PETITIONS, ETC.

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

4943. By Mr. JOHNSON of Minnesota: Resolution of the citizens of Lincoln County, Minn., urging a proclamation by President Roosevelt calling for a moratorium on debt in the drought-striken area of the United States; to the Committee on Banking and Currency.

4944. By Mr. LEHR: Petition of the Educational Farmers' Union of America, Local No. 76, of Dundee, Mich., urging passage of the Frazier bill and the Swank-Thomas bill; to the Committee on Agriculture.

4945. Also, petition of the Woman's Christian Temperance Union of Ypsilanti, Mich., urging favorable action on the Patman motion-picture bill (H.R. 6097), to provide high moral standards for films entering interstate and international commerce; to the Committee on Interstate and Foreign Commerce.

4946. By Mr. LINDSAY: Petition of the Coyne & Delaney Co., Brooklyn, N.Y., opposing the act to create a National Industrial Board; to the Committe on Labor.

4947. Also, petition of the Filtrine Manufacturing Co., of Brooklyn, N.Y., opposing the Wagner disputes bill (S. 2926); to the Committee on Labor.

4948. Also, petition of the American Vault Co., Brooklyn, N.Y., opposing the new Wagner disputes bill; to the Committee on Labor.

4949. Also, petition of the Permatex Co., Brooklyn, N.Y., protesting against the passage of the Wagner disputes bill; to the Committee on Labor.

4950. Also, petition of the Moeller Instrument Co., Brooklyn, N.Y., protesting against the passage of the new Wagner disputes bill; to the Committee on Labor.

4951. Also, petition of the Tilden's Brake Service, Brooklyn, N.Y., protesting against the new Wagner disputes bill; to the Committee on Labor.

4952. Also, petition of the Vessel Owners and Captains Association, Philadelphia, Pa., protesting against cancelation of that portion of the lumber code which permits lumber mills located on navigable waters to sell their lumber at minimum code prices f.o.b.; to the Committee on Ways and Means.

4953. Also, petition of the Public Relations Committee, southern independent oil men's group, favoring the passage of the Thomas-Disney Federal oil control bill; to the Committee on Ways and Means.

4954. Also, petition of the National Publishers Association, Inc., New York City, objecting to the passage of the new Wagner disputes bill; to the Committee on Labor.

4955. Also, petition of Burton-Dixie Corporation of Brooklyn, N.Y., protesting against the passage of the new Wagner disputes bill; to the Committee on Labor.

4956. Also, petition of the Order of Sleeping Car Conductors, New York City, urging passage of amendments to Railway Labor Act and railway employees pension bill; to the Committee on Labor.

4957. Also, petition of Benisch Bros., Brooklyn, N.Y., opposing the passage of the amended Wagner labor bill as reported to the Senate on May 26; to the Committee on Labor.

4958. Also, petition of the Eberhard Faber Pencil Co., Brooklyn, N.Y., urging consideration and passage of House bill 9002; to the Committee on the Judiciary.

4959. By Mr. McFADDEN: Petition of the Duplan Silk Corporation, E. Rohr, Kingston, Pa., representing over 6,000 workers in the textile industry, protesting against the passage of the Industrial Adjustment Acts and asking Congress to appoint a committee to conduct further hearings during the summer; to the Committee on Interstate and Foreign Commerce.

4960. By Mr. MILLARD: Resolution adopted by the Immigration Restriction League, Inc., of New York City, expressing opposition to the enactment of House bills 9518, 9363, 9365, 9366, 9367, and 9364; to the Committee on Immigration and Naturalization.

4961. By Mr. RUDD: Petition of the American Vault Co., Brooklyn, N.Y., opposing the new Wagner disputes bill; to the Committee on Labor.

4962. Also, petition of the National Publishers' Association, Inc., opposing the passage of the new Wagner disputes bill; to the Committee on Labor.

4963. Also, petition of the Burton-Dixie Corporation, Brooklyn, N.Y., opposing the new Wagner disputes bill; to the Committee on Labor.

4964. Also, petition of the Filtrine Manufacturing Co., Brooklyn, N.Y., opposing the new Wagner disputes bill; to the Committee on Labor.

4965. Also, petition of the Permatex Co., Brooklyn, N.Y., opposing the passage of Wagner-Connery disputes bill; to the Committee on Labor.

4966. Also, petition of the Sperry Products, Inc., Brooklyn, N.Y., opposing the new Wagner labor disputes bill; to the Committee on Labor.

4967. Also, petition of the Chamber of Commerce of the Borough of Queens, city of New York, opposing the new Wagner disputes bill (S. 2926); to the Committee on Labor.

4968. Also, petition of Fairchild Sons, morticians, Brooklyn, N.Y., opposing the new Wagner labor-disputes bill; to the Committee on Labor.

4969. Also, petition of the Tilden's Brake Service, Brooklyn, N.Y., opposing the new Wagner labor disputes bill; to disputes bill (S. 2926); to the Committee on Labor.

4970. Also, petition of the Vessel Owners' and Captains' Association, Philadelphia, Pa., protesting against the cancelation of that portion of the lumber code which permits lumber mills located on navigable waters to sell their lumber at minimum cost prices f.o.b. loading points for water shipments of lumber; to the Committee on Ways and Means.

4971. By the SPEAKER: Petition of veterans and veterans' friends assembled in Plaza Park, Portland, Oreg., May 24, 1934, at the call of Post No. 45, Workers' Ex-Servicemen's League, endorsing the immediate cash payment of the bonus, repeal of the Economy Act, and the passage of House bill 7598 providing for unemployment insurance; to the Committee on Ways and Means.

4972. Also, petition of Charles Forney, Norfolk, Va., requesting that Congress block the endeavor to force Western Union Telegraph Co. to share with Postal Telegraph & Cable Co. certain facilities; to the Committee on Interstate and Foreign Commerce.

SENATE

TUESDAY, JUNE 5, 1934

(Legislative day of Monday, May 28, 1934)

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

THE JOURNAL

On motion of Mr. ROBINSON of Arkansas, and by unanimous consent, the reading of the Journal of the proceedings of the calendar day Monday, June 4, was dispensed with, and the Journal was approved.

ORDER FOR CONSIDERATION OF THE CALENDAR TOMORROW

Mr. ROBINSON of Arkansas. Mr. President, I ask unanimous consent that tomorrow, at the conclusion of the routine morning business, the Senate proceed to the consideration of unobjected bills on the calendar.

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

RECONSIDERATION AND RECOMMITTAL OF POST-OFFICE NOMINATIONS

Mr. McKELLAR. Mr. President, as in executive session, I ask unanimous consent that two nominations on the executive calendar, that of Harry E. Trout to be postmaster at Mercersburg, Pa., and that of Ollie W. Aucker to be postmaster at Tionesta, Pa., be recommitted to the Committee on Post Offices and Post Roads. The request for the recommittal comes from the senior Senator from Pennsylvania [Mr. REED]. I ask that the two nominations be withdrawn from the executive calendar and recommitted to the Committee on Post Offices and Post Roads.

The VICE PRESIDENT. Is there objection? The Chair hears none, and the nominations referred to are recommitted to the Committee on Post Offices and Post Roads.

Mr. McKELLAR. Mr. President, as in executive session, I also ask unanimous consent that the vote by which the nomination of Ocie C. Hawkins to be postmaster at Stanton, Tenn., was confirmed, be reconsidered, and that the nomination be recommitted to the Committee on Post Offices and Post Roads.

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

Mr. McKELLAR. Also, as in executive session, I move that the nominations of Hazel B. Davis to be postmaster at Westfield, Pa., and of Ray W. Jones to be postmaster at Ashland, Nebr., be recommitted to the Committee on Post Offices and Post Roads.

The motion was agreed to.

MESSAGE FROM THE HOUSE

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

S. 2041. An act to amend the act of June 15, 1933, amending the National Defense Act of June 3, 1916, as amended; and

S. 3641. An act to extend the times for commencing and completing the construction of a bridge across the St. Lawrence River at or near Ogdensburg, N.Y.

The message also announced that the House had passed the bill (S. 2692) relating to the record of registry of certain aliens, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the following bills and joint resolutions, in which it requested the concurrence of the Senate:

H.R. 3084. An act authorizing the sale of portions of the Pueblo lands of San Diego to the city of San Diego, Calif.;

H.R. 5330. An act to amend the act of March 2, 1917, entitled "An act to provide a civil government for Puerto Rico, and for other purposes";

H.R. 8930. An act to provide for the construction and operation of a vessel for use in research work with respect to ocean fisheries;

H.R. 9003. An act to purchase and erect in the city of Washington the group of statuary known as the "Indian Buffalo Hunt";

H.R. 9280. An act relating to deposits in the United States of public moneys of the Government of the Philippine Islands;

H.R. 9617. An act to authorize the reduction of the required distance between liquor distilleries and rectifying plants and to authorize higher fences around distilleries;

H.R. 9623. An act to amend the Grain Futures Act to prevent and remove obstructions and burdens upon interstate commerce in grains and other commodities by regulating transactions therein on commodity futures exchanges, by providing means for limiting short selling and speculation in such commodities on such exchanges, by licensing commission merchants dealing in such commodities for future delivery on such exchanges, and for other purposes;

H.R. 9654. An act to authorize the Department of Commerce to make special statistical studies upon payment of the cost thereof, and for other purposes;

H.R. 9694. An act to amend the Emergency Railroad Transportation Act, 1933, approved June 16, 1933;

H.R. 9830. An act making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1934, and prior fiscal years, to provide supplemental general and emergency appropriations for the fiscal years ending June 30, 1934, and June 30, 1935, and for other purposes;

H.J.Res. 295. Joint resolution authorizing appropriation for expenses of representatives of United States to meet at Istanbul, Turkey, with representatives of Turkish Republic for purpose of examining claims of either Government against the other and for expense of proceedings before an umpire, if necessary; and

H.J.Res. 344. Joint resolution to amend the joint resolution entitled "Joint resolution for the relief of Porto Rico", approved December 21, 1928, to permit an adjudication with respect to liens of the United States arising by virtue of loans under such joint resolution.

ENROLLED BILLS SIGNED

The message also announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the President pro tempore:

S. 176. An act for the relief of Harry Harsin;

S. 254. An act for the relief of Fred H. Cotter;

S. 1078. An act for the relief of Mrs. Asa Caswell Hawkins;

S. 1780. An act to provide for the discontinuance of the use as dwellings of buildings situated in alleys in the District of Columbia, and for the replatting and development of squares containing inhabited alleys, in the interest of public health, comfort, morals, safety, and welfare, and for other purposes;

S. 1994. An act for the relief of Estelle Johnson;

S. 2696. An act to amend an act entitled "An act granting a charter to the General Federation of Women's Clubs";

S. 2714. An act to amend section 895 of the Code of Law of the District of Columbia;

S. 2750. An act for the relief of Claude A. Brown and Ruth McCurry Brown, natural guardians of Mamie Ruth Brown;

S. 2790. An act for the relief of Charlestown Sand & Stone Co., of Elkton, Md.;

S. 2918. An act for the relief of N. Lester Troast;

S. 2973. An act for the relief of First Lt. Walter T. Wilsey;

S. 3026. An act for the relief of Lucy Cobb Stewart;

S. 3117. An act authorizing and directing the Court of Claims, in the event of judgment or judgments in favor of the Cherokee Indians, or any of them, in suits by them against the United States under the acts of March 19, 1924, and April 25, 1932, to include in its decrees allowances to Frank J. Boudinot, not exceeding 5 percent of such recoveries, and for other purposes; and

S. 3380. An act providing for the appointment of Richmond Pearson Hobson, formerly a captain in the United States Navy, as a rear admiral in the Navy, and his retirement in that grade.

CONTINGENT EXPENSES, PUBLIC MONEYS, 1933–34 (S.DOC. NO. 188)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting draft of a proposed provision pertaining to the appropriations "Contingent expenses, public money", Treasury Department, for the fiscal years 1933 and 1934, which, with the accompanying paper, was referred to the Committee on Appropriations and ordered to be printed.

SUPPLEMENTAL ESTIMATES OF APPROPRIATIONS, DEPARTMENT OF COMMERCE (S.DOC. NO. 189)

The VICE PRESIDENT laid before the Senate a communication from the President of the United States, transmitting supplemental estimates of appropriations for the Department of Commerce, fiscal year 1935, amounting to $102,430, which, with the accompanying papers, was referred to the Committee on Appropriations and ordered to be printed.

JUDGMENTS OF THE COURT OF CLAIMS

The VICE PRESIDENT laid before the Senate a letter from the Chief Clerk of the Court of Claims, informing the Senate that in the following cases referred to the court on March 3, 1923, by resolution of the Senate, under the act of March 3, 1911 (known as the Judicial Code), the court filed orders entering judgments in the amounts and dates set forth: Congressional, 17341, Rose City Cotton Oil Mill, May 7, 1934, judgment for $14,413.23; Congressional, 17505, Southwestern Cotton Oil Co., May 7, 1934, judgment for $1,570.98; and Congressional, 17560, Dallas Oil & Refining Co., May 7, 1934, judgment for $6,194.64, which was referred to the Committee on Appropriations.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate a resolution adopted by the Immigration Restriction League, Inc., of New York City, N.Y., protesting against the enactment of legislation loosening immigration restrictions, which was referred to the Committee on Immigration.

He also laid before the Senate a resolution adopted by the State Planning Board of Montana, favoring the prompt completion of the Poplar River irrigation project on the Fort Peck Indian Reservation, Roosevelt County, Mont., which was referred to the Committee on Indian Affairs.

Mr. TYDINGS presented a petition of sundry citizens of Annapolis, Md., praying for the passage of the bill (S. 2800) to prevent the manufacture, shipment, and sale of adulterated or misbranded food, drink, drugs, and cosmetics, and to regulate traffic therein; to prevent the false advertisement of food, drink, drugs, and cosmetics; and for other purposes, which was ordered to lie on the table.

OLD-AGE PENSIONS—PETITIONS

Mr. CAPPER. Mr. President, I send to the desk petitions from several hundred citizens of Finney and Ford Counties, in southwestern Kansas, praying for early passage of Federal old-age-pension legislation. While I have the floor, Mr. President, I want again to direct the attention of the Senate to the necessity, as I see it, of early action along this line. I have introduced a bill on the subject, but, unfortunately, in the press of emergency legislation this session have not been able to get action upon it. However, if the bill is not successful at this session, I expect to press for action on this legislation at the next session of Congress, and hope that some helpful legislation will result.

If we, in this machine age, are going to continue to displace men with machines it is going to mean that an increasingly large percentage of our population over 45 years of age will be burdens upon the community. Our past experience with county poor farms and similar institutions is far from satisfactory. Institutional life for such a large part of the population as will be there in another generation at the rate we are going will in the end break down our civilization. Statistics indicate that from the viewpoint of governmental economy alone it is cheaper in dollars and cents to allow pensions to individuals than to keep them in institutions. A small gross-income tax on all able-bodied citizens between 21 and 45 years of age would, in my judgment, take care of an adequate pension system. I send the petitions to the desk for reference.

The VICE PRESIDENT. The petitions will be re-received and lie on the table.

THE MOTION-PICTURE CODE

Mr. DAVIS. Mr. President, I ask unanimous consent to have printed in the RECORD and appropriately referred a letter received from Mr. Fred J. Herrington, of Pittsburgh, secretary of Motion Picture Theater Owners of Western Pennsylvania, Inc. It deals briefly with what Mr. Herrington terms conflicting statements with respect to the operation of the motion-picture code, and urges a neutral investigation of that industry.

There being no objection, the letter was referred to the Committee on Interstate Commerce and ordered to be printed in the RECORD, as follows:

MOTION PICTURE THEATRE OWNERS OF
WESTERN PENNSYLVANIA, INC.,
Pittsburgh, Pa., June 2, 1934.

Hon. JAMES J. DAVIS,
Senate Office Building, Washington, D.C.

DEAR SENATOR DAVIS: The confusion created by the conflicting statements of General Johnson and his subordinates for the N.R.A. and of Clarence Darrow for the National Recovery Review Board, with reference to the motion-picture code, makes it imperative for a neutral investigation of all the facts.

Mr. Darrow has charged that the N.R.A. motion-picture code is an oppressive instrument which tends to the complete monopolization of the industry by the "big eight" and is designed to crush small business. On the other hand, Solomon Rosenblatt, division administrator of the N.R.A., replies with vituperative invective, attacking those who testified before the Darrow Board, and points with pride to the many hours of work that he put in during the negotiations leading to the imposed code on the motion-picture industry. This is the first instance in the writer's varied experience when the amount of time put in was advanced as a deciding factor in favor of the resulting document.

The independent theater owners who are members of this association urgently request that you actively support the move for an investigation by the Senate of the United States into all phases of the motion-picture industry. This investigation should thoroughly cover the personalities and incidents leading to the promulgation of the motion-picture code by the N.R.A., and also the activities of the Darrow Board. With the Senate taking a hand in this matter, the facts surrounding the highly controversial issue of the motion-picture code will be settled once and for all. And, in our judgment, it will inevitably lead to proper legislation designed for the ultimate good of the American people.

We should like very much to hear from you, and we stand ready to furnish you with such additional facts as you may require in this matter.

Respectfully yours,

MOTION PICTURE THEATRE OWNERS OF
WESTERN PENNSYLVANIA, INC.,
FRED J. HERRINGTON, *Secretary.*

REPORTS OF COMMITTEES

Mr. NEELY, from the Committee on Civil Service, to which was referred the bill (S. 2757) for the relief of Harry H. A. Ludwig, reported it without amendment and submitted a report (No. 1252) thereon.

Mr. HAYDEN, from the Committee on Printing, to which was referred the joint resolution (S.J.Res. 130) to amend section 72 of the Printing Act, approved January 12, 1895, and acts amendatory thereof and supplementary thereto, relative to the allotment of public documents, and section 85 of the same act fixing the date of the expiration of the franking privilege to Members of Congress, reported it without amendment and submitted a report (No. 1253) thereon.

Mr. GORE, from the Committee on Interoceanic Canals, to which was referred the bill (S. 2517) to provide for the method of measurement of vessels using the Panama Canal, reported it without amendment and submitted a report (No. 1254) thereon.

Mr. LA FOLLETTE, from the Committee on Indian Affairs, to which was referred the bill (S. 3532) granting certain property to the State of Wisconsin for institutional purposes, reported it with amendments and submitted a report (No. 1255) thereon.

Mr. SMITH, from the Committee on Agriculture and Forestry, to which was referred the bill (S. 2856) authorizing the adjustment of existing contracts for the sale of timber on the national forests, and for other purposes, reported it with an amendment and submitted a report (No. 1256) thereon.

Mr. PITTMAN, from the Committee on Foreign Relations, to which was referred the bill (H.R. 6781) to authorize appropriations to pay the annual share of the United States as an adhering member of the International Council of Scientific Unions and associated unions, reported it without amendment and submitted a report (No. 1257) thereon.

EXECUTIVE REPORTS OF A COMMITTEE

As in executive session,

Mr. McKELLAR, from the Committee on Post Offices and Post Roads, reported favorably the nominations of sundry postmasters.

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

BILLS INTRODUCED

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

By Mr. McNARY:

A bill (S. 3731) to deepen the irrigation channel between Clear Lake and Lost River in the State of California, and for other purposes; to the Committee on Irrigation and Reclamation.

By Mr. VANDENBERG:

A bill (S. 3732) authorizing the coinage of a 3-cent nickel piece; to the Committee on Banking and Currency.

By Mr. NYE:

A bill (S. 3733) for the promotion of international peace and good will between nations and the recognition of the International Peace Garden in the Turtle Mountains of North Dakota and Manitoba; to the Committee on Foreign Relations.

By Mr. TYDINGS:

A bill (S. 3734) to authorize appropriations for the creation of a public airport for national defense in or near Washington, D.C., and as a national shrine to pioneer aviators, and for other purposes; to the Committee on Military Affairs.

By Mr. COPELAND:

A bill (S. 3735) for the relief of the Telescope Folding Furniture Co., Inc.; to the Committee on Claims.

By Mr. GIBSON:

A bill (S. 3736) to provide for the designation of beneficiaries by employees subject to the provisions of the Civil Service Retirement Act of May 29, 1930, as amended, and for other purposes; to the Committee on Civil Service.

By Mr. STEPHENS:

A bill (S. 3737) authorizing the Secretary of Commerce to dispose of certain lighthouse reservations, and for other purposes; to the Committee on Commerce.

By Mr. WHEELER:

A bill (S. 3738) for the relief of Zelma Halverson; to the Committee on Claims.

By Mr. KING:

A bill (S. 3739) authorizing the President to convey certain buildings, material, and equipment to the Government of the Republic of Haiti; to the Committee on Naval Affairs.

(Mr. TYDINGS introduced Senate bill 3740, which appears under a separate heading.)

By Mr. NORBECK:

A bill (S. 3741) to convey certain lands to the State of South Dakota for public-park purposes, and for other purposes; to the Committee on Public Lands and Surveys.

By Mr. GIBSON:

A bill (S. 3742) granting the consent of Congress to the State Board of Public Works of the State of Vermont to construct, maintain, and operate a toll bridge across Lake Champlain at or near West Swanton, Vt.; to the Committee on Commerce.

