hearing in the Chamber, that the gentlemen occupy a place on each side of the Chair in making their statements to the Senate. That is a mere suggestion to the managers and to counsel. They can occupy whatever station they see fit; but if they desire a place here, it will be made for them.

Mr. Manager SUMNERS. Will the President indicate at what point it is desirable that the spokesman for the managers shall now stand?

The VICE PRESIDENT. At a point here [indicating] on the rostrum, where the speaker can be seen better than when sitting in the well.

Mr. HANLEY. Mr. President, the Chair has not yet ruled upon the question as to whether or not Mr. Bianchi, if he is to be a witness, should sit in the Chamber and assist the managers.

The VICE PRESIDENT. The Chair will submit the question to the Senate: Shall the gentleman suggested by the managers of the House be permitted to sit in the Chamber and confer with the managers? [Putting the question.] The ayes have it, and permission is granted.

The managers on the part of the House are recognized to make a statement of their case.

Mr. HANLEY. Mr. President, before the manager makes his statement we have an affidavit to submit. We should like that opportunity at this time, and also to file an answer to the portion of article V that has been amended since the last session of the Senate sitting as a Court of Impeachment. Mr. Linforth has the answer, and we will ask that the clerk read it. It is very short.

The VICE PRESIDENT. The clerk will read the answer.

The Chief Clerk read as follows:

IN THE SENATE OF THE UNITED STATES,
SITTING AS A COURT OF IMPEACHMENT.

THE UNITED STATES OF AMERICA *v.* HAROLD LOUDERBACK, UPON ARTICLES OF IMPEACHMENT PRESENTED BY THE HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA

*Answer of respondent to article V as last amended*

Respondent admits that on or about the 5th day of April 1927, while acting as judge of the Superior Court of the State of California in and for the city and county of San Francisco, in the matter of the estate of Howard Brickell, deceased, he made an order appointing Guy H. Gilbert, W. S. Leake, and R. F. Mogan appraisers; that in said matter Crocker First Federal Trust Co., of San Francisco, was special administrator of said estate; that in the first and final account of said trust company was included the sum of $500 each paid to said Gilbert and said Leake as appraisers' fees therein; that upon the hearing of the settlement of said account, an officer of said trust company testified that said account was in all respects true and correct; that the inventory on file in said estate showed its appraised value to be $1,020,804.38; that thereupon respondent, as judge of said superior court, made an order settling and allowing said account. Other than as hereinabove specifically set forth, respondent denies that he made any order awarding said Gilbert and said Leake, or either of them, $500 for their said services as such appraiser.

HAROLD LOUDERBACK,
*Respondent.*
WALTER H. LINFORTH,
JAMES M. HANLEY,
*Attorneys for Respondent.*

Mr. HANLEY. At this time, Mr. President and Members of the Senate, we will ask whether or not the witness, W. S. Leake, has been subpenaed and is here.

The VICE PRESIDENT. The Sergeant at Arms will give the information as to whether he is here.

The SERGEANT AT ARMS. W. S. Leake has been subpenaed by both sides; but, so far as I understand, is not present.

Mr. HANLEY. We understood, Mr. President, that he may not be here. If he is not here, in order not to delay the Senate in the trial, but for the purpose of having permission to take his deposition in California before the end of these proceedings, we ask that the clerk read the affidavit which we submit upon an application for a commission to issue.

The VICE PRESIDENT. Without objection, the affidavit will be read.

The Chief Clerk read as follows:

IN THE SENATE OF THE UNITED STATES,
SITTING AS A COURT OF IMPEACHMENT.

THE UNITED STATES OF AMERICA *v.* HAROLD LOUDERBACK, RESPONDENT

CITY OF WASHINGTON,
*District of Columbia, ss:*

Harold Louderback, being duly sworn, deposes and says: I am the respondent in the above-entitled matter. On September 6 and 7, 1932, the special committee of the House of Representatives, Seventy-second Congress, pursuant to House Resolution 239, at San Francisco, examined as a witness one W. S. Leake. At the conclusion of his examination by Mr. LaGuardia on September 7, 1932, the following occurred:

"Mr. LAGUARDIA. Mr. Chairman, I want to reserve the right to recall this witness at a later day.

"Mr. SUMNERS. Very well.

"Mr. HANLEY. We won't ask any questions at this time. We will wait until he is recalled.

"The WITNESS. Will I have time to go back and see about some matters?

"Mr. SUMNERS. Yes; you are excused, Mr. Leake.

"The WITNESS. If you phone me, I can get over here very quickly.

"Mr. SUMNERS. Yes; we will telephone you.

"The WITNESS. I thank you."

The witness, W. S. Leake, was never recalled, his direct examination evidently not concluded, and the witness was not cross-examined.

Subsequently, on February 24, 1933, the Congress of the United States of America, in the House of Representatives, resolved that affiant be impeached for misdemeanors in office, and in the first article of impeachment it is alleged that affiant entered into a certain arrangement and conspiracy with the said W. S. Leake for the objects and purposes set forth in said first article. Affiant never entered into any such arrangement or any such conspiracy or, in fact, any conspiracy with the said W. S. Leake, and the said W. S. Leake will testify that no such arrangement as alleged in said article I, and no such alleged conspiracy as there referred to, was ever entered into between himself and affiant. That the said W. S. Leake is a material and necessary witness for affiant upon the trial of this matter, without the benefit of which testimony affiant cannot safely proceed to trial.

That on the 29th day of April 1933, and for several days thereafter, two of the managers selected and appointed by the honorable House of Representatives were in San Francisco, Calif., namely, the Honorable RANDOLPH PERKINS and the Honorable GORDON BROWNING. That the said W. S. Leake resides, and for many years past has resided, in the Fairmont Hotel in said city of San Francisco, and was on said 29th day of April 1933 confined to his bed by illness, and upon and according to the information and belief of affiant, had been so confined to his bed for some time prior thereto, and was so confined to his bed on Tuesday last when affiant left San Francisco for Washington. That upon and according to the information and belief of affiant the physical condition of the said W. S. Leake is such as to prevent his appearance in person in Washington before this honorable Senate.

That on April 29, 1933, counsel for respondent called to the attention of said managers the condition of the said W. S. Leake and requested their consent to the taking of the deposition of the said W. S. Leake to be used upon the trial of this matter, or, their consent to the reading before this honorable Senate of the testimony so given by the said W. S. Leake on the hearing already referred to, and the supplementing of that testimony by deposition, counsel for respondent informing said managers at said time that they desired to examine the said W. S. Leake, in particular as to these alleged charges of conspiracy so set out in the first article of impeachment and so filed months after the taking of the testimony of the said Leake as hereinbefore set forth. The said managers advised my said counsel they desired to interview Mr. Leake and would on the Monday following advise my counsel as to their conclusion in the matter. My counsel thereupon made arrangements for said managers to interview said W. S. Leake, and according to my information and belief both said managers did interview Mr. Leake on the afternoon of the 29th of April 1933.

At said time and place my counsel also advised the said managers of their desire to supplement by deposition the testimony of one W. L. Hathaway, who was a witness at said hearing at San Francisco in September 1932, and also their desire to take the deposition of the wife of the said W. L. Hathaway, telling them of the testimony expected to be elicited from each of said witnesses, the same relating to the charge contained in said article I to the effect that the said W. S. Leake "did receive certain fees, gratuities, and loans directly or indirectly from one Douglas Short amounting approximately to $1,200" and advising them that it was expected to be proven by said witnesses and each of them that the loan referred to in article I had no relation whatever to the said Douglas Short—did not come from any fees received by the said Douglas Short as attorney for any receiver or otherwise, but was a personal loan made by the said W. L. Hathaway and his wife to the said W. S. Leake, and arranged for by a borrowing upon a life-insurance policy on the life of the said W. L. Hathaway.

My said counsel at said time informed said managers that the said W. L. Hathaway was critically ill and unable to appear in person before this honorable Senate and testify on behalf of respondent, and that, due to his then condition, his said wife would not leave him and appear in person upon the trial of this matter.

On the said hearing so had in September 1932, in San Francisco, the said wife of the said W. L. Hathaway did not appear and was not examined as a witness. Said managers requested an opportunity of personally interviewing the said W. L. Hathaway and his said wife, and, as the result of arrangements made by my said attorneys, one of said managers—namely, Hon. Randolph Perkins—did, on the 30th day of April 1933, interview both Mr. and Mrs. Hathaway. On Monday, May 1, 1933, at about 5 p.m., Mr. Browning, on behalf of said managers, notified my counsel the managers would not consent to the taking of the depositions of any of said witnesses and would not consent to the testimony of either Mr. Leake or Mr. Hathaway being supplemented by deposition.

Subsequently and on the 2d and 3d of May 1933 said managers did enter into a stipulation with my counsel to the effect that the testimony so given by the said W. L. Hathaway at said hearing had in San Francisco in September 1932 might be read upon the trial of this matter and did enter into a stipulation to the effect that, if present, his said wife would testify in accordance with the statement attached to said stipulation, and that if the said W. S. Leake did not appear before this honorable Senate upon the trial of this proceeding, the testimony given by him at said hearing in San Francisco might be read, but beyond this said managers refused to go and refused to stipulate.

Said W. S. Leake, at the time of the giving of the testimony aforesaid, was not asked and did not testify in regard to the $1,200 transaction referred to in article I, and was not asked and did not testify on the subject of the alleged conspiracy in said article I set forth.

Affiant desires the testimony of the said W. S. Leake on these and other subjects. Affiant does not desire to delay the trial of this proceeding. The testimony of the said W. S. Leake can readily be taken and returned for use upon this proceeding before the close of this trial, and if the said deposition is taken on Saturday next, said deposition can be completed and returned to this honorable Senate for use upon this trial within 48 hours thereafter.

Wherefore affiant respectfully requests that a commission forthwith issue, directed to Ernest E. Williams, United States commissioner at San Francisco, Calif., authorizing him to take on Saturday, the 20th day of May 1933 the deposition of the said W. S. Leake upon oral interrogatories to be then and there propounded to him by respective counsel, and thereafter return said deposition to this honorable body by air mail; said deposition to be taken either at his office or at the residence of the said witness in the event of his inability to attend in person at his office.

HAROLD LOUDERBACK.

Subscribed and sworn to before me this 15th day of May 1933.

[SEAL] CHARLES F. PACE,
*Notary Public.*

My commission expires February 12, 1936.

Mr. Manager SUMNERS. Mr. President, in reply to the application to take the deposition of W. S. Leake, the managers on the part of the House desire to say that they are extremely anxious to have W. S. Leake here. W. S. Leake was a very intimate associate of the respondent in this case. He was available to the respondent. I observe from the statement made that he was to be called. There was nothing to prevent the respondent from calling W. S. Leake and eliciting any information possessed by him which the respondent then regarded as desirable.

I desire to direct attention of the Senate to the fact that when the managers on the part of the House were recently in San Francisco there was this stipulation with regard to the testimony of W. S. Leake:

It is further stipulated that the testimony of W. S. Leake taken at a hearing above referred to—

That is, the hearing to which counsel for the respondent refers—

may be read upon said trial by either party hereto with the same force and effect as if the said witness were present and testified in person. This stipulation, however, insofar as W. S. Leake is concerned, is without waiver by either party hereto to insist upon the attendance of said Leake before the court above referred to, and shall become operative only in the event of the nonappearance of the said Leake at Washington before the said Court of Impeachment.

The observation of the managers on the part of the House is that counsel's complaint with reference to the incomplete examination of W. S. Leake is without point because W. S. Leake was available to counsel on the part of the respondent at the time when counsel complains that the testimony of W. S. Leake was not fully developed.

Second, when the managers on the part of the House were recently in San Francisco, the respondent, through his counsel, stipulated with the managers on the part of the House that, in the event of the nonappearance of W. S. Leake, the testimony of W. S. Leake when he was examined in San Francisco could be offered by either party, the respondent or the managers.

We are very anxious to have the attendance of W. S. Leake. At this time the managers are not prepared to deviate from the stipulation entered into by counsel for the respondent and the representatives of the managers.

The VICE PRESIDENT. What is the pleasure of the court with reference to the request of respondent?

Mr. HANLEY. Mr. President, we should like to be heard.

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

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

Mr. ASHURST. All such matters ought to be decided by the Chair without debate at this juncture. It is not appropriate at this time to take the time of the Senate in the discussion of a matter like this. Let the affidavit be presented and be printed in the RECORD.

The VICE PRESIDENT. As the Chair understands it, the question before the court, or before the Chair, according to the construction of the Senator from Arizona, is whether or not grant will be given by the court to take the deposition of W. S. Leake.

Mr. ASHURST. That is to be decided by the Chair.

The VICE PRESIDENT. That, it seems to the Chair, is a matter which should be determined by the court itself.

Mr. ASHURST. Very well. The Chair has a right to submit it to the court.

The VICE PRESIDENT. It seems to the Chair that it is not a question for the Chair to determine. Therefore the Chair has recognized these gentlemen to make statements prior to the vote of the court.

Mr. Manager SUMNERS. Mr. President, may I make a suggestion to the Chair and to the court? It is that this particular matter be held in abeyance until tomorrow for determination.

Mr. HANLEY. We have no objection to that.

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

OPENING STATEMENT ON BEHALF OF THE MANAGERS ON THE PART OF THE HOUSE OF REPRESENTATIVES

Mr. Manager SUMNERS. Mr. President and members of the court, on account of the peculiar powers possessed by the Senate sitting as a Court of Impeachment, it is a little difficult to determine what ought to be the scope of the opening statement by the managers.

If I may be permitted a very brief introductory statement, an examination of the place, the function, and the philosophy of the impeachment power lodged in the Senate of the United States discloses that when the Senate sits as a Court of Impeachment, it possesses all the powers of a civil court trying an ouster suit. In addition to that, with regard to a member of the judiciary, holding an office secure from the direct power of the people to remove, the Senate possesses all the power which a free people possess to rid themselves of a public official who disregards individual rights, and whose conduct in office is calculated to bring disrespect and hurt to public institutions. I shall be very brief on this point.

Mr. President, there is, perhaps, no more interesting power possessed by government than the power of impeachment possessed by the Senate. It is rather an anomalous thing that a judge in a free country should be commissioned to hold office and exercise power over a free people secure from their power and opportunity to procure his removal. So the power of removal in such cases has been lodged in the Senate, and the Senate possesses all the power which free men have under our system of government to protect themselves and their institutions with regard to members of the Federal judiciary.

When we came to frame our Constitution we recognized a fact which had developed in England, from which country we inherited our institutions. Prior to the adoption of our Constitution the exercise of the power of impeachment had become practically obsolete in England. The impeachment of Warren Hastings was contemporaneous with the adoption of our Constitution, and the case of Lord Melvin in 1804 was the last one in which an impeachment was had in England.

In the beginning of the operation of our Constitution it was considered that an impeachment was a criminal action, notwithstanding the fact that our Constitution withdraws from the Senate all power to impeach. But in the process of time, because of the rather infrequent examination of the power, it has now come to be universally recognized, I believe, by all students of our Constitution that impeachment under the American Constitution is not a criminal action but, insofar as its distinctive features are concerned, it is an ouster suit, because the Senate has no power to punish. In addition to the power to oust, as I have indicated, and associated with that power to oust, is the delegated power of a free people to rid themselves of a public official whose conduct violates the principles of government under which a free people live.

Mr. President, this is the first time in 22 years that managers on the part of the House have appeared at the bar of the Senate offering to introduce testimony to substantiate impeachment charges. The House of Representatives, and particularly the Committee on the Judiciary, have a more frequent contact with this question. In this particular case the House of Representatives, in the first instance its Committee on the Judiciary, was moved to consider this matter by a letter received from the Bar Association of the city of San Francisco. With the permission of the Chair and as a matter explanatory and in line with the practice in the Archbald case, the last impeachment case considered by the Senate, I desire to have read this letter and to ask permission that my colleague [Mr. BROWNING] may read it for me.

The VICE PRESIDENT. Is there objection? The Chair hears none.

Mr. Manager BROWNING read the letter, as follows:

SAN FRANCISCO, CALIF., *May 24, 1932.*

JUDICIARY COMMITTEE,
*House of Representatives, Washington, D.C.*

SIRS: Under date of May 2, 1932, the Bar Association of San Francisco addressed a communication to His Excellency Herbert Hoover, President of the United States, with reference to certain matters published in the press of San Francisco concerning Hon. Harold C. Louderback, judge of the United States District Court at San Francisco, Calif., accompanying said communication with clippings from San Francisco newspapers.

Under date of May 9, 1932, we received an acknowledgment of said communication from Mr. Lawrence Richey, Secretary to the President, stating that the matter "is being referred for the consideration of the Attorney General", and thereafter we received a letter dated May 12, 1932, from Mr. Charles P. Sisson, Assistant Attorney General, stating in effect that our letter addressed to the President had been referred to the Department of Justice for consideration, and further stating "that the Department of Justice has no jurisdiction whatsoever over United States judges. Criticisms of Federal judges are ordinarily addressed to the Judiciary Committee of the House of Representatives."

Pursuant to the suggestion contained in the letter from the Assistant Attorney General, we are hereby addressing your honorable committee and forwarding copies of the above-mentioned correspondence, together with duplicate press clippings, for such action as your committee may deem proper.

We feel certain that you will readily realize that the interest of the Bar Association of San Francisco in this matter is solely a

public one and that it is concerned only in preserving the integrity of the bench, public confidence in, and respect for, the courts and the due administration of justice. We believe that no department of the Government should occupy a higher position in the public mind, or perform a more important function, than that of the courts, and that it is of the utmost importance that they shall be maintained on a plane of the strictest honesty and efficiency and shall be above suspicion. Charges against a court or judge, especially when publicly made, require thorough investigation, not only in the interest of the public and respect for our judicial system but also in the interest of the incumbent.

If your committee should undertake an investigation of the matters in question, our association will cheerfully render such assistance as is within its powers, in the hope that whatever the outcome may be the result will contribute to the maintenance of public confidence in our courts.

Respectfully submitted.

BAR ASSOCIATION OF SAN FRANCISCO,
By RANDOLPH V. WHITING, *President*.

Mr. Manager SUMNERS. Mr. President, in order to save time, we will not introduce the commission of the respondent and certain other documents which seem to have been usually introduced in the course of impeachment trials, but shall take it for granted that it will be understood that the respondent is a Federal judge of the northern district of California. Further, we shall not make specific reference to the preliminary action on the part of the House of Representatives, assuming that it will be understood that by due course and in the ordinary order this matter has gone through the preliminary processes and has now reached the Senate sitting as a Court of Impeachment.

It is a regrettable thing, of course, whenever it shall be deemed necessary to take the judgment of the Senate of the United States as to whether or not a judge or any other public official has forfeited his right to hold office in this country, but there is a duty that rests, first, upon the House, and now upon the Senate.

I shall be as brief as possible, and will introduce the conduct of this judge, the respondent, by a brief recitation of the facts which the managers on the part of the House will undertake to establish by competent testimony.

First, I desire to direct the attention of the court to the facts in what is known as the "Russell-Colvin Co. case." The Russell-Colvin Co. was a stock and bond brokerage concern, a member of the San Francisco Stock Exchange. Following the crash in the fall of 1929, this company became involved in serious financial difficulty. The stock exchange for some months had been in close contact with this concern, having constantly in the office of that organization its auditors, and receiving reports from an auditor by the name of Strong. It became evident after a while that it would be impossible for this concern to continue in business, and an equity receivership was suggested by the circumstances and conditions in which it found itself. That is the conclusion that was arrived at by frequent consultations between representatives of the concern and the stock exchange.

A proceeding brought in equity was determined, in the first instance, by those who had initiated this matter, the stock exchange and the copartnership. It was determined that the best man to be receiver was Strong, who was familiar with the affairs of the business. Representatives of the plaintiff in that case, representatives of the stock exchange, representatives of the copartnership, attended upon the respondent, asking the appointment of Strong to be the receiver, stating the facts with reference to his peculiar qualifications quickly to begin work because of his familiarity growing out of his contact with the business, the stock exchange having an interest in the matter which readily can be appreciated, and having only the interest of conserving the assets of that concern in order that its creditors might receive the largest possible amount. The respondents agreed to appoint Strong as receiver.

I shall not go into details, but directly after the appointment a controversy arose between Strong, the appointed receiver, and the respondent with reference to who should represent the receiver as attorney in this matter. The receiver insisted, under the circumstances, that he wanted an expert with regard to stock-and-bond matters and preferred to have for his attorney the firm which was the attorney, and had been for a long time the attorney, of the San Francisco Stock Exchange. The respondent insisted upon the selection of an attorney by the name of Short.

Short was then an employee in a law office at the rate of $200 per month, with certain divisions with reference to fees that he originated. The controversy terminated in the discharge of Strong and in the appointment of a man by the name of Hunter, who on the evening after his appointment selected Short as his attorney.

Unfortunately, with reference to the transactions centering in this development of the matter, there comes a clear issue of veracity as between the respondent and gentlemen of high standing in that community.

From the judge's chambers, insofar as this transaction is concerned, the scene shifts to the Fairmont Hotel. In that hotel there was resident the father-in-law of Short. Hunter lived there, also; and Mr. Leake, who has been referred to this afternoon, also lived there. Mr. Hathaway was registered at the hotel. Mr. Strong was registered at the hotel. Mr. Leake had two rooms with regard to which he was registered, and in one of those rooms lived the respondent, not registered. In a room registered in the name of Sam Leake lived the respondent, judge of the Federal Court of the Northern District of California.

A statement as to how Hunter came to be selected is about to this effect: On the evening of the day when Strong's discharge was determined the respondent, sitting in the lobby of the Fairmont Hotel with Mr. Leake, discussed with him the situation in which he found himself, namely, that it would be necessary, in his judgment, to discharge Strong, and he asked Mr. Leake to indicate to him a good man to take the job. Mr. Leake said he would have to think it over, and just at the psychological moment Hunter appeared walking through the corridor, and Mr. Leake said, "That is your man." Commissioned by the judge, he interviewed Mr. Hunter, and Mr. Hunter asked the privilege of consulting his employer. The next day Mr. Hunter indicated that he would take the job, and that night Mr. Short was engaged by Mr. Hunter.

The explanation which the respondent makes of the peculiar conditions under which he was living at the Fairmont Hotel was that he anticipated or rather there was possible a lawsuit against him, a civil action, and that he did not want to register at the hotel, because registering at the hotel was indicative of residence, and that if the suit was brought against him he wanted to be able to shift it to Contra Costa County, Calif. In order to strengthen the claim of residence in Contra Costa County, the respondent had registered there and voted there. It is charged by the managers and we propose to prove that the respondent registered as a voter and voted but refused to disclose the truth as to his place of residence by registering his name as people ordinarily do who have not anything to hide, in order that he might, in furtherance of the conspiracy—I do not like to use the term—commit a fraud against the rights of the contemplated plaintiff to have the case tried in the place where as a matter of fact the judge resided.