AMENDMENT OF FARM CREDIT ACT OF 1933

Mr. TYDINGS introduced a bill (S. 3740) to amend section 70 (a) of the Farm Credit Act of 1933, which was read twice by its title, and referred to the Committee on Banking and Currency; and, on motion of Mr. TYDINGS, the bill and accompanying memorandum were ordered to be printed in the RECORD, as follows:

A bill to amend section 70a of the Farm Credit Act of 1933

Be it enacted, etc., That effective 30 days after the enactment of this act, session 70a of the Farm Credit Act of 1933, be, and the same is hereby, amended to read as follows:

"(1) The board of directors of every Federal land bank, production credit association, and bank for cooperatives shall be selected as hereinafter specified and shall consist of seven members. Three of said directors shall be known as local directors, of whom one shall be chosen by and be representative of national farm loan associations and borrowers through agencies, one shall be chosen by and be representative of production credit associations, organized under the Farm Credit Act of 1933, and one shall be chosen by and be representative of borrowers from regional banks for cooperatives, organized under the Farm Credit Act of 1933. Four of the seven directors shall be known as Federal directors of the farm credit agencies and shall be appointed by the President by and with the consent of the Senate. All of said directors shall be residents of the district for which they are either elected or appointed.

"The local directors who have heretofore been elected and are now serving in the various Federal bank districts shall continue in office until the expiration of their present term. The successors of the present local directors shall be elected in the manner hereinafter prescribed in this act. The election of the successors to the present local directors shall be so arranged that the national farm loan associations and borrowers shall have one representative, the production credit association shall have one representative, and the regional bank for cooperatives shall have one representative. The term of office of each of the local directors shall be 3 years. The terms of office of the Federal directors first appointed shall be one for a term ending January 1, 1935, one for a term ending January 1, 1936, one for a term ending January 1, 1937, and one for a term ending January 1, 1938. Thereafter the terms of the successors to the first Federal directors appointed shall be 4 years. The Federal directors may be removed by the President at any time. The board of directors selected and appointed shall upon qualification take over the management and control of the farm credit agencies in the various land bank districts.

"(2) At least 2 months before an election of a local director the Governor of the Farm Credit Administration shall cause notice in writing to be sent to those entitled to nominate candidates for such local director. In the case of an election of a director to represent national farm loan associations and borrowers through agencies, such notice shall be sent to all national farm loan associations and borrowers through agencies in the district; in the case of an election to represent production credit associations, such notice shall be sent to all production credit associations in the district; and in the case of a director to represent borrowers from banks for cooperatives such notice shall be sent to all cooperatives which are borrowers at the time of sending notice. Within 10 days of receipt of such notice those entitled to nominate the director shall forward nominations of residents of the district to the Governor of the Farm Credit Administration. The Governor of the Farm Credit Administration shall, from such nominations, then prepare a list of candidates for such local director consisting of the 10 nominees receiving the highest number of votes.

"(3) At least 1 month before the election of a local director the Governor of the Farm Credit Administration shall mail to each person or organization entitled to elect the local director the list of the 10 candidates nominated in accordance with the provisions of the previous section of this act. In the case of an election of a director to represent national farm loan associations and borrowers through agencies, the directors of each farm loan association shall cast the vote of such association for one of the candidates on the list. In voting under this section each such association shall be entitled to cast a number of votes equal to the number of stockholders of such association and each borrower through agencies shall be entitled to cast 1 vote. In voting under this section each production credit association shall be entitled to cast a number of votes equal to the number of the class B stockholders of such association. In voting under this section each cooperative which is a holder of stock in a bank for cooperatives (except the Governor of the Farm Credit Administration) shall be entitled to cast 1 vote. The votes shall be forwarded to the Governor of the Farm Credit Administration, and no vote shall be counted unless forwarded to him within 10 days after the list of candidates is received. In case of a tie the Governor of the Farm Credit Administration shall determine the choice. The nominations from which the list of candidates is prepared, and the votes of the respective voters, as counted, shall be tabulated and preserved, and shall be subject to examination by any candidate for at least 1 year after the results of the election is announced."

The memorandum above referred to is as follows:

MEMORANDUM REGARDING PROPOSED AMENDMENTS TO THE FARM CREDIT ACT OF 1933

The proposed amendments to the Farm Credit Act of 1933 will give the President the right and power within 30 days after it is enacted to appoint, with the consent of the Senate, four Federal directors in each of the several land-bank districts in the United States. The President has the right to remove these Federal directors at any time.

The election of the three local directors is not changed. Those in office will continue there until their terms expire and then their successors will be elected, one to represent the farm loan associations, the second to represent the production credit associations, and the third to represent the regional bank for cooperatives.

One other change made is that the election of the local directors is placed under the control of the Governor of the Farm Credit Administration rather than under the Land Bank Commissioner. As I understand it, the Land Bank Commissioner has really been merged in the other credit organizations.

The enactment of this amendment in its present form will remedy a lot of the evils which now exist in the administration of the credit agencies and will place the control of the credit directly under the President. In view of the fact that the present Congress has enacted legislation that makes the United States responsible for both the interest and principal of the debts incurred by these various agencies, the head of the Government should have complete control over the appointment of a majority of the directors of these important governmental agencies.

HOUSE BILLS AND JOINT RESOLUTIONS REFERRED

The following bills and joint resolutions were severally read twice by their titles and referred or ordered to be placed on the calendar, as indicated below:

H.R. 3084. An act authorizing the sale of portions of the pueblo lands of San Diego to the city of San Diego, Calif.; to the Committee on Military Affairs.

H.R. 8930. An act to provide for the construction and operation of a vessel for use in research work with respect to ocean fisheries; and

H.R. 9654. An act to authorize the Department of Commerce to make special statistical studies upon payment of the cost thereof, and for other purposes; to the Committee on Commerce.

H.R. 9003. An act to purchase and erect in the city of Washington the group of statuary known as the "Indian Buffalo Hunt"; to the Committee on the Library.

H.R. 9623. An act to amend the Grain Futures Act to prevent and remove obstructions and burdens upon interstate commerce in grains and other commodities by regulating transactions therein on commodity future exchanges, by providing means for limiting short selling and speculation in such commodities on such exchanges, by licensing commission merchants dealing in such commodities for future delivery on such exchanges, and for other purposes; to the Committee on Agriculture and Forestry.

H.R. 9830. An act making appropriations to supply deficiencies in certain appropriations for the fiscal year ending June 30, 1934, and prior fiscal years, to provide supplemental general and emergency appropriations for the fiscal years ending June 30, 1934, and June 30, 1935, and for other purposes; to the Committee on Appropriations.

H.R. 9617. An act to authorize the reduction of the required distance between liquor distilleries and rectifying plants and to authorize higher fences around distilleries; and

H.R. 9694. An act to amend the Emergency Railroad Transportation Act, 1933, approved June 16, 1933; to the calendar.

H.R. 5330. An act to amend the act of March 2, 1917, entitled "An act to provide a civil government for Puerto Rico, and for other purposes"; and

H.J.Res. 344. Joint resolution to amend the joint resolution entitled "Joint resolution for the relief of Porto Rico", approved December 21, 1928, to permit an adjudication with respect to liens of the United States arising by virtue of loans under such joint resolution; to the Committee on Territories and Insular Affairs.

H.J.Res. 295. Joint resolution authorizing appropriation for expenses of representatives of United States to meet at Istanbul, Turkey, with representatives of Turkish Republic for purpose of examining claims of either Government against the other and for expense of proceedings before an umpire, if necessary; to the Committee on Foreign Relations.

AMENDMENT OF REVENUE ACT OF 1932

Mr. COPELAND submitted an amendment intended to be proposed by him to the bill (H.R. 9234) to amend section 601 (c) (2) of the Revenue Act of 1932, which was referred to the Committee on Finance and ordered to be printed.

MONETARY USE AND PURCHASE OF SILVER—AMENDMENTS

Mr. McCARRAN submitted an amendment intended to be proposed by him to the bill (H.R. 9745) to authorize the Secretary of the Treasury to purchase silver, issue silver certificates, and for other purposes, which was ordered to lie on the table and to be printed, and to be printed in the RECORD, as follows:

On page 2, line 13, at the end of said line, to change the period to a semicolon and add: *"And provided further,* That in the event that silver certificates are not used originally or directly in payment for any silver purchased or acquired, then immediately after purchasing or acquiring any silver at home or abroad, silver certificates shall be issued to the full amount as provided in this act, and such certificates shall be placed in actual circulation through the payment of governmental obligations."

Mr. THOMAS of Oklahoma submitted an amendment intended to be proposed by him to House bill 9745, which was ordered to lie on the table, to be printed, and to be printed in the RECORD, as follows:

On page 1, lines 5 to 9, strike out section 2 and insert:

"SEC. 2. It is hereby declared to be the policy of the United States that the proportion of silver to gold in the monetary metallic reserves of the United States should be increased, with the ultimate objective of having and maintaining one-fourth of such reserves by value in silver."

EXPENSES OF SPECIAL COMMITTEE ON AIR-MAIL AND OCEAN-MAIL CONTRACTS

Mr. BLACK submitted the following resolution (S.Res. 259), which was referred to the Committee to Audit and Control the Contingent Expenses of the Senate:

Resolved, That the limit of expenditures under Senate Resolution 349, Seventy-second Congress, second session, agreed to February 25, 1933, supplemented by Senate Resolution 94, Seventy-third Congress, first session, agreed to June 10, 1933, and Senate Resolution 143, Seventy-third Congress, second session, agreed to January 24, 1934, is hereby increased by $5,000.

FOREIGN-TRADE ZONES—CONFERENCE REPORT

Mr. STEPHENS submitted the following report, which was ordered to lie on the table:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 9322) to provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes, 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 amendments as follows: In lieu of the matter proposed to be inserted by the Senate amendment, restore the matter proposed to be stricken out by the Senate amendment; and on page 2 of the House bill, strike out lines 7 to 10, inclusive, and insert the following:

"(e) The term 'public corporation' means a State, political subdivision thereof, a municipality, a public agency of a State, political subdivision thereof, or municipality, or a corporate municipal instrumentality of one or more States;"

And on page 12, line 5, of the House bill, after "repeated", insert "willful."

And the Senate agree to the same.

H. D. STEPHENS,
ROYAL S. COPELAND,
CHAS. L. MCNARY,
Managers on the part of the Senate.

THOS. H. CULLEN,
JOHN MCCORMACK,
FRED M. VINSON,
ALLEN T. TREADWAY,
I. BACHARACH,
Managers on the part of the House.

REVISION OF AIR-MAIL LAWS

Mr. PITTMAN. Mr. President, I ask that the unfinished business, being House bill 9745, be laid before the Senate and then be temporarily laid aside, according to the unanimous-consent agreement of yesterday.

The VICE PRESIDENT. Under the unanimous-consent agreement, the unfinished business is laid aside temporarily, and the Chair lays before the Senate the conference report on the air mail bill, so called.

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3170) to revise the air-mail laws.

Mr. AUSTIN obtained the floor.

Mr. ROBINSON of Arkansas. Mr. President, I inquire if the Senator would like to have a quorum present.

Mr. AUSTIN. I prefer not to take the time to call for a quorum.

Mr. ROBINSON of Arkansas. Very well.

Mr. AUSTIN. Mr. President, I had intended not to discuss the conference report on the bill providing for a revision of the air-mail laws; but after examining the report carefully and, I confess, after being excited somewhat by the activity of people who I thought represented public opinion fairly, I feel it my duty to say something about the conference report, in view of the special study I gave to and experience I had with the subject matter as a member of the Special Committee to Investigate Ocean-Mail and Air-Mail Contracts.

It has been pointed out to me several times that it was, perhaps, unfortunate that the membership of the conference committee had not included someone like the Senator from Maine [Mr. WHITE], who advocated here in the Senate opposing views to the views expressed either in the House bill or the Senate, and who expressed those views by way of a substitute offered for the Senate bill. Of course, it is obvious that I would naturally oppose the adoption of the conference report, in view of the opinions which I have expressed in debate and in the amendments which I had a part in offering.

However, there are other reasons than those of adhering merely to a previous opinion that excite me to oppose the conference report. They are contained in the report itself, for, as I interpret it, the report does not represent entirely what was offered by the Senate or what was offered by the House. Of course, there is matter in the conference report which was offered either by the House or by the Senate, and was actually considered by those bodies as a legislative act, but, if I interpret the conference report correctly, there is new matter in it which never was contemplated by either House or Senate and which has never been considered or debated in the Senate.

Speaking generally of the conference report, I call attention to something which is obvious, and that is that the entire policy of the Federal Government toward air mail and aeronautics is reversed by this proposed legislation. As the matter stood when the cancelation of the air-mail contracts occurred, the policy of the Government was to encourage aeronautics, so as to specify the requirements of a contract for the carriage of the air mail that the carrier must equip his planes with safety devices for the benefit of passengers as well as of mail and express. Encouragement was afforded by means of a policy of subsidizing the service. The pending conference report proposes entirely to reverse that plan. If this report shall be adopted and the bill in this form shall become a law, there will be nothing in the measure that will be assured save securing the transportation of mail at the cheapest possible cost. The obvious economic effect of that upon aeronautics will be that the carrier will reduce his costs to a sum within the amount of his bid, if possible; that, indeed, he will go one step farther and reduce his costs to a point where he may earn some return by way of profit for the capital invested and for the service performed by executives and employees. On no other basis do we Americans conceive that we may have prosperity or that we may restore unemployment; and yet, if this report should become a law, it would discourage the incentive which has excited the highest endeavor in developing the great aeronautical industry in the United States.

Practically speaking and specifically, the difference in policy is vital in this way: If carried into effect, it will mean that the mail will be moved in planes having such equipment and value as may be expressed by, say, $15,000 or $20,000 for airplanes, whereas the effect of the other policy, up to the time of the cancelation of the air-mail contracts, was that the air mail was carried in planes which represented a cost of from $50,000 to $70,000 per airplane.

Of course that is only one incident or one piece of evidence tending to show what the effect of this reversal in public policy may be; but it seems to me that it is sufficient evidence, it is convincing evidence of the inadvisability of such a policy. This change is expressed in section 3 of the conference report under which these contracts are opened to bidding, and any other method of letting contracts is entirely excluded. Under the law as it now exists these contracts may be entered into by certificates by means of which the Government keeps control over the contractor and requires performance according to the specifications regarding safety and efficiency, to which I have referred. All that is to be done away with. The Postmaster General may not award an extension or a certificate under this proposed law when it goes into effect to a company which has demonstrated its ability and its superiority in the service of the public. Under the bill as it now stands that company will get the contract which shall submit the lowest bid for the service. This is very significant; it is a vital distinction; it is an entire change of the policy of the United States Government.

There is no expression in this conference report of the attitude of the Federal Government toward the national defense; there is not one word in the conference report that reflects any policy of the United States to encourage the development of aeronautics in the interest of public defense; and I submit that therein lies a grave defect in this report, for there probably is no single activity which is more vital or more effective in the national defense than that of aeronautics. If we are to keep pace with the other nations of the world, we must so arrange our policy in this country as to encourage the development of speed, efficiency, and safety in the flying of the air for the purpose of national defense.

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

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from Oregon?

Mr. AUSTIN. I yield.

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

The PRESIDENT pro tempore. The clerk will call the roll.

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

Adams	Cutting	Kean	Pope
Austin	Davis	Keyes	Reynolds
Bachman	Dickinson	King	Robinson, Ark.
Bailey	Dieterich	La Follette	Russell
Bankhead	Dill	Lewis	Schall
Barbour	Duffy	Logan	Sheppard
Barkley	Erickson	Lonergan	Shipstead
Black	Fess	Long	Smith
Bone	Fletcher	McCarran	Steiwer
Borah	Frazier	McGill	Stephens
Brown	George	McKellar	Thomas, Okla.
Bulkley	Gibson	McNary	Thomas, Utah
Bulow	Glass	Metcalf	Thompson
Byrd	Goldsborough	Murphy	Townsend
Byrnes	Gore	Neely	Tydings
Capper	Hale	Norbeck	Vandenberg
Caraway	Harrison	Norris	Van Nuys
Carey	Hastings	Nye	Wagner
Coolidge	Hatch	O'Mahoney	Walcott
Copeland	Hayden	Overton	Walsh
Costigan	Hebert	Patterson	Wheeler
Couzens	Johnson	Pittman	White

Mr. LEWIS. I announce the absence of the Senator from California [Mr. McADOO] occasioned by illness, and the absence of the Senator from Florida [Mr. TRAMMELL] and the Senator from Missouri [Mr. CLARK] occasioned by official business.

Mr. HEBERT. I desire to announce that the Senator from Pennsylvania [Mr. REED] and the Senator from Indiana [Mr. ROBINSON] are necessarily absent.

The PRESIDENT pro tempore. Eighty-eight Senators having answered to their names, a quorum is present.

Mr. AUSTIN. Mr. President, continuing my observations on the conference report, in a word it will be observed that there is a vital change in the policy of the Government expressed by the conference report, and that is a complete departure from the policy of subsidizing a great public service such as this. I submit to the Senate the unwisdom of making such a vital change in our public policy before, and not after, the report of the commission which the bill professes to create for the purpose of ascertaining what should be the policy of the United States regarding this service.

Instead of leaving the status quo for the commission to study and to use the facts ascertained by its study in considering the problems relating to the subject, the proposed law completely wrecks all existing law under whose beneficent influence there has grown up the greatest Air Mail Service in the world. The wreckage is not temporary. The conference report is designed to make it permanently effective. Throughout the conference report there is written, in words so plain that one who runs may read, the consolidation and the destruction of the Service itself and of the great law under whose influence it was created. At the outset the first contract will run for 1 year, and under the terms of the conference report it may be continued indefinitely, showing that the purpose, although it is under the guise of a 1-year contract, is really to arrange that it may be continued for years and years.

In the meantime we must consider that there are 21 sections in the conference report, of which the first 19 require certain definite changes to be made in the Air Mail Service, to be made in the character of relationship between the contractor and the Government, all of which 19 provisions become effective before the proposed commission begins to operate and prepares and submits its report for the consideration of Congress.

The conference report makes it almost certain that any commission appointed under the provisions of the measure

will be led away from the fine policies, crystallized in the remarkably short time of 4 years under the McNary-Watres Act, whose benefits we have been enjoying in this country, and leading to a system of competitive bidding in a case where competitive bidding is entirely inconsistent with the character of the institution.

As I have previously said, we might as well ask the New York Central Railroad to bid on a mail service over the Santa Fe as to call for competitive bids for the carriage of the mail, for the simple reason that an airway consists of a great plant on the ground. The ship flying in the air is only a part of it; and if we are to retain these great transcontinental services which were built up under the McNary-Watres Act we must be able to assure to the contractors and operators the benefit of that investment on the ground.

The conference report aims at cutting up those great services into little, short pieces. When I arrive at the part of the bill which accomplishes that purpose, I shall call particular attention to it. That is a reversion to the very conditions which brought about the enactment of the McNary-Watres Act 4 or 5 years ago.

It is possible that the commission to be created might reach the conclusion that at least some portions of the former and present air-transport systems are sound, and should be continued. The commission, to be really effective, should have a full opportunity of considering the present status before that status is completely changed; yet the provisions of the conference report, 19 of them, require change, fundamental change, representing the ideas of those who participated in framing the conference report. We well recognize some of these distinguished men as entirely set, almost a fixed idea possessing them, against subsidizing air mails, and I do not know but that they are opposed to subsidy in general anyway.

Speaking generally of the conference report again, it would subject this relatively small industry and business to the jurisdiction of five different departments of government—the Post Office Department, the Department of Commerce, the Interstate Commerce Commission, the National Labor Board, and the Comptroller General—and each one of these departments is given an amount of authority which would render it possible to bankrupt every one of the aviation organizations.

I call attention to the provision relating to rates in section 3 (a) of the report, in which it is provided that in no case shall the rate exceed 33⅓ cents per airplane mile for transporting a mail load not exceeding 300 pounds; and it continues:

> Payment for transportation shall be at the base rate fixed in the contract for the first 300 pounds of mail or fraction thereof plus 0.1 of such base rate for each additional 100 pounds.

I submit that that is most illogical and uneconomical, and ought not to be made the law. It is extremely arbitrary. For an increase of the load one-third, there is an increase of pay of 0.1.

I should like to know what business man could possibly enter upon a service like that unless he had in view the possibility of something in the future being done to change the conditions. How could a business man enter upon such a service as that at such a rate with any hope of living. with any hope of saving the investors in and the employees of the industry, when the more he does, the deeper he goes in the hole?

Now, let us take subparagraph (c) of section 3, which reads:

> If, in the opinion of the Postmaster General, the public interest requires it, he may grant an extension of any route, for a distance not in excess of 100 miles, and only one such extension shall be granted to any one person, and the rate of pay for such extension shall not be in excess of the contract rate on that route.

I call the attention of the Senate to the fact that there is an admission of one of the controverted issues before the Senate when we were considering the Senate bill. The issue was whether the McNary-Watres Act enabled the Postmaster General to make extensions; and those who espoused the Senate bill denied that it gave the power to make extensions unlimited in number and unlimited in mileage as they were made by Postmaster General Brown. Now they come before us and, having achieved their objective of the destruction of that law and of the institution, provide expressly for a limitation in mileage to 100 miles, and for a limitation in number to one extension. Of course, it is gratifying to us who held the view that the McNary-Watres Act specifically authorized the Postmaster General to establish air-mail routes by many extensions, and by extensions of more mileage, to find that the soundness of our view is thus admitted by the conference report.