In this hotel resides Mr. Hathaway, the father-in-law of Mr. Short, the attorney whom the respondent was deeply concerned to have appointed.

Mr. Leake, according to his testimony, has no business. He keeps no bank account. He does claim to have this business—he is a mental healer. He teaches people how to think right and does not charge them for his services, but they make contributions to him. His office costs him $72 a month and his hotel—and, by the way, it is one of the more expensive hotels in San Francisco—costs him $200 per month. He is a widower. We shall establish the fact that Mr. Hathaway, the father-in-law of Short and beneficiary of the judge's interest, loaned to Mr. Leake $1,000 which he admits he had little hope of being able to collect, and later gave him $250.

Sam Leake, it is charged, is the cover-up man of the respondent, living those 2 years or more in a room registered in the name of the respondent. In order to be just about the matter, and we hope we will be just, the evidence will show that while Mr. Leake paid for the room at the hotel

in which the respondent lived, the respondent reimbursed him. It is the contention of the managers that in these transactions we begin to see the picture of the respondent as the respondent appears to the people of the northern district of California where he exercises jurisdiction.

The respondent's claim for wanting to be rid of Strong because Strong would not select the attorney whom he wanted was that he wanted somebody, either the attorney or the receiver, known to him to be an honest man whom he could trust and whom he knew. It is the contention of the managers that that is the front, and that behind it lay the facts which we propose to develop. It is our contention that those facts will develop as we examine the other cases to which I now desire to make reference, and I shall be brief about it.

We had raised the question that the fees in that case and the fees in the other cases to which we shall make reference were entirely out of proportion to what people of the ability of the receiver and the attorneys were drawing and were out of proportion to the services they rendered. Mr. Short, who was drawing a salary of $200 per month and whatever division of fees he could get for a little over a year, was allowed a fee of $51,000, and the receiver was allowed a fee of $45,000. It is the contention of the managers that, extravagant and unreasonable as are those fees, they do not constitute the gravamen of the respondent's offense with regard to these transactions.

Mr. Leake had another very intimate friend, Mr. Gilbert. The first appointment of Mr. Gilbert by the respondent was in the Stempel-Cooley case. I shall not take the time of the court to discuss that case because there is not anything very significant about it except that in that case Mr. Gilbert employed as his counsel the same Short referred to in the other transaction.

We now move to the Sonora Phonograph Co. case and take the liberty of suggesting to the court that the transactions of the respondent with regard to the Sonora Phonograph Co. case bear directly upon the claim of the respondent with reference to his desire to have competent receivers, attorneys, and so forth. The Sonora Phonograph Co. was a large distributor of phonographs and radios, one of the major businesses of that community. Without going into detail, financial difficulties brought it to the court of the respondent. The respondent selected for the receiver in that case a man whose whole training had been connected with the mechanical operations of a telegraph company, Mr. Gilbert. For thirty-odd years he had been an employee of the telegraph company, and there is no evidence indicating any familiarity on the part of this referee with business transactions. In this case the respondent designated as attorneys the firm of Dinkelspiel & Dinkelspiel, who showed up with three accounts which had been forwarded to them from New York, a typical case of bankruptcy ambulance chasing, as we contend. In this case they were allowed a fee of $20,000, which fee we shall undertake to establish was not a justified fee to be allowed.

The Prudential Holding Co. were large real-estate operators in that community, with alleged assets of $1,500,000, engaged in large and varied real-estate transactions; chiefly, however, in the operation and probably the construction of apartment houses. The respondent selected to represent him and the interests of the creditors in that case this telegraph operator, Mr. Gilbert. I do not mean to reflect upon Mr. Gilbert by that observation. He probably was a very fine telegraph operator, a good man to have been selected if the question had been with reference to operating telegraph instruments. Dinkelspiel & Dinkelspiel were also the attorneys appointed in that case.

There was a very remarkable transaction in connection with that case. The petition for the receiver was filed, sworn to by an attorney upon information and belief, and granted without a hearing. Immediately the concern itself came into court, seeking to have the action set aside. The respondent held that matter in abeyance until a petition in bankruptcy was filed in Judge St. Sure's division. There were three judges in that court. When Judge St. Sure was absent the respondent went across in Judge St. Sure's division, and, upon the application in bankruptcy, agreed to the writ, and appointed this same Gilbert and Dinkelspiel & Dinkelspiel receiver and attorneys, respectively, in that case. Then, later, he dismissed the application for the equity receivership on the ground that it ought not to have been issued, and granted the application in bankruptcy upon the sole ground that this action with reference to the equity receivership in his court had been granted. Judge St. Sure came back to his bench and dismissed the whole thing.

I am going to take up the time of the court to refer to only one additional case specifically. That is the Lumbermen's Reciprocal Association case.

The Lumbermen's Reciprocal Association was an insurance company engaged in writing workmen's compensation insurance. Perhaps I do not state it correctly; but they were insuring companies against the hazards to their workingmen. It was a Texas concern. It became known in California that the home office of the Texas concern was in difficulties; and immediately the insurance commissioner of the State of California busied himself to try to hold in California, for the benefit of the citizens of California insured and having claims, about $80,000 required by the law of California to be deposited in that State, the plan being not only to hold this money but to permit the administration of the affairs of this concern in California by the insurance commissioner of California in order to save the ordinary expense of equity administration for the benefit of the citizens of California who were being protected by that fund. We will show that the respondent not only refused to cooperate with the officials of California seeking to bring about that arrangement, but—I will make a general statement—that he did in substance whatever a Federal judge could do in the contest between the insurance commissioner and Mr. Samuel Shortridge, Jr., his receiver, to prevent those funds going back to the insurance commissioner of California.

Without going into the details of the procedure had, the action of the respondent was appealed from. It went to the circuit court of appeals of that circuit, and the respondent was reversed and the funds ordered into the custody of the insurance commissioner of California. When that mandate came back—and I will venture the statement that there is not to be found in the judicial history of this country a thing like it—when that mandate came back from the circuit court of appeals, commanding that these funds be turned over to the insurance commissioner, the respondent attached a condition to the mandate of the circuit court of appeals that the funds should not be turned back unless there should be effected an agreement that his determination, his assignment of fees to Shortridge and the attorney, would not be appealed from.

There are a good many things about that case which we will undertake to develop.

I beg the pardon of the court for having overlooked the Fageol Motor Co. case.

The Fageol Motor Co. was one of the very largest concerns in that part of the country. It was engaged primarily in assembling automobiles, and was engaged to a degree in making at least the bodies of automobiles. It got into difficulty also. Now, here is the picture:

Everybody interested came into conference with regard to what ought to be done in that situation; and after conference they decided that a man by the name of Tuller, who had been prominently connected with an automobile activity, a man with large experience in business and all sorts of financial and business contacts, should be the man who would be intrusted with taking the affairs of that business, administering them intelligently and wisely and economically, and giving back to the creditors the very greatest amount that could be salvaged from the concern.

Following that agreement the papers were prepared and the counsel for all the parties in interest presented themselves at the chambers of the respondent. That was shortly before the noon hour of adjournment. They were advised by the secretary of the respondent that the re-

spondent would not adjourn court at the usual hour; that he would be delayed. They left the papers. They went back at 1:30. They were told by the secretary for the respondent that the respondent had gotten through earlier than he expected and was gone. They returned at 2:30 to see the respondent, the judge of that people, and were told that he had already appointed Gilbert, this telegraph operator, instead of this automobile man, the choice of a free people.

An arrangement was finally effected, under a threat of going into bankruptcy, that if Gilbert and Dinkelspiel & Dinkelspiel—I did not mention that, the same Dinkelspiel & Dinkelspiel—would step into the background and let the people in interest run the thing, they would not go into bankruptcy; and Dinkelspiel & Dinkelspiel apparently faded into the background. They were satisfied with only $6,000. My impression is that this was a concern with assets that ran into some millions; and Gilbert, I believe, took the statutory fee.

Just one word in conclusion, gentlemen:

We propose to show to the court the picture of this respondent as it is developed by the facts in this case, to show that the reasonable and probable consequence of proven facts has been to destroy the confidence of the people of the northern district of California in the judicial integrity and fairness of this defendant, and make it, therefore, necessary, unpleasant as may be the duty of the Senate of the United States, to exercise its extraordinary power, the only power that this people have.

OPENING STATEMENT ON BEHALF OF THE RESPONDENT

Mr. HANLEY. Mr. President and Members of the Senate, you have just heard Mr. Manager SUMNERS make his opening statement. In the interest of accuracy I have put down, practically in form of writing, the whole situation as it will be developed to the Senate. I will try to follow that line of thought to show you that Judge Louderback should not be tried upon insinuation, not upon surmise, not upon suspicion, and not upon thoughts of any of the managers, but upon sworn testimony. In that respect let me address myself to you as to what we expect to show in this case.

You judges and jurors of the fate of Harold Louderback are about to try the articles of impeachment which you just heard repeated in the opening statement of Mr. Manager SUMNERS. We deem it proper at this time, without waiting to hear a single bit of testimony that will be adduced by the managers in support of their five charges, expressed in the impeachment articles, to make our statement now, at this time, of what we expect to show to each and all of you Senators of the United States sitting as judges and jurors in this case, to prove that there is not one syllable, there is not one thing in any of those articles, for which Judge Louderback should be found guilty.

Who is the man you are about to try? Judge Louderback is a man about 52 years of age. His father was Judge Davis Louderback, of San Francisco. His mother was born in San Francisco, where Judge Louderback was born. We are proud of our pioneers of California. Judge Louderback is the son of a mother pioneer, and his father was an old pioneer judge of the city of San Francisco and the State of California.

Judge Louderback's brother is George D. Louderback, professor of geology of the University of the State of California, and the dean of that university in the college of science and letters.

Judge Louderback in his youth was quite delicate. He was sent by his parents to Nevada, and while in Nevada he graduated from the University of the State of Nevada. He afterwards took his law course at Harvard University, and graduated therefrom. He then was admitted to the bar of the State of Massachusetts. He was then admitted to the bar of the State of California. He was a practicing attorney for a number of years, and was associated with men of the standing of the late William C. Van Fleet, a district judge; the late John S. Partridge, a former district judge of the northern district of California; Mr. Mastick, and others—eminent lawyers, eminent men of our community.

During the World War this same respondent went to the first officers' training camp, graduated therefrom and became a captain of artillery, and, at the end of the war, came back and resumed the practice of the law in San Francisco, with few clients, as was the case with most of those returning from the war.

Judge Louderback was elected a judge of the superior court of San Francisco for a term of 6 years. I am speaking of the man you are trying. Thereafter he was reelected to that office for another term of 6 years by the highest vote given any judge that year in the city and county of San Francisco. There are 16 judges of our superior court. Judge Louderback was elected the presiding judge thereof, and he remained the presiding judge for the term of 1 year. Thereafter he was nominated, selected, and appointed one of the three United States district judges for the northern district of California.

He was vouched for by the late Chief Justice Taft. He was vouched for by Judge Gilbert, the presiding and eminent judge of the Ninth Circuit Court of Appeals. He was vouched for by the chief justice of the Supreme Court of the State of California, the present chief justice, William Waste. This is the man whom you are about to be asked to find guilty of the charges in the articles of impeachment.

You heard Mr. SUMNERS in his opening statement say to you what he expected to prove. In the interest of an intelligent presentation of this matter, we deem it proper, not by rambling outside statements, not by anything that cannot be produced in evidence, but taking the articles of impeachment, to explain each and every one of them to you, so that when the testimony comes forth from the lips of the witnesses, you will be prepared to receive that testimony, and know what it is all about.

We will prove to you from exhibits, from documents, and from records in the cases mentioned in the articles, and from witnesses produced on both sides, that each and every charge against Judge Louderback—and I say this now advisedly to you Senators—will fall of its own weight.

You heard the half truth as told to you by the House manager about the Russell-Colvin Co. case. Let me tell you the whole truth about the matter. The Russell-Colvin Co. was a stockbrokerage concern doing a stock and bond business in San Francisco at the time of the receivership, on March 11, 1930. The appraised value of the securities belonging to that firm and to its customers was about $2,100,000. The appraised value of the firm's securities, not including other assets, was over half a million dollars.

In the receivership 679 claims were filed, totaling in money, $1,300,000. Bank loans and repurchase securities liquidated in the receivership amounted to nearly a million dollars. That was the kind of a receivership with which the court presided over by the respondent was asked to deal.

Respondent wanted the receiver to be a man of integrity and one of ability, a receiver who would follow instructions of the court in administering truly the affairs of that particular estate.

As we progress we will show to you that this receivership was one of the outstanding receiverships in the United States, both for ability shown, for integrity displayed, for economic and speedy operation, among all the receiverships in the United States.

The creditors of the Russell-Colvin Co. entitled to preference—and I want you to pay particular attention to this—and the customers entitled to priority, received 100 cents on the dollar. The ordinary margin customers, those who signed cards giving the firm authority to deal with their securities as they would, and not entitled to priority, received 46 percent of their claims, either in cash or in securities. We will show that the claims of the general creditors of the firm, including margin customers who were relegated to the position of general creditors for a portion of their claims, amounted to over half a million dollars, of which $152,000 represented claims of general customers

not creditors, and about $352,000 represented the claims of margin customers who were relegated to the position of general creditors.

We will show that the general creditors received 28 percent of their claims, with a prospect of an additional dividend of about 12 percent. We will show that the creditors and customers of the firm had received securities and cash in an amount of about $828,000, and, for all creditors of all kinds, of every nature and character, 65 percent was paid to the customers and the people who had dealings with that particular firm.

We will show that, due to the splendid administration of this estate—remember, now, I told you that there were 679 claims filed—only 21 objections were filed to the receiver's report, either by customers or creditors, and those objections were summarily settled, either at a hearing before the court or before the referee, with the result that the administration of this estate was substantially completed without any protracted litigation on the part of any dissatisfied customers, and the work of tracing the money and the securities to which they were entitled was completed in a period of about 18 months, and we will show that there is still due to be distributed in this estate about 12 percent when the assets are finally distributed.

It will be seen, from what I have stated to you, that this Russell-Colvin matter involved careful, conscientious, and expert handling. It was a case of magnitude, dealing with numerous customers of the concern, and with a great many conflicting claims.

I say to you Senators now, is it to be wondered that Judge Louderback wanted men in charge of this estate who would honestly and freely consult with him and inform him conscientiously and truthfully of the administration of the estate as and when it progressed? Judge Louderback felt that the receiver and the attorney for the receiver should have no entangling alliances with the stock exchange of San Francisco. The testimony will disclose to you that, because Judge Louderback did divorce the administration of this estate from the hands of the stock exchange of San Francisco, its influence was such that he is now being here tried upon articles of impeachment.

It is alleged in article I, and what might be termed a subdivision thereof, is in substance as follows. I quote now almost verbatim from article I of the impeachment articles. Here it is:

> That Judge Harold Louderback did, on or about the 13th day of March, at his chambers, in his capacity as judge, willfully, tyrannically, and oppressively discharge one Addison G. Strong, whom he had formerly appointed, on the 11th day of March 1930, as equity receiver in the Russell-Colvin case, after attempting to force the said Strong to appoint one John Douglas Short as the attorney for the receiver in said case.

It is alleged immediately thereafter that Judge Louderback did attempt to cause Addison G. Strong to appoint said Short as attorney for the receiver, by promises of allowance of large fees and by threats of reduced fees if Strong refused to appoint said Short.

We have filed with the Senate a formal answer setting out in some detail our set-up, and we will show you by affirmative proof in relation to this matter and from the testimony to be adduced that—remember this, because it will be spoken of in the testimony frequently—that Thelen & Marrin, attorneys for the plaintiff in the Russell-Colvin case, De Lancey C. Smith, another attorney, and Francis C. Brown—they were the attorneys for certain defendants—requested the appointment of Strong on the 11th day of March 1930; that at that time there were present in the chambers of Judge Louderback—now mark this well—Max Thelen, his partner, Mr. Marrin, Mr. DeLancey Smith, Mr. Francis C. Brown, Lloyd Dinkelspiel, who has no relation to the firm of Dinkelspiel & Dinkelspiel, adverted to by our friend, Mr. Manager SUMNERS, but was one of the partners of the firm of attorneys known as Heller, who is dead, Ehrmann, who is alive, White, who is alive, and McAuliffe, who is alive.

They are the attorneys and have been the attorneys for the San Francisco Stock Exchange. Mark that well, because it is to be a very important matter in the consideration of the affairs of the the Russell-Colvin Co. These attorneys, as I have said, were all attorneys for the stock exchange and had been for some time. Addison Strong was auditor for the stock exchange. He was also auditor for the Russell-Colvin Co. as and when that firm was doing business.

It is true he was recommended to Judge Louderback, as we will show you, to be appointed receiver. The recommendation was concurred in by all the parties present in the judge's chamber that day—the attorney for the stock exchange, the attorney for the plaintiff, the attorney for the defendant. Two of the partners of the firm of Russell-Colvin Co., namely, Ronald Burliner and Guy Colvin, were also present at the meeting. We will show you that Judge Louderback did not personally know Strong, although he knew him by reputation as a member of the firm of Hood and Strong, but personally Judge Louderback had never met Addison G. Strong.

At the meeting while they were present Judge Louderback emphasized the proposition that Addison G. Strong, if appointed receiver, would be an officer of the court and that he must confer with the judge in the matter of the appointment of his attorney. That was said to the group there. There was no hiding about it; no going behind doors. It was said to Strong in the presence of all who were then and there assembled that in the appointment of the attorney the court must be consulted.

Lloyd Dinkelspiel was there, representing the stock exchange and representing his own firm, the attorneys for the stock exchange. Strong was asked by Judge Louderback then and there, "Have you selected any one of the attorneys present in this room or in this chamber as your attorney?" Strong said, no, that he had not done so. We will show you, from the testimony, that regardless, at the very time Strong made that statement, in fact the day before, he had already selected a man named Lloyd Ackerman to act as his attorney in the event he was selected as receiver in the Russell-Colvin case. We will show you from the deposition of Mr. Lloyd Ackerman, taken while two of the managers were out in San Francisco the other day, that when Strong stated to Judge Louderback that he had not selected an attorney in the event he was selected as the receiver he told that which was not true. At the time he had already selected Lloyd Ackerman to act as his attorney in the event that he (Strong) was appointed receiver, and Ackerman had accepted the office. That is the witness Strong, who, we are told, was such a marvelous receiver and was to be the friend of the court and that he was full of integrity.

Later Strong was appointed, and he informed Ackerman that he could not appoint him. He said the pressure—this is, in substance, what we will show you—that the pressure brought to bear upon him by the San Francisco Stock Exchange was too great; that they wanted Strong to appoint their own attorneys, the firm of Heller, Ehrmann, White & McAuliffe as the attorneys for the receiver.

Let me say here parenthetically that we will show you under a rule of the stock exchange, the seats being very valuable, that in the case of a fellow member defaulting for any debts due to another member of the stock exchange the members must receive dollar for dollar before creditors. In other words, the seats that were sold in this case, with a curb seat, were worth 2 years before March 1930 one hundred and some odd thousand dollars, but we will show you that the receiver in this case sold the two seats on the exchange for $75,000. We will show you why the stock exchange was so anxious to control the appointment not only of the receiver but to have appointed the attorney for the San Francisco Stock Exchange.

Judge Louderback relied upon the statement of Strong before he appointed him, the statement being made at the meeting at the time of his appointment. If Addison G. Strong, the receiver appointed, had told Judge Louderback at that time that he had selected Heller, Ehrmann, White,

& McAuliffe he might not have been appointed; the Russell-Colvin case would not be before you, and the fact is we would have no impeachment case here to be tried this day.

What developed thereafter in the Russell-Colvin case? Immediately when the matter was placed before Judge Louderback what happened? The first thing that was discovered was that two filings were made in the same matter with the same defendants and in the same cause of action. Two filings—for what purpose? I leave that to the Senate when the time comes. The two filings were called to the attention of Judge Louderback after he had agreed on their recommendations to appoint their selected receiver, Addison G. Strong. We will show you that immediately suspicion was aroused in respondent's mind that he had to be careful in dealing with the affairs of the Russell-Colvin Co. The filings were simultaneous, I say. In one instance the case number was 2594, assigned to Judge St. Sure, and in the other the case number was 2595, assigned to Judge Louderback. Time will not permit me to go into the details of how and when. The clerk will do that when he arrives here, as to how they assign cases to the three judges by a certain system of pooling they have in that particular district. Judge St. Sure was absent. I think he was in Sacramento. That is a place where we hold court. We hold court in Eureka; we hold court in San Francisco in that district, and we hold court in Sacramento. At different times the different judges are assigned to these various places to sit. At that time and at the time of the assignment to Judge St. Sure he was sitting in Sacramento. In the absence of Judge St. Sure, we will show by letter and by stipulation, that Judge Louderback acts for him, and during the absence of Judge Louderback Judge St. Sure acts for him. We will show that Judge Louderback said: "I cannot attend to this matter now; get in touch"—or words to that effect—"with Judge St. Sure." They said, "No; we will dismiss the action assigned to Judge St. Sure's department. You appoint our receiver as selected"; and Judge Louderback did appoint the receiver as selected.

A strange thing will develop in this case, that is, the first double filing ever had in that Federal court is the double filing had in the Russell-Colvin case. When Judge Louderback made his order appointing Addison Strong he approved the bond. The hour was late, the closing time of the clerk's office had passed. The judge sent word to the clerk, as we will show you, to do what? To hold the office open in order to accommodate the litigants. The bond was filed and the order appointing the receiver was filed.

Now I want the Senate to just bear with me, because this man comes 3,000 miles from San Francisco; witnesses cannot all be brought here with reference to the matter, and it is important for us now, the only time we have to meet and face this accusation, to have the attention to some of the matters that will be brought out here; and I ask your indulgence and your patience to bear with me while I relate what took place at that time.

Before Strong left Judge Louderback's chambers, upon the afternoon of the 11th of March 1930, he turned to Strong and he said to Strong, in words and substance to this effect, "I want to talk to you when you qualify; I will wait for you in the chambers; come back to see me; I want to talk to you."

I will tell you what then took place and what we expect to show. Strong promised to return. The clerk's office is a distance of less than from the end of the Senate Chamber to the other end over here [indicating]—I would say a distance of about 50 or 75 or 80 feet away from the judge's chambers. The hour was about 5:30 or 5:35. The judge waited for Strong. Did Strong return? Oh, no. What did Strong do? All practitioners of the law in San Francisco, those who do not golf too early, try to leave their offices at about 5 or 5:15. But Strong immediately on his way down, as if the guiding hand of the stock exchange was waiting for him, moved to Montgomery and Market Streets and entered the Wells, Fargo Building. There in the great suite of offices was the lone man, Florence McAuliffe, waiting to receive him. Strong stayed with him for an hour or more, and when he left him the firm of Heller, Ehrmann, White & McAuliffe, the attorneys for the stock exchange, was selected. A telephone message then went on to Lloyd Ackerman, "We do not need you Lloyd; we have already taken the attorney for the stock exchange."