Mr. WHITE. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from Maine?

Mr. AUSTIN. I do.

Mr. WHITE. I think what the Senator has said about extensions is completely justified. In the conference committee provision the conferees have recognized the soundness of the principle of extensions and then, as I said once before, they have run away from that principle, because they have provided that if there were a line running between A and B, we will say, an extension might be granted from A, and then that extension, having been granted, however much greater might be the justification for an extension at B, it could not be done under this provision as the conferees have framed it.

Mr. AUSTIN. Mr. President, I recognize that that is absolutely true, and I recognize also how unsound it is in principle, how utterly absurd it is; and the natural effect of it must be that the Postmaster General's hand is palsied in any effort to make a logical route, to make a through route, to make a route that is controlled and operated by one contractor. That is true because not only is he limited to one extension and that to 100 miles, but he is also limited by another provision in the conference report which permits a contractor to hold only three contracts at the outside, and which enables him to serve over only one primary route. I shall refer to these things a little later.

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

Mr. AUSTIN. I yield to the Senator from Michigan.

Mr. VANDENBERG. May I ask the Senator whether the objections which the Senator is voicing go to jeopardies that were inherent in the original Senate bill entirely, or whether the conference report adds to the jeopardies?

Mr. AUSTIN. Mr. President, the conference report increases the jeopardies in all directions—jeopardies with respect to responsibility, jeopardies with respect to efficiency, jeopardies with respect to speed of delivery of mail and of passengers, and finally an absolute limitation of the service that may be performed by the contractors.

Mr. VANDENBERG. In other words, if the bill as originally passed by the Senate was considered inimical to wise and appropriate air development, it is the Senator's view that the conference report multiplies that hazard and makes the contemplation even more unacceptable?

Mr. AUSTIN. That is the view which I hold. I desire now to call attention to one point in that respect. It is in clause (d) of section 3, reading:

> The Postmaster General may designate certain routes as primary and secondary routes and shall include at least four transcontinental routes and the eastern and western coastal routes among primary routes. The character of the designation of such routes shall be published in the advertisements for bids, which bids may be asked for in whole or in part of such routes.

This is an absolute reversal of the provision in the Senate bill.

I now call attention to the language of the Senate bill as it stood before the conference got hold of it:

> *Provided further*, That the Postmaster General may designate certain routes as primary and secondary routes and may include at least four transcontinental routes, extending to termini, as nearly as practicable, on the Atlantic and Pacific coasts, as primary routes. All other routes shall be secondary routes.

The new matter brought in by the conference report changes the entire purport of that provision. The words "and the eastern and western coastal routes among primary routes", are added, the number is increased to six, and the operation is so changed that two of these routes may

be allowed north and south, whereas the original bill designed only four primary routes, to run east and west.

The conference report excludes "from coast to coast" and opens up the authority of the Postmaster General so that he may specify any number of such routes, and he is not bound by the policy declared by the Congress in the original bill, which describes the termini. He may make the termini entirely different from those contemplated in the policy adopted by the Senate when it discussed the proposed legislation before it went to conference, and he may make every one of the routes in this country a primary route. The effect is to cut the country up into a string-bean plan, as we were before the McNary-Watres Act was enacted, an entirely illogical plan, based on many different contractors undertaking to do a transcontinental business, and connecting up with each other, with all the hazards, with all the delays, with all the natural results of having a transaction such as transportation from ocean to ocean handled by many instead of handled by one operator.

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

Mr. AUSTIN. I yield.

Mr. VANDENBERG. The Senator is illustrating very forcefully his answer to my question, to demonstrate the change which has been made by the conferees in the Senate bill. May I ask whence the new idea in the conference report comes? Does it come from the House bill, or is it brandnew matter?

Mr. AUSTIN. Mr. President, nothing was presented by the Senate, nothing was presented by the House, that would permit any such power. It is matter which comes from the conference itself, and not from either House of Congress.

Mr. VANDENBERG. Then would it be fair to say that we are not considering a conference report in the normally accepted use of that phrase, but that we are considering airmail legislation de novo in net effect?

Mr. AUSTIN. Mr. President, that is my interpretation of it. As I interpret the provision alone which I have read, it is of such character and scope and of such effect that it means legislating anew. This is a policy which neither House of Congress has ever debated or ever considered. It is here de novo. It may be said that the subject matter was, in a certain way, considered by the Senate, but the new material in the report changes the provision entirely.

Mr. VANDENBERG. Then, Mr. President, why is it not subject to a point of order?

Mr. AUSTIN. I saw fit not to raise the point of order, because of the purpose I had of getting into the RECORD for future reference the views I held currently with the return of this conference report to the Senate, for I conceived that nothing we do today will bind the American people, and when they come to exercise their powers, which are supreme, we may want to have something to refer to by way of a record.

Mr. VANDENBERG. But it is the Senator's view that if a technical course were pursued, the report would be subject to a point of order?

Mr. AUSTIN. I believe that to be true.

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

Mr. AUSTIN. I yield to the Senator from Maine.

Mr. WHITE. The Senator has referred to this particular section as containing matter that was in neither the House bill nor the Senate bill, and he is exactly right in that statement. I take it that one could go through the conference report and find a dozen instances where the conferees have inserted matter in the bill now before us which was never in contemplation either by the Senate or by the House, or was even referred to in either the House or Senate bill. They have written a piece of legislation, and it is brought here for consideration by the Senate practically de novo.

Mr. VANDENBERG. Mr. President, will the Senator from Vermont yield to me to ask a question of the Senator from Maine?

Mr. AUSTIN. I yield.

Mr. VANDENBERG. The Senator from Maine has had wide legislative experience in both houses of Congress. May I ask him whether, in his judgment, the conference report would be subject to a point of order? I am asking, not for the purpose of making the point, but for the purpose of definitely personifying the conclusion.

Mr. WHITE. The Senator is more familiar with the rules of the Senate than I, because he has served here longer. What happened was that, after all following the enacting clause of the Senate bill was stricken out and the House amendment was inserted, I presume the conferees proceeded on the theory, in those circumstances, that the entire subject matter was open to them, and that they could therefore write new legislation.

I have been told that that question has not been definitely passed on by the Senate. I do not know what the ruling of the Presiding Officer here would be. There is no question at all, however, that the conferees have gone outside the language and the purpose and the spirit of both the House and the Senate bills in drafting the report which is now before us.

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

Mr. AUSTIN. I yield.

Mr. BLACK. It is my judgment that if the Senator from Maine believed that the conferees had gone outside of the Senate bill and the House amendment it would be his duty to raise a question of order. I deny that the conferees have done any such thing. If the statement is correct, and the conference report is subject to a point of order, we invite the point of order. There has been no departure from the purpose of the Senate bill and the House amendment; there has been no departure which justifies, in my judgment, the statement which has been made in response to the question of the Senator from Michigan. If that be the case, I suggest that the points of order be raised, rather than criticize the report on that ground, and not raise the points of order.

Mr. AUSTIN. Mr. President, I hope the point of order will not be raised while I am occupying the floor. I suppose it might be, but I hope no one will raise a point of order.

The PRESIDENT pro tempore. The Chair would hold that the Senator could not be interrupted for that purpose.

Mr. COPELAND. Mr. President, will the Senator from Vermont yield to me?

Mr. AUSTIN. I yield.

Mr. COPELAND. I am convinced that the conference report should be recommitted, because of the fact that the rule has been violated. I intend to raise the point myself at a later time, and attempt to argue it. I am convinced that in the conference report will be found matter not found in either the House amendment or the Senate bill, and if that be the case, of course it is subject to a point of order. What the Presiding Officer may do with it, or what the Senate may do with it, I do not know, but I am convinced that it is clearly outside the rule.

Mr. FESS. Mr. President, will the Senator from Vermont yield to me?

Mr. AUSTIN. I yield.

Mr. FESS. Because of the colloquy which has taken place, and especially the statement of the Senator from Maine——

Mr. COPELAND. Mr. President, I make the point of order that while the conversation going on may be interesting, we cannot hear it over here.

The PRESIDENT pro tempore. The point of order is sustained. The Senator from Ohio will speak so that the Senator from New York may hear him.

Mr. FESS. I invite the Senator to come over to this side of the Chamber.

Mr. COPELAND. Do I have to leave my place and go over to the Republican side?

The PRESIDENT pro tempore. The Chair will not pass on that question. [Laughter.]

Mr. FESS. It would improve the situation if the Senator would do so.

In the colloquy to which we have just listened in regard to whether the conferees have gone beyond their authority

or not, the Senator from Maine made the statement, in accordance with the fact, so far as I know, that this question has not been raised before in the Senate. But this is the statement in the report:

In lieu of the matter proposed to be inserted by the House amendment insert the following—

There is the blanket authority—

In lieu of the matter proposed to be inserted by the House amendment insert the following.

Then, with that blanket statement, the conferees throw in everything, new and old, what has been considered and what has never been considered.

I think it is doubtful whether, under the rules of the Senate, the conferees can use that blanket authority and write anything they please into the proposed legislation. Everybody will admit that there are things in the conference report that were considered by neither the Senate nor the House, but whether they can be included through a blanket method of the kind employed ought to be settled by the Presiding Officer.

Mr. AUSTIN. Mr. President, one of the policies of our Government, through a long period of experience with transportation by rail, has been economy, and the method of securing economy has been by consolidation into great transcontinental routes, and such a policy has been upheld by the decision of the Supreme Court even so recently as in the Allegheny case.

The designation in this conference report of four transcontinental routes and the eastern and western coastal routes as primary routes is mandatory. It is to be noted that other routes may be so designated. That is, the Postmaster General has a permissive right to designate many other routes as primary. In view of the provisions in section 15 prohibiting any one contractor from operating more than one primary route, the result of the operation of the new law may be to bring about a series of later readjustments of companies, with all the attendant confusion, losses to stockholders, and lessening of economies in operation. The purpose obviously is to confine each operator's energies to one particular line. To this I object This is a complete reversal of the policy of the United States in the interest of its citizens both with respect to transportation by rail and by air.

I now call attention to subsection (e). I read:

(e) If on any route only one bid is received, or if the bids received appear to the Postmaster General to be excessive, he shall either reject them or submit the same to the Interstate Commerce Commission for its direction in the premises before awarding the contract.

What kind of legislation is that? What check is there imposed by Congress on the Interstate Commerce Commission with respect to the bids? What guide is there to direct the Interstate Commerce Commission what to do with the bids? There is absolutely nothing of the kind. Carte blanche is given this Department, one of the five departments which will have jurisdiction over this small industry, to exercise powers which are unrestricted, ungoverned, unguided, and which we know may be exercised to the destruction of the aviation companies. I am considering the conference report with respect to its possibilities, for that is the only way to test legislation in the process of formulation. I object to the conference report because it includes such a provision as that to which I have just referred.

I now read the next subsection:

(f) The Postmaster General shall not award contracts for air-mail routes or extend such routes in excess of an aggregate of 29,000 miles, and shall not establish schedules for air-mail transportation on such routes and extensions in excess of an annual aggregate of 40,000,000 airplane-miles.

Why should Congress want to withdraw encouragement to that extent? Why should Congress have such a grudge against the people of the United States that it wants to restrict and limit the enjoyment by the people of this service? This provision is deadly. It contains not an element of progress. It represents retrogression. There is no chance of development beyond those limits. Not only that, it really runs short of the mileage which was being flown at the time of cancelation of the air-mail contracts.

I have here information furnished by Harllee Branch, Second Assistant Postmaster General, who is in charge of the Air Mail Service, and I call attention to what that Service was prior to the annulment of contracts. The total route mileage was 25,248 miles. The daily trip mileage was 111,381 miles. And the annual trip mileage was 40,653,907 miles.

In other words, this bill fixes an annual trip limit of less than that which was being flown at the time these contracts were canceled. Is that wise? Is that the policy of this Government? I submit that is a question which will be of great interest to the people, and there will be a response to it.

Moreover, it is entirely unnecessary to provide such a limitation. With the scheme as it is now set up to let these contracts to the lowest bidder, why put on such a limit? It is not in the interest of economy. The only interest there can be in such a scheme is to deprive the citizens of the service.

Now I read section (g):

(g) Authority is hereby conferred upon the Postmaster General to provide and pay for the carriage of mail by air in conformity with the terms of any contract let by him prior to the passage of this act, or which may be let pursuant to a call for competitive bids therefor issued prior to the passage of this act, and to extend any such contract for an additional period or periods not exceeding 9 months in the aggregate at a rate of compensation not exceeding that established by this act nor that provided for in the original contract: *Provided*, That no such contract may be so extended unless the contractor shall agree in writing to comply with all the provisions of this act during the extended period of the contract.

Here is the vindictive feature of that temporary contract carried into effect in the future in this surreptitious and covert manner. Reading this sentence one does not perceive that the real object and purpose of that particular section of the conference report are to fasten upon the contractors who performed this great service before February 19, 1934, a stigma, a disability, and completely to disqualify them all for a long enough time so that the destructive effect of that exercise of sheer force contrary to law may become permanent.

I ask, Do the citizens of the United States wish to tolerate legislation which encourages disregard of the law and encourages a tyrannical and impetuous exercise of power by the officers of government? I know they do not. That is what that provision of this conference report does, and it does it covertly, under an artfully drawn sentence which does not disclose its extent and scope, and would never be noticed unless someone called attention to the fact that the contracts let for temporary service were upon bids which contained a specification that disqualifies all those who formerly enjoyed the contracts and performed the service of the air mail.

I now skip over, because my time is passing, to section 6 (a):

SEC. 6. (a) The Interstate Commerce Commission is hereby empowered and directed, after notice and hearing, to fix and determine by order, as soon as practicable and from time to time, the fair and reasonable rates of compensation for the transportation of air mail by airplane and the service connected therewith over each air-mail route, but not in excess of the rates provided for in this act, prescribing the method or methods by weight or space, or both, or otherwise, for ascertaining such rates of compensation, and to publish the same, which shall continue in force until changed by the said Commission after due notice and hearing.

That is a limitation to 40 cents. Forty cents is the maximum possibility of the rate which can be paid, and it is restricted. It hinders development. It has no regard for the peculiarities and the special difficulties and burdens of one section of the service over another. Nor does it have any regard for the type of the service or the amount of the investment in it.

To be sure, there is a provision later, namely, subsection (d), which applies to the consideration of this question certain provisions of the law governing railroads, but we submit that those provisions are complex, that they were designed to apply to such a different institution, so many thousands of miles of railway and so many cars, that they

are too cumbersome to apply to a little institution with only 600 carriers: that is to say, 600 airplanes.

The peculiarity of the conference report on this particular topic is set forth in subsection (e) which reads as follows:

(e) In fixing and determining the fair and reasonable rates of compensation for air-mail transportation, the Commission shall give consideration to the amount of air mail so carried, the facilities supplied by the carrier, and its revenue and profits from all sources, and from a consideration of these and other material elements, shall fix and establish rates for each route which, in connection with the rates fixed by it for all other routes, shall be designed to keep the aggregate cost of the transportation of air mail on and after July 1, 1933, within the limits of the anticipated postal revenue therefrom.

What an illogical scheme that is. After 1938 the revenue which it is anticipated will be derived is to be the limit, and under the authority here proposed for fixing rates they shall be so apportioned that all the different contractors shall bear an equal share of the burden, regardless of the actual load carried. In other words, the provision makes the carrier who carries a heavy load do so at a less rate than the carrier receives who carries a light load because of this limitation in the aggregate. On the other hand, Mr. President, a rational basis, a rational provision to have been put into this proposed law, if we were going to use any such plan of fixing rates, would have been to apportion the income to the specific carrier according to the service he performed. But does this measure permit any such thing? Not at all. There is no discretion about it. The Commission is directed to fix the rates in such a manner that the income is divided among all the carriers regardless of the load they carry.

Section 7a provides for divorcing all companies which are engaged in transportation of mail from those engaged in the manufacture of planes and equipment Of course, there is a place where those who proposed and supported the Senate bill and we who opposed it and recommended a substitute for it will never agree.

On our part we recognize that the history of the industry shows that this combination vertically enabled the art to have a stimulating benefit, the indispensable and necessary benefit, of the capital and the special skill and service of the companies which flew the mail as well as of those companies which provided the inventor and the manufacturer. Together they furnished all the necessary actors in this wonderful work, the speeding up of the efficiency of the airships, and the manufacture of safety devices and other improvements. In our opinion, they should not be divorced.

However, Mr. President, the complaint we make this instant is that this bill, should it become a law, would effect the unscrambling of them all before ever the commission that is created by the bill may study that problem, submit its report to the Senate, and have that report considered by the Senate; in other words, we are enacting permanent legislation before we hear a report derived from any intelligent study of the subject. Instead of preserving the status quo we are consolidating the complete destruction of the status quo before we have the benefit of the report of this Commission; and to that we object. That is waste. I now call attention to subsection (d) of section 7, which reads as follows:

(d) No person shall be qualified to enter upon the performance of, or thereafter to hold an air-mail contract (1) if at or after the time specified for the commencement of mail transportation under such contract such person is (or, if a partnership, association, or corporation, has a member, officer, or director, or an employee—

The conferees went clear out to the end of the branch there—

performing general managerial duties—that is, an individual who has theretofore entered into any unlawful combination to prevent the making of any bids for carrying the mails: *Provided*, That whenever required by the Postmaster General the bidder shall submit an affidavit executed by the bidder, or by such of its officers, directors, or general managerial employees as the Postmaster General may designate, sworn to before an officer authorized and empowered to administer oaths, stating in such affidavit that the affiant has not entered nor proposed to enter into any combination to prevent the making of any bid for carrying the mails, nor made any agreement, or given or performed, or promised to give or perform, any consideration whatever to induce any other person to bid or not to bid for any mail contract, or (2) if it pays any officer, director, or regular employee compensation in any form, whether as salary, bonus, commission, or otherwise, at a rate exceeding $17,500 per year for full time.

More vindictiveness; more saving of face; more effort to uphold the strong right arm that struck down the rights of citizens without trial, without hearing, without any lawful right to do so; writing it into the law; and Congress doing it with its eyes wide open. After full consideration of the whole matter now Congress is about to say that is all right; it is a proper thing for an official of the Government to exercise the power of his office, being a Cabinet minister, to destroy a whole class of contracts, condemn a whole school of citizens without trial, all done collectively without separate opportunity for consideration afforded; all smeared with the same tar brush, regardless of any considerations they severally might have to interpose either by way of complete defense or by way of palliation or anything of that kind. All of them are dubbed and characterized as frauds and crooks, and by legislation we now are about to say that is all right.

The first part of this section carries the attainder of these citizens; the second part of this provision, which appears as if it were a proviso, does not qualify the first section. The first section in itself is a complete bar to any of those who were so regarded by the Postmaster General and whose contracts were canceled to become effective February 19, 1934. Does the Congress understand what it is doing? I prophesy that the day will come when it will understand what it will have done if it shall pass this measure, and that the people of this country will make Congress understand it.

Now notice the harshness of this provision:

SEC. 8. Any company alleging to hold a claim against the Government on account of any air-mail contract that may have heretofore been annulled may prosecute such claim as it may have against the United States for the cancelation of such contract in the Court of Claims of the United States, provided that such suit be brought within 1 year from the date of the passage of this act—

And so forth.

There was no necessity for that provision in this measure. If its objective was to enable anyone to bring suit in the Court of Claims, that power exists now by general statute. The sole purpose of this provision found in the conference report is to put a limitation which is extraordinary, which is harsh and severe, and one under which no other contractors suffer. Why was that provision with all its circumlocution and all its verbiage written into the measure? It was to hide from the public the harshness and the severity of the act; to conceal from the casual reader that an effort was being made merely to save the face of a tyrannical Postmaster General.

This does wrong. This deprives the citizen of rights, and Congress is going to walk right into it and do this thing with eyes wide open.

What is the effect of the limitation? Of course, all the world would have understood it if the provision had stated that "the limitation upon action based upon cancelation of an air-mail contract is 1 year, and no action may be brought thereafter." But that was not done. The provision has been hidden under the guise of granting a right, and it is a mere guise, because the right exists today. Such a limitation is put upon the right of the citizen to assert his claim in the Court of Claims that he may lose it entirely, for the reason that he is already in some other court, and while he is in that other court he may not go into the Court of Claims; and by the time he gets out of that other court his year has gone by, and he has lost his right of action.

That is what Congress is about to do. I know full well that Senators realizing the complete import of that provision do not subscribe to it because it deprives citizens of ordinary, normal rights which they have always enjoyed until we arrived at this era when the trend of affairs is opposed to freedom, opposed to free institutions, opposed to

justice, and in the direction of force, unlimited force, unregulated power.

Listen to the next clause:

SEC. 9. Each person desiring to bid on an air-mail contract shall be required to furnish in its bid a list of all the stockholders holding more than 5 percent of its entire capital stock, and of its directors, and a statement covering the financial set-up, including a list of assets and liabilities; and in the case of a corporation, the original amount paid to such corporation for its stock, and whether paid in cash, and, if not paid in cash, a statement for what such stock was issued. Such information and the financial responsibility of such bidder, as well as the bond offered, may be taken into consideration by the Postmaster General in determining the qualifications of the bidder.