That is the picture we will show you of what took place in San Francisco in March of 1930. Then what took place?

Strong got very busy—I say Strong in the interest of time—in the morning about 9:30 and immediately came to Judge Louderback's chamber full of excuses and full of apologies for not having been there the night before. The conversation then drifted to what he had done. The judge told him that he had waited for him, that there was a matter he wished to talk to him about, and that was the matter of an attorney. Then he said to the judge that he had employed the firm of Heller, Ehrmann, White & McAuliffe as his attorneys—the attorneys for the stock exchange. The judge said to him in substance "That is the very thing that I feared would take place." Then the judge told him to think it over. We have some very eminent firms of lawyers in that city, the present speaker and his associate not included. We have the firm of Sullivan, Sullivan, and Theodore Roche, at that time, but now one of your own Members in it, Senator JOHNSON. We have Pillsbury, Madison & Sutro. We have Cushing & Cushing, very eminent lawyers. They were there practicing law. The judge named several firms and went down the line to name a number of firms from among whom he might select one as his counsel. But Strong said, "Heller, Ehrmann, White & McAuliffe" first, last, and all the time. That is not his exact language, but in substance and effect "I stand by them." The judge told him that he would not take the firm, that he wanted to get away from the stock exchange in the receivership, that it was too close in the family. He gave his reason, not any personal reason against the members of the firm, but that the association was too close and that he wanted the estate handled in an open, free way, as we will show you.

Strong refused to recede from his position. It was no one except that firm. He was defiant to the judge in his request. The judge asked him at the time if he had signed any request for the appointment. He said, "Not yet"; but he did cause a signed petition to be presented to the judge requesting the appointment of the firm of Heller, Ehrmann, White & McAuliffe, attorneys for the stock exchange. Mr. Jerome White may be a witness here and will probably so testify.

Immediately Judge Louderback called into consultation the attorneys for the parties. He told them in substance that it was probably incumbent upon him to remove Addison G. Strong as receiver unless Strong resigned; that he had lost confidence in Strong by reason of his conduct. Would you if you were a judge? Judge Louderback stated that he had seriously contemplated the removal of Strong and the appointment of H. B. Hunter as receiver. He requested then and there of those attorneys that they go out and find the qualifications of H. B. Hunter and report to him their findings upon that subject matter. "Is he a fit and proper man?" he asked them. "Go and look him up, because the conduct of this man Strong is such that I feel that I cannot go along with him because of the defiant attitude he is assuming toward the court."

He finally determined there was no other course for a courageous, just, and decent man to take but to remove Strong; and he did remove Strong.

It will also be shown that Judge Louderback said to the attorneys at this time—mark this—that it would be entirely agreeable to him to dismiss the proceedings, thereby getting rid of the entire matter. We will also show that before he appointed Hunter he caused his secretary to telephone the attorneys for the parties asking what their investigation disclosed, and the word came back that the same was favorable and that Hunter was a competent man.

The evidence will show that on the 13th of March, 1930, Judge Louderback vacated and set aside his order appointing Strong as receiver and that the same was filed; that there was no arbitrariness involved, but that there was no other course left for a decent, courageous man to

pursue because Strong was so defiant in his attitude as an officer of the court, and because, as we will show you, a receiver is an officer of the court, and the judge did the only thing, the human thing, the right thing, and that was to dismiss him and remove him.

We will further show to you that there is a standing general rule of that court, known as rule 53, which in part reads as follows:

> Receivers shall employ counsel only after obtaining an order of the court therefor.

We will show you that this rule at that time and prior thereto had been construed by the court and by the judges thereof to mean that counsel should be satisfactory and acceptable to the judge of said court.

Subdivision 1, article I, of the articles of impeachment alleges that respondent—I shall follow this as closely as the language will give me permission without reading it verbatim—willfully, tyrannically, and oppressively discharged Addison G. Strong as receiver. We will disprove this allegation. We will prove that Judge Louderback had the right at any time to remove his own officer as receiver in that case or any other receiver who was an officer of that court.

It will be established by the testimony of witnesses that Judge Louderback, the respondent, did not force or coerce Strong to appoint John Douglas Short as attorney, but that he suggested to him different attorneys of eminence and standing in the community for Strong to select from among them, but that the course of conduct of Strong and his defiance of the court made it necessary for the respondent at that time to remove Strong.

In subdivision 2 of article I it is charged that the respondent improperly used his office and his power as district judge in his own personal interest by causing the appointment of John D. Short as attorney for H. B. Hunter. It is stated that this was done at the instance and at the suggestion and at the demand of the gentleman whom the managers have so thoroughly played up here, Mr. W. S. Leake; that the judge was under personal obligations to W. S. Leake; that they had entered into an alleged conspiracy, the articles charge, wherein Leake was to provide Judge Louderback with a room at the Fairmont Hotel, and made arrangements for registering it in Leake's name and paying all bills in cash under an agreement with Leake; that Leake was to be reimbursed in full or in part, in order that the respondent might continue to actually reside in San Francisco, after having improperly and unlawfully established a fictitious residence in Contra Costa County for the sole purpose of removing for trial to said Contra Costa County the cause of action which the respondent expected to be filed against him. This is quoting in almost exact language subdivision 2 of article I.

It is further charged in said subdivision that said Attorney Short did receive large and exorbitant fees for his services as attorney for the receiver in the Russell-Colvin matter, and that W. S. Leake did receive certain fees, gratuities, and loans directly or indirectly from said Short amounting to approximately $1,200.

We will show you in this matter by evidence that the receiver, H. B. Hunter, appointed by Judge Louderback after the removal of Addison G. Strong, was at the time of his appointment by respondent connected with the firm of William Cavalier & Co., a company doing a general stock brokerage and banking business in San Francisco and thoroughly competent to act as receiver, and that H. B. Hunter was at that time and is now for all purposes one of the most competent receivers that possibly could be appointed in any jurisdiction of the United States.

The evidence will show that Hunter, after his appointment and qualification as receiver, petitioned for the appointment of the firm of Keyes & Erskine and John Douglas Short as his attorneys. Keyes & Erskine had been for a great many years one of the principal firms of attorneys handling at that time and now some of the biggest cases for the Bank of Italy, now the Bank of America, in the State of California; that a former member of that firm, Keyes, was for years president of the Humboldt Savings Bank and was the attorney for the Humboldt Savings Bank, with hundreds of millions of dollars of the people's money, when it merged with the Bank of America; that this firm was one of the outstanding firms in San Francisco, and that Short was connected with this firm; that it was this firm and Short who were selected as attorneys for H. B. Hunter; that the same was done upon petition, and the judge approved the petition.

We will show that Short, mentioned in subdivision 2, was not appointed at the suggestion of Leake; that Louderback, the judge, was not under any obligation to Leake; that Leake was his friend, but that is all.

We will show you that the appointment of this attorney was approved by the court, and that the conduct of the receivership and the results obtained more than justified Judge Louderback's good judgment in confirming the appointment and selection of H. B. Hunter, and in confirming the appointment of his attorneys.

It will be shown from the testimony that the receivership, as I stated in the beginning, was an outstanding receivership. It was handled economically, intelligently, effectively, and expeditiously. The results achieved for the benefit of both the creditors and the customers of that company were most gratifying. It will be shown from the evidence that Leake for more than 20 years resided at the Fairmont Hotel; that he resided there with his wife until she died in November of 1931; that Hathaway resided there at the Fairmont for a great number of years—I have forgotten the number; I think 12 years—and that his wife resided there; that he had been for many years, and at the present time is, the resident manager in the northern district of California of the Mutual Life Insurance Co. of the State of New York, a man of eminent standing, and a man of integrity.

Hathaway and Leake had been intimate friends from their boyhood—from the early eighties. At one time they were both residents of the city of Sacramento in our State. At one time Mr. Leake was the postmaster in that city, during one of the terms of the Cleveland administration. It will be shown that Leake is a man of prominence in the State; that at one time he was the editor of the San Francisco Call when it was run by what are known as the Spreckels interests. For more than 20 years last past he has been a metaphysical student. Call it what the managers will; I care not, be he a Christian Scientist, a New Thoughtist, or what. It will be shown that due to the continuous illness of Mrs. Leake during the period of 2 years prior to her death Mr. and Mrs. Leake became embarrassed, and that while Mrs. Leake was suffering her last illness Leake borrowed from Hathaway the sum of $1,000. This is part of the alleged amount that is stated in article I, in which Short was supposed to have given some of his fee to Leake in the way that is alleged in the article.

What is the fact about the matter, as we will show you? Leake borrowed from Hathaway $1,000. The loan was made possible because of the fact that Mr. and Mrs. Hathaway borrowed upon a life-insurance policy in Mr. Hathaway's own company, and $1,000 was made payable to Mr. and Mrs. Hathaway. Being the beneficiary under the clause, they insisted upon her signing it, and she signed the note to the insurance company and the application, and the check was made out by the insurance company. We will produce the check in evidence here, showing you the borrowers on the insurance policy, and give you the number thereof. We will show that the check was made payable to both of them; that they cashed this check for $1,000, and gave the cash to Sam Leake, or W. S. Leake, familiarly called "Sam" by those who know him.

We will show you that Sam Leake paid interest upon this $1,000 loan for 1 year up to April of 1932; that Mr. Hathaway and his wife made this loan to Leake because they were friendly, and because there was a great affection between the families one for the other, and they knew Leake's financial embarrassment. His wife had been dying for a period of 2 years.

It will be shown from the evidence introduced that son-in-law Short—that is, John Douglas Short—never knew a thing about the borrowing of the money by Leake from Hathaway, his father-in-law; and that the respondent, Judge Louderback, never heard of the situation until the proceedings were brought and the special investigation had in San Francisco. Then, for the first time, and the first time only, did Judge Louderback, the respondent, ever know that Leake had borrowed any money from any one, let alone Hathaway, because their intimacy was not of such a kind that they discussed the borrowing of money one from the other, or with others.

The testimony of Mr. Hathaway which was taken while the managers were in San Francisco in September last has been stipulated now to be read because of his illness. He had a partial stroke and was confined to his bed, and Mr. Manager PERKINS and the others saw him when they were there. That testimony will be read in accordance with the stipulation. A statement of what Mrs. Hathaway would testify to has been added to the stipulation, coupled with the application and the note, and so forth, that transpired between these two people. Mrs. Hathaway, attending to her ill husband, refused to come here unless forced by the Senate to desert him in his illness, and the managers have agreed to take, in lieu thereof, her statement as sworn testimony, as if it were given under oath in this particular case.

There was no thought of loaning Mr. Leake any money out of the fees that were allowed John Douglas Short in the Russell-Colvin receivership. We will show you that no one knew of the loan from Hathaway to Leake except Leake, Hathaway, and Mrs. Hathaway. It will be shown further from the testimony that when Mr. Leake needed more money at a subsequent time, Hathaway gave Leake $250. I do not know whether he considered it a loan or not, but my memory of the testimony that will be read to you is that he considered that he could not go away upon a trip feeling that his old friend Sam was there in need, or probably in distress, and that he let him have $250. That is the type and kind of a man that Hathaway is—the resident manager of the Mutual Life Insurance Co. of New York, whose testimony will be read to the Senate in this particular case.

We will show you that the fees of Short and Keyes & Erskine as attorneys in the Russell-Colvin case had not anything to do, of any kind or character, with a loan made by Hathaway to Leake; and we will thoroughly disprove the allegation that the $500 alleged in article I, either directly or indirectly, or at all, came from Douglas Short's portion of the fee, or any part of it.

I want the Senate now to bear with me upon a proposition that will come to its attention with reference to this alleged exorbitant fee, as stated by the managers. In that connection I will say that we are going to show you that John Douglas Short and the firm of Keyes & Erskine did not receive any large or exorbitant fee for their services in the Russell-Colvin case as attorneys for the receiver. How are we going to do that? I will tell you how.

We are going to show the Senate, upon the question of fee, that parts of 3 days were spent in that proceeding; that the hearing was upon application for the allowance of compensation to the 3 attorneys, the 2 Erskine brothers, and John Douglas Short for services rendered to the receiver; that a hearing was had, noticed in open court, upon that proposition. I will show you that a hearing took place upon March 14, 1916, and a day that some will remember, the 17th day of March 1931, in San Francisco, upon the question of fee; that there were present in court a great number of the creditors; that all of the attorneys representing the different parties were there; that there was a contest as to the amount of the fee. They had asked for the sum of $65,000. A hearing was had, and witnesses were examined, and upon that full hearing the court awarded the fees; but before I come to what he awarded I am going to tell you the proof upon which he awarded the fees.

Upon the hearing there was introduced the testimony of three outstanding attorneys at the bar of San Francisco, John L. McNab, Albert Rosenshine, and Henry A. Jacobs. These three attorneys testified that, in their opinion, the services rendered by the attorneys in the Russell-Colvin case were worth somewhere between $55,000 and $75,000.

One of the attorneys, John L. McNab, stated that, in his opinion, $75,000 was a fair fee for the services rendered. McNab is a man of standing in our community. He is a well-known attorney in both State and Federal practice. At one time he was United States district attorney for the Northern District of California—the same position as that to which you confirmed, the other day, H. H. McPike. He is quite an eminent man in national affairs. He nominated one of the Presidents of these United States. His honor and his integrity have never been questioned. He testified, after cross-examination by eminent counsel, that the reasonable value of those services was the sum of $75,000.

Albert Rosenshine, who testified as to the value of the services, is an attorney of integrity and distinction in California. He has handled large affairs for very wealthy clients, and he is well known in our State. For many terms he was a member of the Legislature of the State of California. He has been the attorney for the banking superintendent of that State. At the present time he is handling a similar affair for another stock-brokerage concern known as the Gorman-Keyser receivership. Rosenshine was eminently qualified to give his opinion as to the value of the services rendered by Keyes & Erskine and John Douglas Short, and we will show you that he testified that in his opinion their services were worth $65,000.

Mr. Henry A. Jacobs is a prominent member of our bar, a lawyer of eminence, standing, and integrity. He is a member of the firm of Jacobs, Blanckenberg & May, who engage particularly in what is known as the commercial-law business, and is thoroughly familiar with the type of services rendered in the Russell-Colvin estate; and he, Jacobs, fixed the sum at $55,000.

The receiver and the attorneys for the receiver gave to the court a set-up of their services, and testified as to the value of their services, and requested the court to fix a reasonable fee for them for the services rendered.

I want the Senate to mark this well. On March 17, after one adjournment of the matter, a consultation was had between the attorneys with reference to the fee. Those who had filed objections to the amount requested, and one of the attorneys who was carrying on the examination of the witnesses in reference to the value of their services, made a statement in open court. I am going to read to you as to what we are going to show about the extravagant fees which were alleged to have been given in this particular receivership. This is the statement of the counsel leading the objectors:

> We are ready to proceed, if it please the court. During the morning and noon, counsel on the other side and myself have been in conference for the purpose of arriving, if we possibly may, at a settlement of this application. We have come to the conclusion that if the court would ratify the settlement of the various other creditors heard in court, and if the creditors will be satisfied, that the court allow Mr. Hunter the sum of $20,000 for services rendered in addition to what he had received (meaning $1,000 a month he had received up to that time), and to Messrs. Keyes & Erskine and Short the sum of $46,250. All of this will be without prejudice to the rights of the receiver and the attorneys to apply in the future in the ordinary course of business and under normal conditions for compensation for services to be rendered from this date on. We have also felt that the sum of $8,750 would be a reasonable and adequate compensation to be allowed for the attorneys for the plaintiff and the attorneys for the defendant, in such sum and such proportion as they may see fit to divide among themselves. I feel confident there are some very serious questions involved as to the right of the attorneys for the plaintiff and especially the attorneys for the defendant to come into court and ask for compensation.

Mr. ASHURST. Mr. President, I desire to offer a resolution at this point.

The VICE PRESIDENT. Will counsel suspend for that purpose?

Mr. HANLEY. Certainly.

Mr. ASHURST. I send forward a resolution, which I ask to have agreed to. It is necessary to have the resolution agreed to at this time.

The VICE PRESIDENT. The clerk will read the resolution.

The legislative clerk read as follows:

*Ordered*, That during the trial of the impeachment of Harold Louderback, United States district judge for the Northern District of California, the Vice President, in the absence of the President pro tempore, shall have the right to name in open Senate, sitting for said trial, a Senator to perform the duties of the Chair.

The President pro tempore shall likewise have the right to name in open Senate, sitting for said trial, or, if absent, in writing, a Senator to perform the duties of the Chair; but such substitution in the case of either the Vice President or the President pro tempore shall not extend beyond an adjournment or recess, except by unanimous consent.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the order will be entered.

The Chair takes the privilege of appointing the senior Senator from New Mexico [Mr. BRATTON] to preside for the balance of the day.

(Thereupon Mr. BRATTON took the chair.)

The PRESIDING OFFICER. Counsel will proceed.

Mr. HANLEY. The statement of counsel from which I was quoting proceeded as follows:

However, I feel confident also and I am certain that they have rendered service for the benefit of this estate in this case, and with that point in view, I certainly am not going to contest their receiving a reasonable allowance. From that I conclude the arrangement is satisfactory to everybody, but I do feel that the sum of $8,750 is reasonable under all the facts of the case, and I also, without prejudice to their right to go into court in the future, if they see fit, and to ask for reasonable compensation for services which they will render in the future.

That is the end of the statement of counsel asking the allowance. Then followed a discussion between the attorneys, whereupon Judge Louderback said, and I quote the language used:

This arrangement is within the scope of what I think proper, although I will be frank with you gentlemen and say that it is not what I would have made it if this matter were pressed—its present form—I am satisfied with it, if everyone else is, and apparently everyone else is satisfied—it being within the range of a proper fee. I think it is satisfactory to the court to accept that, and without proceeding further, then, with the hearing, in view of the fact that everybody is apparently satisfied, or has shown no objection to this matter, or no objection has been offered by anyone who has been participating in this hearing, I will allow the sums mentioned, $20,000 to Mr. Hunter in addition to the money he has already received in monthly payment; I will allow $46,250 to the attorneys John Douglas Short and Erskine & Erskine, and I will allow the plaintiff's attorneys and the defendant's attorneys the sum of $8,750, and I presume everybody present signifies his acceptance of that arrangement and all join in its approval. I see Mr. Thelen and I believe Mr. Brown is here. Are you satisfied with what has been done?

Mr. Smith replied, "Yes, sir."

The Court then said:

And I presume these arrangements are satisfactory to both of you gentlemen.

Mr. Smith said, "Yes, sir."

Judge Louderback then said, in substance:

I think you gentlemen ought to feel yourselves thanked in this proceeding for handling this matter in the way that you have. You certainly have undertaken a great deal of work in verifying all of these various petitions.

I interrupt to say that over 300 petitions were filed, some very lengthy, requiring a great deal of care, labor, and intelligence in their preparation. All of those were, by order of court, always O.K'd by Thelen & Marrin and by Brown and DeLancey Smith, and when the judge was speaking of the various petitions, he referred to the O.K. that had been placed upon them by the attorneys representing the parties. I continue quoting in substance from what the judge said on that occasion:

You certainly have undertaken a great deal of work in verifying all of these various petitions, and satisfying yourselves that the interests of yourselves and your clients are being protected. I was given your names on the various petitions as they have gone through, and I thought it was very splendid, and such a close check was made by all the parties to see what was done was done properly, and I approve of it, and I presume you did, or you would not have allowed it to be done as it was.

That is the extravagant fee we are alleged to have given to these attorneys. This is the proof we will offer to show that it was a stipulated fee, after a 3-day hearing in open court; yet you are asked to find Judge Louderback guilty because he allowed extravagant and exorbitant fees to the attorneys who stipulated to the genuineness and to the faithfulness of the services rendered.

It will be seen from what I have just stated as to what took place in open court on the 17th of March that the fee allowed for the receiver and the fee for the attorneys were stipulated to by all of the parties, and by the creditors, in open court, after the testimony of expert witnesses who were called to aid the court in fixing the fee for the receiver and the fee for the attorney for the receiver. They were and are reasonable fees, fixed by the respondent, as we will show you in this case.

The attorneys for the receiver gave more than a year of their entire time to the receivership. Their intelligence and knowledge effected great saving to the estate. Litigation was avoided. There were 659 claims against this estate, every one of them a potential lawsuit. Instead of it being necessary to refer the six hundred-odd claims to a master to settle them, the attorney and the receiver, really acting as masters themselves, were successful in settling all but 21 of these particular claims.

It is alleged in the concluding subdivision of article I of the articles of impeachment as follows:

That Judge Louderback entered into a conspiracy to violate the provisions of the Political Code of the State of California to establish a residence in Contra Costa County, when Judge Louderback in fact did not reside in the county, and could not have established a residence without concealment of his actual residence in the county of San Francisco, covered and concealed by means of his said conspiracy with said W. S. Leake, all in violation of the law of the State of California.

Then the article goes on and, in substance, charges this:

That to give color to his fictitious residence in Contra Costa County, all for the purpose of preparing and falsely creating proof necessary to establish himself as a resident of Contra Costa County in anticipation of an action he expected to be brought against him, for the sole purpose of meeting the requirements of the Code of Civil Procedure of the State of California, providing that all causes of action must be tried in the county in which the defendant resides at the commencement of the action, and did in accordance with the conspiracy entered into with W. S. Leake, unlawfully register as a voter in said Contra Costa County, when in law and fact he did not reside in said county, and could not so register, and the said acts of said Harold Louderback—

Mark this—

and the said acts of said Harold Louderback constituted a felony as defined by section 42 of the Penal Code of California.

Senators, judges, and jurors, we are going to show you that Leake had been a friend of Judge Louderback; that Leake was a resident of the Fairmont Hotel, and that the respondent here, due to unhappy differences which existed between himself and his wife, on the 21st day of September 1929 separated from his wife; that he obtained a room in the Fairmont Hotel, and that said room was registered in the name of Leake. Arrangements were made with respondent that he was to pay monthly to the hotel through W. S. Leake the amount of the hotel charges for the room, and also any expenses incident to the judge's staying there, such as tailor's bills, barber's bills, meals, and so forth.