With that list, and the check-up of Democrats and Republicans in the list, a check-up of those who contributed "to keep the Democratic donkey alive", as the testimony in the words of one of the witnesses expressed it, it is a very simple thing for a Postmaster General to assign, as a reason why he does not grant a contract to a contractor of an opposing political faith; that he is covered by something contained in the information. Does this provision specify what it is that shall disqualify the applicant for a contract? Not at all. This great power is granted with no limitation. The information must be furnished, and the Postmaster General is not limited to any particular information he finds therein. He may say, "I have found it, and I am not obliged to expose it; but it is satisfactory to me, and I deny the contract though you are entitled to it under the specifications and bid."

Does the Senate intend to grant this autocratic power? No, it does not; but it will, just as sure as fate, judging by the past experiences at this session of Congress.

There is a provision in section 13 which enforces compulsory arbitration. To be sure it is carefully concealed and perhaps very difficult to discover, but I read the section in order to submit to the Senate whether it is right as a matter of labor policy to enact such legislation as this:

SEC. 13. It shall be a condition upon the awarding or extending and the holding of any air-mail contract that the rate of compensation and the working conditions and relations for all pilots, mechanics, and laborers employed by the holder of such contract shall conform to decisions of the National Labor Board. This section shall not be construed as restricting the right of collective bargaining on the part of any such employees.

There we have it in a nutshell. Does any Senator believe that the workmen and workwomen of the country would subscribe to such a policy? I do not believe so, and yet the Senate is about to adopt compulsory arbitration so far as it affects this industry.

I now invite attention to section 15:

SEC. 15. After October 1, 1934, no air-mail contractor shall hold more than three contracts for carrying air mail, and in case of the contractor of any primary route, no contract for any other primary route shall be awarded to or extended for such contractor. It shall be unlawful for air-mail contractors, competing in parallel routes, to merge or to enter into any agreement, express or implied, which may result in common control or ownership.

There we have a policy diametrically opposed to that beautiful system which was operating perfectly up to February 19, 1934, a system under which we had by actual experience three great transcontinental lines, with extensions northerly and southerly, not only on the Atlantic and the Pacific coasts but throughout the country. They were operated and controlled by a single governing board as respects each one of the three different systems. An airship load of mail or passengers could be transported from ocean to ocean without stop, as was done in eleven and a fraction hours the last day that splendid system existed.

Now we are about to enact a law which would forbid any one contractor having more than three contracts. It would forbid him also to have more than one primary route. So we are reversing the policy. Why? Because it is good? Oh, no. No; there is not a Senator who has really studied the problem who is willing to admit that it is better to divide the cross-country routes among 3 or 4, or even 2 contractors, than it is to have 1 contractor operate the routes throughout from ocean to ocean. Oh, no; it is not public policy. That is not the purpose. It is politics. Politics is the objective.

Mr. CAREY. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Vermont yield to the Senator from Wyoming?

Mr. AUSTIN. I yield.

Mr. CAREY. Is not the purpose of the particular provision to put out of business certain people who now hold contracts, and to get rid of them?

Mr. AUSTIN. Mr. President, of course the debate which we had here previously and the whole record of the evidence taken before the special committee show that the objective of those who brought all the political pressure to bear upon the Postmaster General's Office was to cancel extensions and contracts, so that men, who before had not had any contracts, could obtain contracts. Obviously, if we fix it so one contractor may not have more than three contracts, however short the routes may be, and so that he may not have more than one primary route, we multiply the number of opportunities to spread this largess—for the benefit of the public? Oh, no; but for the benefit of those who helped to keep the Democratic donkey alive.

There is another feature of the measure, Mr. President, to which I wish to invite attention. It will be observed that this measure is to take effect after October 1, 1934. In the meantime there are companies which are serving the country under temporary contracts, some of whom obtained contracts without having the necessary equipment and were obliged to equip themselves for the service; but under the proposed law on October 1, 1934, the Government, which we are supposed to represent on behalf of the people, is to take away contracts and take away rights. Is there any equivalent rendered? Oh, no; not a dollar. The property of the citizen is to be taken without any compensation at all. Is it for a public use? Not at all! It is for the private accommodation of other contractors.

So I claim that that provision of the conference report is directly in conflict with the due-process clause of the Constitution.

Section 16 relates to Canadian contracts. Mr. President, I wonder why they picked on Canada, and why they never mentioned South America, and never mentioned Mexico. Is it possible that this law is to be made to fit one of our foreign neighbors and not all of them? If we read the conference report, we see that that is what it means; and we are about to solemnly adopt this conference report with probably a vote of 20 in opposition to it, and all the rest of the Senate voting for it, and yet there is in the measure that irrational provision with respect to our relations with our neighbors. I read it:

The Postmaster General may provide service to Canada within 150 miles of the international boundary line, over domestic routes which are now or may hereafter be established, and may authorize the carrying of either foreign or domestic mail, or both, to and from any points on such routes, and make payment for services over such routes out of the appropriation for the domestic Air Mail Service: *Provided*, That this section shall not be construed as repealing the authority given by the act of March 2, 1929 (U.S.C., Supp. VII, title 39, sec. 465a).

I submit that if it is the purpose of Congress not to have that provision apply to any other country than Canada, it should be so expressed in the bill.

I now call attention to section 17:

The Postmaster General may cause any contract to be canceled for willful disregard of or willful failure by the contractor to comply with the terms of its contract or the provisions of law herein contained and for any conspiracy or acts designed to defraud the United States with respect to such contracts. This provision is cumulative to other remedies now provided by law.

And here we ourselves are about to exercise judicial powers. Congress cannot assume judicial powers, nor can it delegate any such powers to an executive officer, and yet that is what we undertake to do by that provision. I cite many cases which I ask permission to insert in the RECORD to support this dictum.

The PRESIDING OFFICER (Mr. HAYDEN in the chair). Without objection, that may be done.

The matter referred to is as follows:

Congress cannot assume judicial powers, nor can it delegate any such power to an executive officer (*Kilbourn* v. *Thompson*, 103 U.S. 168; *Andrews* v. *Hovey*, 124 U.S. 717; *Gordon's Case*, 7 Ct. Cls. 1; *Prigg* v. *Pennsylvania*, 16 Pet. 539; *Angle* v. *Chicago, etc., Ry. Co.*, 151 U.S. 20; *Albleman* v. *Booth*, 21 How. 506).

Where a statute is susceptible of two constructions, by one of which grave and doubtful constitutional questions arise, and by the other of which such questions are avoided, the latter construction should be adopted (*Texas* v. *Eastern Texas Ry. Co.*, 258 U.S. 204; *Arkansas Gas Co.* v. *Railroad Commission*, 261 U.S. 379).

The Constitution imposes upon the judicial department the solemn duty of interpreting the laws; and however disagreeable that duty may be, in cases where its own judgment shall differ from that of other high functionaries, it is not at liberty to surrender or to waive it (*United States* v. *Dickson*, 15 Pet. 162; *Muskrat* v. *United States*, 219 U.S. 346; *United States* v. *Freund*, 290 Fed. 411).

Mr. AUSTIN. Consider this phrase:

The Postmaster General may cause any contract to be canceled for willful * * * failure by the contractor to comply with * * * the provisions of law.

Who says what the law is under our system of government? Is it Congress? Not at all. The judiciary is the sole and exclusive department of government which may pass upon what we do here, and say what the law is. It has the exclusive authority to pass upon a controversy between the Government and one of its citizens relating to a contract, and to say what is the law which applies to that contract, and whether one side or the other is violating the law with respect to that contract. Yet we here, Senators many of us lawyers, many of us former judges, are about to enact legislation which undertakes to delegate to a Cabinet officer the power to pass upon what the law is, and to say whether or not a contractor is violating it. That is an obvious violation of the judicial power which has been vested solely in the judiciary.

Worse than that, and more directly affecting the contractor, it may take his rights away from him without any trial, without due process of law. The arbitrary fiat of a Cabinet officer, issued as was that of February 9, 1934, may be repeated.

Why is such an extravagant law now proposed to be passed by the Congress? It is because a Cabinet officer had the temerity to exercise that power unlawfully heretofore, and we now must save his face. We now must declare that it was proper for him to take the action he took by writing into a new measure what appears to be an authority to do that very thing.

Ah, I say, the rational understanding of such a clause in this bill is that the Congress knows that it never before existed. It knows that the Postmaster General never before had this power to act without notice and without trial; and that is why it is now being stuck in this measure, in order to grant him that power. If he had that power before, under the section under which he claimed he had it, why is it undertaken now to give him that power? It is nothing but a face-saving gesture.

The trouble with this gesture is that it is not innocent. It is not without damage. The trouble is that when we break down a great principle of government, designed to preserve the liberties of the people, we do a damage that is almost irreparable. Were it not for the recuperative powers of the American people, were it not for their great civic virtue, which enables them to pass through such a period of tyranny as we are living in today and keep their heads, it would be irreparable; but because of that virtue and that recuperative power we shall see the day when these things will be condemned, and the condemnation will be so emphatic that it will be many centuries before any other administration again tries to put them into effect.

It is to be noticed, however, that when it comes to penalizing any citizen by a fine of $10,000, and imprisonment for not more than 5 years, or both, as expressed in sections 18 and 19, the proposed legislation in effect provides for a trial. While it does not specifically provide for it, the bill seems to recognize the great American principle and institution of a finding of guilty by a judicial tribunal.

Mr. President, we have read this morning news of a decision in the District Supreme Court, rendered by Hon. Daniel W. O'Donoghue, Associate Justice, in which, if the report in the papers be correct, it was held that section 395 (o) of the public statutes, under which Postmaster General Farley canceled these contracts, was constitutional, and, therefore, that the court would not take jurisdiction of the case.

That statute has been discussed here, and the claim has been made by my colleague the Senator from Maine [Mr. WHITE] and myself that the statute, if ever intended to be interpreted as it is now interpreted by this court, amounts to a bill of attainder. I do not care to weary the Senate with a discussion again of that subject; but for the sake of those who may read the RECORD I recall to their memory the fact that it has been discussed, and a brief on it is already in the RECORD.

I wish to make one comment about that decision. No man respects our courts more than I. I do not challenge that decision on the floor of the Senate. I think it is bad taste for a Senator to undertake to deal with an absentee, whether he is a private citizen or a justice of a court, upon a specific matter like this; but I do call attention to the fact that nisi prius judges, when presented with a question of the constitutionality of a statute which is susceptible of two constructions, by one of which grave and doubtful constitutional questions arise, and by the other of which such questions are avoided, will always, and I think they ought to, adopt the construction which is in conformity with the constitutionality of the act. Moreover, I believe a nisi prius judge would have to have an extraordinary type of hardihood, he would have to have an extraordinary amount of moral courage in these days, in our times, when the trend of legislation and the trend of administration is such, and the trend indeed of judicial decision is such that the Constitution is being bowed down to the ground—I say, he would have to have extraordinary moral courage to stand up and declare in the first instance before him that a piece of legislation was unconstitutional.

Of course, we recognize that the Constitution imposes on him and the judicial department generally the solemn duty of interpreting the law, and, however disagreeable that duty may be, in cases, especially, where the judge's own judgment may differ from that of other high functionaries, such as a Postmaster General, he is, nevertheless, not at liberty to surrender it or to waive it. It is his duty, and in this instance he performed his duty; he passed upon the question of the constitutionality, and he declared for the constitutionality of the statute.

So far as this decision goes, it should be considered by all the people of the United States as a nisi prius decision, having the characteristics of a decision which will, in all likelihood, be reviewed by a higher tribunal, and by that great tribunal which is invested with the exclusive and final power and authority and duty to say what is a transgression of the Constitution, and to say, if there is legislation which directs force as a substitute for justice, and there is a Constitution which directs justice instead of force, that the Constitution shall prevail, that it shall be supreme over the statute.

There is still hope, in any event, whatever any court may do—and I have felt at times that there remained only one more thing to subvert entirely American institutions, and that is the overthrow of our courts—whatever may happen, even if our courts have so far weakened that they will not support the Constitution, I know that the other tribunal will be resorted to, and will render its judgment in saving the Constitution and saving the bill of rights.

LAURA GOLDWATER

Mr. BAILEY 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. 4253) for the relief of Laura Goldwater, having met, after full and free conference, have agreed to recom-

mend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment.

J. W. BAILEY,
M. M. LOGAN,
ARTHUR CAPPER,
Managers on the part of the Senate.
LORING M. BLACK, JR.,
ROBERT RAMSPECK,
U. S. GUYER,
Managers on the part of the House.

The report was agreed to.

THE FOREIGN DEBTS AND REASONS ADVANCED FOR REFUSING PAYMENT OF INSTALLMENTS DUE

Mr. LEWIS. Mr. President, it is no purpose of mine to intrude within this discussion for too long a time something of a matter not related that should displace what might be called the harmony of this debate.

I rise for the moment that I may address myself to a matter to which the public press of this morning referred, and with which the country at large is acquainted—the failure to pay the installments due on international debts, and the reasons advanced for the deliberate omission.

The President of the United States on yesterday had before this honorable body a message as to the international debts, the debts due the United States from certain of the debtor countries, where payments upon those debts under the contracts existing are due and payable. The message of the President was, upon the motion of the honorable Chairman of the Committee on Foreign Relations, the distinguished Senator now presiding over the Senate as the President pro tempore, the Senator from Nevada [Mr. PITTMAN], sent to the Committee on Foreign Relations, of which I have the honor to be a member. At a proper and appropriate time the committee will give such consideration to the message, and what accompanies it, as the circumstances will then justify.

In the meantime, in no wise invading upon the province of the honorable committee, I wish to make a comment upon what I regret to say has been a most regrettable assault upon the revival of friendships and confidences between the United States and its debtor nations, principally England and France.

Mr. AUSTIN. Mr. President, will the Senator yield that I may suggest the absence of a quorum?

Mr. LEWIS. No; I thank the Senator. I shall occupy but a short time, and the incoming of the Senators so numerously indicates a complimentary audience.

Mr. President, certain representatives of the established and renowned Government of England in public place assert that the message of the President of the United States demanding payment of debts due is in the form of blackmail. I do not know how stand these honorable gentlemen in the homes where they live. I only know that it is so contrary to the manners of an English gentleman to allude to the conduct of any official of another government as being blackmail that I cannot conceive that the statesmen who are the authors of the remark, though occupying, as is reported, official positions, represent either the gentility of family of England or its decency of politics.

The other Government, sir—and I refer to France—finds it agreeable, through three of its political spokesmen, to charge that the message of the President of the United States has been sent to Congress for political purposes, that it may be used for such benefit as will follow in the approaching congressional elections.

From this floor a short while since I made brave to say such charge would be made against us, when we sought the payments, according to the due dates of the debts. I said that it would be asserted that the whole object was to serve some political purpose on the part of the administration. I then called attention to the fact that our honorable opponents upon general questions—those of whom we speak as the Republican side, ourselves on the Democratic side, between which there is some conflict on some measures—have unitedly presented at all times the fact that there never was a suggestion of party politics as influencing the action of the United States in merely demanding the payment of its just debts.

To use the words of President Coolidge, our honorable debtors employed the money; they had the use of it; or, to use the New England expression, as the eminent Senator from Pennsylvania [Mr. DAVIS] invites me to recall as the expression of the ex-President, they "hired" the money; but as I do not wish to use the harsh expression of the honorable ex-President, I say that the present President of the United States calls the attention of the world to the fact that this Government is quite willing to have any proposition entertained which our honorable debtors desire to submit. He freely said to the world in his message that such proposition will be considered in the spirit of the friendship and fraternity which we wish ever to prevail in our relations with our debtors as governments.

It is to be deplored, sir, that the government of any debtor, having received so generous a message, lighted with so genial a temperament, and softened with so kindly an attitude, indicating that anything it might present looking to an alleviation of any burden it assumed to carry would be received with tolerance, liberality, and cooperation, shall meet it, through some of its officials, with the charge of "blackmail" on the part of a great government, its equal and its friend. More, sir, is it to be deplored that a great Government like that of England, whose friendship we seek and would like to possess and which, I trust, accepts our friendship with equal favor of its recognition and the consciousness of its power, should, as against such message, meet it with terms of such opprobrium. Behold how unfitted in every form and conception are the constructions to what would be called the language of statesmanship of statesmen or friendship of nations!

Mr. President, this is no time in the world for men of hasty thought or want of reflection to divide those who naturally have a common interest in the preservation of the just rights of man. This much let us concede, that the preservation of parliamentary government, if it is to be preserved in the world, will much depend upon that land of which we speak as the mother of parliaments—England—and which her coadjutors speak of as Britain, and this the United States of America. Little will be preserved of distinctive democratic rule or republican form of government or parliamentary procedure in legislation in the conducting by man of the shape and form of government if these two great governments of parliamentary existence shall, as between themselves, allow such expressions of opprobrium or that display of evil manners to defeat them in the common cause of the perpetuation of what may be called the "liberty of human action and the democracy of free government."

Mr. HATFIELD. Mr. President——

The PRESIDENT pro tempore. Does the Senator from Illinois yield to the Senator from West Virginia?

Mr. LEWIS. I yield.

Mr. HATFIELD. There is no doubt in the Senator's mind but that both the Governments of England and France put to a very good use the money which they borrowed from the Government of the United States? Is that not true?

Mr. LEWIS. I dare say the record discloses, and I will agree with the Senator from West Virginia, that the uses to which the money was applied were for the benefit of the debtors. The exact details of that use have been, in one form or the other, made manifest by different reports; and as to that I will agree with the Senator, I am sure, in such conclusion as he may reach upon his own standard of justice.

But, Mr. President, I am pressing upon you how thoughtless it is on the part of either of these Governments—our own or that of England—at this particular political hour in the affairs of the world, to allow the mere matter of a difference, possibly, in the sum of indebtedness or the method of its payment or the manner of its adjustment, to bring forth from those who assume to speak for the Gov-

ernment expressions which widen the chasm of controversy existing among the people of each land.

We, the public representatives, are not beguiled in one sense to resent, or deluded in another to fire animosity. We know that these expressions come forth from those who are not the spokesmen of their government. We know they come forth from men who either in hasty action explode themselves in expressions which they fancy are the definition of their feeling, or submitting them, sir, for the benefit of the locality in which they speak, for such uses as the temporary modes of politics often call for we may often justify.

But it is the people of the United States of America for whom I speak. They do not understand or adopt such attitudes as permissible. It is the people of Great Britain and of France for whom I speak. They do not understand the limitations applicable to such manifestations. Just at a time when we were getting closer and nearer to a common understanding of the joint needs of both nations in a great common cause of world preservation of freedom to have the eminent representatives of these Governments characterize the action of the President of the United States in terms which in ordinary political debate upon the hustings are rarely indulged in approbrium, sir, that no gentleman invites himself to make use of without the fear that another gentleman will not tolerate it or bear it—this is not a thing, sir, to be lightly held, nor to be overlooked in its effect upon the innocent, the citizens of both these countries.

Sir, these citizens should be the beneficiaries of the joint friendship of both and all nations joined in common cause, but it is these who are being deprived of such by that set of gentlemen who seem to have learned that now and then an apostrophe or a trope form of expression, however vulgar, is to be indulged, for that it gladdens their sense of vanity, they never considering the effect it has upon disrupting the reuniting ties that are now rewelding these two great countries.

It was not long ago, sir, that it fell to me to rise to this floor to bring forth a communication in the form of a letter which an eminent citizen of one of these countries wrote to the President of the United States, in which this eminent economist, historian, and literary genius proceeded to characterize the advisers of the President as being "half-baked" and his policies as "foolish", and made a direct allusion against United States Senators in terms and expressions which I am sure the respectability of England and the decency of its citizenship never would have approved. Why, now, sir, after that incident—most unjustified as it was, emboldened by an audacity inexcusable—should this new affront be repeated?

That, Mr. President, brings me to the conclusion of this observation, to ask what is the motive behind these citizens of this friendly Government to incite these animosities on the part of our people at a time like this, when our honorable President of the United States is striving in his message, by declaration, and officially by his conduct, to demonstrate to the world how glad we are to receive any proposition from any debtor in any form and to submit it, in pursuance of the act of Congress we have passed, to the Congress for dealing with as one friend deals with another?

Now, Mr. President, as to France, the condition is all the more deplorable. Where are we in this hour? It was but Sunday past when the representatives of this Government, without regard to distinction of party or pretense of political opposition, assembled in the House of Representatives and, under the leadership of the President of the United States, poured out their salutations of respect and veneration for the great citizen of France, the Marquis de La Fayette. After having set forth his virtues and declaimed splendidly, through the different officers of our Government, upon the qualities he represented, upon a citizenship noble in its kind, renowned in its character, we are met, sir, in the very first expression after that, by the insulting insinuation by those who assume to speak for the Government of France, that the President's message is a "farce", literally speaking; that it is a "clever political lie"; that its assertions have no foundations in sincerity; that it is an utterance hurled forth to the public "for the benefit of such political uses as in the coming congressional elections may be availing to him."

What kind of a man do our honorable friends feel that wise America has chosen as its President? We may differ upon his policies; we may contest them; we may contend they do not work the results that he dreamed—but the gentility of the individual is not the subject of debate. His honor as a man and his quality as a sincere gentleman cannot be the basis of dispute. Why should a foreign country find it agreeable, in return for an offer of friendship, to hold before the world that it is a pretense of a farce play in some drama which we in America liken to a vaudeville performance?

Mr. President, it is very high time that these honorable friends understand one plain truth: It is not the administration of the United States that seeks money from any debtor nation. The people lent this money to the Government. The Government then lent it to those who sought to borrow it.

The Government of the United States is asking its agents, the President and its Congress, please to collect its money. The agent is asking the debtor, "Will you please comply with the contract the best you can, that we may collect the money which we, as an agent of the people, took from them to lend you?"

There, sir, is the front and end of our offending.

These honorable governments abroad, I dare say—referring to its people especially—do not quite understand the relationships between the people and the Government, or between the States and the Union here; and we can easily conceive that through these misconceptions the ordinary citizen might misapply to us a term wholly inapplicable and very unjust. It is all under the misconceived idea of the President as director and dictator to the States and to their people. Therefore, to have eminent sources who appear to be spokesmen of a party within these governments, who do understand our complete political situation, send forth their declaration, calmly written, and then later, in interview, repeat it, which throws a blight upon the friendships which we hope to keep ever knit, is beyond our understanding and impossible for us to adopt or condone.

Now, Mr. President, I observe for the final suggestion, there comes to us through two certain sources of this Government a new bit of information from abroad, highly interesting, but nothing further. It takes on no form of solemnity, but partakes of humor well calculated to awaken the risibilities of those inclined to what may be called fun-making. It is that the Government of the United States, through its Congress, has just passed a law which enables the President of the United States to enter into a form of treaty-making to draw forth from other governments privileges of their trade with us and their barter by which they purchase our goods to the enrichment of the United States; that the suggestion of the President at this particular time that the debt is to be paid is merely a form of pressure upon those governments with whom it is understood an effort is to be made to have some reciprocity of treaty in behalf of trade; that the message is intended to intimate, "Gentlemen, if you will deal very broadly with us in allowing our goods to go in very large volume to your country, we shall see what can be done with a view of releasing a part of your debts. We can submit to Congress in a message the generosity you have disclosed as to this prospective trade which we invite by the treaty, and upon the basis of that compensation seek from the Government a return reward by remitting a portion of the indebtedness."

Mr. President, for myself I assert that no such proposition will ever be made by any President of the United States who can ever be elected by the people.

Without regard to what his party designation might be, there is no man in America who could be elevated to that place who could be guilty of such perfidy of faith, who, in such violence of imagination, could enter upon the proposal of so detestable a trade.

America will present to other nations such suggestions for the exchange of trade as she feels will be to the mutual advantage of both, but she will make no offer to sell the independence of her country, the rights of her people, or the debt due her citizens in return for any political favor by any people or commercial concession by any country.

Finally, sir, comes the intimation, and, as is known, reaching official quarters of this Government, as to "what shall be said if it is requested by America that certain debtor countries disarm?" I refer to present efforts in the convention called for the consideration of disarmament. It is intimated as though to say, "If your President meant in his message to indicate the cessation of expenditures referred to in the message for something of an unworthy character, intimating very clearly expenditures for the obnoxious purpose of unnecessary war and the preparation for conflict for the demolition of mankind and the devastation of civilization—if he meant to declare that such expenditure does not meet the approval of a Christian, civilized people, such as is represented by the United States of America—if your President of the United States meant that, then what have you to say, gentlemen, to the proposal that if we disarm, accepting your suggestion of disarmament, you proportionately will reduce the amount of the indebtedness this particular debtor owes you, to the amount of the value of our disarmament", and then to ask, "To what extent will you, the United States, disarm your indebtedness as against that if we disarm the armaments of warfare as against the world, including yourselves?"

Mr. President, I know this is very delicate ground. I am conscious of the admonition the bard speaks from the mouth of the humble to the great, saying, "Those who stand in high places are blown by many a blast, and should they fall they dash themselves to pieces"; but I speak for myself to say that the people of America never have elected a President of the United States who could have been of a character or kind who was of audacity to suggest to a nation to change its armament as some favor to our country without regard to that nation's national preservation and to its national defense.

Under no circumstances would a President of the United States of any party that our people would elevate to this distinguished ascendancy commit an affront to the privileges of another nation by offering it American money in turn for asking it to do a duty due to humanity. If due humanity, it will be sought by us as a mere encouragement in behalf of international human justice; if not due humanity, it is no province of ours to attempt to purchase the promise of doing that which was not due the land itself, or not due to us.

Sir, we have now no officer of this Government, and there is none that will receive the confirmation of this honorable body, who will barter American property to equalize indebtedness in consideration of a promise of some nation to reduce its armament. In the first place, such a promise would not be kept. I would applaud the nation that would disavow it, if it had been brought to the promise by such irregular, devious, and questionable means.

Finally, sir, any agreement of that kind from any nation might honestly be made at the time; and yet conditions might soon confront that nation which in its defense and preservation might call for a wholly different course; and who could blame it for promptly acting upon the emergency of self-preservation?

Now, sir, as to ourselves. I speak for myself. I decline to admit that any nation in this world has a right to sit in conclave with other nations, or alone in its own sovereignty, and dictate to the United States of America the limitation upon what is necessary for its self-defense. I pray God the time may never come when any conflict of war shall curse this, my home, my country; but if the hour is in the distance when the blackened clouds are flashing with the squirming fires that speak the flames of war, and if they shall spread to the misfortune and the affliction of this, the United States of America, this much be admonished: We prepare our defense, and we do it according to the sense of our preservation as directed by the conscience of America, as inspired by a sense of right and sustained by the sanctity of faith in God. America for her defense stands America; and while she gladly tests the suggestion made by any friendly nation, she will not tolerate the thought of a direction or domination of any nation or nations as to what shall be the limit and form and manner in which she shall prepare to defend herself against an emergency that might be on the way, whether in the imagination of her citizens or in the actual realization of the fear.

Mr. President, therefore I trust that it shall be now understood that America's presentation to her people through her President of the reasons by which we seek the payment of the debts due us is not for the oppression of any people; it is for the mere fulfillment of faith, the keeping of an honest contract made between the debtor and the creditor. I trust it may be understood, and here let it be asserted, if there be any nation in the world that fancies, through its statesmen, that by the imputation of dishonorable motive to the United States it can force us to withdraw from the determination of fulfilling our duties to our own countrymen, let that people awaken from their illusion, and realize that such cannot influence a people such as Americans. On the other hand, no resentments will be invited, no vengeance will be executed, no retaliation in the form of legislation will be permitted, far less invited, merely as a punishment to those whose lack of good sense or want of good manners make it agreeable to insult a people whose only offense was to tender every generous consideration that humanity among mankind might ask. We are America, and America is full on the way to the fulfillment of the laws of honor. With this consummation we will maintain the independence of the American citizen; with it we will preserve the sovereignty of America.

I thank the Senate.

REVISION OF AIR-MAIL LAWS

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3170) to revise the air-mail laws.

Mr. COPELAND. Mr. President, after listening to the eloquence and common sense of the Senator from Illinois [Mr. LEWIS] I hesitate to do so commonplace a thing as to make a reference to the rules of the Senate; but I am quite concerned over the pending conference report.

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

Mr. COPELAND. I yield.

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

The PRESIDING OFFICER (Mr. BYRD in the chair). The clerk will call the roll.

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

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

Mr. LEWIS. I wish to reannounce the absences of the Senators as to whom I this morning gave detail and for the reasons I have stated, and to ask to have the announcement stand for the day.

The PRESIDING OFFICER (Mr. BARKLEY in the chair). Ninety-one Senators having answered to their names, a quorum is present.

Mr. COPELAND. Mr. President, until last year when our party came into power in the Senate I had only two occasions to serve upon a conference committee. This year it so happens that I have served upon a number of conference committees. Many times in the conferences the question has arisen as to just how far the conferees could go in the use of new language. We have been embarrassed on a number of occasions, apparently under the rules, to be obligated to retain in a bill provisions which the conferees on the part of both Houses did not wish to retain.

Further than that, as Chairman of the Committee on Rules and the temporary custodian of the rules of the Senate, I think it is my duty to make some statement as to what has happened with reference to the measure now before us. I make these suggestions without reference to the merits of the bill. I am not qualified to speak regarding them.

The conferees have gone far afield in this conference report in adopting new language, language not found either in the text of the bill as it passed the House or in the text of the bill as it passed the Senate, and which, it seems to me, violates the spirit of both.

I invite the attention of the Chair to rule XXVII, paragraph 2, found at the top of page 34. I read:

2. Conferees shall not insert in their report matter not committed to them by either House, nor shall they strike from the bill matter agreed to by both Houses. If new matter is inserted in the report, or if matter which was agreed to by both Houses is stricken from the bill, a point of order may be made against the report, and if the point of order is sustained, the report shall be recommitted to the committee of conference.

Mr. President, I speak first of subsection (d) found on page 2 of the conference report, which reads as follows:

(d) The Postmaster General may designate certain routes as primary and secondary routes and shall include at least four transcontinental routes and the eastern and western coastal routes among primary routes.

It will be observed that as written in the conference report 6 primary routes are established, 4 transcontinental routes, and an eastern coastal route and a western coastal route, making 6 primary routes. The nearest approach to this language in the bill is found on page 3 of the bill as it passed the Senate, beginning in line 10:

The Postmaster General may designate certain routes as primary and secondary routes and may include at least four transcontinental routes.

That is the language which is repeated thus far in the conference report. But in addition to the language just quoted we find that the text of the bill as it passed the Senate definitely determined what transcontinental routes are, because, if Senators will refer again to page 3 of the bill, they will see that it describes the transcontinental routes and defines them in this language:

Extending to termini, as nearly as practicable, on the Atlantic and Pacific coasts.

That is to say, in order to be a primary route there would have to be a terminus at or near the Atlantic and a terminus at or near the Pacific or, in the language of the bill, page 3, "extending to termini, as nearly as practicable, on the Atlantic and Pacific coasts."

Mr. President, there is nothing in the bill as it passed the Senate or as it passed the House that suggested primary routes which are coastal in their operation, because both termini of a coastal route would be either on the Pacific coast or on the Atlantic coast, as the case may be, and not, as the language on page 3 indicates, with termini on both coasts or a terminus on each coast.

Mr. President, that is not all. If we take page 1 of the conference report, section 3, toward the bottom of the page, we find the insertion of the adjective "initial" in the phrase "for initial periods of not exceeding 1 year." That, I assume, might be regarded as a limitation. I am not sure but that under our rules that would be an acceptable amendment. Nevertheless, there is there the insertion of a word which does not appear either in the House bill or in the Senate bill.

We find in the third line from the bottom on page 1 of the conference report that the right of appeal is to the Comptroller General. If I am correct in the matter, the reference made in the bill as it passed the two Houses of Congress was to the Interstate Commerce Commission, and not to the Comptroller General.

On page 2 of the bill, practically all of subsection (g), if I am correct in my statement, is new or radically changed language.

On page 3, section 6, subsection (a), second line, the words "after notice and hearing" possibly might be considered a limitation; but I desire to make clear to the Senate that the conference report goes far beyond any report in which I have ever joined. I think there have been many times when I wanted to do this; I know there have been many times when I wanted to deviate from the language used by one or the other House, or both; but this conference report actually does go beyond the rule laid down to govern conferees in preparing conference reports.

Mr. President, conferences are difficult anyhow.

Mr. WHITE. Mr. President——

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

Mr. COPELAND. I yield.

Mr. WHITE. Has the Senator concluded the catalog of instances in which he thinks the conferees have exceeded their authority?

Mr. COPELAND. I simply touched upon those. If the Senator cares to add others, I shall be glad to have them for the sake of presenting the matter at length.

Mr. WHITE. Mr. President, I have only given the most cursory examination to the conference report with this thought in mind. I understood the Senator to refer to paragraph (g) on page 2. Am I right in that?

Mr. COPELAND. Yes.

Mr. WHITE. I concur in the Senator's suggestion that that is very largely new matter, not contained in either bill, and that there is involved in it much more than language. It is a substantive change, as I conceive it.

I call the Senator's attention also to section 6 (a), on page 3. There is a provision there for notice and hearing.

Mr. COPELAND. I have made reference to that.

Mr. WHITE. So far as my knowledge goes, that is new matter inserted by the conferees.

Mr. COPELAND. That is new; but I thought possibly that might be considered a limitation, and in the application of the rule we have not hesitated to limit or delimit; yet, after all, that is new language.

Mr. WHITE. I understand that; and I would not be dogmatic about anything I now suggest to the Senator, because, as I indicated when I rose to interrogate him, I have not had the opportunity to study out these matters carefully.

Take subparagraph (b) of section 6: It strikes me that that is new, not contained in either Senate or House bill.

I refer next to subparagraph (c) under section 6, appearing on page 3, the language being—

Any contract which may hereafter be let or extended pursuant to the provisions of this act, and which has been satisfactorily performed by the contractor during its initial or extended period, shall thereafter be continued in effect for an indefinite period—

And so forth. I have the impression that there is nothing in either Senate or House bill which authorized the conferees to give these contracts an indefinite period of life.

Mr. COPELAND. Certainly that could not be considered a limitation. That would be a broadening of power.

Mr. WHITE. That would be an extension, I think.

I come now to paragraph (d) under section 6, also on page 3. I think the first part of that section is covered in the Senate bill. Beginning about the middle of the paragraph there is this language:

For the purposes of this section—

And so forth, to the conclusion of the subparagraph. I think that is new, both in form and in substance.

Going on to paragraph (e) under section 6, it says:

In fixing and determining the fair and reasonable rates of compensation for air-mail transportation, the Commission shall give consideration to the amount of air mail so carried—

And so forth. There may be a similar provision in the Senate bill or in the House bill; but, if there is, it has escaped my notice.

Going on to section 7 (a), the very first words of the section are—

After December 31, 1934.

I think that is new matter, fixing a different date for the application of this section than was fixed in the Senate bill or in any corresponding House provision.

I do not desire to inject myself further into the Senator's speech.

Mr. COPELAND. I shall be glad if the Senator will give me any further references he has.

Mr. WHITE. Going on, then, near the bottom of page 4, I refer to the language in subparagraph (d) beginning about the middle of that paragraph:

That whenever required by the Postmaster General the bidder shall submit an affidavit executed by the bidder—

And so forth. So far as my knowledge of the Senate bill and the House bill goes, that is an entirely new provision.

Now we turn over to page 6, at the beginning of section 15. I think that section is very largely new matter, not comprehended within either the language or the purpose or the effect of any provision either in the Senate bill or in the House bill.

I repeat, Mr. President, that these comments of mine are based on a cursory examination. I think they are founded in fact, however, and that they clearly demonstrate the infirmity of the conference report.

Mr. COPELAND. Mr. President, I thank the Senator for his additions to the list I have made of what I regard to be deviations from the operation of the rule.

Mr. President, the matter may not be particularly serious as regards this bill. I am not prepared to argue that question at all.

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

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

Mr. COPELAND. I yield.

Mr. FESS. The Senator has pointed out the new matter which has been inserted. I do not think there is any doubt about new matter having been inserted. I am of opinion that everybody will have to concede that. The conferees virtually rewrote the proposed legislation, but the question arose whether the manner in which they did it did not make the report in order, whether the conferees could, by a blanket performance, strike out one thing and insert entirely new matter, provided it referred to the same thing that was stricken out. That seems to be the basis on which the defense will be made that the report is in order.

There is a very striking precedent in which the Senate passed on that very subject, if the Senator will permit me to interrupt him in order to state it.

Mr. COPELAND. I shall be glad to have the Senator do so.

Mr. FESS. On February 19, 1925, when the famous Muscle Shoals legislation was before us, in which the Senators who are interested in the adoption of the pending conference report were also very much interested, as the Senator will recall, under the leadership of Mr. Underwood, the Senate passed a Muscle Shoals bill of its own.

Mr. COPELAND. I recall that.

Mr. FESS. The House passed what was called the "Ford purchase Muscle Shoals bill." The subject went to conference, and the conference agreed and reported to the Senate. Let me read what occurred:

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 518) to authorize and direct the Secretary of War, for national defense in time of war and for the production of fertilizers and other useful products in time of peace, to sell to Henry Ford, or a corporation to be incorporated by him, nitrate plant no. 1, at Sheffield, Ala.; nitrate plant no. 2, at Muscle Shoals, Ala.; Waco quarry, near Russellville, Ala.; steam power plant to be located and constructed at or near Lock and Dam No. 17 on the Black Warrior River, Ala., with right-of-way and transmission line to nitrate plant no. 2, Muscle Shoals, Ala.; and to lease to Henry Ford, or a corporation to be incorporated by him, Dam No. 2 and Dam No. 3 (as designated in H.Doc. 1262, 64th Cong., 1st sess.), including power stations when constructed as provided herein, and for other purposes.

That is the report which was under consideration. When it came in, the Senator from Nebraska [Mr. NORRIS] made a point of order on the report, and made this statement:

I want, first, to call attention to this fact, that we have a condition presented to the Senate which probably has never before been presented, and if any claim is made that the point of order I urge against this conference report is technical, I call the attention of the Chair to the fact that it is only by the greatest of technicality that the conferees are allowed any latitude whatever in bringing in a conference report and making changes from the bill as it passed the Senate.

* * * * * * *

The House passed what is known as the "Ford bill", giving Muscle Shoals to a corporation to be organized by Henry Ford. Mr. Ford has withdrawn his offer, as everybody in the country knows, and the House is not trying to pass the Ford bill. So the conferees only by virtue of a technicality had any House bill whatever in considering this question.

* * * * * * *

Technically, the conferees have a right to bring in anything between the Ford bill and the bill as it passed the Senate, so it is by virtue only of a technicality that the conferees have any latitude whatever. I think it is proper for the Chair to take that into consideration in passing on the point of order, which necessarily must be more or less technical.

As a matter of parliamentary laws, the conferees have a right to bring in any provision of the bill as it passed the Senate or any provision of the Ford bill, or any provision between those two bills. They cannot, of course, go beyond that.

With those preliminary remarks, I want to call the attention of the Chair to what to me seems a very simple proposition. For the purpose of convenience, I am using the Senate print.

Then the Senator proceeded to read what was in the Senate bill, what was in the House bill, and what was in the conference report, to show that the conference report did not coincide with what was in the House bill or the Senate bill or between the two. He claimed they went beyond their authority in not dealing with what was in the House bill or what was in the Senate bill or what fell between them.

I do not think I care to take the time to read what was in the House bill and in the Senate bill and in the conference report. The Senator proceeded:

Mr. President, I take it that as between the Senate bill, which provided for the payment of a rental of 4 percent on the entire cost of the dam, including the locks, and the House bill, which provided for 4 percent on the entire cost of the dam in the same way with only an exception that it should not apply to expenditures made prior to a certain date, there is no place between those two provisions where we can put the provision of the bill as reported by the conference committee. In other words, the conference committee, for instance, it is conceded, would not have any right to bring in a bill that provided for a lease of 125 years, because that would be more than the Ford bill and more than the Senate bill. They could not bring in a bill that should provide for the payment of a rental that would be more than both the other bills or less than the other bills.

The length of time would have to fall between the two, and the amount of rental would have to fall between the two, not above both of them or below both of them.

Moreover, the conference report gives to the President the right, without stating the amount, to deduct a still further amount from the cost of the dam as he shall determine is a sufficient amount to pay for navigation on the Tennessee River.

He proceeded to elaborate on the argument that authority was given by the conferees to the President which was not included in either of the two bills or did not fall between the two bills. The argument proceeded. I think it is hardly justifiable for me to continue to read, except just to suggest the principles. I do not care to read the details.

It appears that the very principle involved in the conference report before us is as to whether, having before them a Senate bill and a House amendment in the nature of a substitute, the authority of the conferees is broad enough to cover the insertion of something not in either bill; and there seems to be no doubt that new matter was inserted.

The debate on the Muscle Shoals matter ran for days. A point of order was made on the 19th of February, it was dis-

cussed all day the 19th, and was discussed on the 20th. The debate is found on page 4126 of volume 66, part 4, Sixty-eighth Congress, second session. The second page to which I refer is page 4243.

Senator Underwood conceded that new matter was inserted. He stated:

Mr. President, on yesterday, just as the Senate took a recess, the Chair called to my attention an addition to section 2 of the pending bill and asked what authority the conferees had to insert that section. I desire to call to the attention of the Chair that in the original bill, in section 5, the following language is found:

"The lease shall also provide the terms and conditions under which the lessee may sell and dispose of the surplus electric power created at said plants."

That language was stricken out, but the paragraph was rewritten and the language reinserted. The Chair should consider that it was in conference that—

"The lease shall also provide the terms and conditions under which the lessee may sell and dispose of the surplus electric power created at said plant."

The original Ford bill, on page 15 of the printed bill, in section 16, had this language:

"For the facilities and services aforesaid the United States shall protect the company from losses occasioned by such use and shall return the said property in as good condition as when received and reasonably compensate the company for the use thereof."

I mention this to indicate that it was conceded that the matter was new, but it was contended it was covered by the broad authority given.

When the final decision was made as to the authority of the conferees to insert that matter under the practice under which they were operating, the decision sustained the point of order, namely, that they had no authority to do it even in that form. The vote came on the 23d of February on an appeal from the decision of the Chair. The point which had been made was based on what the Senator read just a moment ago, paragraph 2 of rule XXVII:

Conferees shall not insert in their report matter not committed to them by either House, nor shall they strike from the bill matter agreed to by both Houses. If new matter is inserted in the report, or if matter which was agreed to by both Houses is stricken from the bill, a point of order may be made against the report, and if the point of order is sustained, the report shall be recommitted to the committee of conference.