In September 1929 Mr. Leake's wife was very ill, and occasionally Mr. Leake, in order to obtain rest, had to take other rooms, because of two trained nurses who were with Mrs. Leake during that period. He had to get other rooms in the hotel in which to sleep. One of the rooms that was formerly occupied by Mr. Leake was a room Judge Louderback took over as his temporary abode. Judge Louderback consulted with his friend Leake, and he told Mr. Leake that he did not know whether the separation was going to be a temporary one or a permanent one. We will show you that the judge, being a Federal judge, was careful about having it notorious in San Francisco that he and his wife had separated; he wanted to keep that matter out of the daily press, although he did not succeed, because it got in the daily

press as early as February 1930, and it contained the very idea that has been stated here.

When Leake heard these statements from the respondent he made arrangements with the hotel management for Judge Louderback to stay at the hotel. We will show that every bill contracted at the hotel by respondent was paid by the respondent to Leake. This was either by check or cash. In turn, Leake paid the Fairmont Hotel. The room number was 26, and the Senate will hear of it many times. The canceled checks made to Leake for this room, which we have, we will present to the Senate and allow the Senate to see those checks.

The respondent openly was about the hotel. He had his meals there, he signed the tags that were charged to the room, and he did everything open and aboveboard. There was no concealment of the fact that he was at the hotel, though he was not registered at the hotel.

It will be shown that in September 1929 Judge Louderback, the respondent, had no intention of any kind or character of making his residence in Contra Costa County. It was not until April 1930 that he concluded to make his residence in Contra Costa County. Respondent will show that in the month of April 1930, and that for some years prior thereto, his brother, George D. Louderback—he is the professor to whom I referred in the beginning—and his wife resided at 107 Ardmore Road in the Kensington district of Contra Costa County, which is a little division there about 100 yards in the Berkeley Hills, the county of Alameda stopping at that point and Contra Costa County being the adjoining county. Judge Louderback's brother resided at that place. We will show you that it is about 40 minutes' ride from San Francisco. People commute all the time down the peninsula and across the bay, and it is within commuting distance from the business section of San Francisco.

We will show that in the month of April 1930, with the consent of his brother, Prof. George D. Louderback, and his wife, the respondent determined to make his home with his brother, and he carried out his intention so to do, and that on the 17th of April 1930 he removed nearly all his personal effects, his trunk, and his clothing, and so forth, to a room in the home of his brother, and the room was given to him by his brother to be used by him and for his benefit. Judge Louderback left in his room at the Fairmont Hotel only such articles of clothing as he might need while stopping temporarily at the hotel.

Judge Louderback in evidencing his intention to reside at his brother's home and become a resident of Contra Costa County did on or about the 17th of April 1930 cancel his voting registration in the city and county of San Francisco; and on the 18th of April 1930—the 18th of April is quite an official day with us out there and we can remember it—on April 18, 1930, he registered in the little town of Martinez as a voter in the county of Contra Costa and has voted there ever since. He was actually living and residing there, and this was his home; it was his place of residence.

Respondent will show that in moving to Contra Costa County and registering as a voter therein he acted then with the bona fide intention of abandoning San Francisco as his place of residence and making his home and his residence at the home of his brother in Contra Costa County; that the residence of his brother was the only residence Judge Louderback has had from about the middle of April 1930 up to and including the present time; that it was and is his bona fide residence; that he has no other residence.

Respondent will show that when he was a young man he was a student at the Nevada University and that he lived with his brother, who was then a professor at that institution prior to the time when he was appointed to the institution in California. We will show this from the testimony of his brother, George Louderback, the professor to whom I have adverted. We will show you that George D. Louderback is a man of standing and dean of the College of Letters and Science at the University of the State of California.

It will be shown that the civil code of procedure, or the code of civil procedure, as we call it, does not provide that all cases must be tried in the county where the defendant resides at the time of the commencement of the action. It is only a matter that the defendant can take advantage of if he will. It can be tried in any county.

Respondent states that when the testimony shall be adduced, covering all the charges set forth in article I of the impeachment articles, it will be shown there never was any act of Judge Louderback, as stated in article I, that amounts to misbehavior, misconduct, crime, high or low, felony, or misdemeanor, or any other of the matters that are contemplated as high crimes or misdemeanors under the Constitution of the United States of America.

I now turn to another matter. In the interest of having the Senate know that we are not in any way stopping this investigation, that we are now at the beginning, stating it fully, we tell you what we are going to prove in each article as they present themselves categorically and sequentially, I, II, III, IV, and V. I now come to what is known as the "Lumbermen's Reciprocal Association case", which is covered by the second article of impeachment. It is charged in the first part of article II that the respondent was guilty of a course of improper and unlawful conduct as a judge, filled with partiality and favoritism in improperly granting excessive, exorbitant, and unreasonable allowances and disbursements to one Marshall B. Woodworth and to one Samuel M. Shortridge, Jr., as receiver and attorney, respectively, in the case. I might state here that the learned managers have misstated the situation. It is stated that Marshall B. Woodworth was the receiver. He was only the attorney. In the article as drawn Marshall B. Woodworth is named three times as the receiver instead of the attorney.

It is charged in the second paragraph of said article II that respondent improperly acquired jurisdiction of the case contrary to the law of the United States and the rules of the court; that on the 29th day of July 1930 he appointed Woodworth and Shortridge receiver and attorney in said case; that after appeal had been taken from the order and other acts of respondent to the United States Circuit Court of Appeals, Ninth Circuit, the said court set aside the order and acts of respondent, which were reversed by that court, that after the mandate of the court directing respondent to turn over the assets of the associations in his possession to the insurance commissioner of California it is alleged that the respondent unlawfully and improperly and oppressively did sign an order directing the receiver to turn over said assets to the insurance commissioner but improperly and unlawfully made said order conditional that the insurance commissioner or any party in interest would not take an appeal from the allowance of fees and disbursements granted by respondent to said Woodworth and Shortridge, thereby improperly using his office as a judge to favor and enrich his personal and political friends and associates, to the detriment and to the loss of the said insurance commissioner and parties in interest in said action, causing unnecessary delay, and, it is alleged, forcing the State insurance commissioner to unnecessary delay and expense in protecting the rights of all the parties against such arbitrary, improper, and unlawful order of the respondent.

Then the article goes on to allege that the respondent did improperly and unlawfully seek to coerce the insurance commissioner and the parties in interest to accept and acquiesce in the excessive fees and exorbitant and unreasonable disbursements which were granted by the respondent to the said Woodworth and the said Shortridge, receiver and attorney, respectively.

It is further alleged that respondent did unlawfully and improperly force and coerce the parties to enter into a stipulation modifying said improper and unlawful order.

It is further alleged that the respondent did make it necessary for the insurance commissioner to take another appeal from said arbitrary, improper, and unlawful action of the respondent.

It is further alleged in article II that the respondent did not give fair and impartial and judicial consideration to the objections of the insurance commissioner against the allow-

ance of excessive fees and unreasonable disbursements. Then, it is alleged, that it was all done to enrich his friends and at the expense of litigants, and then that the respondent did cause said insurance commissioner and the parties in interest additional delay and expense and labor and taking an appeal to the United States Circuit Court of Appeals in order to protect their rights. It is then alleged that, by reason of his alleged misconduct, respondent was guilty of a misdemeanor in office. That is the charge part of the second article of impeachment.

We will show you in that connection the following: That on the 29th day of July 1930 a verified bill of complaint was filed in the office of the clerk of the court for the northern district, the southern division, by Helen Lay, who was plaintiff, against the Lumbermen's Reciprocal Association, defendant; that the complaint was signed by Reisner & Deming, attorneys for the plaintiff; that an application was made for the appointment of a receiver for the Lumbermen's Reciprocal Association. The testimony will show that Bronson, Bronson & Slaven were the attorneys for the defendant; that the attorneys representing both parties requested in writing the appointment of a receiver; that both parties signed a written application requesting the appointment of Samuel M. Shortridge, Jr., as receiver; that thereafter Samuel M. Shortridge, Jr., qualified as receiver and thereafter he petitioned the court for the appointment of Marshall B. Woodworth as his attorney, and the petition was granted; and that they entered upon the discharge of their duties.

The receivership in this matter was for an insurance company that was incorporated under the laws of the State of Texas, from which comes our learned friend who made the opening statement on behalf of the managers. It had an office in the city and county of San Francisco, State of California. The plaintiff had a judgment against this insurance company and was fearful that all its funds in California would be removed and impounded in the State of Texas, thereby lessening the chances of the plaintiff to collect her judgment. Suit was brought to hold the funds in the jurisdiction of California for the benefit of the corporation and the creditors in California.

We will show that, due to the state of the law in California, the insurance commissioner of California was unable to take action in this State, that is in California, until a receiver was appointed in the State of Texas. It will be shown that if the insurance commissioner of California was compelled to wait until the action was taken in the State of Texas it might be too late; and therefore the suit was brought in the Federal court of our district.

It will be shown that Judge Louderback, the respondent, had no means of knowing that a petition would be filed in the matter; nor did he know nor was he informed, until after the filing of the suit, that the appointment of Samuel M. Shortridge, Jr., would be requested by both parties to act as receiver in the case; that on the 6th day of August 1930 the defendant, in the action by its attorneys, the same ones, filed an answer and they admitted all allegations contained in the complaint; that in the said answer no attack was made upon the jurisdiction of the court presided over by the respondent to entertain the bill of complaint or to grant the relief prayed for.

The evidence will show that Roy Bronson, one of the attorneys for the Lumberman's Reciprocal Association, advised with the Industrial Accident Committee of the State of California, and succeeded in having an award made in favor of Helen Lay, the plaintiff in this action. The award was for $5,000. This gave a jurisdictional amount for the plaintiff, Helen Lay, enabling her to bring the action she brought in the Federal court against the Lumberman's Reciprocal Association. We will show you that the complaint in the equity proceeding in which Reisner & Deming appeared for the plaintiff, was prepared from data furnished by Bronson, Bronson & Slaven, and that Mr. J. T. Reisner accompanied Mr. T. J. Slaven and conferred with respondent at the time the receiver was appointed.

It will be developed from the evidence that the award of $5,000 to the plaintiff Helen Lay by the Industrial Accident Commission was set aside after the filing of the equity suit by the plaintiff, Helen Lay. Frank L. Guerena, the attorney for the insurance commissioner of California, appeared for the employer of the deceased husband of Helen Lay, the plaintiff in the equity suit, and asked for a rehearing of the award made by the Industrial Accident Commission, and ex parte had the first award set aside. This was for the purpose of aiding the insurance commissioner of California to gain jurisdiction of this case after the Federal court had already appointed a receiver, at the request and with the consent of the plaintiff and defendant, and after the defendant had fully answered and admitted the allegations of the bill of complaint filed by the plaintiff, Helen Lay. This will be shown from the records and files in the action of *Helen Lay* v. *Lumberman's Reciprocal Association.*

It will be shown that an order to show cause to set aside the appointment of Samuel M. Shortridge, Jr., as receiver in said matter was issued at the request of the insurance commissioner of California and that a hearing was had thereon. Respondent denied said order to show cause. The respondent at no time, until the decision was rendered by the United States Circuit Court of Appeals, entertained any doubt of the jurisdiction of his court to proceed and pass upon the various matters that arose in said action. Respondent's conduct in this regard was not filled with partiality and favoritism, or favoritism in any way, as alleged in article II of the impeachment articles.

It will be shown that on the 1st of December 1930 there was filed in the office of the clerk of the court an order fixing and allowing compensation to the receiver and his counsel, in the sum of $3,000 each for services rendered, covering a period from the 29th day of July 1930 to the 30th day of November 1930. The allowance was made by respondent upon a detailed statement of the services rendered by the receiver and his attorney and upon written stipulation of Reisner & Deming, the attorneys for plaintiff, and Bronson, Bronson & Slaven, the attorneys for the defendant. We will introduce said stipulation in evidence. In substance it provides as follows:

> The compensation for the services of the receiver for the above period of time from July 29, 1930, to and including November 30, 1930, in the sum of $3,000 is a proper and reasonable sum for the services rendered, and that the compensation for the legal services of the attorney for the receiver for the above period of time in the sum of $3,000 is a proper and reasonable sum for the legal services rendered by such attorney.

We will show that thereafter, about the 23d day of April 1931, respondent made a further order allowing said receiver and his attorney an additional sum of $3,000 each as compensation for services rendered by them, covering a period from December 1, 1930, to and including the 31st day of March 1931. This order was likewise based upon the written stipulation of the attorneys for the plaintiff and defendant that the same was a reasonable amount to be charged. We will introduce this stipulation in evidence, showing that the court in both instances acted not alone in the exercise of his own judgment but also upon the judgment and consent of the parties to the action. It will appear that no objection was made by anyone to the allowance of the fees to the receiver and his attorney until the hearing of the fourth and final account of the receiver, which was settled on the 15th day of December 1931.

Respondent never, at any time or at all, intended to, or did, in his opinion, grant excessive, exorbitant, and unreasonable allowances as disbursements to the attorney for the receiver or to the receiver in said matter. It is true that after the fourth and final account of receiver was settled, another appeal was taken to the circuit court of appeals for the ninth district from the order settling the fourth and final account and approving the fees heretofore allowed, as well as the disbursements of the receiver and his attorney. We shall show that the order of December 15, 1931, was made under the conditions set forth in our answer, and not otherwise.

We will show that it is not true that respondent improperly used his office as a district judge to favor and enrich his personal and political friends and associates to the detriment and loss of litigants in respondent's court; and, further, it is not true that he was forcing the insurance commissioners of California and the parties in interest to unnecessary delay, labor, and expense in the action. It is not true that all this was done in an arbitrary, improper, and in an unlawful manner. The evidence will show that when the order of December 15, 1931, was prepared by Marshall B. Woodworth, who presented the same to Frank L. Guerena, the attorney for the insurance commissioner for the State of California, the attorneys discussed said proposed order and also the meaning of the proviso therein. By the way, Marshall B. Woodworth was a candidate for district judge at one time, secretary to the late Judge Morrow, who was for many years a Member of Congress, for many years a district judge, and many years on the court of appeals. Marshall Woodworth was a candidate for office against Judge Louderback at the time the judge was appointed. He was attorney in this particular case, a man of standing in our community, former United States district attorney, stepping up the ladder rung by rung until he reached some eminence in his profession.

As explained by Mr. Woodworth to Mr. Guerena, the purpose of the proviso was to obtain a bond to insure the receiver that no liability would be incurred by him in surrendering assets to the insurance commissioner. A discussion was had between the attorneys as to the amount of the bond. They could not agree upon the amount and, therefore, the proviso was left in the order and presented to the respondent for signature. When the order was presented to the respondent by Marshall B. Woodworth, respondent inquired of said Woodworth what he understood to be the meaning of said proviso. Mr. Woodworth explained to the court the discussion and talk he had had with Attorney Guerena with relation thereto. Respondent then signed said order, knowing at the time that he had a right under the terms of the order to modify the same.

Respondent within a few days after he signed the order sent for Marshall B. Woodworth, the attorney for the receiver, and stated to him, in substance, that, on mature reflection, he was satisfied that the proviso in the order of December 15 was erroneous, and that he desired to modify said order by striking out the proviso provision and that, inasmuch as an appeal had been taken, a question might arise as to whether or not he had a right to so modify the order, and therefore suggested to him that he prepare a stipulation to that effect and have it signed by all the parties; whereupon he would then make an order based on the stipulation striking out the proviso from said order.

We will show that respondent did, on the presentation of said stipulation to him on the 11th day of January 1932, make an order modifying his order of December 15, settling the fourth and final account in accordance with the stipulation signed by the parties to the action. The modification made contained a clause that the stipulation signed was made without prejudice to the rights of any party thereto with respect to an appeal therein pending. We will demonstrate that respondent in settling the fourth and final account of the receiver never had in mind to enrich or to favor any friend, political or otherwise, or was said order made to the detriment of any litigant or litigants, or was said order made with the intention of forcing, or causing to force, the insurance commissioner of California, or any party of interest, unnecessary delay and expense in protecting the rights of all or any of the parties in said action.

We will demonstrate further that respondent did not improperly, unlawfully or at all seek to coerce the said insurance commissioner or any parties in interest in the action to accept or to acquiesce in any fees and disbursements granted by respondent to the said receiver and to his said attorney.

Respondent will show that in making the respective orders set out in article II of the impeachment articles allowing the compensation to the receiver and his attorney and allowance of expenses and disbursements, respondent acted honestly and conscientiously, believing at that time that the disbursements and that the fees allowed by him were reasonable and proper fees. Respondent will show that his judgment in this respect was influenced to some extent by the advice given him by the attorneys for plaintiff and defendant, in their written stipulation certifying that the services rendered by the receiver and his attorney were reasonably worth the amount requested and finally allowed by respondent.

Respondent will demonstrate that if there was any mistake made by him in the granting of the fees or in the allowing of the disbursements, the same was not brought about because or as the result of friendship for the parties or prejudice against anyone. If a mistake was made, it was made in good faith and without any thought or purpose or desire on part of respondent to be partial, oppressive, excessive, or unreasonable. There are many other matters that respondent will show in this connection, but time will not permit going into detail. All of this will be brought out in the evidence by witnesses that will testify.

The fact that the United States Circuit Court of Appeals reversed Judge Louderback in this case in no way reflects upon his ability or integrity as a judge.

It cannot be held that a judge, using his best judgment and giving his decisions on questions of law and questions of discretion in good faith, although a higher court may disagree with him, is subject to impeachment for that reason. If a reversal by a higher court is ground for impeachment, then there would be no judges remaining on the Federal bench of the United States. All judges sitting in courts of first instance are at some time in their careers reversed by higher courts. The Supreme Court justices of the United States differ with each other and have numerous dissenting opinions rendered by their members. To announce or to hold the doctrine that the mere fact of a reversal of a judge by a higher court is ground for impeachment would be monstrous.

Respondent will show that article II, in the light of the evidence to be introduced, will fall of its own weight.

Mr. LONG. Mr. President, I should like to ask the President if he will propound to counsel a question. What does the counsel allege to have happened? As I understand, when these fees were allowed to the attorneys for the receiver, provided they did not take an appeal, the House managers allege——

Mr. ASHURST. Mr. President, a point of order. All questions propounded by a Senator must be in writing.

The PRESIDING OFFICER. The Chair sustains the point of order.

Mr. LONG. That is too much trouble.

Mr. HANLEY. I have finished article II; but I should have been very anxious to answer, although it was not in writing, the question of the Senator from Louisiana.

Article III is the so-called "Fageol Motor Co. case."

It is alleged in article III that respondent was guilty of misbehavior in office, resulting in expense, disadvantage, annoyance, and hindrance to litigants in respondent's court in the Fageol Motor Co. case, in that respondent knew that G. H. Gilbert, whom he appointed receiver, was incompetent, unqualified, and inexperienced to act as such receiver. It is further alleged in article III that respondent oppressively, and in disregard of the rights of litigants in his court, did appoint Gilbert, knowing that he was incompetent, unfit, and inexperienced for such duties. It is further alleged that he further refused to grant a hearing to plaintiff, defendant, creditors, and parties in interest at the time of the appointment of said receiver. It is further alleged in article III that he did cause the litigants and parties in interest to be misinformed of his action in appointing G. H. Gilbert receiver, while he took necessary steps to qualify as such receiver. It further alleges that this deprived litigants and parties in interest of the opportunity of presenting the facts and circumstances and condition of the receivership, the nature of the business, and the type of person necessary to

operate the business in order to protect creditors, litigants, and all parties in interest. It further alleges that this deprived the parties of the opportunity of protesting the appointment of an incompetent receiver. It then states that by reason of these acts the respondent was guilty of a course of conduct constituting misbehavior as a judge, and that he was and is guilty of misdemeanor in office.

Having told you what we expect to prove, if at the end of the trial my statement is shown to be true, you will find that this article, like the others to which I have referred, will fall of its own weight. But what are we going to show you in this regard in reference to the Fageol Motor Co. case?

We answered in our formal answer very fully the allegations set out in article III with reference to the Fageol Motor Co. case. In support of our answer we will show you by the pleadings, exhibits, documents, letters, and witnesses that there are no grounds for the allegations set forth in article III. Respondent will show you that on the 17th of February 1932 an order was made by him as district judge, appointing G. H. Gilbert as receiver of the Fageol Motor Co. upon the complaint of the Waukesha Motor Co. There was an answer filed by the defendant through its attorneys, Bronson, Bronson & Slaven. Upon the filing of the complaint, the application for the appointment was made. In the answer filed, the defendants asked that the relief prayed for in the bill be granted.

Respondent was holding court when the attorneys for the plaintiff and defendant went to the judge's chambers and left an order appointing the receiver, with the name of the receiver left blank, and requested respondent's secretary to call respondent's attention to the name of a party they desired appointed receiver. At this time respondent does not recall the name of the party suggested. Respondent having no information with reference to the party the attorneys suggested to be appointed receiver, respondent appointed G. H. Gilbert receiver by filling in the blank space in the order, and signing the order.

The order signed by respondent appointing Gilbert—now, mark this well, Senators—contained the following. I do not want to bore you, but listen to it:

> Decreed that the receiver be, and hereby is, directed within 30 days from the date of this decree to cause to be mailed to each and every creditor of the defendant known to such receiver a copy of this order and a notice of a motion to make the receivership herein permanent, such mailing to be in a securely sealed envelope, postage prepaid, and to be addressed to said creditor at the last post-office address known to said receiver, and such service by mail is hereby decreed to be due, timely, sufficient, and complete service of notice of this decree and this suit, and of such notice and all proceedings had or to be had herein, and upon all such creditors, for all purposes.

That is the order appointing temporarily, for a period of 30 days, Gilbert as the receiver.

Now, what took place?

Upon the signing of the order appointing G. H. Gilbert receiver he qualified as such, and thereafter filed petition for authority to employ counsel. Dinkelspiel & Dinkelspiel were appointed attorneys for the receiver. After said receiver and his said attorneys had acted for a period of 30 days, and after they had caused the notices to be mailed to the creditors, as provided for in the order appointing G. H. Gilbert, this one who forced the receivership upon the Fageol Motor Co., as stated by Mr. Manager SUMNERS, never came into court, never opposed the continuance of the receiver, and we will show you that upon a hearing had, no one appeared to protest the continuance and permanency of the receivership of G. H. Gilbert; and this is the one that you are told we forced upon them!

Respondent will show that written admissions of service were given by the attorneys for the parties upon the papers now on file in said matter; that the matter came on in open court on the 17th day of March 1932 and was continued until the 21st day of March 1932. No opposition to making the temporary order permanent was offered by anyone. No objection was made by anyone in any written filing in said court to the appointment of G. H. Gilbert as either temporary or permanent receiver. Respondent did not know and never had any reason to believe said G. H. Gilbert was incompetent, unfit, and inexperienced for his duties as such receiver, and in fact he was not incompetent. Respondent will show, by witnesses to be produced, that the services rendered by G. H. Gilbert as receiver redounded to the benefit of the estate. Respondent will show that one of the largest creditors, namely, the Central National Bank of Oakland, through its vice president, stated that the work done by Mr. Gilbert as receiver, and Dinkelspiel & Dinkelspiel, was in every way satisfactory, and that the creditors found no trouble in working with the attorneys and receiver for the benefit of the Fageol Motor Co.; that they gave their cooperation in every way for the benefit of the corporation. The vice president of said creditor stated—mark you this, Senators—that if the receiver were one of his own choice, and had been selected by him, he could not have had better cooperation for the estate than was given in the matter by the receiver, Mr. Gilbert, and his attorneys, Dinkelspiel & Dinkelspiel.