Upon that rule the Chair sustained the point of order, an appeal was taken from the decision of the Chair, and the Chair was sustained by a vote of 45 to 41, as is found on page 4402 of the CONGRESSIONAL RECORD, volume 66, part 5, Sixty-eighth Congress, second session.

This is a decisive precedent, precisely bearing on the subject now before the Senate.

Mr. COPELAND. Mr. President, I thank the Senator. I was in the Senate at the time of the debate to which reference is made, and I recall the discussion and the incidents mentioned by the Senator from Ohio.

Mr. President, it is perfectly clear to me that paragraph 2 of rule XXVII has been violated. The question is, What should be our attitude toward the rules of the Senate? These rules are the outgrowth of years of experience in the Senate, they have been carefully formulated, most of them have stood the test of time, and they have facilitated the operations of legislation.

I think it is a great mistake for us to accept a report which is so clearly in violation of the rule as is the one before us. It violates the rule not only in the specific case which I mentioned in the first place, by providing for six primary routes instead of four, but in the other instances which I suggested, and the many which were presented to the Senate by the Senator from Maine.

Mr. President, I should not feel true to my trust if I did not call the attention of the Chair and of the Senate to the situation. It is my judgment that rule XXVII has been violated, and I feel it my duty to raise the point of order against the submission of the conference report.

Mr. McKELLAR. Mr. President, does the Presiding Officer desire to have a statement made? I shall be very happy to make it.

The PRESIDING OFFICER. The Chair would be glad to hear from the Senator briefly.

Mr. McKELLAR. Mr. President, the first objection is that the following paragraph is new matter: On page 2 of the conference report, subsection (d) reads as follows:

(d) The Postmaster General may designate certain routes as primary and secondary routes and shall include at least four transcontinental routes—

Listen to that:

at least four transcontinental routes, and the eastern and western coastal routes among primary routes. The character of the designation of such routes shall be published in the advertisements for bids, which bids may be asked for in whole or in part of such routes.

I now read from page 3 of the Senate bill, line 10:

Provided further, That the Postmaster General may designate certain routes as primary and secondary routes and may include at least four transcontinental routes, extending to termini, as nearly as practicable, on the Atlantic and Pacific coasts, as primary routes. All other routes shall be secondary routes. The character of the designation of such routes shall be published in the advertisements for bids, which bids may be asked for in whole or in part of such routes.

I digress long enough to say that the House struck out all except the enacting clause, and substituted therefor a new bill. Both bills provide for substantially the same thing; one provides for at least four transcontinental routes, and the other bill provides that there shall be six transcontinental routes.

The PRESIDING OFFICER. Will the Senator from Tennessee yield to the Chair at that point? Where is the language of the House bill which refers to primary and secondary routes?

Mr. McKELLAR. There is nothing in the House bill with reference to that. That language is in the Senate bill.

I now come to the next section, section (g), which was objected to. I ask the Chair to turn to page 15 of the bill. Here is the language of the conference report:

(g) Authority is hereby conferred upon the Postmaster General to provide and pay for the carriage of mail by air in conformity with the terms of any contract let by him prior to the passage of this act, or which may be let pursuant to a call for competitive bids therefor issued prior to the passage of this act, and to extend any such contract for an additional period or periods not exceeding 9 months in the aggregate at a rate of compensation not exceeding that established by this act nor that provided for in the original contract: *Provided*, That no such contract may be so extended unless the contractor shall agree in writing to comply with all the provisions of this act during the extended period of the contract.

On page 15 in the House bill it is provided:

SEC. 3. (a) The Postmaster General is authorized to award contracts for the transportation of air mail by airplane between such points as he may designate, and for periods of not exceeding 1 year, to the lowest responsible bidders tendering sufficient guaranty for faithful performance in accordance with the terms of the advertisement at fixed rates per airplane-mile. The base rate—

And so forth. That is dealing with the same subject. The language is different, but the same subject is dealt with.

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

Mr. McKELLAR. I yield.

Mr. WHITE. Is not the language which the Senator has just read the language which is found in section 3 (a) of the conference report?

Mr. McKELLAR. It is found there, yes, making the case that much stronger, because they are similar.

Mr. WHITE. In other words, the language which the Senator has just read from the House bill is the provision which is covered by paragraph 3 (a) of the conference report, and then paragraph (g) is something new.

Mr. McKELLAR. No; the Senator is mistaken about that.

I now come to page 3, section 6 (a):

SEC. 6. (a) The Interstate Commerce Commission is hereby empowered and directed, after notice and hearing, to fix and determine by order, as soon as practicable and from time to time, the fair and reasonable rates of compensation for the transportation of air mail by airplane and the service connected therewith over each air-mail route, but not in excess of the rates provided for in this act, prescribing the method or methods by weight or space, or both, or otherwise, for ascertaining such rates of compensation, and to publish the same, which shall continue in force until changed by the said Commission after due notice and hearing.

I now read from section 6 of the Senate bill, on page 4——

The PRESIDING OFFICER. So far as that point is concerned, the Chair does not think the Senator needs to spend any time on it.

Mr. McKELLAR. I will pass on.

Section 6 (b) of the conference report provides:

(b) The Interstate Commerce Commission is hereby directed, at least once in every calendar year from the date of letting of any contract, to review the rates of compensation being paid to the holder of such contract, in order to be assured that no unreasonable profit is resulting or accruing therefrom.

The Interstate Commerce Commission in the Senate bill is—

Hereby empowered and directed to fix and determine, as soon as practicable, the public convenience and necessity for all air transportation routes and the fair and reasonable future rates of compensation for the transportation of such mail matter by airplane common carriers and the service connected therewith, but not in excess of the rates herein provided for, prescribing the method or methods by weight or space or both, or otherwise, for ascertaining such rates of compensation, and to publish the same, and orders so made and published shall continue in force until changed by the Commission after due notice and hearing and shall take effect on such route immediately after the expiration of any outstanding air-mail contracts then in force and effect under existing contracts made by the Post Office Department.

The two sections are substantially the same. The wording is virtually the same in every respect.

I now come to section 6 (c) in the conference report:

(c) Any contract which may hereafter be let or extended pursuant to the provisions of this act, and which has been satisfactorily performed by the contractor during its initial or extended period, shall thereafter be continued in effect for an indefinite period, subject to any reduction in the rate of payment therefor, and such additional conditions and terms, as the said Commission may prescribe, which shall be consistent with the requirements of this act; but any contract so continued in effect may be terminated by the said Commission upon 60 days' notice, upon such hearing and notice thereof to interested parties as the Commission may determine to be reasonable; and may also be terminated by the contractor at its option upon 60 days' notice.

I did not catch the force of the argument which was made on that point. Exactly the same power is contained in the Senate bill, but this language merely amplifies it.

Section (d), on page 3 of the report, is next objected to. The language is almost exactly like that on page 5 of the Senate bill. There is practically no difference.

Section (e) is also objected to. I read:

(e) In fixing and determining the fair and reasonable rates of compenstion for air-mail transportation, the Commission shall give consideration to the amount of air mail so carried, the facilities supplied by the carrier, and its revenue and profits from all sources, and from a consideration of these and other material elements, shall fix and establish rates for each route which, in connection with the rates fixed by it for all other routes, shall be designed to keep the aggregate cost of the transportation of air mail on and after July 1, 1938, within the limits of the anticipated postal revenue therefrom.

Let us now look at page 5 of the Senate bill, from which I read:

In fixing and determining the fair and reasonable rates of compensation for such transportation of mail matter by airplane, the Commission shall not include in such rates, or provide in addition thereto, any compensation by way of subsidy or other similar payment.

There is a slight modification of language, but no change at all in substance.

I now come to the authorities, Mr. President. The authorities are ample that where the House has struck out all except the enacting clause it opens up the matter to the extent of permitting anything which is germane to the provision, and the language can be changed or altered so as to carry out and make effective the result.

I read from several decisions in the Senate. On February 8, 1927——

The PRESIDING OFFICER. The Chair holds that that is the well-settled rule in the Senate.

Mr. McKELLAR. I agree entirely with the Chair. I desire to say that if the Chair does not wish to hear me I should like to insert in the RECORD at this place the five opinions which hold that where either body of Congress strikes out all of a bill except the enacting clause, the conference committee may put in the bill whatever is germane in either bill. There is not a word in the report that is not germane to some provision either in the Senate bill or in the House bill.

The PRESIDING OFFICER. Without objection, the rulings referred to by the Senator from Tennessee will be inserted in the RECORD.

The rulings referred to, taken from the Senate Journal, are as follows:

[69th Cong., 2d sess.]

On February 3, 1927, the Senate was considering the conference report on the radio bill (H.R. 9971) when Mr. Howell raised a question of order that the clause repealing the joint resolution approved December 8, 1926, limiting the time for which licenses for radio communication may be granted, was not in the bill as passed by the House of Representatives or the Senate and therefore it was new matter inserted contrary to rule XXVII.

The Presiding Officer (Mr. Oddie in the chair) overruled the point of order, as follows:

"The Chair is prepared to rule on the matter, and holds that where one House strikes out all after the enacting clause of a bill and inserts new language, as was done in this case, the conferees are given wider latitude in dealing with the subject; and matter that is germane to the matter in dispute may be dealt with by the conferees without subjecting the report to the point of order that the conferees have exceeded their authority in inserting new matter."

Mr. Howell appealed from the decision of the Chair, but later withdrew the same and raised a question of order that the joint resolution referred to in the point of order previously raised by him had been passed by Congress some weeks after the conferees had begun consideration of the differences between the two Houses; that the said joint resolution was not contemplated by either House at the time the radio bill was passed, and therefore was new matter inserted by the conferees and that any reference thereto in the report, even in the way of a repeal, rendered the conference report subject to a point of order.

The Vice President (Charles G. Dawes) overruled the point of order.

Mr. Howell appealed from the decision of the Chair, and the appeal was laid on the table by the vote of 48 yeas and 14 nays.

On February 8, 1927, while the Senate was further considering the conference report on the radio bill, Mr. Howell raised a question of order that the conferees had exceeded their authority in striking from the conference report certain matter agreed to by both Houses, as follows: "(with due consideration of the right of each State to have allocated to it, or to some person, firm, company, or corporation within it, the use of a wave length for at least one broadcasting station located or to be located in such State, whenever application may be made therefor)."
order, as follows:

"The Chair would remark that when the amendment of the Senate is a new bill in the nature of a substitute instead of various amendments to different parts of the bill, the whole status of conference is changed under the precedents. Under the line of argument which the Chair followed the other day in holding that new matter when germane could be put in as an amendment under those circumstances, he would seem to be justified now in overruling the point of order. The status of conference being changed where the Senate substitutes a bill as an amendment, the precedents in effect hold that the restrictions of rule XVII, paragraph 2, do not apply, and he so rules. The point of order is not well taken."

Mr. PITTMAN appealed from the decision of the Chair, and subsequently Mr. PITTMAN's appeal was laid on the table by a vote of 41 yeas and 34 nays.

[68th Cong., 2d sess.]

February 19, 1925, the conference report on the Muscle Shoals bill (H.R. 518) was under consideration. Mr. NORRIS made a point of order that the conferees, in certain instances named, had exceeded their authority by inserting new matter.

The President pro tempore (Mr. Cummins, of Iowa), in a somewhat lengthy opinion, sustained the point of order. The Chair stated that he disregarded the House bill in the ruling on the ground that the two Houses had not agreed upon any point or upon anything. With reference to "new matter", the Chair said:

"What is 'new matter'? It is quite impossible to define this phrase with that accuracy and precision which will make any rule announced applicable to the infinite variety of cases that will arise. * * * It has seemed to the Chair that the words 'new matter', as found in rule XXVII, and 'new legislation', as found in rule XVI, must mean practically the same thing. The fact of the identity of these two phrases makes it all the more important that the ruling upon the points of order now before the Senate shall be correct. Without attempting to define 'new matter', the Chair is of the opinion that it was intended, when this paragraph of the rule (rule XXVII) was adopted, to restrict the general parliamentary law as frequently announced by the Speaker of the House of Representatives. * * * The Chair does not desire to be understood as holding that every change made in the Senate bill by the conference report constitutes 'new matter.' It is of the opinion that in order to bring the change within the spirit of rule XXVII 'new matter' must be of substantial import, that

is to say, a change affecting in a substantial way the plan proposed in the Senate bill * * *."

An appeal was sustained—45 yeas, 41 nays. (CONGRESSIONAL RECORD, 68th Cong., 2d sess., pp. 4124–4137, 4243–4250, 4310–4314, 4321–4326.)

[Feb. 24, 1927, 69th Cong., 2d sess.]

The Senate had under consideration the conference report on H.R. 16462, the general deficiency appropriation bill, when Mr. MCKELLAR made the point of order that the language inserted by the conferees as a substitute for Senate amendment no. 8 was new matter and violated rule XXVII.

Senate amendment no. 8 was an insertion as follows:

"*Provided*, That no part of this appropriation (for refunding taxes illegally collected) shall be used to pay any claim in excess of $50,000 until such claim shall be approved by the Comptroller General of the United States in accordance with existing law."

The matter inserted by the conferees as a substitute is as follows:

"*Provided*, That no part of this appropriation shall be available for paying any claim allowed in excess of $75,000 until after the expiration of 60 days from the date upon which a report giving the name of the person to whom the refund is to be made, the amount of the refund, and a summary of the facts and a decision of the Commissioner of Internal Revenue is submitted to the Joint Committee on Internal Revenue Taxation."

The Vice President (Charles G. Dawes) overruled the point of order.

Mr. MCKELLAR appealed from the decision, when his appeal was laid on the table by a vote of 39 yeas and 28 nays.

[June 6, 1932, 72d Cong., 1st sess.]

The Senate had under consideration the conference report on H.R. 10236, the Revenue Act of 1932.

Mr. Howell raised the following point of order:

"1. That, with respect to Senate amendment no. 180, imposing a tax upon energy sold by private electric-power companies, the conferees had exceeded their authority by including in their report a provision for a tax, not authorized by either the Senate or the House of Representatives, on domestic and commercial consumption of energy supplied by publicly owned power plants; and

"2. That the conferees had exceeded their authority by imposing the tax, provided for in the section, upon the person paying for such electrical energy instead of upon the vendor, as contemplated by the Senate."

After debate,

The Vice President (Charles Curtis) overruled the point of order in the following language:

"The Senate amendment is as follows:

"'There is hereby imposed upon energy sold by privately owned, operating electric-power companies a tax equivalent to 3 percent of the price for which so sold.'

"There is no provision in the Senate amendment relative to the payment of the tax by either the vendor or the purchaser, although it was doubtless the intent of the Senate that the tax should be paid by the power companies themselves. However, in a parliamentary sense, the conferees, in the absence of specific instructions by the Senate, undoubtedly have the right, in the interest of adjusting differences between the two Houses, to take the action they did in providing for payment by the purchaser.

"There is no provision in the House bill on the subject of power sold by electrical companies. Therefore, there are no restrictions upon the power of the conferees, subject, of course, to the limitations of the rule itself, in dealing with this matter. They have broader latitude and authority than would otherwise be the case. They are empowered to make any change or modification that is germane or relevant.

"The term 'new matter' contained in the rule embraces, as the Chair thinks, matter that is entirely irrelevant to the subject matter.

"The point of order is overruled."

Mr. Howell appealed from the decision of the Chair, which decision was sustained by the vote of 42 yeas, 33 nays.

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

The PRESIDING OFFICER. Does the Senator from Tennessee yield to the Senator from Maine?

Mr. MCKELLAR. I yield.

Mr. WHITE. The Senator has referred to some comments made by the Senator from New York and me, but he has not made reference to some other matters touched upon in our criticism of the report.

Mr. MCKELLAR. If the Senator will indicate to what he refers, I shall be glad to make response.

Mr. WHITE. The Senator from New York, as I recall, referred to the insertion of the word "initial" in section 3 (a) which reads:

The Postmaster General is authorized to award contracts for the transportation of air mail by airplane between such points as he may designate, and for initial periods—

And so forth. The language of the Senate bill was "and for periods."

Mr. MCKELLAR. Does not the Senator think that it is hairsplitting to make such a distinction between "periods" and "initial periods"? The word "initial" is a qualification of the word "periods", and it seems to me that it is splitting hairs to try to send back a conference report that has been worked over for weeks and months on a hair-splitting proposition of that kind.

Mr. WHITE. So far as sending the report back to conference goes, I am free to confess that I would not expect a much better report if it should go back than we now have. That is why I myself did not make a point of order.

Mr. MCKELLAR. I think the Senator acted wisely in the matter, and I commend him for it.

Mr. WHITE. I was interested in the Senator's explanation, rather than in my own, of the inclusion of the word "initial." But to pass on from that, in section 3 (a), the proviso reads:

Provided, That where the Postmaster General holds that a low bidder is not responsible or qualified under this act, such bidder shall have the right to appeal to the Comptroller General—

The Senate bill provided that an appeal should lie to the Interstate Commerce Commission. The Senator did not comment on that. It strikes me, for whatever my opinion may be worth, that that is a change not only in language, but in substance, from the provisions adopted either by the House or by the Senate.

Mr. MCKELLAR. The Senator would not say that that language does not provide for an appeal, would he? It provides for a quick method of appeal under the circumstances set out in the section.

Mr. WHITE. The Senate bill provided for an appeal to the Interstate Commerce Commission. It was the judgment of the Senate that that was the tribunal to which the appeal should be made. Now, apparently the conferees have determined that the Senate was wrong in that instance, and it is their conclusion that the appeal should be made to some other body or some other person. They may be right, but it is just a question as to whether they have the authority to override the Senate in that particular. That is why I am calling the attention of the Chair to it.

Mr. MCKELLAR. If the Senator will permit me, I will ask him to look at the bottom of page 15, line 19, of the House text.

Mr. WHITE. I have not the text of the House bill before me.

Mr. MCKELLAR. Listen to this; and the Senator will see how utterly mistaken he is in this point:

(b) In case of a determination by the Postmaster General that any bidder is not responsible or is otherwise disqualified under the terms of this act, such determination shall be subject to review in any manner authorized by law.

Surely, under those circumstances we had a right to make it specific.

Mr. WHITE. I do not know that there is authority of law at present for an appeal to the Comptroller General from the decision of the Postmaster General as to whether a bidder is or is not responsible. If that is the law, then I subside as to that particular point.

Mr. MCKELLAR. I do not think there is any doubt in the world about it.

Mr. WHITE. I do not want to trespass unduly on the Senator's patience——

Mr. MCKELLAR. I am glad to have the Senator make any objection he desires.

Mr. WHITE. The Senator has commented on paragraph (d) on page 2 of the conference report, and I freely confess that I am impressed with what he has said with respect to that particular paragraph. I am not going to quarrel with him about that, though I think it is a matter of doubt.

Mr. MCKELLAR. I think, if the Senator will examine them as I have, he will come to the same conclusion about the other objections.

Mr. WHITE. I think it is a matter of doubt, but I think in this particular and rare instance the Senator is right in his construction.

Mr. McKELLAR. I thank the Senator for thinking that for once I am right.

Mr. WHITE. The Senator did not comment on paragraph (e), which provides that—

If on any route only one bid is received—

There shall be a certain procedure. I do not know whether the Senator overlooked that in his comment.

Mr. McKELLAR. I have not had that called to my attention previously, as I recall.

Mr. WHITE. There is in the Senate bill a provision that if the Postmaster General holds that the low bidder is not responsible, which is part of the matter in this paragraph, there shall be an appeal to the Interstate Commerce Commission, which shall speedily determine the issue, and its decision shall be final. A part of that is incorporated in paragraph (e).

Mr. McKELLAR. Yes; it is merely an elaboration of the provision in the Senate bill.

Mr. WHITE. An elaboration and an addition, Mr. President, in my view.

Mr. McKELLAR. I do not agree to that.

Mr. WHITE. The Senator has referred to paragraph (b) on page 3 and commented on the first part of it; I am not impressed with his comment, but he failed to mention the language at the end of that paragraph, which reads:

In determining what may constitute an unreasonable profit the said Commission shall take into consideration all forms of gross income derived from the operation of airplanes over the route affected.

I know of no provision like that in either the House or Senate bill.

Mr. McKELLAR. That was an elaboration of the provisions of the House and Senate bills; that is all. It carries out the intent and purpose of the original Senate provision.

Mr. WHITE. It all hinges on the definition of "elaboration." I know that the word "elaboration" may be used to cover up the sins of the conference committee.

Mr. McKELLAR. I know the conference committee were guilty of a great many sins, but I do not believe that to be one of them.

Mr. WHITE. I will mention section 7 (a), at the top of page 4. As this proposed legislation passed the House and passed the Senate this section and all other sections became applicable when the bill became a law. Here is a departure from that provision and a determination by the conference committee of some other and some definite date on which this particular section shall become applicable.

Mr. McKELLAR. Yes; it is a different date.

Mr. WHITE. I do not know whether the Senator was saying that that was an elaboration or not. It might or it might not be an extension, or it might be called an "elaboration."

Mr. McKELLAR. No; that is not an elaboration, but it is fixing of the date of the effectiveness of the section. That is done in conference all the time. There is no reason in the world why that may not be done.

Mr. WHITE. The Congress does it very often, but here both the House and the Senate, in the form in which this proposed legislation was adopted by them, made the legislation as a whole and every section of it a law upon the enactment of the legislation and the approval thereof by the President. The conference committee have fixed some other date for this particular section, and they have fixed some other date for another section of the bill.

Mr. McKELLAR. The House had done the same thing. If the Senator will permit me, if he will look at page 14 of the House amendment, he will see that section 2 was made effective July 1, 1934.

Mr. WHITE. Then the conferees have extended it beyond that date.

Mr. LONG. Mr. President, a parliamentary inquiry. What is the question now under inquiry?

The PRESIDING OFFICER. The Chair is trying to determine the point of order raised by the Senator from New York [Mr. COPELAND], and therefore is desirous of listening to the argument.

Mr. BLACK. Mr. President——

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

Mr. McKELLAR. I yield.

Mr. BLACK. May I suggest, in response to what the Senator from Maine has said, that the Senate bill provided that after July 1 it should become effective; the House bill did not make it effective at all. Therefore there was a difference between the House and the Senate. They said they would not agree to the Senate bill if we made it effective July 1, but since their provision was ad infinitum they would agree if we would postpone it until December. If that is not the adjustment of a difference between the two Houses, I fail to see how there could be one.

Mr. McKELLAR. It seems to me the objection is hypercritical, to say the least.

The PRESIDING OFFICER (Mr. BARKLEY in the chair). The Chair will say in that connection and on that point that last week the conferees on the stock-market bill fixed July 1 as the effective date of the act, when both the House and the Senate bill provided that it should be effective upon the date of its enactment. So, while no point of order was raised against it—and the present occupant of the chair does not know that it would have been sustained if it had been raised—it has been done.

The Chair is ready to rule. The Chair has been trying to compare the House and Senate bills while the argument has been in progress. It is not easy to do because the sections do not correspond. It is a well-recognized rule where either House strikes out the language of the bill sent to it by the other House and inserts language of its own, the conferees have a wider field for the adjustment of differences than they would ordinarily have where the bill passed by one House is amended by the other House section by section. In that case it is easy for the conferees to determine just what the specific differences are, where part of the language of a House bill or a Senate bill is stricken out and new language inserted; but where either House strikes out all the language of the bill coming to it from the other body and inserts its own language, necessarily, in order to reach an agreement and adjust the differences, there must be more flexibility and power existing in the conferees. That has been for a long time recognized in the rules of the Senate and of the House of Representatives.

Where the language in either bill which is stricken out is indefinite or where there is no reference at all to the subject matter as to which the other House inserts language, then the conferees have almost unlimited power, so long as their amendments are germane to the proposal of either the House or the Senate bill.

The Chair does not think the insertion of the word "initial", referred to by the Senator from Maine [Mr. WHITE], constitutes such a departure as would vitiate the conference report on that account. While the language in neither bill contained the word "initial", the bill as written by the conferees, using the word "initial", does not apparently or substantially change the effect of the language contained in both the House and the Senate bills.

With reference to the point of order made against subsection (d) of section 3, it seems that the Senate bill provided that the Postmaster General might designate certain routes as primary and secondary routes and might include at least four transcontinental routes, without further reference to eastern or western primary routes. The Chair does not think the use of the word "may" the second time has any effect whatever. The Postmaster General had full discretion, under the language of the Senate bill, to establish such primary and secondary routes as he might see fit.

In the absence of any language in the House bill on the subject either permitting or prohibiting the Postmaster General from establishing primary and secondary routes, the Chair is of the opinion that he could do that even under the language of the House bill by regulation, because there is nothing in the bill to prevent it.

There being no language in the House bill on the subject, and the insertion of the words "eastern and western coastal

routes" being germane to the four routes already provided for in the Senate bill, the Chair does not think that inserts new matter to such an extent as to vitiate the conference report.

For the same reasons stated with reference to the other point of order, the Chair overrules the point of order made by the Senator from New York [Mr. COPELAND].

Mr. VANDENBERG. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. VANDENBERG. The Senator from New York [Mr. COPELAND] who made the point of order has been called from the Chamber. If he should desire to appeal from the decision of the Chair may he do so later when he returns to the Chamber?

The PRESIDING OFFICER. Provided no intervening business has been transacted.

Mr. VANDENBERG. Then I suggest the absence of a quorum in order to bring the Senator from New York back to the Chamber.

The PRESIDING OFFICER. The clerk will call the roll.

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

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

The PRESIDING OFFICER. Ninety-one Senators having answered to their names, a quorum is present.

Mr. COPELAND. Mr. President, I regret exceedingly that I was called from the Chamber to a committee meeting which seemed to be an urgent one. I assume, from what I have been told, that the Chair overruled the point of order.

The PRESIDING OFFICER. Yes; that is correct.

Mr. COPELAND. I desire to ask the Chair a question, and I do this with all deference and respect. In making his decision I assume he took into consideration the rule as it is written, followed the language of the two bills and the conference report, and, in the light of that language, decided that the conference report was not subject to the point of order.

The PRESIDING OFFICER. The Chair will state to the Senator from New York that he undertook briefly to give his reasons for the decision rendered, on the ground that where either House strikes out all of the bill after the enacting clause and inserts new language, the conferees have a much wider field for the adjustment of differences than where sections of the bill passed by either House are amended without striking out the entire language.

There are many decisions which the Chair could have cited, but he did not take the time to do so. In view of the Senator's absence, however, the Chair feels that it is not inappropriate now to refer to the decision rendered by Vice President Curtis.

During the consideration in the Senate of the Revenue Act of 1932 an amendment was inserted levying a tax upon electrical energy without saying by whom it should be paid; but evidently the text indicated that it should be paid by the producer of the electrical energy. There was no such provision in the House bill. When the bill went to conference the conferees amended the Senate language so as to provide that the tax should be paid by the consumer of the electrical energy. A point of order was made against the conference report on that ground; and Vice President Curtis, in overruling the point of order, used this language, after reciting the facts:

> There is no provision in the Senate amendment relative to the payment of the tax by either the vendor or the purchaser, although it was doubtless the intent of the Senate that the tax should be paid by the power companies themselves. However, in a parliamentary sense the conferees, in the absence of specific instructions by the Senate, undoubtedly have the right, in the interest of adjusting differences between the two Houses, to take the action they did in providing for payment by the purchaser.
>
> There is no provision in the House bill on the subject of power sold by electrical companies. Therefore there are no restrictions upon the power of the conferees, subject, of course, to the limitations of the rule itself in dealing with this matter. They have broader latitude and authority than would otherwise be the case. They are empowered to make any change or modification that is germane or relevant.

The Chair held that no new matter had been inserted by the conferees within the real meaning of the rule, and that so long as the amendments which the conferees inserted in the Senate language were germane to that language they did not violate the rule with reference to the power of conferees, and, therefore, he overruled the point of order.

Mr. COPELAND. I appreciate the courtesy of the Chair. I must say, in all frankness——

Mr. CAREY. Mr. President, will the Senator yield for a moment?

Mr. COPELAND. I yield.

Mr. CAREY. I should like to call the Chair's attention to page 207 of the Senate Manual, where it says:

> Conferees may not include in their report matters not committed to them by either House.

And it says further:

> In the Senate, in case such matter is included, the custom is to submit the question of order to the Senate.

Then the manual cites a case where Vice President Hobart took that stand, and also where Mr. Lodge, as presiding officer at the time, ruled in that way.

The PRESIDING OFFICER. The Chair is familiar with the rule cited by the Senator. Of course, it is perfectly obvious that where neither House has a provision with reference to a matter, the conferees cannot insert anything with reference to it; but the House having struck out all the language of the Senate bill and included nothing upon the controverted points, the Senate conferees and the House conferees had the right to make such changes as might be germane to the language of the Senate bill that were not included in the House bill.

Mr. CAREY. I may misinterpret what I have read, but I believe it means that where there is a question as to whether there is new matter the question should be submitted to the Senate.

The PRESIDING OFFICER. The Chair has ruled on the subject.

Mr. COPELAND. Mr. President, if the Chair will bear with me for a moment, I could not concede that when a bill has been handled as this one has, when all after the enacting clause has been stricken from the bill and new material has been added as the act of the House, that material is any different from any other amendment which might be added; and, in my opinion, it ought to be treated in exactly the same way. I do not see how greater latitude is given by that particular act.

We had this question to deal with no later than yesterday in connection with the free zone bill. The Senate had passed a bill providing for free zones, and the House had passed a bill with a different number. They did not take our bill. Then, in order that we might get the matter in conference, on my motion in the Senate we took the House bill, struck out all after the enacting clause, and inserted as an amendment our own bill. So we had before us in the conference everything that the Senate had discussed, everything the committee of the Senate had considered and the Senate had considered and had amended upon the floor, together with the bill as it passed the House. In other words, we had before us exactly the same sort of composite bill that we have here.

I cannot concede that any more latitude is given to conferees by reason of this peculiar act than there would be if we amended the bill in the ordinary way. We have before us now, and the conferees had before them, the Senate bill exactly as we passed it, and the House bill as they chose to rewrite it; so the language of the two Houses is here for consideration. My contention is, and I suppose ever will be, Mr. President, that the conference report has gone entirely aside from what was done either by the House or by the Senate, and, in my judgment, is a clear violation of the second clause of rule XXVII.

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

Mr. COPELAND. I yield.

Mr. VANDENBERG. It seems to me, if I understand the ruling of the Chair, that the Senate is left in this amazing position with respect to conference reports:

The Chair rules that so long as the new matter is germane, it is eligible. It does not make any difference how revolutionary it may be, how far afield it may be from any consideration either in the House or in the Senate; so long as it is germane it is eligible.

Any legislation respecting air mail would be germane to an air mail bill. Therefore, it seems to me that the ruling of the Chair strikes down all boundaries in respect to conference reports, and in practical effect leaves the conferees absolutely unlimited in their dealings with legislation; and it seems to me that would be a most unfortunate precedent.

Mr. COPELAND. Mr. President, I know that the Chair has ruled in accordance with precedents; but I share the apprehension of the Senator from Michigan that this decision and this act of ours will come back to haunt us. There is always a temptation on the part of conferees to go into the entire subject, to take up some matters which no doubt are germane, but which, after all, change the spirit of the act.

In the Appropriations Committee of the Senate we are extremely careful to avoid placing in the appropriation bills anything which can be called legislation. While that may not be on all fours with what we have before us, yet, after all, the conference committee have undertaken to legislate for the Senate. They have written into the air mail bill matters which are not in either the House bill or the Senate bill. They have superseded the Senate—indeed, they have superseded the Congress—in the choice of language and in writing into the conference report matter which is entirely aside from anything that was agreed upon in the Senate and anything that was agreed upon in the House.

Mr. President, I have no disposition to appeal from the decision of the Chair. If some other Senator has, that is for him to decide. I think, however, that if we have not established today an unfortunate precedent, we have at least made indelible a precedent the beginning of which, perhaps, was found in the ruling of Vice President Curtis or of Vice President Hobart years ago.

I am sure that in the future we shall be embarrassed by what we do here today, and that in the future conferees will be free to act as they please in rewriting a bill and bringing here language which the House and the Senate never intended should be written into the bill. That is what we have done with this bill; but, so far as I am concerned, as I said in the beginning, as the temporary custodian of the rules of the Senate, I felt it my duty to call attention to the matter. I have done so. The Chair has ruled, and it is for the Senate to decide whether the ruling shall stand.

The PRESIDING OFFICER. The Chair appreciates the position of the Senator; but in order that the RECORD may be complete, not for the purpose of argument at all, it may not be inappropriate to insert in the RECORD at this point the remarks of the late Senator Cummins of Iowa, who was the President pro tempore of the Senate at the time the point of order was made against the Muscle Shoals conference report, as to what is new matter:

What is "new matter"? It is quite impossible to define this phrase with that accuracy and precision which will make any rule announced applicable to the infinite variety of cases that will arise. It has seemed to the Chair that the words "new matter" as found in rule XXVII and "new legislation" as found in rule XVI must mean practically the same thing. The fact of the identity of these two phrases makes it all the more important that the ruling upon the points of order now before the Senate shall be correct. Without attempting to define "new matter", the Chair is of the opinion that it was intended when this paragraph of the rule was adopted to restrict the general parliamentary law as frequently announced by the Speaker of the House of Representatives.

The Chair does not desire to be understood as holding that every change made in the Senate bill by the conference report constitutes "new matter." It is of the opinion that in order to bring the change within the spirit of rule XXVII new matter must be of substantial import; that is to say, a change affecting in a substantial way the plan proposed in the Senate bill.

The Chair does not think his decision in this case violates that definition.

Mr. COPELAND. Mr. President, I thank the Presiding Officer for his patience and consideration. I insist, however, that if we were to go no further than page 2, paragraph (d) of the report, it would be perfectly clear that new matter had been inserted in the bill.

The PRESIDING OFFICER. The Chair has ruled. If the Senator desires to appeal, of course, he has that right.

Mr. COPELAND. I understand that, and the reason why I do not press the matter further is because I do not wish to appear to be in the position of obstructing the passage of the proposed legislation. I said in the beginning that in general it has my sympathy, and I would not wish to appear to be doing anything to obstruct the final action upon the bill. I did feel, however, and I still feel, that it is a mistake; that we ought not to receive this report in its present form, and that by doing so we are establishing a precedent which will be very distressing to us in the future.

Mr. VANDENBERG. A parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. VANDENBERG. Without presuming to argue with the Chair, and seeking only to be sure that the ruling is clarified against any unintentional precedent, may I inquire of the Chair whether it is a literal reflection of his ruling that the only test binding conferees in the insertion of new matter in a conference report is that it shall be germane?

The PRESIDING OFFICER. The Chair is basing that suggestion in the decision he rendered upon the language of former Vice President Curtis, who laid down that rule when he stated that when the language of one bill is entirely stricken out and new language is inserted the conferees have full latitude within the bounds of germaneness.

If the present occupant of the chair is mistaken about that, then the former Vice President was probably responsible.

Mr. VANDENBERG. Mr. President, I speak with the greatest respect for the Chair, and the Chair undoubtedly considers that he is within the precedents; but let me say that I consider it a very unfortunate precedent. I am not in charge of the bill or in charge of the point of order, so certainly I would not feel entitled to take an appeal; but I think it would be exceedingly hazardous and a step in the direction of legislation by conference instead of by Congress—and heaven knows we have had too much legislation by conference, even within the limits of the rules as heretofore known—that it would be almost a final and conclusive delivery of the ultimate jurisdiction over legislation to conferees, if the only test of new matter is the test of germaneness, because any legislation dealing with the subject and the text of the bill obviously would be germane. Therefore we sweep away all boundaries in respect to new matter as measures may go to conference.

Mr. FESS. Mr. President, I have some concern over the breadth of the decision of the Presiding Officer as to the latitude of conferees in presenting reports. I would have very much more concern, however, if this branch of the Congress paid the same respect to the rules under which it operates that the other branch pays to its rules.

In this branch of the Congress we have gotten into the habit of making a decision today and reversing it tomorrow, until that has become so common that there is not a Senator in this body who does not recognize that a decision is made upon considerations of policy, and not based upon

parliamentary rules. That it is common indeed is admitted by those who give instructions on the matter of rules.

I cited a case in point, but the Chair ruled against me, and would have been sustained if I had appealed from the decision of the Chair. Therefore, the present occupant of the chair did wisely, I think, in paying no further attention to it.

The same thing precisely applies to the matter of relevancy of debate. Each Senator is his own judge as to whether what he is saying is relevant to the matter before the Senate. The same thing is true with reference to germaneness. A matter is held germane if it contributes to putting over the matter in issue. That is the way we regard the rules of the Senate. The rules are not so regarded in another branch of the Congress, as every Member of this body who has had any service in the other branch will readily recognize.

Mr. President, I have little talent for pleading before a jury which has already made up its mind. Most of the interest one has in the final determination of a question is lessened to the zero point when he recognizes, before he says what he has in mind, that what he is saying will have no effect whatever.

I have very little talent for talking on points which have been discussed by others. The Senator from Vermont went over the conference report item by item, and pointed out the objectionable features. I think he covered pretty nearly in toto all that is involved in the report, with probably the exception of determining what the ultimate results will be.

Anyone who is and has been interested in building up the art of flying will readily recognize the difference between the proposed legislation and the McNary-Watres Act. The two are as widely different as policies are different. The McNary-Watres Act was put on the statute books primarily to build up the aviation industry. That was the major purpose of the act. It was the authority which was granted by Congress to carry into effect the recommendations of the Aircraft Board, which had been appointed, had made its study, and submitted its recommendations which were ultimately translated into law. Anyone who will study the Aircraft Board's report will recognize the emphasis that was placed upon the necessity of the United States being in the forefront in building this new arm. Whether it be from the point of view of military position, of commercial use, as an agency for fuller life in America, or to be used in the transmission of mails—from whatever point the recommendations is viewed, one must be impressed with the desire on the part of our Government not to lag behind, but to take the leadership in building up aviation and the art of flying.

For that reason there was extended as much aid as under the law could be granted to those who were willing to take the risk, invest their capital, and produce such results as were feasible.

The one very outstanding unit in the building of aviation was that which was engaged in research work. For that purpose a large amount of money was expended, all of which was risked, and on none of which could there be assurance of return; but it was expended in the hope of making aviation, which was an American invention, stand out as an American achievement above that of every other country.

It is a well-known fact, admitted by all who know, that in the beginning we did lag behind France because of the assistance given aviation by the French Government. After the Wright brothers had made it possible for the heavier-than-air craft to stay in the air, the French Government saw the importance of aviation, and for quite a while the United States was trailing France. After the war, however, and during the period when the world recognized the importance of this new activity—not only its possibilities in war but in commerce—because of the sympathetic aid of the Government the United States took the lead in aviation and kept it up to February 19 of this year.

The McNary-Watres Act, as stated by the Senator from Vermont [Mr. AUSTIN], sought to give such Government aid to the development of the art of flying as not only to make aviation a method of transportation but also to make it a profitable industry, and one which would be of importance in the employment of labor. It was not long until, by this aid, the United States had the finest flying equipment of any country on the globe.

One of the foundations on which this industry was built was the promise to those who would take the risk in developing the industry that they might have some return on their investment. Consequently, when the Government suggested that those who carried the mail be requested also to enter into the passenger service, that was done primarily for the purpose of building an industry. It was justified. It was a new investment of American capital. It was a new opportunity for the employment of American labor. In addition, it was the building of equipment which would be a defense in time of great danger. It cannot be hoped to make an industry of this kind profitable unless some assurance can be given that there will be improvement in the art.

It was first suggested that a lone man could fly in a plane. That suggestion led to the discussion of increasing the sizes of planes. Now we see, by the aid of the Government which stood back of the aviator who was willing to take the risk, the development of aviation to the point where the modern plane has become a floating palace of the air. While we have not yet reached the point where safety is entirely assured, the cases of fatalities are rare in comparison with the number of miles flown every day.

What I have said, Mr. President, has been said to indicate the major purpose back of the McNary-Watres Act. I desire to emphasize as strongly as I can that when the Government entered into air-mail contracts, the service to the public in the delivery of mail was not the only purpose contemplated; but primarily it was an effort to insure the leadership of the world in aviation.

We finally reached that position. It was reached with difficulty. What was done under the direction of the Postmaster General to reach that position has come under criticism. He was criticized for what he did in the matter of the surrender of contracts let by competitive bidding and the issuance of route certificates in lieu of them, with complete power on the part of the Postmaster General to make the necessary regulations, so that not only would the mail be carried with facility and the public served but while that was being done the industry would also be built up. Consequently, when we had a crazy air map that linked almost every city with another city, a hodge-podge, with no system, with as many companies as there were distances between cities, no responsibility, no finances, no facilities for building up a unified industry, the Postmaster General took direction of this crazy air map, this hodge-podge, and by the authority written specifically as the result of recommendations made before the law was enacted, through bids, through route certificates, through extensions, in 4 years we developed the finest aviation map the world knows.

So far as the burden on the Government is concerned in paying for air-mail facilities, the rate which is the measure of that burden was cut from $1.29 to below 40 cents in 4 years; and with the progress which was being made under the authority of the existing law, beyond a doubt, with the increase of the revenue coming from a well-equipped industry, we would have reached the time in 3 or 4 years when there would not have been a dollar of subsidy paid to the service, when the industry would have been self-supporting, when the only thing for which the Government would have paid would have been actual service. All this could have been done without the change of an iota in the law which is now in existence.

It is a shameless boast that under the temporary contracts which have taken the place of the contracts which were canceled we are saving so many million dollars; it is pitiable that any responsible man would make such a statement as that, when, under the law now existing, as I have heretofore made plain, the Postmaster General has ample authority to reduce the rates for carrying the mail to any extent he may see fit.

Mr. President, there are 11 items upon which costs of the carrying of the mail are fixed. Those items make up the risks the carrier must undertake. They include night flying, terrain, fogs, the one-way radio and the two-way radio, and so on. They include the number of motors a plane shall have. For a load of 200 pounds the cost is so much; for a load of 2,000 pounds the cost is so much more; for a load of 200 pounds a plane with a single motor may be used, while for a load of 2,000 pounds a trimotored plane must be used. The cost of carrying the air mail being made up of these and other items, which are all under the control of the Postmaster General, by the authority of the law under which he is now operating, if today at the rate heretofore allowed such carriage is costing the Government $20,000,000, the Postmaster General may say, "We will cut the cost 50 percent and make it $10,000,000"; and the cost will be so much for night flying, so much taking the terrain and fogs into consideration, so much for one motor, so much for a trimotor, and so forth. There is no need of a single change of any existing law in order to authorize the Postmaster General to reduce the cost of carrying the air mail. And yet it was assumed that contracts must be canceled and that a new law must be passed in order to reduce the cost of the air mail to the Government.