I am coming to an end very shortly.

We will introduce evidence that G. H. Gilbert competently and carefully handled the affairs of the Fageol Motor Co. while receiver.

Respondent will show you that he never refused to grant a hearing to the plaintiff and defendant, or any creditor or creditors, or any party or parties in interest in the Fageol Motor Co. matter. Respondent will show that he was never requested to grant a hearing to plaintiff and defendant, or any creditor or creditors, or anyone interested in the proceeding in regard to the appointment of G. H. Gilbert as such receiver. Respondent will further show that he did not suppress the fact that he had appointed G. H. Gilbert as receiver to enable said Gilbert to take the necessary steps to qualify as such receiver. Respondent will show you in this regard that he simply signed the order that was left with him, filled in the name of G. H. Gilbert as receiver, and advised his secretary to notify the interested parties that Mr. Gilbert had been appointed receiver.

Respondent will demonstrate to the Senate that all of his conduct and actions in relation to the appointment of G. H. Gilbert as receiver in the Fageol Motor Co. case were open and aboveboard, and were done by respondent for the purpose and with the thought in mind of having a receiver appointed in the matter in whom he had confidence and trust. Respondent will show by witnesses that the conduct and actions of G. H. Gilbert in the Fageol Motor Co. case, the subject of article III of the articles of impeachment, redounded to the credit and benefit of said estate. When we show you these facts and circumstances the allegations set forth in article III must fall of their own weight.

I now come, Senators, to another article—article IV. There are five articles, and this is article IV.

Article IV of the articles of impeachment charges "misbehavior in office, filled with partiality and favoritism, in improperly, willfully, and unlawfully granting, upon insufficient and improper papers, an application for the appointment of a receiver in the Prudential Holding Co. case for the sole purpose of benefiting respondent's personal friends and associates."

Article IV then sets forth the alleged manner in which these acts were committed.

Respondent will show that on the 15th day of August 1931, upon the application of the Character Finance Co., of Santa Monica, Calif., in the matter of Prudential Holding Co., a Nevada corporation, respondent made an order appointing G. H. Gilbert receiver, and thereafter made an order appointing Dinkelspiel & Dinkelspiel attorneys for receiver. The facts and circumstances surrounding the appointment of Mr. Gilbert as receiver are as follows:

On the 15th day of August 1931 a complaint was filed asking for a receiver. The attorneys for the plaintiff were Gold, Quittner & Kearsley. Mr. Brice Kearsley, Jr., a member of said firm of attorneys, appeared for the plaintiff; and Mr. J. H. Stephens, vice president and director of the defendant, was present and represented the defendant. Mr. Stephens joined in the request of the attorney for the plaintiff for the order appointing a receiver.

A great many allegations of fact were made in the complaint for the purpose of establishing diversity of citizenship, and ownership of property by the defendant within the jurisdiction of the court presided over by the respondent, as the grounds of jurisdiction of said court.

On August 20, 1931, a motion to dismiss said action was filed, the defendant appearing specially for the making of said motion. The grounds upon which the said motion was based were that said bill of complaint was not properly verified, and that plaintiff was a resident of the Southern District of California and the defendant a resident of the State of Nevada. A hearing was had on said motion on the 29th of August 1931. On that date plaintiff was granted permission to file a memorandum of authorities. The motion to dismiss was finally submitted on the 19th day of September 1931, and was granted by respondent on the 2d day of October 1931.

Respondent will show that on the 5th day of September 1931, a petition in bankruptcy was filed against the Prudential Holding Co.; that the the matter was assigned to Judge St. Sure's department; that during the absence of Judge St. Sure respondent acted for him; that on the 30th day of September 1931, respondent, acting for Judge St. Sure, appointed G. H. Gilbert receiver in bankruptcy, and thereafter approved the appointment of Dinkelspiel & Dinkelspiel and a number of other attorneys as attorneys for the receiver in bankruptcy.

Respondent will show that he did not willfully, improperly, and/or unlawfully take the jurisdiction of the cause in bankruptcy, but the matter came to him in the regular course of business while he was acting for Judge St. Sure, during the temporary absence of Judge St. Sure. Instead of bringing Judge St. Sure before this court as a witness, respondent, by his attorneys has secured the consent of the managers to introduce in evidence a letter from Judge St. Sure which sets forth the reason why respondent acted for him during his absence. This letter also contains other matters that are relevant to the proceedings, and at the proper time it will be read to the Senate. This letter will conclusively prove that Judge Louderback, the respondent, is not guilty of "willfully, improperly, or unlawfully sitting in a part of the court to which he was not assigned, at the time, took jurisdiction of the case in bankruptcy, and though knowing the facts in the case and the application before him, for the dismissal of the petition and discharge of the equity receiver", as charged in article IV.

Judge Louderback did grant a motion to dismiss the case that was pending before him on the 2d day of October 1931. Respondent will show that the authorities as to the jurisdictional matter are conflicting, but that the judge exercised his judgment and dismissed the action pending before him. During the trial, these matters will be brought to the attention of the Senate. In this connection, respondent will show that the bankruptcy matter pending before Judge St. Sure was ultimately dismissed by Judge St. Sure; that this company afterward went into bankruptcy; that at the time the petition was filed, the Prudential Holding Co. was hopelessly insolvent; and that although it had a large capitalization, it had practically no assets, this million-and-a-half-dollar corporation spoken of by Mr. Sumners. Respondent will show that the application for the appointment of a receiver, and the order appointing receiver was made in good faith upon the representations of the plaintiff and the defendant also. It is true that the first petition for the appointment of a receiver in this matter was verified by Brice Kearsley, Jr., attorney for plaintiff. It further appears in the verification that the attorney was duly authorized by the plaintiff to verify the petition, and respondent maintains that said verification was good in law. It is true that an amended petition was filed, and one of the officers of the plaintiff verified the same. Respondent will show that respondent did not in any manner or form attempt to benefit and enrich the receiver or his said attorneys, that he did give his fair, impartial consideration to the application of the Prudential Holding Co. for a dismissal of the complaint, and that he did dismiss said complaint. We will show that none of the matters alleged in article IV reflecting upon respondent's conduct are true. In the Prudential Holding case, no fees were allowed either for the receiver or the attorneys for the receiver.

When we have shown you these facts and circumstances, you Senators, as jurors, will see that the allegations of misconduct and wrongdoing contained in article IV are not true and must fall of their own weight.

I now come to the last article, and you will be pleased when I tell you that. This is known as "article V" as amended."

This article deals with three new matters:

SONORA PHONOGRAPH CASE, GOLDEN STATE ASPARAGUS CASE, AND STEMPEL-COOLEY CASE

Article V, as amended, was filed in the Senate on the 18th day of April 1933. The record will show that the managers agreed that the reference in paragraph 1 of the amended article is only to the matters set out in articles I, II, III, and IV, and that the balance of amended article V sets out new matter. The new matter involves the Sonora Phonograph Co., Golden State Asparagus Co., and the Stempel-Cooley cases, and also an order made by respondent when he was a judge of the Superior Court of the State of California.

In our formal answer to amended article V, we answered with some detail the matters charged in amended article V, and we have also fully set forth affirmatively our position in regard thereto before the Senate.

With reference to the new and additional matters set up in article V, as amended, we expect to prove as follows:

RUSSELL-COLVIN CASE

Respondent did not know and never had heard, prior to the inception of these proceedings, that on March 25, 1931, or at any other time, John Douglas Short had given to his father-in-law, W. L. Hathaway, the sum of $5,000 or any sum in any amount from the compensation he had received as one of the attorneys for the receiver in the Russell-Colvin case. Respondent did not know at any time prior to the inception of these proceedings that W. L. Hathaway had advanced a loan to W. S. Leake in the sum of $1,000, or any other sum, or any amount. Respondent will introduce evidence, as heretofore stated, that the thousand dollars given by Hathaway to Leake was a loan, and a promissory note was taken therefor, and that said money loaned to said Leake came from a loan that Hathaway had negotiated with the Mutual Life Insurance Co. of New York upon an insurance policy on his life, and that the check made payable to W. L. Hathaway and wife was cashed and turned over to W. S. Leake as and for a loan. Respondent will show that the payment of the $5,000 by John Douglas Short to his father-in-law, W. L. Hathaway, had no relation whatever to any loan that Hathaway had made to Leake. We will prove that this $5,000 was paid by Mr. Short to his father-in-law in part of moneys advanced to Mr. Short by said Hathaway, and that the remainder of the $5,000 paid by Short to Hathaway was on account of the purchase price of certain real property heretofore conveyed by the said Hathaway to said Short and his wife, the daughter of W. L. Hathaway. We will show that the matters pertaining to this loan from the Hathaways to Leake were unknown to anyone other than the parties thereto until they were disclosed by the special committee of the House of Representatives at the hearing held in San Francisco between the 6th and 12th days of September 1932, and that said loan from Hathaway to Leake never did or could have the effect of bringing the court over which respondent presides into disrepute as alleged in article V, as amended.

Respondent will show that his relations with W. S. Leake at no time placed him under any obligations to, made him dependent upon, or put him under the influence of the said W. S. Leake in any manner and to any degree or at all.

Respondent has answered article III fully in his formal answer, and in his answer to amended article V particularly with respect to what is known as the Fageol Motor case. We have heretofore stated to you what we will prove in this matter with reference to the fact that G. H. Gilbert was not without qualifications to discharge the duties of receivership. We will show you that the appointment of Mr. Gil-

bert as receiver and of Dinkelspiel & Dinkelspiel as his attorneys was not made in "tyrannical and oppressive disregard of the rights and interests of the parties in interest" as alleged in amended article V. We will show that there is no justification for the language used or the insinuations contained in amended article V, wherein reference is made to the Fageol Motor Co. case.

Respondent will introduce evidence in regard to this matter that will clearly establish that his conduct in relation to this case was unimpeachable, and that no criticism can justly be made, or could have been made, in relation to the appointment of G. H. Gilbert as receiver and Dinkelspiel & Dinkelspiel as his attorneys.

SONORA PHONOGRAPH CASE

This case is treated for the first time in amended article V. The Sonora Phonograph case originated in New York, and the proceedings before Judge Louderback involved an ancillary receivership. Judge Louderback appointed G. H. Gilbert as a receiver in bankruptcy. A petition was filed on December 19, 1929, and on December 20, 1929, Judge Louderback appointed G. H. Gilbert and the Irving Trust Co. as coancillary receivers. It will be shown that subsequently the Irving Trust Co. on motion was released as coreceiver. The firm of Dinkelspiel & Dinkelspiel was appointed attorneys for the receiver after a petition filed. The fees for the Receiver Gilbert were statutory and were allowed in the bankruptcy proceedings.

Our formal answer to the allegations referring to the Sonora Phonograph Co. case denies specifically the alleged wrongdoing in this case as expressed in amended article V. We will show to the Senate, in line with the allegations of our answer, that that which is set forth in said amended article V about G. H. Gilbert being a personal and political friend of Harold Louderback is not true.

The evidence will show that respondent had been acquainted with Mr. Gilbert for a number of years and had confidence and trust in his integrity and ability. We will show that G. H. Gilbert had qualifications to discharge the duties of receivership, and that he was a man of good executive ability and had for years many people under him in the position occupied by him with the Western Union Co. We will show you that his services with the Western Union Co. were valuable services, that he was with this company consecutively for a period of 34 years, that he raised himself in said company by his diligence and intelligence from a clerk to traffic manager, and that he left this position with the company some time ago voluntarily. We will show you that the Sonora Phonograph Co. ran as a going business for a period of time under the direction of Mr. G. H. Gilbert, the receiver, and that he successfully handled said business, and collected large amounts of money in said receivership. When we have explained to you, as we will, all the facts and circumstances in relation to this Sonora Phonograph Co., we say to you Senators, judges and jurors, that the allegations in relation to this case will fall of their own weight. So far as the fees to Dinkelspiel & Dinkelspiel are concerned—the $20,000 allowed—we will show were not unreasonable and the parties interested were willing to and did consent to an allowance of $17,500.

GOLDEN STATE ASPARAGUS CASE

This case is alleged, for the first time, in amended article V. The American Can Co., through its attorneys, caused an action for the appointment of a receiver in equity against the Golden State Asparagus Co., to be filed on September 5, 1930. At the request of the attorneys for the plaintiff and defendant, Mr. George M. Edwards was appointed equity receiver. After Mr. Edwards qualified, he had a talk with Judge Louderback, the respondent herein, and after said talk filed a petition for the appointment of Dinkelspiel & Dinkelspiel as his attorneys. We will show you that the work accomplished by Mr. Edwards, the receiver, and Dinkelspiel & Dinkelspiel was commended by the parties to the action.

Respondent will show that he suggested to George M. Edwards the appointment of Dinkelspiel & Dinkelspiel in said receivership matter, that the suggestion was acceptable to said George M. Edwards, the receiver. We will show that respondent stated to Mr. Edwards that if the attorneys respondent suggested were not satisfactory to him respondent would suggest others. We will show that the attorneys suggested by respondent were agreeable to Mr. Edwards, that he petitioned to have them appointed, and that his selection of attorneys was confirmed by order of court. We will show that the legal work in connection with the receivership required the time and attention of the attorneys selected by the receiver, that it materially aided the proper administration of said receivership, and that there was allowed by respondent to said attorneys the sum of $14,000 on account.

Respondent will show that he has not denied $1,500 each to the attorneys for the plaintiff and defendants, but that that matter is still pending and undetermined. Respondent states and will show that there was very substantial legal services rendered in the matter. We will show to the Senate that the sum of $14,000 allowed on account for the services rendered to the receiver was a reasonable and proper amount to be allowed, at the time it was allowed, on account of services heretofore rendered by said attorneys in the matter of said estate, that respondent allowed George M. Edwards, the receiver, the sum of $14,000 and the same amount to his attorneys. All parties had agreed upon $14,000 to Receiver Edwards.

We will show that his conduct in the action in ratifying the appointment of the attorneys in the said matter did not add to or cause any "disrespect, apprehension, and public contempt of said respondent to the public in the northern district of California", or anywhere else. That the fees of the attorneys for the receiver were fixed after a hearing had in open court with reference to the amount that should be allowed. And upon a full hearing of said matter, respondent fixed the fee in said case, which due to the value of the services rendered, were and are reasonable for the work performed by said attorneys. Nothing occurred in the Golden State Asparagus case which called for any censure of respondent. Nothing occurred which would tend to show that the discretion exercised and the judgment arrived at by respondent were not sound. We will show that none of the acts and conduct of respondent in this case, by any stretch of the imagination, could be construed as high crimes or misdemeanors spoken of in the Constitution of the United States. We expect to show these matters, and when we do, we state that the allegations in relation to this matter, as expressed in article V, as amended, will fall of their own weight.

STEMPEL-COOLEY CASE

In article V, as amended, references were made to what is known as "the Stempel-Cooley case." This was a bankruptcy matter. The firm of Stempel-Cooley were the owners of some 5 apartment houses and 1 incomplete building at the time the bankruptcy petition was filed. Mr. G. H. Gilbert was appointed receiver, and on a petition filed, Keyes & Erskine were appointed the attorneys. Respondent will show that said receiver was allowed the sum of $500 for his services and that said sum was and is a fair and reasonable sum for the services so rendered by the receiver in said matter, and that no appeal was ever taken from the amount of said sum of $500 to said Keyes & Erskine. That respondent did not fix the fee of said receiver in said matter. That the same was fixed and allowed by the referee in bankruptcy.

Respondent will show you that there were no acts or conduct on his behalf that could call for any censure, or any lack of discretion on his part. His conduct in this case was free from any alleged commission of "high crimes or misdemeanors" as this term is used in the Constitution of the United States. When this case is explained to the Senate, we feel sure that the allegations of his conduct in relation thereto as expressed in article V, as amended, of the impeachment articles will fall of their own weight.

APPOINTMENT OF G. H. GILBERT AS AN APPRAISER WHILE RESPONDENT WAS JUDGE OF THE SUPERIOR COURT OF THE CITY AND COUNTY OF SAN FRANCISCO, STATE OF CALIFORNIA

We respectfully urge that we should not be called upon to explain anything in relation to this case because it was heard

prior to the time Judge Louderback, the respondent herein, was a Federal judge.

However, respondent states that he will show that, although he did appoint G. H. Gilbert as appraiser while he was a State judge, he had no knowledge as to what work was performed by said G. H. Gilbert. And he states that whatever fees he may have allowed while a State judge in this case were reasonable fees that should have been allowed appraisers in such a matter. That if respondent is called upon to explain said matter, he will satisfy the Senate that whatever acts were done by him, and whatever appointments were made by him, were made in good faith. That three appraisers were appointed in an estate. G. H. Gilbert was 1 of the 3. Respondent had no means of knowing the amount of services rendered by each. The fees charged were reasonable and paid by the executor. The respondent only had knowledge of these when the account in the estate was approved.

We have outlined to the Senators, sitting as judges and jurors, what we expect to prove on behalf of the respondent herein. We know that we can establish and will establish the absolute innocence of wrongdoing of any kind or character on behalf of Judge Harold Louderback, the respondent herein. And we confidently expect when the testimony is in, and the case is closed that the Senate will render a verdict acquitting Judge Harold Louderback, respondent herein, of each and every, all and singular, the alleged charges made against him. We confidently expect this. On behalf of Judge Louderback, we thank you for your attention, your kindness, and your patience.

Mr. ASHURST. Mr. President, although under the rules all orders must be submitted in writing, I ask the court to indulge me for a moment on a matter relating purely to the time when the Senate shall sit as a court. Before presenting an order, I want to sound out the sentiment and see what members of the court may have to say or think about the time for convening. If I may have the attention of the Senator from Oregon [Mr. McNARY] I suggest that the Senate sitting as a Court of Impeachment convene hereafter at 10 o'clock in the forenoon; but before offering an order to that effect I should like to have some expression from members of the court.

Mr. McNARY. Mr. President, I thank the Senator for his courtesy, which is habitual. I had intended to call a conference of the Republican minority for tomorrow to consider this very suggestion, as well as some pending legislation. I would rather not at this time consent to an order being made for a meeting at 10 o'clock until after a conference is had tomorrow. I want to cooperate with the Senator, as he knows. We are anxious to get through. There is a question in my mind, however, whether we should convene at 10 o'clock and continue the trial until 1 o'clock, and then proceed with the consideration of legislative business. That would be one way to handle the matter. Another way would be to meet at 10 or 11 o'clock in the morning and go through the day, completing the trial at the earliest possible date, without the intervention of legislative business. I am not sure which is the wiser course. I would prefer that when we conclude today we adjourn until 11 or 12 o'clock tomorrow, at which time I shall be glad to discuss the subject further with the Senator.

Mr. ASHURST. Mr. President, then I move that when the court concludes its business today it stand in recess until 11 o'clock tomorrow forenoon.

The PRESIDING OFFICER. The question is on the motion of the Senator from Arizona.

The motion was agreed to.

Mr. ASHURST. Now, Mr. President, the witnesses are on hand, we have 2 more hours of the day, and I send the following order to the desk and ask for its consideration.

The PRESIDING OFFICER. The Senator from Arizona proposes an order, which the clerk will read.

The legislative clerk read as follows:

*Ordered,* That the witnesses shall stand while giving their testimony.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the order will be entered.

The managers on the part of the House may call the first witness.

Mr. Manager SUMNERS. Mr. President, I inquire of the Chair whether we shall call the first witness and have him sworn, or call all the witnesses available and have them all sworn at once?

The PRESIDING OFFICER. The Chair thinks that the business of the court would be expedited by swearing each witness as he enters the Chamber. The oath can be administered quickly.

Mr. Manager SUMNERS. May we inquire where the witness will stand?

The PRESIDING OFFICER. The Chair suggests that the witness stand in the center, at the desk, near the reporter, and equidistant from counsel.

Mr. Manager SUMNERS. I should like to propound another inquiry, if it is not asking too much. Would the Chair prefer that counsel sit or stand while examining the witness?

The PRESIDING OFFICER. It is the judgment of the present occupant of the Chair that counsel may sit or stand, according to their convenience.

EXAMINATION OF FRANCIS C. BROWN

Mr. Manager BROWNING. Call Mr. Francis C. Brown.

FRANCIS C. BROWN, having been duly sworn, was examined and testified as follows:

By Mr. Manager BROWNING:

Q. What is your name?—A. Francis C. Brown.

Q. Where do you live, Mr. Brown?—A. I reside in San Francisco, Calif.

Q. What is your occupation?—A. I am an attorney.

Q. For how long have you been an attorney?

Mr. HEBERT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. HEBERT. Would it be in order to call a quorum at this time? A number of Senators are absent from the Chamber, and it seems to me that it would be in order to call a quorum at this time, since the first witness is just starting to give his testimony.

The PRESIDING OFFICER. It would be in order.

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

The PRESIDING OFFICER. The clerk will call the roll.

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

| | | | |
|---|---|---|---|
| Adams | Coolidge | Hebert | Robinson, Ark. |
| Ashurst | Copeland | Kendrick | Robinson, Ind. |
| Austin | Costigan | Keyes | Russell |
| Bachman | Couzens | King | Schall |
| Bailey | Cutting | La Follette | Sheppard |
| Bankhead | Dickinson | Lewis | Shipstead |
| Barbour | Dill | Logan | Smith |
| Barkley | Duffy | Long | Steiwer |
| Black | Erickson | McAdoo | Stephens |
| Bone | Fess | McCarran | Thomas, Okla. |
| Bratton | Fletcher | McKellar | Thomas, Utah |
| Brown | Frazier | McNary | Townsend |
| Bulkley | George | Metcalf | Trammell |
| Bulow | Glass | Murphy | Tydings |
| Byrd | Goldsborough | Neely | Vandenberg |
| Byrnes | Gore | Norris | Van Nuys |
| Capper | Hale | Nye | Wagner |
| Caraway | Harrison | Patterson | Walsh |
| Carey | Hastings | Pope | Wheeler |
| Clark | Hatfield | Reed | White |
| Connally | Hayden | Reynolds | |

The PRESIDING OFFICER. Eighty-three Senators having answered to their names, a quorum is present. The managers on the part of the House will proceed.

By Mr. Manager BROWNING:

Q. How long have you practiced law in San Francisco?—A. Since 1924.

Q. With whom were you associated in March 1930 in the practice of the law?—A. With De Lancey C. Smith.

Q. As such were you counsel for the Russell-Colvin Co. at that time?—A. We were.

Q. What is the Russell-Colvin Co.?—A. The Russell-Colvin Co. was a copartnership which was then engaged in the business of stock brokerage—a general stock-brokerage business.

Q. What was their financial condition at that time?—A. Their financial condition became very unliquid in March 1930.

Q. What steps were determined on by counsel to try to get them out of their difficulties?—A. Early in March or late in February 1930, an effort was made to liquidate some of the company's frozen assets, consisting of real estate and stocks and bonds and other securities which they had underwritten. These efforts were partially successful and partially unsuccessful. The San Francisco Stock Exchange notified the company that unless they raised a certain amount of money, $200,000, by Monday, March 9 or 10, 1930, a suspension would take place. The company was suspended from the stock exchange on March 9, 1930. We then directed our attention to placing the company in receivership in the Federal court.

Q. What steps did you take?—A. We conferred with the firm of Thelen & Marrin, composed of Max Thelen and Paul S. Marrin, who are likewise attorneys, who represented a plaintiff known as Gardner M. Olmstead in an equity receivership proceeding. The proceeding was initiated in the northern district of California by Messrs. Thelen and Marrin by filing a petition, to which we filed an answer admitting the allegation, and then proceeded before Judge Louderback, to whom one of these matters was assigned for the appointment of a receiver.

Q. When was the first time you went to the district court clerk's office in connection with this matter?—A. It was on Monday, March 10, 1930. I think that was the date.

Q. What was done about it on that date?—A. On that date we took out a petition and a verified answer and tendered it for filing. We were informed by the clerk that a number had been drawn which was assigned to the department of Judge A. F. St. Sure. We were further informed that Judge A. F. St. Sure was sitting in Sacramento, Calif., which is north of San Francisco, and that he would not preside at the appointment of a receiver unless we went to Sacramento. We were then informed that no other judge of the three judges sitting there would preside on the matter in the absence of Judge St. Sure, and Mr. Marrin, of the firm of Thelen & Marrin, then decided not to file the petition. It was the next day that the petition was finally filed.

Q. The next day did you take one or two petitions to the district court clerk's office?—A. I personally did not take any, but Mr. Marrin, representing the plaintiff, did.

Q. Were you with him?—A. I was with him; yes.

Q. Were both of those petitions filed?—A. My recollection is that both the petitions were filed approximately at the same time, or one shortly after the other.

Q. And the names of the judges were drawn to consider these petitions?—A. The first petition was again assigned to Judge A. F. St. Sure, who was still absent in Sacramento. The next petition was assigned to Judge Louderback.

Q. Will you explain why the two petitions were filed on that second day, on March 11?—A. The two petitions were filed, according to my understanding, primarily because of the absence of Judge St. Sure in Sacramento, and, secondarily, because it was considered advisable to have two petitions.

Q. After the petitions were filed, and you drew the names of Judge St. Sure and Judge Louderback, what further was done?—A. Mr. Marrin and Mr. Thelen and Mr. Addison G. Strong, who is the one we were proposing for receiver, Mr. Lloyd Dinkelspiel, representing the firm of Heller, Ehrmann, White & McAuliffe, attorneys for the San Francisco Stock Exchange, went into Judge Louderback's secretary's office and made an appointment to see the judge. He was holding a short session of court in the forenoon. The appointment resulted in our seeing the judge about 11 or 11:30 o'clock—some time in the forenoon shortly before 12 o'clock on that day, which was Tuesday.

Q. Who was Mr. Strong?—A. Mr. Addison G. Strong was a member of an accounting firm of San Francisco, certified public accountants, known as Hood & Strong. They were the auditors for the San Francisco Stock Exchange, and they were likewise the accountants who had had charge of auditing the books of the Russell-Colvin Co., the stock-brokerage firm. Furthermore, Mr. Strong had been for some months prior to March 1930 in immediate supervision of the affairs of the Russell-Colvin Co., which, as I have stated, were in a somewhat muddled condition.

Q. Who sent him to supervise this concern?—A. He was sent by the stock exchange, and with the consent of the copartners constituting the partnership.

Q. What right did he have there? Why was he sent there? What right did the stock exchange have to send him?

Mr. LINFORTH. One minute. I object to that question as calling for the opinion or conclusion of the witness, Mr. President.

Mr. ASHURST. Mr. President, I did not hear the counsel.

The PRESIDING OFFICER. Will counsel please repeat his suggestion?

Mr. LINFORTH. That question is objected to as calling for the opinion and conclusion of the witness and not binding at all upon the respondent.

Mr. ASHURST. That is to be decided by the Presiding Officer without debate.

The PRESIDING OFFICER. The present occupant of the chair is of the opinion that at this time the witness has not shown himself to be qualified to answer that question.

By Mr. Manager BROWNING:

Q. Who were Thelen & Marrin?—A. Thelen & Marrin were a firm of attorneys in San Francisco consisting of Max Thelen and Paul S. Marrin.

Q. As attorneys for the Russell-Colvin Co., did you know their relationship to the San Francisco Stock Exchange?—A. I do not understand your question—the relationship of whom to the San Francisco Stock Exchange?

Q. The Russell Colvin Co.—A. Oh, yes; they were members of the San Francisco Stock Exchange and owned a seat on the exchange. They had, periodically, I think semiannually, or possibly quarterly, to submit to the stock exchange a balance sheet and a financial statement which the auditors for the stock exchange reviewed, and on the basis of the showing in the balance sheet and the financial statement they were either permitted to continue to do business or were notified to improve their condition or were suspended, depending upon what conditions were shown by the balance sheet.

Q. Was it in pursuance of their policy to try to find out the condition that Mr. Strong was in the firm that you represented as an auditor or as a supervisor?

Mr. LINFORTH. Just a minute. We object to that question as calling for the opinion or conclusion of the witness, and on a matter which is not binding upon the respondent.

The PRESIDING OFFICER. The Chair overrules the objection.

The WITNESS. Will you repeat the question, please?

The PRESIDING OFFICER. The question will be read to the witness.

The question was read by the Official Reporter, as follows:

Was it in pursuance of their policy to try to find out the condition that Mr. Strong was in the firm that you represented as an auditor or as a supervisor?

A. Yes. If I may explain my answer, some time in October—I believe it was in 1929——

Mr. LONG. Mr. President, I cannot hear the witness.

The PRESIDING OFFICER. The witness will please speak louder.

A. Some time in the fall of 1929 one of these financial statements had been submitted to the stock exchange which showed that the company was in a very weak condition from the standpoint of liquidity. From that date on, as I recall it, the stock exchange insisted that all further business transacted by the firm be reviewed by their representative, so that whatever action the firm desired to take might be vetoed, if necessary, by a representative of the exchange, and Mr. Strong was the designated man acting in that capacity.

Q. Who consented to Mr. Strong or recommended him to the court as a proper person for receiver in this case?—

A. Mr. Marrin and I conferred concerning the man whom we would recommend to the court and agreed, in conjunction with the attorneys for the stock exchange, the attorneys for several of the larger creditors, or several large creditors, I should say, to recommend Mr. Strong, and we were the ones who did recommend Mr. Strong to the court.

Q. Please state what occurred when you and the other parties whom you mentioned a few moments ago went into the chambers of Judge Louderback to confer with him about the appointment of Mr. Strong as receiver.—A. When we arrived in the chambers of Judge Louderback he was there, and Mr. Marrin, representing the plaintiff, summarized to the judge the contents of the petition, stating the financial condition of the company, the fact that they had been suspended on the preceding day from doing any further business on the San Francisco Stock Exchange, and the further fact that attachments had been threatened and other legal proceedings were imminent. He further outlined the nature of the company's business and the need for the appointment of a receiver, either to tide it over the period during which it was lacking money or to liquidate; and he outlined Mr. Strong's qualifications at some length, pointing out that he had been acting in the supervisory capacity which I have mentioned over the firm's affairs. I then supplemented this statement by Mr. Marrin by further stating my opinion as to the qualifications of Mr. Strong.

Q. Did you state to the judge at that time what parties had agreed to Mr. Strong or were asking his appointment?—A. I believe I made the statement directly. In any event, during the course of the interview with the judge he inquired as to what the attitude of certain other creditors or other creditors were, and we pointed out that the receivership proceedings met with the approval of a number of other creditors.

Q. Were they the ones he had asked about that you assured him had agreed to it?—A. I do not recall that any names were menetioned. We did mention the name of another law firm who represented two very large creditors, stating they were agreeable to the selection and were also agreeable to the proceeding, as I remember.

Q. You mean the selection of Mr. Strong?—A. Yes.

Q. Then state what occurred next.—A. The judge interrogated Mr. Marrin and me as to whether or not a bankruptcy was apt to overthrow or supersede the equity-receivership proceeding. I believe we both made comment upon that, the substance of the comment being that the firm had an adequate defense by showing that it was solvent in fact even though it was in an unliquid condition. He then said that it would be necessary to dismiss the first petition which had been assigned to the department of Judge St. Sure before he would act upon the petition which had been assigned to him. He said he would exact a bond of the receiver of $50,000 and would also exact of the plaintiff a bond of $50,000 conditioned to indemnify every other creditor than the party to the proceeding who might be injured by the appointment of a receiver in the event it subsequently appeared that the appointment of a receiver was improvident.

Q. What kind of a bond is that, Mr. Brown?—A. I never heard of a bond of that kind before. I was informed by the clerk, Mr. Naling, that he had never heard of one, and we had great difficulty in getting it written.

Q. Did you actually give the $50,000 indemnity bond by the petitioner?—A. If I may interrupt, it just occurs to me that something else took place when we were in the judge's chambers that I did not refer to. The judge asked Mr. Strong whether any of the attorneys present were his attorney. He mentioned them by name. Mr. Strong said they were not his attorney. He then asked Mr. Strong who his attorneys were and Mr. Strong said he had no regular counsel.

Then we retired from the judge's chambers, and had taken out to the clerk's office a representative of the Hartford Accident & Indemnity Co., to write the receiver's bond. We questioned him concerning the bond which the judge said he would exact of the plaintiff and he informed us that the company would not write a bond in the sum of $50,000 unless it had complete collateral, which the plaintiff was not in position to offer.

We then went back into the judge's chambers, as I remember it, also in the forenoon, and told him that the bonding company would not write a $50,000 bond and suggested that a bond in that amount was excessive and asked him to reduce it. He then agreed to reduce it to $10,000. I believe this second interview which I have mentioned took place shortly after the 1st on the forenoon of Tuesday.

Q. Then after that what steps did you take?—A. I went back to my office and Mr. Thelen and Mr. Marrin went back to their office, and we arranged for the dismissal or Mr. Marrin arranged for the dismissal of the petition which had been assigned to Judge St. Sure, and we both collaborated on securing a bond of $10,000 for the plaintiff and later in the afternoon went out again to the judge's chambers—as I remember it, it was rather late, around 4 or 4:30—having with us the dismissal which Mr. Marrin filed and the necessary papers, the receiver's bond and so on, and the order for the appointment of a receiver in the proceeding which had been assigned to Judge Louderback.

Q. Did you see the judge at that time?—A. We did.

Q. Who was present when you saw him on that occasion?—A. Mr. Thelen, Mr. Martin, Mr. Strong, and, I believe, Mr. Dinkelspiel was present, but I am not sure—yes, Mr. Dinkelspiel was present—and I.

Q. Which Dinkelspiel?—A. Mr. Lloyd Dinkelspiel.

Q. With what firm is he connected?—A. He is connected with the firm of Heller, Ehrmann, White & McAuliffe.

Q. When you went out this time, as I understand it, you had completed the bond?—A. We had not completed the plaintiff's bond because the condition which the bond should contain was not clear in our minds. The judge had not made it clear or had merely made a general statement that he wanted a bond of $10,000 of the plaintiff in case the receivership proceeding was improvident, so we again took out a representative of the Hartford Co., together with a completed receiver's bond and a partially completed plaintiff's bond. I believe at that time the answer of the company admitting the allegations of the complaint was filed, after the judge dictated an addition to be contained in that.

Q. What occurred in this conference with the judge?—A. In this conference the judge looked over the order appointing the receiver and filled in the amount of the bond. He also, as I remember it, dictated the exact wording which he would require in the plaintiff's bond and dictated to me an addition which was to be inserted in the answer and which I specifically, on behalf of the defendant company, consented to the appointment of Mr. Strong as receiver.

The order was signed appointing Mr. Strong receiver. The plaintiff's bond was completed and was given to the judge, who approved it and approved the receiver's bond. The judge told Mr. Strong that after he had qualified or after the qualification matters were attended to that he wanted to see him. After leaving the judge's chambers we went into the clerk's office where Mr. Strong signed the receiver's oath and took the oath, and then bonds and orders were filed and the receiver qualified. Then we left.

Q. What time of day was that?—A. I could not give you the exact time. It was quite late. It was probably between 5 and 6, or around 5:30, I would say, because the clerk had held the office open for several hours to accommodate us on account of the fact that it was so urgent to have the receiver appointed.

Q. At the time you left the judge's chambers and he told Mr. Strong to come back after qualification was over, state whether or not he told him to come back that day.—A. He did not, to my recollection.

Q. Do you recall what occurred there?—A. I recall what occurred perfectly; yes.

Q. At the time Mr. Strong had qualified and you left the clerk's office, to your knowledge had anything up to that time been said with regard to who would be his attorney or his counsel in this case?—A. By whom?

Q. By anyone to your knowledge.—A. No; there was no discussion of any kind at that time.

Q. Had you been in all the negotiations up to that time so far as you know?—A. I had been present on both of the two occasions on which the parties I have mentioned interviewed the judge, and no mention was made at that time other than I have stated.

Q. The first information you had about his seeking counsel or his consideration of who would be counsel occurred at what time?—A. Mr. Strong and Mr. Marrin and Mr. Thelen and I rode down on the street car from the courthouse or the Federal Building to Montgomery Street, which is some 6 or 7 blocks below. On the way down Mr. Strong and I, and, I believe, Mr. Thelen, were sitting on one of the side seats and also participated in the discussion. Mr. Strong asked me what I thought of Mr. McAuliffe—Mr. F. M. McAuliffe——

Mr. LINFORTH. Mr. President, we submit the witness is not answering the question, but the statement he is making is purely hearsay and not binding on the respondent. We object to it for those reasons.

The PRESIDING OFFICER. The objection is overruled.

A. (Continuing.) Mr. Strong asked my opinion of Mr. F. M. McAuliffe, of the firm of Heller, Ehrmann, White & McAuliffe, as possibly counsel or attorney for the receiver. I told him I thought Mr. McAuliffe was preeminently qualified in every respect. He also asked me my opinion of another attorney in San Francisco, Lloyd Ackerman, and I told him I considered Mr. Ackerman was well qualified also. I may state that both of those attorneys are attorneys for either the stock exchange in the case of Heller, Ehrmann, White & McAuliffe, or, as to Ackerman, attorney for the eastern members of the San Francisco Stock Exchange—I should say members of the San Francisco Stock Exchange who are also members of the New York Stock Exchange.

By Mr. Manager BROWNING:

Q. As such, do they specialize in that kind of work?—A. I considered that they were both well qualified in handling the duties of the attorneys for the receiver of this concern.

Q. What was the next that you heard of the relationship between Mr. Strong and the judge after that time?—A. The following day I received a telephone call from Mr. Strong which came to my office in my absence. I called back on the telephone in response to that and made an appointment with Mr. Strong to go to his office and see him. He then informed me of——

Mr. LINFORTH. We submit, Mr. President, that the testimony about to be given by the witness is hearsay, self-serving, not taking place in the presence of the respondent, and not binding upon him.

The PRESIDING OFFICER. The present occupant of the chair thinks the objection is well taken.

Mr. Manager BROWNING. Mr. President, if you will pardon me, I do not see how we can prove a conspiracy unless we are permitted to prove the attitude and the effect that this had on the parties directly concerned in this matter.

The PRESIDING OFFICER. The Chair does not intend to proscribe counsel unduly, but he thinks the ruling just made is correct.

By Mr. Manager BROWNING:

Q. Then, in response to this telephone call, you went to see Mr. Strong?—A. And I conferred with him; yes.

Q. Did you ascertain from him then what had occurred between him and the court that morning?—A. Well, he outlined to me at great length——

Mr. HANLEY. Just a moment. We object to what Strong said to this witness as not binding on Judge Louderback, the respondent herein. It calls for hearsay testimony which he had no opportunity to contradict or to make any statement about.

The PRESIDING OFFICER. Does the manager desire to have this witness testify what Mr. Strong told him had been said between Mr. Strong and the judge that morning?

Mr. Manager BROWNING. No. The question was only as to whether he had obtained from Mr. Strong at that time Mr. Strong's version of what had occurred between him and the judge, but not as to what it was.

Mr. LINFORTH. Mr. President, the witness had started to give the conversation which he was about to relate.

The PRESIDING OFFICER. The Chair will sustain the objection.

By Mr. Manager BROWNING:

Q. After you visited Mr. Strong, what was the next thing you learned about the matter?—A. I had, as I recall it, one other conference with Mr. Strong after this; and on March 13, 1930, I received a telephone call from the secretary to Judge Louderback, asking me to come to his chambers; that is, the next contact that I had with the judge or his secretary was a telephone call which came in on Thursday, I believe it was.

Q. In response to that, did you go to the judge's chambers?—A. I did.

Q. Whom did you find there?—A. I went there in the company of Mr. Marrin and Mr. Thelen, and when we arrived there we were taken into the judge's chambers, and we there saw the judge.

Q. What transpired in that conference?—A. The judge stated that it had not been his custom to appoint receivers with whom he was not personally acquainted; that he had deviated in the instance of Mr. Strong because he had been so strongly urged and highly recommended by us for the appointment. He stated further that he did not understand Mr. Strong; that he had told him the first day to come back and see him, and he waited in his chambers until 6:30, I believe he said, and that Mr. Strong did not come back; that he came back the following day and had seen him the following morning, which would be Wednesday morning, and he had then and there conferred with the judge, and everything had been very pleasant between them in their conversation until it came down to the selection of a lawyer or attorney for the receiver, and that Mr. Strong would not take counsel or accept the judge's suggestion as to who should be the attorney for the receiver. He said furthermore that he had violated the judge's instructions in that on the previous day, or the day before, I forget which, the judge had definitely instructed Mr. Strong not to go near Mr. McAuliffe, and that Mr. Strong had violated his instructions and had signed a petition for the appointment of Mr. McAuliffe's firm as attorneys for the receiver, and that he had further violated the judge's instructions by taking possession of the assets or securities which this stock brokerage firm had in its box, contrary to the judge's instructions, which were to the effect that he should do nothing until his attorney had been finally approved by the court. Then I replied to the judge, and I think Mr. Marrin likewise talked to him.

Q. What was the purport of the conversation you had with him?—A. Well, the general purport of it was that I considered—if I may go back just a moment, the judge also said that he felt that Mr. Strong was not as well qualified as we had said he was, on account of the fact that he had broken faith with the judge.

I pointed out that we had known Mr. Strong for many years, and that his firm enjoyed an enviable reputation in San Francisco; that he was attorney for the Stock Exchange, and that I felt that any misunderstanding between them was entirely a misunderstanding, and was not due to any lack of good faith on Mr. Strong's part. I also said that, in my opinion, it was probably due to a misunderstanding as to what was said in case Mr. Strong had not abided by the judge's instructions; and I believe—yes; the judge also said that he had made up his mind to remove Mr. Strong as receiver unless he would sign a written resignation which the judge had prepared. He said, "I have in my desk a signed order, or an order which I will sign, and which I intend to serve on Mr. Strong unless he resigns." He said, "I suggested that he select as his counsel some of the leading firms in the city"; and he named the firm of Pillsbury, Madison & Sutro, who were a well-known law firm there, and the firm of Sullivan, Sullivan & Roche, or Cush-

ing & Cushing; and he said that Mr. Strong would not accept any of these firms as attorneys, but insisted upon Mr. McAuliffe.

Q. Did he state at that time that he had also named John Douglas Short, or Keyes & Erskine, or Erskine & Erskine?—A. He never mentioned the name of Mr. Short, or Mr. Erskine, or either of the Messrs. Erskine. Mr. Keyes is dead.

Q. Then what occurred next in the conversation?—A. There was quite a lengthy conversation.

I stated my position very strongly—that I considered that the removal of Mr. Strong was unjustified, and attempted to dissuade the judge from following through the program. He said that he had summoned Mr. Strong to his office, and that he would be there shortly, as I remember, and that unless Mr. Strong resigned he intended to remove him. In other words, he was adamant in his position.

He said that he had in mind to name as the successor of Mr. Strong a man by the name of Hunter—H. B. Hunter—who, he stated, had been recommended to him by Mr. Sidney Schwartz, the former vice president or president of the San Francisco Stock Exchange; I do not know which. He said that Mr. Hunter had served on a jury in his court, and that he had also acted as receiver in the case of the Security Bond & Finance Co., of Berkeley, Calif.; that he considered that Mr. Hunter was well qualified, and that he would give us until 4 o'clock that afternoon to make inquiry concerning Mr. Hunter's qualifications; that if, during that period of time—in other words, between 12 o'clock and 4 o'clock—we notified him of any legitimate reason why Mr. Hunter should not be appointed, he would consider the objection, but that he was not giving us the opportunity of saying "yes" or "no." He also stated to us that if any of us talked to Mr. Hunter, or communicated with him in any way, he would not appoint him.

Q. Was that the end of the conference? Did he say anything to you at that time about who would represent Mr. Hunter as attorney?—A. Well, he said this: He said that he was determined, in view of the fact that a dispute had arisen between him and Mr. Strong, to appoint someone who was so highly qualified that there could be no question concerning his appointment; and at some time during the course of that conference he said that he had been approached by a man who was high up in the local Masonic circles as a candidate for appointment as receiver in that case, but that he declined to consider his name on account of the fact that he had as his attorneys Shortridge & McInerney; Shortridge & McInerney being a firm of lawyers consisting of Samuel Shortridge, Jr., and, I believe, Joseph McInerney.

I think that is the general substance of that conference.

Q. As you left the judge's chambers, was Mr. Strong there?—A. Mr. Strong was in the judge's anteroom as we went out, and he was ushered in as we left.

Q. How long did you stay after that?—A. As I remember it, we waited outside of the judge's anteroom—in other words, in the corridor—until Mr. Strong came out, and then rode down on the street car with him.

Q. What did you learn at that time had been the judge's action?—A. I believe Mr. Strong showed us a copy of an order removing him. In any event, he informed us that he had been removed.

Q. After Hunter entered upon his duties, or was qualified as receiver, whom did he employ as his attorney?—A. I believe he nominated John Douglas Short as his attorney, and the latter subsequently associated with him the firm with which he was associated, namely, Keyes & Erskine, consisting of Herbert Erskine and Morse Erskine.

Q. Do you know whether he was a partner in that firm?—A. It is my understanding that he was not a partner.

Q. What contract, if any, did you have with the conduct of the receivership under Mr. Hunter?—A. After Mr. Hunter had been appointed, and Mr. Morse Erskine and Mr. Short had assumed the duties of attorneys for the receiver, a conference was called, at which Mr. Marrin and I and the receiver and his attorneys were present. We were then informed that the judge had desired us to supervise or approve, rather, every step that was taken in the receivership; and thereafter periodically during the course of the receivership a great number of petitions were filed for instructions concerning virtually every liquidation, and they were submitted to us, and we perused them, and either approved them or did not approve them, accordingly as they seemed to be satisfactory or objectionable.

Q. What, if any, appreciable amount of work connected with the receivership did you and your firm do?—A. A very substantial amount of work.

Q. What was the nature of it?—A. Well, we had been so intimately connected with the firm's affairs before it went into receivership that there were a great number of matters which were pending, of which we had knowledge—I do not say a great number, but a number of matters of which we had knowledge, and we consulted with the attorneys for the receiver and endeavored to acquaint them with the facts as we knew them; and we were also attorneys for a corporation known as the Consolidated Paper Box Co., the securities of which had been underwritten by Russell-Colvin & Co. There were a great number of transactions concerning the liquidation of Russell-Colvin & Co.'s holdings of the Consolidated Box Securities which were handled almost entirely by us in the negotiating stages and turned over to the receiver and his attorneys, and there were a great number of other matters where we were consulted, and a great many conferences.

Q. Do you recall the time when the fees in this case were allowed to Mr. Short and to Mr. Hunter?—A. Yes, sir.

Q. Before that allowance did you have any conferences with them with regard to it?—A. We had a conference with Morse Erskine, one of the receiver's attorneys, and with the receiver, at which Mr. DeLancey Smith and Mr. Marrin and I were all present.

Q. Whom did they all represent in this conference?—A. Mr. Smith and I represented the defunct firm and Mr. Marrin represented the plaintiff. I may add that the receiver also informed Mr. Marrin in my presence that the judge desired to have him or his firm exercise the same degree of supervision that we exercised over the conduct of the receivership.

Q. In this conference over fees, what amounts did they suggest to you as their fees in the case?—A. We had been requested to attend the conference for two reasons. One was——

Mr. LINFORTH. One moment. We submit that that is not at all responsive to the question. I will ask the reporter to read the question.

The Official Reporter read as follows:

Q. In this conference over fees, what amounts did they suggest to you as their fees in the case?—A. We had been requested to attend the conference for two reasons. One was——

The PRESIDING OFFICER. The Chair thinks the answer thus far is not responsive.

A. The amount of fees which were suggested were $75,000 compensation for the attorneys for the receiver for services performed up to that date, and it is my recollection that that conference took place in the latter part of December or the first week in January of 1931.

By Mr. Manager BROWNING.

Q. Who suggested that amount?—A. Morse Erskine.

Q. What was suggested for the receiver up to that time?—A. A fee of $50,000, against which was to be credited the sum of $1,000 which the receiver had been drawing monthly from the date of his appointment.

Q. Did those of you who had been called into this conference with them at that time agree to those fees?—A. We did not.

Q. What countersuggestion did you make?—A. Mr. Smith——

Mr. LINFORTH. Just a moment. We submit, Mr. President, that the answer that was given cannot in any way, shape, or form be binding on the respondent unless that

matter was called to his attention at the time of the hearing on the application and the making of the order allowing the fees.

The PRESIDING OFFICER. The objection is overruled.

By Mr. Manager BROWNING.

Q. What counterproposal was made by you, if any?—A. I forgot the exact figure. I think Mr. Smith and Mr. Marrin and I had agreed upon a figure which Mr. Smith then suggested at the conference. I believe that was $20,000 for the receiver, and either $25,000 or $30,000 for his counsel.

Q. Do you know on what you based those figures?—A. I based it on our personal knowledge of the services which had been rendered, all of which we had had personal knowledge of. I believe we had been over or had reviewed—no; I withdraw that. Also upon what we understood to be the reasonable value of such services.

Q. For what other purpose were you called into this conference except on this fee proposition?—A. For the purpose of suggesting fees which the attorneys for the plaintiff and the attorneys for the defendant intended to apply for.

Q. Was there any discussion of that at that time?—A. Yes. Mr. Erskine asked Mr. Marrin what fee—or asked Mr. Smith, I believe, what fee they intended to apply for, and Mr. Smith replied that the attorneys for the plaintiff and ourselves had agreed upon a joint application in the sum of $15,000 total compensation for all.

Mr. LONG. I did not understand that. Did you say $15,000 or $58,000?

A. Fifteen thousand. Mr. Erskine declined to commit himself when Mr. Smith refused—when we refused to accept the $75,000 suggestion of his fee.

By Mr. Manager BROWNING.

Q. Did you get any closer together in your agreement than the $30,000 on your part and the $75,000 on their part?—A. No, sir.

Q. There was not any further discussion, as I understand, of the proposition of you and the attorneys for the petitioner making joint application for $15,000?—A. Well, the original understanding which we had had with the attorneys for the receiver at the time they informed us that the judge desired to have us do this work was that we were to be compensated out of the estate, and at various times Mr. Erskine had reiterated that understanding. This conference more or less broke up in a strained condition on account of the fact that we were at loggerheads on the fees which they suggested.

Q. How much was actually allowed at the hearing on these fees?

Mr. LINFORTH. Just a moment. Do you mean allowed to the attorneys for the receiver or to the witness?

Mr. Manager BROWNING. Answer the question.

Mr. LINFORTH. May I have the question read?

The PRESIDING OFFICER. The reporter will read the question.

The Official Reporter read as follows:

Q. How much was actually allowed at the hearing on these fees?

Mr. LINFORTH. Just a moment. Do you mean allowed to the attorneys for the receiver or to the witness?

The PRESIDING OFFICER. The Chair thinks counsel may cross-examine the witness on that phase of it when the proper time arrives. The witness may answer the question.

A. The attorneys for the receiver were allowed $46,250, and the attorneys for the plaintiff and the defendant combined were allowed $8,750. I forget the exact amount that was allowed the receiver.

By Mr. Manager BROWNING.

Q. Was this on account, or for the entire service in the case?—A. It was on account.

Q. After that, how much more, if anything, was allowed the attorneys for the receiver?—A. $5,000.

Q. Do you know the total amount that was allowed the receiver in this case?—A. I have not that exact figure in mind, Mr. Browning.

Q. Over what period of time did this receivership run as an active receivership?—A. This application for fees, as I recall it, was heard in April 1931, and the receivership had commenced on March 13—the work of Mr. Hunter had commenced on March 13, 1930. At that time, at the time the fees were allowed, no dividends had been paid, and no securities had been delivered, except safe-keeping securities; in other words, securities which were not subject to any marginal requirements.

Q. Has the receivership been closed yet?—A. No, sir.

Q. Over what period of time was the bulk of the work to be done? How long did it require to do the principal part of the work in this case?

Mr. LINFORTH. Just a moment. We object to that question as calling for the opinion or conclusion of the witness.

Mr. Manager BROWNING. I asked him to state a fact as to what it was.

The PRESIDING OFFICER. The witness may answer.

A. The bulk of the work was accounting work, which was done by a staff of employees whom Mr. Hunter hired for that work. It consisted largely of tracing the securities into the individual pools and determining the respective equities of the various margin customers. That was due to the fact that the firm of Russell-Colvin & Co. had a brokerage account with E. A. Pierce & Co., and also with several other members of the New York Stock Exchange, each of which had been liquidated at or about the time the receiver was appointed, and, according to the system followed by Mr. Hunter and his attorneys, that required tracing, according to their system.

By Mr. Manager BROWNING.

Q. What was the size of this estate? What were the assets of the concern?—A. The assets of the general estate, as I recall it, were approximately $500,000. I would have to refresh my recollection on that. I have not those figures in mind.

Q. Do you have the figures before you?—A. I have not them before me, but I can refresh my recollection and give them to you.

Q. Are they available?—A. They are available. The bulk of the estate consisted of securities which were held in marginal accounts.

Q. What disposition did the receiver make of them?—A. They were ultimately delivered—such securities as remained were prorated against the accounts participating in the various pools, and the securities were delivered back to the persons who were entitled to them upon payment of their proportionate contributions.

Q. What do you mean they were charged for, when you say upon the payment of their proportionate contributions?—A. They were charged for contributions to the losses which had been sustained by other margin customers whose securities had been sold in the process of liquidation by the other stock brokerage firms with which Russell-Colvin & Co. had brokerage accounts, and also were charged with an overriding charge to compensate the receiver and his attorney for work which was estimated to be allocated to that part of the liquidation. In other words, there was a percentage charge fixed against all margin customers which they had to pay, or which their securities had to bear before they could get delivery.

Q. How much cash was realized by the receiver, if you know, in this liquidation for distribution to the creditors?—A. I am sorry, Mr. Browning; I did not understand you would want me to have that information offhand. I did not refresh my recollection.

Q. Is that available?—A. That is available, yes.

Q. Could you bring it tomorrow?—A. Yes, sir.

Mr. Manager BROWNING. Mr. President, I really think it is important for us to have those facts which are available, and we could have them in the morning, if the court saw fit to adjourn over until tomorrow.

Mr. KING. Mr. President, may I be permitted, through the President, to inquire of the honorable counsel whether or not they have some other witness with whom they could proceed this afternoon?

Mr. Manager BROWNING. Yes; we have.

The PRESIDING OFFICER. Is it the desire of the managers on the part of the House to let this witness stand aside temporarily, and proceed with another witness?

Mr. Manager SUMNERS. Mr. President, may we inquire how long the court anticipates sitting this afternoon?

The PRESIDING OFFICER. That is entirely in the control of the members of the court.

Mr. KING. Mr. President, may I take the liberty of suggesting that we continue until 6 o'clock?

Mr. NORRIS. Mr. President, under the rules, I believe, any Member of the Senate has a right to ask a question if he submits it in writing.

The PRESIDING OFFICER. That is the understanding of the Chair.

Mr. NORRIS. I have a question in writing which I should like to have propounded to the witness.

The PRESIDING OFFICER. The Senator will send the question to the desk, and the clerk will read it.

The Chief Clerk read as follows:

Did the receiver get a salary as receiver in addition to the lump sum you have named?

A. The receiver drew a monthly allowance or salary or drawing account of $1,000 a month. The understanding was that the fee suggested at this conference between the attorneys for the receiver and ourselves, namely, $50,000, was to be credited with the amount which had theretofore been paid to the receiver. Subsequently, when the allowance was made, it is my recollection that the order of allowance provided for the payment of a lump sum which did not include the money theretofore paid to the receiver. I am not entirely certain of that, however.

Mr. KING. Mr. President, I submit the following interrogatory.

The PRESIDING OFFICER. The Senator from Utah submits an interrogatory, which the clerk will read to the witness.

The Chief Clerk read as follows:

Did the respondent say that his objection to McAuliffe was that he was the attorney of the stock exchange?

A. He did not.

Mr. McKELLAR. I desire to propound an interrogatory.

The PRESIDING OFFICER. The Senator from Tennessee sends forward the following interrogatory, which the clerk will read to the witness.

The Chief Clerk read as follows:

How much money was realized from the estate and what was the total amount paid to the receiver and what amount to the receiver's attorneys?

A. The receiver's attorneys received an allowance, as I recall it, in April 1931, of $46,250, which was compensation to the date of their application. Subsequently, the following year, they received a further allowance of $5,000 as a fee, which the receiver himself received. There was so much that took place concerning that, that I really do not remember the exact figures at this moment. I might explain it more fully if you desire to have it explained.

Mr. McKELLAR. If the figures are available, you can get them.

A. I can procure them, but I do not have them at hand.

Mr. KING. I desire to submit two further interrogatories.

The PRESIDING OFFICER. The Senator from Utah submits the following additional interrogatories, which the clerk will read.

The Chief Clerk read as follows:

Was it not a proper requirement to have the second application for receiver dismissed?

A. Answering the question, the first petition was the one which was dismissed. That was the one which had been assigned to Judge St. Sure; and the second petition was assigned to Judge Louderback. I do not consider there was anything improper, in my opinion, concerning the dismissal of the first petition. It was merely a circumstance which the judge insisted upon before allowing the appointment on the second petition.

Mr. KING. Mr. President, I modify the first interrogatory, as read, in view of the answer of the witness and submit the following.

The PRESIDING OFFICER. The Senator from Utah submits the following interrogatory, which will be read to the witness by the clerk.

The Chief Clerk read as follows:

Was it not a proper requirement to have the first application for receiver dismissed?

A. In my opinion, it was.

Mr. KING. Mr. President, I submit a further interrogatory.

The PRESIDING OFFICER. The clerk will read to the witness the interrogatory propounded by the Senator from Utah.

The Chief Clerk read as follows:

What reason did the respondent give for not agreeing to the appointment of McAuliffe or his firm as attorneys for the receiver?

A. I do not recall that he assigned any reason. The objection or the comment which he made was that the receiver had broken faith with him and that he did not understand him and that he did not consider that he was as well qualified as we had outlined to him in our first statement.

Mr. KING. I desire to submit another interrogatory, if I may.

The PRESIDING OFFICER. The Senator from Utah submits another interrogatory, which the clerk will propound to the witness.

The Chief Clerk read as follows:

Was not McAuliffe attorney for the stock exchange?

A. Mr. McAuliffe was a member of the firm of Heller, Ehrmann, White & McAuliffe, which firm was acting at that time as attorneys for the San Francisco Stock Exchange.

Mr. LONG. I had two questions I desired to ask. The Senator from Utah has asked one of them, and I send the second to the desk.

The PRESIDING OFFICER. The Senator from Louisiana propounds an interrogatory, which the clerk will read.

The chief clerk read as follows:

Were the receiver and attorney appointed men of good character and standing?

A. I do not know anything about the character or standing of Mr. Hunter. In our inquiry we found nothing which we could advance as a legitimate reason why he should not be appointed. I think that Mr. John Douglas Short is a man of good character. I do not consider that Mr. Herbert Erskine is a man of good character or good reputation.

By Mr. Manager BROWNING:

Q. Did you at that time know Mr. John Douglas Short?—A. I had known Mr. Short for some time; yes.

Q. Now, with regard to the stock exchange, will you state what interest they had in the receivership?—A. Well, the firm of Russell-Colvin Co. was the first member firm which went into open liquidation; in other words, which failed; and Mr. Dinkelspiel, representing the governing board of the stock exchange, and the governing board informed us that they desired to see an orderly liquidation so as to prevent any feeling of panic on the part of other customers doing business with other firms. Furthermore, under the rules of the San Francisco Stock Exchange, the members of the exchange have a prior right to resort to the seats in settlement of any obligation to those members. The primary reason that he assigned was that they wanted to see an orderly liquidation and an economical liquidation.

Q. Soon after the receivership was established, or soon after a receiver was appointed and was operating, was there an effort to put the concern into bankruptcy?—A. There was.

Q. What was done about that on the part of the receiver and his attorneys?—A. I think, within a week or within 10 days, in any event, after the equity proceedings

had been initiated, a bankruptcy proceeding was commenced by a single creditor, which was subsequently supported by two intervening petitions. They were served upon the firm, and Mr. Erskine—Mr. Morse Erskine—suggested that we appoint or employ or agree to the employment of an attorney in San Francisco who is a known specialist in bankruptcy matters—or was a known specialist in bankruptcy matters—Milton Newmark—and Mr. Erskine stated that Mr. Hunter was very friendly with Mr. Newmark and would like to throw something his way. We agreed to the association of Mr. Newmark with ourselves, and an answer was filed denying insolvency but admitting the other allegations of the petition in bankruptcy with the exception of the statement as to one indebtedness.

Q. Was that petition in bankruptcy sustained?—A. It was subsequently dismissed. One of the asserted claims set forth in the first petition in bankruptcy was, in our opinion, a very weak claim and could not be substantiated at the trial. Later that was compromised by the receiver and his counsel, and, as a condition of settlement, the proceeding was dismissed.

Q. About the middle of last July or last summer, previous to the visit of the committee from the House to San Francisco, did you have any conference with Judge Louderback with regard to this case?—A. I did.

Q. Please state what it was.—A. I received a telephone call from the judge's secretary asking me to come to his chambers, and I went there in response to the call. He then interrogated me as to whether or not Mr. Addison G. Strong, the receiver, had been present on both occasions when the attorneys had been before him concerning the appointment of Mr. Strong as receiver. He also said that he did not understand who was instigating the publicity which had previously been running in the San Francisco newspapers for the attempted impeachment proceedings at that time, and he stated that he did not know whether or not Mr. Thelen had been instrumental in it. He said that he thought he might have been instrumental in it for the reason that Mr. Thelen's younger associate, Mr. Gordon Johnson, was president of the Barristers' Club in San Francisco.

Then he also asked what I thought about the matter in which the receiver had conducted the liquidation, in the first place, and whether it was entirely satisfactory to us; and, in the second place, whether or not the amount of the fees which had been allowed were agreeable to us. I told him that all the proceedings which the receiver had taken were not satisfactory to us. He said, "You should have taken it up with me." I said that I did not know that I enjoyed the privilege of taking the matter up with him. He said that that was the reason that he had requested the receiver and his attorney to submit all petitions to us. That, however, was the first information we had then about the fees. I told him that I considered the fees were quite excessive, and I thought the liquidation might have been made much more economically.

Mr. Manager BROWNING (to counsel for the respondent). You may take the witness.

The PRESIDING OFFICER. Do counsel for the respondent desire to cross-examine this witness?

Mr. LINFORTH. Yes; but we prefer to wait until the record is concluded with the witness. I will inquire of Mr. Manager BROWNING if he is through with the witness?

Mr. Manager SUMNERS. Mr. President, tomorrow we should like to have the witness testify merely to the figures with regard to which the witness has been interrogated.

The PRESIDING OFFICER. Counsel for the respondent will proceed with the cross-examination.

Mr. LONG. Mr. President, I should like to ask the witness two more questions. I send them to the desk.

The PRESIDING OFFICER. The Senator from Louisiana propounds two more questions, which the clerk will read.

The Chief Clerk read as follows:

Q. Why did you not take matters up with the judge if, as you testified, you were required to look over all matters?

A. The matters which I had in mind at the time I discussed it with the judge were matters of general policy, which were not made the subject of petition. If I may explain, the petitions were submitted from time to time asking permission to deliver for safekeeping securities or asking for approval of a compromise of this claim or the other claim, and so on—matters of general policy that had not been taken up in that form. The reason, however, that I did not take it up was that I did not understand and neither my associate nor I was ever informed by the judge directly that he desired to have us consult with him concerning any of his statements rather than to consult with the attorneys; and it was only in a very few instances when matters were submitted to us that we did not give our approval because the petitions were carrying out the general program which the receiver had initiated for liquidating the concern. I believe that the general program might have been different, but the detail of the program which he selected was apparently proper.

The PRESIDING OFFICER. The clerk will read the second question propounded by the Senator from Louisiana.

The Chief Clerk read as follows:

Q. Why did you not object to or appeal the fee order if you thought it improper?

A. For two reasons. One was that insofar as our own compensation was concerned we felt that the finding by the court would undoubtedly be the amount which we were informed by the attorneys the court was prepared to allow us, and that the finding of fact would preclude an appeal on the facts. Secondly, for the reason that insofar as the fees allowed to the receiver and his counsel are concerned, at that time it definitely appeared that the partners in this concern whom we represented had no residuary interest left after settlement, and consequently there was no interest which they had to be saved by an appeal, and we had not been employed by them and were not employed by them or paid by them to prosecute any such objections on appeal.

Mr. KING. Mr. President, I submit the following interrogatory.

The PRESIDING OFFICER. The Senator from Utah submits the following interrogatory, which the clerk will read to the witness.

The Chief Clerk read as follows:

Q. Did you not state that the judge requested you or your firm to supervise the work of the receiver or his attorney?

A. That is what the receiver and his attorneys informed us, that he desired to have us give our approval to the various petitions which were filed from time to time and to consult with them. We did consult with them from time to time—not to consult with the judge but to consult with the attorneys for the receiver.

The PRESIDING OFFICER. Counsel for the respondent may cross-examine.

Cross-examination by Mr. LINFORTH:

Q. Mr. Brown, you had two interviews with the judge on Tuesday, the 11th of March 1930?—A. Yes, sir.

Q. One in the morning?—A. One shortly before noon.

Q. And the other toward evening?—A. That is correct.

Q. In the interview toward the noon hour who was present, do you say, at that time?—A. Mr. Thelen, Mr. Marrin, Mr. Strong, Mr. Dinkelspiel, and I.

Q. Mr. Dinkelspiel was the representative of the Heller, Ehrmann, White & McAuliffe firm, was he not?—A. Yes, sir.

Q. And Mr. Strong appeared in person at that time?—A. We had him there so that the judge could see him and interrogate him if he desired.

Q. In the talk that was had on the first occasion, was the judge told of the connection of Mr. Strong with the San Francisco Stock Exchange?—A. It was outlined at some length to him; yes.

Q. He was told that he was the auditor of the San Francisco Stock Exchange? Is that right?—A. I believe he told us, and also told of his connection with the firm of Russell-Colvin Co.

Mr. HEBERT. Mr. President, we cannot hear the witness over here. If the witness will face the center of the Chamber I think perhaps we can hear him better.

The PRESIDING OFFICER. The witness will speak a little louder so that members of the court may hear.

A. (Continuing.) He was told of Mr. Strong's connection with the stock exchange as auditor and also of his connection with the firm of Russell-Colvin & Co. as a member of the firm of Reed & Strong, who had supervised the audit of their books, and also had supervised for the stock exchange some of the company's activities for the previous month.

By Mr. LINFORTH:

Q. Do you recall, Mr. Brown, if he was also informed that the Russell-Colain people were members of the San Francisco Stock Exchange?—A. I believe he was; yes. He was informed that the firm was a member of the exchange. I do not remember that the San Francisco Stock Exchange was specifically mentioned, but I may say this, Mr. Linforth, that the fact that Mr. Dinkelspiel represented the San Francisco Stock Exchange and was there in its interest was made known to the judge.

Q. Did the judge, on the first visit on the 11th, indicate that he was going to appoint Mr. Strong?—A. Yes.

Q. On that occasion was the question of the amount of the bond discussed?—A. Yes.

Q. On that occasion did the judge say anything on the subject of reserving the right to select the attorney for the receiver?—A. The only thing he said which might even carry that inference was questioning Mr. Strong as to who was his attorney and whether any of the persons present were his attorneys.

Q. He did ask Mr. Strong at the time—that is, on the first visit on the morning of the 11th—whether or not he had already employed counsel?—A. That is not what he asked him; no.

Q. Did he ask him on the first visit on the morning of the 11th whether or not he had already employed counsel?—A. He did not.

Q. Did he ask him on the morning of the 11th whether he had already consulted counsel?—A. He did not.

Q. What did he say to him on that subject on the first visit on the morning of the 11th?—A. He asked him whether—he said to Mr. Strong, "Are any of the lawyers present—Mr. Thelen, Mr. Marrin, Mr. Dinkelspiel, or Mr. Brown—your attorneys?" taking them up one by one. Mr. Strong answered "No." He said, "Who are your attorneys?" Mr. Strong said that he had no regular counsel, as I recall it.

Q Was that the full extent of the talk that morning on the subject of attorneys?—A. To the best of my recollection that is all that was said.

Q. The fact is that on that morning in answer to what the judge did ask, Mr. Strong did not reply that he had already consulted Mr. Lloyd Ackerman, did he?—A. I do not think that is a fact.

Q. Did Mr. Strong reply that he had already at that time consulted Mr. Ackerman?—A. He did not.

Q. When you returned on Tuesday, the 11th day of March, 1930, was anything said at that time about his employment of attorneys?—A. I believe the entire comment or conversation which I have just related took place in the forenoon and that there was nothing further said on that subject whatever at the afternoon conference.

Q. In the morning conference or the afternoon conference did the judge emphasize the proposition that Mr. Strong, if appointed, would be an officer of the court?—A. I do not think he did; no.

Q. Is your recollection clear on that subject, Mr. Brown?—A. My recollection is as clear on that subject as it is on everything else, Mr. Linforth.

Q. Did the judge at either the first or the second interview on Tuesday, the 11th day of March, tell Mr. Strong that if appointed he would be an officer of the court and that he must confer with the judge in the matter of the selection of his attorneys?—A. I have no recollection of it.

Q. Is that as far as you can go?—A. What do you mean by that?

Q. You have no recollection on the subject whatever?—A. I do not recall any such statement having been made.

Q. Are you in a position to say, and will you say, that that did not take place?—A. I would not be prepared to say that something of that kind might not have been said. It is my recollection that it was not said, however.

Q. You were taking part in the conversation, were you not?—A. I took part in the conversation which I myself engaged in, and I listened to the rest of it.

Q. Is it your present frame of mind that while you do not want to go on record as denying that such took place, yet it is your recollection that it did not?—A. My position is that it may have been said, but I have no recollection of having heard it.

Q. Is it not the fact that after the judge had made the statement referred to in the preceding question, the judge then turned to Mr. Strong and asked him had he selected any attorney?—A. May I have the question read to me?

The PRESIDING OFFICER. The reporter will read the question to the witness.

The Official Reporter read as follows:

Q. Is it not the fact that after the judge had made the statement referred to in the preceding question, the judge then turned to Mr. Strong and asked him had he selected any attorney?

A. As I stated, I do not recall the judge's having made the statement which your question implies you believe he did make, and I do not recall any such other connection. I do recall the fact that he asked him whether any of the persons present were his attorneys, and I recall Mr. Strong's reply, and that is all.

Q. Did he according to your recollection ask him at that time whether or not he had selected any attorney?—A. By that do you mean selected an attorney in the proceeding or for the proceeding?

Q. In the receivership matter in the event of his being appointed as receiver.—A. Not to my recollection; no.

Q. Is it your recollection that Mr. Short did not answer he had not?—A. You mean Mr. Strong?

Q. Mr. Strong, yes; pardon me.—A. I do not recall the question having been asked, and, therefore, I certainly do not recall any such answer as that.

Question. Will you deny that the judge made such a statement to Mr. Strong?

Mr. Manager SUMNERS. Mr. President, are we permitted to object on the ground that questions have already been answered?

The PRESIDING OFFICER. Such an objection is permissible.

Mr. Manager SUMNERS. We offer that objection to repetition of the question.

The PRESIDING OFFICER. The Chair thinks the witness has answered the question.

Mr. LINFORTH. If the Presiding Officer thinks so, we shall not repeat it.

By Mr. LINFORTH:

Q. On Thursday—I believe you have stated that was the 13th, Mr. Brown?—A. Monday was the 10th, Tuesday the 11th, Wednesday the 12th, and Thursday the 13th. That is my recollection.

Q. That is correct, is it not?—A. That is my recollection.

Q. Who was with you at the time you called at the chambers of the judge in answer to the telephone message from the secretary?—A. Mr. Thelen, Mr. Marrin, and I.

Mr. ASHURST. Mr. President, I respectfully suggest to the honorable managers and the honorable attorneys on the part of the respondent that we would be willing to take a recess of the court at this time.

The PRESIDING OFFICER. Does the Senator from Arizona so move?

Mr. ASHURST. I move that the Senate sitting as a Court of Impeachment take a recess until 11 o'clock tomorrow morning, and that the Senate proceed to the consideration of legislative business.

The PRESIDING OFFICER. The Senator from Arizona moves that the Senate sitting as a Court of Impeachment take a recess until 11 o'clock tomorrow morning and that the Senate proceed to the consideration of legislative business.

The motion was agreed to; and (at 5 o'clock and 30 minutes p.m.) the Senate sitting as a Court of Impeachment took a recess until 11 o'clock a.m. Tuesday, May 16, 1933.

EXECUTIVE SESSION

Mr. ROBINSON of Arkansas. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

EXECUTIVE MESSAGES REFERRED

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

(For nominations this day received, see the end of Senate proceedings.)

REPORTS OF COMMITTEES

The VICE PRESIDENT. Reports of committees are in order.

Mr. STEPHENS, from the Committee on the Judiciary, reported back favorably the nomination of Francis A. Garrecht, of Washington, to be United States circuit judge, 9th circuit, to succeed Frank H. Rudkin, deceased.

Mr. TRAMMELL, from the Committee on Naval Affairs, reported back favorably sundry nominations for promotion in the Navy.

The VICE PRESIDENT. The nominations will be placed on the calendar.

Are there further reports of committees? If not, the calendar is in order.

THE CALENDAR—UNDER SECRETARY OF THE TREASURY

The Chief Clerk read the nomination of Dean G. Acheson, of Maryland, to be Under Secretary of the Treasury.

Mr. McNARY. Mr. President, when the Senate adjourned on Friday the Senator from Michigan [Mr. COUZENS] was in the middle of a speech in connection with this nomination. I should not want to proceed with it in his absence.

Mr. HARRISON. Mr. President, may I say to the Senator from Oregon that I have talked with the Senator from Michigan, and I told him I did not think this matter would come up this afternoon. He has left the Chamber; so let the nomination be passed over for the present, with the hope that tomorrow we can have an executive session and take up the matter and dispose of it.

Mr. ROBINSON of Arkansas. I ask that the nomination be passed over, and that the clerk proceed with the call of the calendar.

The VICE PRESIDENT. Without objection, that order will be made.

FOREIGN AND DIPLOMATIC SERVICE

The Chief Clerk read the nomination of Dave Hennen Morris, of New York, to be Ambassador Extraordinary and Plenipotentiary to Belgium, also Envoy Extraordinary and Minister Plenipotentiary to Luxembourg.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

The Chief Clerk read the nomination of George Bliss Lane to be secretary, Diplomatic Service.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

GOVERNOR OF PUERTO RICO

The Chief Clerk read the nomination of Robert Hayes Gore, of Florida, to be Governor of Puerto Rico.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

MARINE CORPS

The Chief Clerk read the nomination of Edgar G. Kirkpatrick to be captain in the Marine Corps.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

The Chief Clerk read the nomination of Bernard H. Kirk to be first lieutenant in the Marine Corps.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

FEDERAL RESERVE BOARD

The Chief Clerk read the nomination of Eugene R. Black, of Georgia, to be a member of the Federal Reserve Board for the unexpired portion of the term of 10 years from August 10, 1928.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

THE ARMY

The Chief Clerk proceeded to read sundry nominations in the Army.

Mr. LA FOLLETTE. I ask unanimous consent that these routine Army nominations may be confirmed en bloc.

The VICE PRESIDENT. Without objection, the nominations are confirmed en bloc.

There being no objection, the nominations were confirmed en bloc.

Mr. REED. There are two nominations of general officers that are not routine matters.

REAPPOINTMENT IN THE OFFICERS' RESERVE CORPS

The Chief Clerk read the nomination of John Ross Delafield to be brigadier general, Ordnance Department Reserve.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

APPOINTMENT IN THE OFFICERS' RESERVE CORPS

The Chief Clerk read the nomination of Edward Caswell Shannon to be major general, Reserves.

The VICE PRESIDENT. Without objection, the nomination is confirmed.

GREAT LAKES-ST. LAWRENCE WATERWAY TREATY

Mr. LONG. Mr. President, while we are in executive session, I wonder if we cannot get the St. Lawrence Waterway Treaty taken off the calendar, so that we will not have to watch it every day. Nearly everybody in the Senate is against it, but there is danger of its going over some day because of all of us not being here. Would there be any objection to its being eliminated from the calendar for the time being, so that we will not have to worry around here and watch it all the time? I should like to move that it be eliminated from the calendar until it is restored by motion.

Mr. VANDENBERG. There would be rather violent objection, I fear.

Mr. President, while we are on the subject, and pursuant to a rather familiar Senate custom, I should like to announce that at the first legislative or executive session when there is time I shall ask to be recognized for the purpose of laying before the Senate the argument in behalf of the St. Lawrence Treaty; and I hope that may be done at an early day this week.

NOTIFICATION TO THE PRESIDENT

Mr. GEORGE. Mr. President, I ask unanimous consent that the President be notified of the confirmations this day made, especially of Mr. Eugene R. Black, of Georgia, as a member of the Federal Reserve Board.

Mr. McNARY. Mr. President——

Mr. GEORGE. May I explain to the Senator from Oregon that the reason why the request is made is that I am advised that there is not at present in office a necessary quorum of the Federal Reserve Board. For that reason it is highly desirable that the President be notified of Mr. Black's confirmation, so that there may be a quorum actually in office and ready to function.

Mr. McNARY. Mr. President, I always like to accommodate the able Senator from Georgia; but many Members of the Senate have requested that procedure of this kind not be had, and that we follow the usual rule. Therefore,

while I know this is a very important matter, I should like to have it go over until tomorrow.

The VICE PRESIDENT. Objection is made.

The Senate resumed legislative session.

EXTENSION OF GASOLINE TAX

The VICE PRESIDENT laid before the Senate the action of the House of Representatives disagreeing to the amendments of the Senate to the bill (H.R. 5040) to extend the gasoline tax for 1 year, to modify postage rates on mail matter, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

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

The motion was agreed to; and the Vice President appointed Mr. HARRISON, Mr. KING, Mr. GEORGE, Mr. REED, and Mr. COUZENS conferees on the part of the Senate.

REGULATION OF BANKING

Mr. GLASS. Mr. President, I move that the Senate proceed to the consideration of Senate bill 1631.

Mr. LA FOLLETTE. Mr. President, what is the motion?

Mr. GLASS. That the Senate proceed to the consideration of the bank bill.

The VICE PRESIDENT. The clerk will state the title of the bill for the information of the Senate.

The CHIEF CLERK. A bill (S. 1631) to provide for the safer and more effective use of the assets of Federal Reserve banks and of national banking associations, to regulate interbank control, to prevent the undue diversion of funds into speculative operations, and for other purposes.

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

Mr. McNARY. Mr. President, I assume that a motion to take up this bill will be made tomorrow. To be very frank, indeed, with the Senator from Virginia, I have called a conference of Republican Members for tomorrow to discuss the bill, and I should not want it made the unfinished business this afternoon. The Senator will have a perfect right, in due course tomorrow, to move to take it up. At this time I shall have to object.

Mr. GLASS. I am not disposed to press the motion, in view of the statement of the Senator from Oregon.

RECESS

Mr. ROBINSON of Arkansas. Mr. President, I move that the Senate take a recess until the conclusion of the sitting of the Court of Impeachment on tomorrow.

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

The motion was agreed to; and (at 5 o'clock and 38 minutes p.m.) the Senate took a recess until the conclusion of the proceedings of the Senate sitting as a Court of Impeachment on tomorrow, Tuesday, May 16, 1933, the hour of meeting of the Senate sitting as a Court of Impeachment being 11 o'clock a.m.

## NOMINATIONS

*Executive nominations received by the Senate May 15, 1933*

COMMISSIONER OF THE GENERAL LAND OFFICE

Fred W. Johnson, of Wyoming, to be Commissioner of the General Land Office.

COMMISSIONER OF PATENTS

Conway P. Coe, of Maryland, to be Commissioner of Patents, vice Thomas E. Robertson.

UNITED STATES MARSHAL

Al W. Hosinski, of Indiana, to be United States marshal, northern district of Indiana, to succeed Emmett O. Hall, term expired.

## CONFIRMATIONS

*Executive nominations confirmed by the Senate May 15, 1933*

AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY AND ENVOY EXTRAORDINARY AND MINISTER PLENIPOTENTIARY

Dave Hennen Morris to be Ambassador Extraordinary and Plenipotentiary to Belgium, also Envoy Extraordinary and Minister Plenipotentiary to Luxembourg.

SECRETARY IN THE DIPLOMATIC SERVICE

George Bliss Lane to be secretary in the Diplomatic Service.

MEMBER OF THE FEDERAL RESERVE BOARD

Eugene R. Black to be a member of the Federal Reserve Board.

GOVERNOR OF PUERTO RICO

Robert Hayes Gore to be Governor of Puerto Rico.

APPOINTMENT, BY TRANSFER, IN THE REGULAR ARMY

Capt. Desmond O'Keefe to Judge Advocate General's Department.

Second Lt. Christian Gotthard Nelson to Field Artillery.

First Lt. William Frank Steer to Infantry.

Capt. Thomas Jefferson Davis to Adjutant General's Department.

Capt. John Alexander Klein to Adjutant General's Department.

Second Lt. Daniel Fulbright Walker to Field Artillery.

Capt. John Sutherland Claussen to Quartermaster Corps.

Capt. James Brian Edmunds to Quartermaster Corps.

PROMOTIONS IN THE REGULAR ARMY

Orrin Leigh Grover to be first lieutenant, Air Corps.

Frederick Almyron Prince to be lieutenant colonel, Field Artillery.

Russell Gilbert Barkalow to be major, Field Artillery.

Arthur Lee Shreve to be captain, Field Artillery.

George Raymond Connor to be captain, Infantry.

Harry Forrest Townsend to be first lieutenant, Coast Artillery Corps.

Francis Scoon Gardner to be first lieutenant, Field Artillery.

William Arden Alfonte to be colonel, Infantry.

John Mather to be lieutenant colonel, Ordnance Department.

Gerald Howe Totten to be major, Quartermaster Corps.

Ralph William Mohri to be first lieutenant, Veterinary Corps.

Daniel Andrew Nolan to be colonel, Infantry.

George William Carlyle Whiting to be lieutenant colonel, Infantry.

William Fred Riter to be major, Quartermaster Corps.

Herbert Warren Hardman to be major, Quartermaster Corps.

John Dillard Goodrich to be major, Quartermaster Corps.

Laurence Daly Talbot to be captain, Quartermaster Corps.

Newman Raiford Laughinghouse to be captain, Air Corps.

John Paul Dean to be captain, Corps of Engineers.

Patrick Henry Timothy, Jr., to be captain, Corps of Engineers.

Hugh John Casey to be captain, Corps of Engineers.

Patrick Henry Tansey to be captain, Corps of Engineers.

Hans Kramer to be captain, Corps of Engineers.

Albert Gordon Matthews to be captain, Corps of Engineers.

Amos Blanchard Shattuck to be captain, Corps of Engineers.

Leland Hazelton Hewitt to be captain, Corps of Engineers.

Forester Hampton Sinclair to be first lieutenant, Field Artillery.

Walter Morris Johnson to be first lieutenant, Infantry.

Harold Stanley Isaacson to be first lieutenant, Field Artillery.

Willis Webb Whelchel to be first lieutenant, Field Artillery.

Albert Harvey Dickerson to be first lieutenant, Infantry.
Leander LaChance Doan to be first lieutenant, Cavalry.
Arthur Edwin Solem to be first lieutenant, Field Artillery.
Theodore Kalakuka to be first lieutenant, Cavalry.
Charlie Wesner to be first lieutenant, Field Artillery.
Henry Magruder Zeller, Jr., to be first lieutenant, Cavalry.
Orville Melvin Hewitt to be first lieutenant, Infantry.
Harry Rex MacKellar to be lieutenant colonel, Medical Corps.
William Richard Arnold to be chaplain with the rank of lieutenant colonel.

REAPPOINTMENT IN THE OFFICERS' RESERVE CORPS

John Ross Delafield to be brigadier general, Ordnance Department Reserve.

APPOINTMENT IN THE OFFICERS' RESERVE CORPS

Edward Caswell Shannon to be major general, Reserve.

PROMOTIONS IN THE NAVY

MARINE CORPS

Edgar G. Kirkpatrick to be captain.
Bernard H. Kirk to be first lieutenant.

# HOUSE OF REPRESENTATIVES

## MONDAY, MAY 15, 1933

The House met at 12 o'clock noon.

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

We thank Thee, merciful Father, that with the birth of each day there comes the breath of freshness and life, full of wonder and growth to be revealed, and thus we know that all is well. By our fellowship in this Chamber may our ministeries be helpful and our characters made stronger and nobler and purer. With all this world about us with its ebbs and tides, may we learn to know Thee in the hidden places of our breasts. Give us the heart, O God, to lift all labor above drudgery into a blessed, patient service. Bless us all with rejoicing and with the assurance of this day. At evening time, when its veil has begun to thicken, may we be conscious that we have put no cloud upon it and that our shadow has been love, our speech music, and our step a benediction. Through Jesus our Savior. Amen.

The Journal of the proceedings of Friday, May 12, 1933, was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Horne, its enrolling clerk, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5040. An act to extend the gasoline tax for 1 year, to modify postage rates on mail matter, and for other purposes.

The message also announced that the Senate had ordered that Mr. TOWNSEND be appointed a member of the committee of conference on the part of the Senate on the disagreeing votes of the two Houses on the amendments of the Senate to the bill of the House (H.R. 5480) entitled "An act to provide full and fair disclosure of the character of securities sold in interstate and foreign commerce and through the mails, and to prevent frauds in the sale thereof, and for other purposes."

The message also announced that the Senate insists upon its amendment to the bill (H.R. 5390) entitled "An act making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1933, and prior fiscal years, to provide supplemental appropriations for the fiscal years ending June 30, 1933, and June 30, 1934, and for other purposes", disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BRATTON, Mr. GLASS, Mr. MCKELLAR, Mr. HALE, and Mr. KEYES to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a joint resolution of the following title, in which the concurrence of the House is requested:

S.J.Res. 50. Joint resolution designating May 22 as National Maritime Day.

MUSCLE SHOALS

Mr. McSWAIN. Mr. Speaker, by direction of a majority of the conferees on the part of the House, I present a conference report upon the bill (H.R. 5081) to provide for the common defense; to aid interstate commerce by navigation; to provide flood control; to promote the general welfare by creating the Tennessee Valley Authority; to operate the Muscle Shoals properties; and to encourage agricultural, industrial, and economic development, for printing under the rule.

SUSPENSIONS

The SPEAKER. This is suspension day.

CONFERRING DEGREE OF BACHELOR OF SCIENCE UPON GRADUATES OF NAVAL ACADEMY

Mr. VINSON of Georgia. Mr. Speaker, I move to suspend the rules and pass the bill (S. 753) to confer the degree of bachelor of science upon graduates of the Naval Academy, which I send to the desk and ask to have read.

The Clerk read as follows:

*Be it enacted, etc.*, That the Superintendents of the United States Naval Academy, the United States Military Academy, and the United States Coast Guard Academy may, under such rules and regulations as the Secretary of the Navy, the Secretary of War, and the Secretary of the Treasury may prescribe, confer the degree of bachelor of science upon all graduates of their respective academies.

The SPEAKER. Is a second demanded?

Mr. BLANTON. Mr. Speaker, I demand a second.

Mr. VINSON of Georgia. Mr. Speaker, I ask unanimous consent that a second be considered as ordered.

The SPEAKER. Is there objection?

There was no objection.

The SPEAKER. The gentleman from Georgia is entitled to 20 minutes and the gentleman from Texas to 20 minutes.

Mr. BLANTON. Mr. Speaker, this is a most important matter, while it looks trivial. I think the Membership of the House ought to be here during the discussion. I make the point of order that there is no quorum present.

The SPEAKER. The Chair will count. [After counting.] One hundred and twenty-six Members present, not a quorum.

Mr. BYRNS. Mr. Speaker, I move a call of the House.

The motion was agreed to.

The doors were closed.

The Clerk called the roll, and the following Members failed to answer to their names:

[Roll No. 41]

| | | | |
|---|---|---|---|
| Almon | Darrow | Kennedy, N.Y. | Rudd |
| Andrew, Mass. | Ditter | Kenney | Seger |
| Andrews, N.Y. | Dondero | Kerr | Shannon |
| Auf der Heide | Driver | Lea, Calif. | Sirovich |
| Bakewell | Eaton | Lee, Mo. | Snell |
| Bierman | Edmonds | Lehlbach | Somers, N.Y. |
| Boehne | Evans | Lewis, Colo. | Stokes |
| Boland | Fitzgibbons | Lindsay | Stubbs |
| Boylan | Focht | McDuffie | Studley |
| Brand | Fulmer | McGugin | Sullivan |
| Brooks | Gavagan | McLean | Sumners, Tex. |
| Brunner | Gifford | McLeod | Sutphin |
| Buckbee | Goldsborough | Maloney, Conn. | Tinkham |
| Cannon, Wis. | Granfield | Marshall | Turpin |
| Celler | Hancock, N.Y. | Mead | Underwood |
| Claiborne | Harlan | Montague | Waldron |
| Clark, N.C. | Hart | Moynihan | Weideman |
| Connery | Hildebrandt | Muldowney | Wigglesworth |
| Cooper, Ohio | Hollister | Oliver, N.Y. | Williams |
| Corning | Hornor | Palmisano | Withrow |
| Cox | Johnson, Okla. | Parker, Ga. | Wolfenden |
| Culkin | Kee | Reed, N.Y. | Wood, Mo. |
| Cullen | Kennedy, Md. | Reid, Ill. | Young |

The SPEAKER. Three hundred and thirty-nine Members have answered to their names, a quorum.

Mr. BYRNS. Mr. Speaker, I move to dispense with further proceedings under the call.

The motion was agreed to.

The doors were opened.