Mark my words, Mr. President, there will be no reduced cost to the Government under this plan. The Government may cut the length of a route or the number of trips if that be desired to be done and in that way reduce the cost at the start, but the chairman of the committee knows, as every other Senator knows, that it will not be possible to deny the public the facilities of air mail which they once enjoyed if those facilities be justified. Where there has been the delivery of such mail twice or three times a day, if there shall be provided but one daily delivery, the very object for which the air mail is provided will be defeated. If but one trip is made in 24 hours, and the mail plane reaches its destination 5 minutes after the connecting plane which was to carry the mail forward has taken off, and there is not another mail plane leaving that point for 24 hours, every pound of mail that goes out of that point to any other city within a thousand miles is put on a train. If the city is only 600 miles away, the train will have covered the distance and be in the town of delivery before the plane would start the next day. Anybody who is fool enough to think that the American people are going to stand for any such service as that has no business in the United States Senate. The people will not stand for it. It may be inaugurated on the basis that money is going to be saved, but it is not going to be continued.

Mr. President, if the proposal, as is here intended, is to avoid altogether any interest being manifested in the development of aviation, if it be the purpose to take the support of the Government wholly away from the building up of aviation and to limit the activities of the Government only to interest in the delivery of mail, what will be the outcome of such a policy? The small plane will be used. Note the rates here—33 cents for the first 300 pounds. It makes no difference whether the plane starts off with 10 pounds, it is paid for 300 pounds; and then, if the 300-pound limit is exceeded, the rate is 3.3 cents for the next 100, and so on to a certain point until nothing is paid for the excess. So, under this plan, the greater the load the less will be paid, and it will be to the interest of the mail carrier not to increase the load, because the more he carries the less he will get. That is fine economy, is it not? Yet that is precisely what is written into this proposed law.

Mr. President, the main thing that I so much dislike is that the Government is entirely withdrawing from any interest whatever in aviation except for the carrying of the mail; there is to be no effort on the part of the Government to build up an industry which every other nation of the world is today developing by Government support.

We carried the mail up to February 19 of this year for one-half what it is carried for by any other country in the world, and if the procedure which was then being followed had been continued uninterruptedly, with the increase of passenger service, the revenue would have increased, the cost of carrying the mail would have correspondingly decreased, and we should have reached a point, in a very short time when there would have been no subsidy paid. All that, however, has gone out of this bill. It affords no impetus for increasing the size and the efficiency of airplanes. There is no such provision, except a discouraging one, that if the load is increased a point is reached above which the mail will be carried for nothing, which means that no company will reach the point where they will have to carry additional mail for nothing. It is such an unsound provision that there can be no doubt that in a year from now we will be paying more for carrying the air mail than we paid when the contracts were canceled. More than that, we will not build up an aviation industry in this country; and, more than that, the Government will never reach the point where we can get away from the payment of a subsidy.

My good friend from Tennessee [Mr. McKELLAR] is intense in his opposition to subsidies and always has been. I have not any quarrel with him on that score, though he and I differ on the particular subject. He is intensely opposed to subsidies, and yet he had to recognize that the element of subsidy could not be entirely eliminated here, and so the date is pushed forward to sometime in the future when the plan is to be discontinued. Of course it will not be discontinued because when we reach that date we will know more about it than we do at the present time.

Mr. President, I take the position that if we were alone and had nobody to be concerned about but our own people, then we could afford to do as we pleased about the question of power in the air. But with the world as it is, with nations as they are, with flying ability as it is being improved and extended in all the world, we cannot stand by with our Government wholly disinterested in the development of aviation. We must keep abreast; there must be no lagging. There is no item in the bill which would permit any appreciation of any new discovery or new invention. There is no inducement for the expenditure of any money to build or develop a better kind of airplane. In the last 4 years the most remarkable development has taken place, reaching its highest point in the famous Boeing plane and Douglas plane, which are now the wonder of all the world. That is only a suggestion of what we might do in the future if the Government itself does not break down the industry.

It is for that reason, Mr. President, that I very greatly deplore the vengeance written in the bill, which is aimed at certain practices—practices which are subject to condemnation—but which goes to the extent of not only not curing the practices but of denying to the industry the things which are essential to it. I refer to the provision which will not permit any company which has an air-mail contract to own anything in the way of aviation that is not directly connected with the carrying of mail. I have heretofore pointed out the danger of such a provision.

It may be that aviation has gone far enough today that sufficient capital can be put back of a single company to build up the art of flying with the support of the Government in air mail. It may be a company can be found which is strong enough financially not to have to depend upon any outside assistance for its finances. But I am desperately afraid that we have not reached that point.

Eighty percent of the operations of an airway are on the ground. The actual flying is but one-fifth of its activities. The groundwork that is regarded as essential in many cases includes not only the airports, but includes repair shops. It includes a unit for photographing and photography work, which has become very essential. It includes the ground school. In many cases it includes the development and building of airplanes. But here is a bill which inflicts a penalty upon any company if it owns anything except that which is identified with the carrying of the mail. I think it is unwise.

I believe I have never seen a better statement of the importance of giving a company which is flying a plane, even for the Government, the right to have these appointments on the ground, than was contained in a letter which the

chairman of the committee received from one of the leading companies of America on the 20th of March of this year. One of the units of this leading company is Eastern Airways, flying from New York down the coast to Miami. The bill forbids anything like a holding company. I make a distinction, of course, between the holding company which is purely speculative and which ought to be eliminated, and the holding company which might be actually the operating company. From the letter I quote:

There should be a clear differentiation made between:
(1) The financial interest of large corporations in air-transport companies made for the purpose of developing the industry through adding to the management and financial resources of the operating company, with the hope of realizing ultimate operating profits—

That sort of an organization could not be subject to criticism. It is a part of the operation—

and (2) the financial interests of investment corporations made in air transport companies for the purpose of stock speculation.

There is no real basis for such a company.

For example, North American Aviation's relation to its transport subsidiaries would be the same whether the transport subsidiaries were divisions of North American Aviation rather than separate corporations operating as subsidiaries of North American Aviation. For legal reasons which I feel need not be outlined to your committee, who for the major part have legal training, the advantages of a subsidiary company conducting its operations through many States are well known. It may be stated that these advantages are the same as those which cause many large corporations to incorporate separate operating subsidiaries in several States. For this reason I should like to differentiate between North American Aviation and a true holding company, which I feel falls within the second classification mentioned.

In other words, North American Aviation is the parent company of its transport subsidiaries and is not a holding company in the true sense.

Mr. President, there is the differentiation which I desire to emphasize. Any holding company which is organized merely for stock speculation ought to be eliminated; but if the holding company is operating a subsidiary, and becomes a part-operating company supplying the finances, it ought not to be penalized.

The writer of this letter says:

It is my firm opinion that companies created for the purpose of making investments for speculative purposes in numerous aviation companies, especially when companies in which the investments are made are fully competitive, are a drawback rather than a help to the aviation business. In many instances this latter type of true holding company insists on representation on the boards of directors of competitive companies.

That, of course, would also be subject to criticism.

In being associated with North American Aviation as the parent company, our transport companies have the comfortable feeling that there are ample financial resources back of them to carry them through lean periods of reasonable length, as witnessed by the fact that in spite of the losses of the transport subsidiaries during the past 2 years, the parent company is sufficiently financed to advance funds to purchase new equipment in order to keep up the standard of operations competitively. Furthermore, the relations of our parent company with its strong, ably financed stockholders of recognized business ability make available to our operating companies the results of the research and development work of such strong business associates.

Here is one of the strongest statements I have yet seen on behalf of the need of a successful company carrying the mail to have the opportunity of enlarging its facilities through the ownership or relationship of subsidiaries. This statement was made in a letter to the chairman of the committee:

During the past year there were three important developments of transport airplanes in this country.

The question is, Who brought about these developments? It strikes me that a prohibition written into the law which forbids any company to have any association with any other company which may be supplying some facilities which the company flying the mail must have is a very grave mistake when we are trying to build up the aviation industry.

I do not care to take the time of the Senate to read all of the letter to the chairman of the committee. Therefore, I ask unanimous consent to insert it in the RECORD without reading.

The PRESIDING OFFICER (Mr. NEELY in the chair). Without objection, it will be so ordered.

The letter is as follows:

NORTH AMERICAN AVIATION, INC.,
New York City, March 20, 1934.

Hon. KENNETH MCKELLAR,
Chairman Post Offices and Post Roads Committee,
Senate Office Building, Washington, D.C.

MY DEAR MR. MCKELLAR: The first paragraph of section 7 of Senate bill 3012 reads as follows:

"No person shall be eligible to bid on, or hold, any air-mail contract who owns, or, in turn, is owned, in whole or in part, by any other company engaged directly or indirectly in any phase of the aviation industry, whether the other company be a holding company or a company transporting mail or holding a mail contract or a company engaged in the manufacture or sale of airplanes, airplane parts, or other materials or accessories generally used in air transportation."

It is my opinion that your committee should be informed of the true conditions with respect to the relations of holding companies and manufacturing companies with transport companies, in order that an intelligent decision may be reached as to whether any legislation should be passed dealing with such relations.

There should be a clear differentiation made between:

First. The financial interest of large corporations in air transport companies made for the purpose of developing the industry through adding to the management and financial resources of the operating company, with the hope of realizing ultimate operating profits; and

Second. The financial interests of investment corporations made in air transport companies for the purpose of stock speculation.

For example, North American Aviation's relation to its transport subsidiaries would be the same whether the transport subsidiaries were divisions of North American Aviation rather than separate corporations operating as subsidiaries of North American Aviation, Inc.

For legal reasons which I feel need not be outlined to the members of your committee, who for the major part have legal training, the advantages of a subsidiary company conducting its operations through many States are well known. It may be stated that these advantages are the same as those which cause many large corporations to incorporate separate operating subsidiaries in several States. For this reason I should like to differentiate between North American Aviation, Inc., and a true holding company, which I feel falls within the second classification mentioned above.

In other words, North American Aviation is the parent company of its transport subsidiaries and is not a holding company in the true sense.

It is my firm opinion that companies created for the purpose of making investments for speculative purposes in numerous aviation companies, especially when companies in which the investments are made are fully competitive, are a drawback rather than a help to the aviation business. In many instances this latter type of true holding company insists on representation on the boards of directors of competitive companies. The progress of this industry, like all other businesses, depends upon competition to a great extent for its technical developments. With interlocking directorates of competitive companies brought about through this latter type of true holding company, the plans of the operating company are made known to competitors, thereby destroying initiative in the operating companies. This evil is not existent in the parent company set-up, such as the relations of North American Aviation and its transport subsidiaries today.

The Post Office administration has stressed the point that air transport companies operating transcontinentally must be competitive and that interlocking directorates and intercompany ownership of stocks in such competitive operations must be eliminated. I am heartily in accord with that principle. This does not mean, however, that a large corporation amply financed and well managed should not have an interest in more than one operating company when such companies are not competitive.

Dealing further with the parent company set-up, as distinguished from true holding companies, I should like to point out the following advantages of the operating company's being associated with such a parent company.

I. FINANCIAL STRENGTH

In being associated with North American Aviation as the parent company, our transport companies have the comfortable feeling that there are ample financial resources back of them to carry them through lean periods of reasonable length, as witnessed by the fact that in spite of the losses of the transport subsidiaries during the past 2 years the parent company is sufficiently financed to advance funds to purchase new equipment in order to keep up the standard of operations competitively. Furthermore, the relations of our parent company with its strong, ably financed stockholders of recognized business ability make available to our operating companies the results of the research and development work of such strong business associates. It is a well-known fact that the largest stockholder in our parent company spends tremendous sums in research and development with respect to aviation, despite the fact that tremendous development losses have been incurred by such stockholder in aviation projects. Were Eastern Air Transport, for example, solely on its own, it assuredly could not finance the vast research, engineering, and development work which this

industry must have in order to make progress and stay ahead of developments in foreign countries. Therefore, I should like to emphasize that it is a comfortable feeling to know that these subsidiaries may have at their disposal the financial resources of the parent company for the further development of flying equipment and instruments in the years to come.

Another point in connection with financial strength is the fact that it would be practically impossible for Eastern Air Transport to continue in business at the present moment were it not for funds which will be advanced by its parent company, North American Aviation, Inc. It is a well-known fact that industries which are admittedly more stable and which can show a greater possibility of earnings than the air-transport industry are unable to raise funds at this time to replace capital depleted through losses. To legislate at this time that each transport company must be set up on its own without having any parent company to call upon for its extraordinary financial requirements as emergencies may arise would certainly make this industry subject to all the evils of stock-market speculation.

II. DEVELOPMENT OF FLYING EQUIPMENT

During the past year there were three important developments of transport airplanes in this country. Who brought out these developments? The Curtiss Condor, the first development, was developed for Eastern Air Transport by the Curtiss-Wright Corporation, which at that time was indirectly affiliated with E.A.T. The Boeing 247, in general use over United Air Lines, was developed by United Aircraft & Transport Corporation. The T.W.A. luxury liner was built by the Douglas Co., which was indirectly affiliated with Transcontinental & Western Air.

What developments contributing to the advance of the aviation industry were brought out by the independent air lines which had no affiliation, direct or indirect, with manufacturing companies? Absolutely none. The outstanding developments in instruments contributing to the safety of air transport have been made by the Sperry Gyroscope Co. At the time these developments were made, the Sperry Gyroscope Co. was directly affiliated with Eastern Air Transport, both of these companies being owned by North American Aviation, Inc.

It is no accident that the above is true. These developments have been brought out by transport companies affiliated with manufacturing companies, and none brought out by air transport companies not affiliated with manufacturing companies for one reason, namely, it takes millions of dollars and complete cooperation in the exchange of technical knowledge and practical experience between the operator and the manufacturer to carry out the experimental and development work. It is a well-known fact that the first T.W.A.-Douglas luxury liner cost substantially in excess of $300,000, while T.W.A. paid less than one-half of this development cost. Unless the manufacturing company has a financial interest in the transport company, which the manufacturing company desires to enhance in value through its contributions to the transport company, certainly there will be no reason for the manufacturing company to incur losses in the development of planes and instruments for air transport companies, and the latter will have to pay the full cost of such developments.

III. CONTINUITY OF MANAGEMENT

It is a well-known fact that many companies, not only in the air-transport business but in other industries, changed hands after the 1929 stock-market crash. This is generally the case where a sufficient interest in an operating company is not held by a strong group. I know that in our own case, until a large interest in our parent company was secured by one of the strongest industrial groups in this country, it was difficult for the management and employees of Eastern Air Transport and other transport subsidiaries to know from day to day for whom they were working. Continuity of management cannot be insured in any operating company unless there is at least sufficient stock concentration for the purpose of developing the business as a permanently profitable operation rather than as a stock-market speculation; otherwise the management and employees are subject to the will of the speculating public from day to day.

IV. SAVINGS BY COMBINED PURCHASES

There is one great advantage to being associated with a parent company which also has other interests which are noncompetitive with the transport company's interests. Our transport subsidiaries have been given the advantages of purchase contracts of one of the largest corporations in the United States, due to the parent company association. In addition, there has been recently made available to all of our employees, including pilots, group insurance available to the parent company at the lowest rates in effect for any class of employees in any industry in this country. To be specific, our pilots at this time enjoy a $5,000 group-insurance policy for the very low rate of 60 cents per month per $1,000 of insurance. This is the same rate of insurance that is offered to a stenographer or a clerk.

Due to the interests of our parent company in Transcontinental & Western Air, Inc., which is noncompetitive with Eastern Air Transport, the development of the finest transport ship ever developed in this country or abroad to date, will be made available to Eastern Air Transport. Eastern Air Transport by itself could never afford to spend the money to bring about this development. Further, as stated above, Eastern Air Transport, like other small operators, could not finance the purchase of such equipment.

V. MANAGEMENT

Due to the association with a parent company which has as its principal stockholder one of the largest and most able management groups in this country, all of this managerial ability is available to the transport subsidiaries without cost. This far-seeing group has already contributed and is continuing to contribute management and research services to our companies which we could never hope to obtain if we had to pay for them.

There has never been one cent assessed against Eastern Air Transport or Transcontinental & Western Air for these services. Further, neither of these companies has ever paid 1 cent in cash dividends to the parent company.

VI. PUBLIC CONFIDENCE

The success of the air transport business depends upon public confidence in the operating company. The universal knowledge that a transport company is backed up by the financial and management resources of a recognized successful industrial organization is a tremendous asset.

VII. ECONOMIES OF ADMINISTRATION

I do not think that there need be detailed the advantages of being able to distribute fixed administrative costs over the combined operations of our transport subsidiaries, as against each transport subsidiary having its own complete administrative and supervisory expenses. In other words, through having Eastern Air Transport and Transcontinental & Western Air and Western Air Express affiliated, these airlines are able to coordinate their supervisory activities in such a manner as to materially reduce administrative expenses. Through the appointment of Mr. Eastman as Coordinator of Railroads, there has been the recognition of this principle, looking toward eliminating uneconomic set-ups by bringing about more practicable combinations. Why should the same mistake be made in the air transport business that was made by the railroads in the past, namely, breaking up the air transport companies into small uneconomic units?

RECOMMENDATIONS

It is recommended that a Federal regulatory board be set up to issue certificates of necessity and convenience to all airlines operating on February 19, 1934; and further, that this Federal regulatory board be empowered:

(1) To prevent interlocking directorates of competitive companies; and

(2) To prevent an air transport company purchasing airplanes, airplane parts, or other material, from affiliated companies or subsidiaries, at a price in excess of the lowest prices at which such equipment has been sold or offered for sale to nonaffiliated interests.

Respectfully yours,

E. R. BREECH,
Chairman of the Board.

(Same letter sent to Hon. JAMES M. MEAD, Chairman House Post Office and Post Roads Committee, with reference, H.R. 8578.)

Mr. FESS. Mr. President, there is another feature about the conference report which the Senator from Vermont [Mr. AUSTIN] overlooked.

I have spoken of the tendency of this bill to limit operation to the small plane. Naturally, it will be stated that it was not intended to do that; that all it was intended to do was to open the way for the small plane, the single-motor plane, not to shut it out. I recognize that that is feasible, provided when we open the way for the small plane to operate on a short route we do not make the law so rigid that the small plane never can become a large plane; that the route flown by this immature company which would like to have some work to do shall not be bound down by the rigidity of the law so that it will always remain short.

Another thing that I do not like is that it is not in keeping with our best interests to open the bidding to everybody, whether qualified or not. All of us know how, in former years, some speculators who saw an opportunity of cleaning up undertook to get money together and then asked for a Government contract even before they had purchased any planes and agreed upon an executory contract to be executed after a Government contract had been secured.

What is the meaning of section 5 of this conference report? It provides that—

> After the bids are opened, the Postmaster General may grant to a successful bidder a period of not more than 30 days from the date of award of the contract to take the steps necessary to qualify for mail services under the terms of this act.

Mr. President, here is a company which is not qualified. It may not have the necessary financial assets; it may not have a single plane; it may have no equipment whatever. A few men get together, however. They say, "We can buy some planes; we can float our stock"; and they can announce that they have a contract with the Government and offer their stock for sale, and if in 30 days they shall have purchased their planes and qualified, the contract will be permitted.

That is the sort of thing that was refused in the preceding administration, and it ought to be refused.

Mr. President, I am willing now to make the statement that before this year is over there will be a demand either for a repeal of this law or for a revision of it. The facts are that we shall not succeed, financially or otherwise, under this procedure. The mail routes will be open to everybody; and when the time comes that the people realize what they are in for, there will be, without doubt, a terrific revulsion demanding a change.

To me this is the most curious performance that the Senate has been called upon to undertake.

Section 20 of the conference report provides for the creation of a commission, and the duties of the commission are specified.

Section 21 provides for the organization and equipment of the commission.

The commission is directed in section 20 to study the aviation problem and to make its recommendations to Congress of such legislation as its findings justify.

If the bill had provided that a commission should be appointed to report by February 1, 1935, as this commission is required to do, leaving the present temporary contracts to be supplanted by the definite, permanent law to be recommended by the commission appointed for the purpose, it would be entirely logical. I have never before known a case, however, where permanent law was enacted, and in the same law a commission was appointed to recommend what the permanent law should be.

Look at our situation. All the contracts have been canceled, and it is proposed to substitute for them temporary contracts. The temporary contracts are for 3 months. There is a provision in the temporary law to permit them to continue for 9 months, making a year all told; or we could, if necessary, have extended them by joint resolution. These temporary contracts have been let. They should be continued until the commission shall have had time to study and report what should be the permanent law to take the place of the temporary law. Instead of that, we propose to appoint a commission at the same time that we displace the temporary contract, and enact permanent law as we appoint the commission.

There never has been, to my knowledge, anything which duplicates such a proposal as that.

I can understand why this temporary plan is desired to be put in the form of a permanent plan. That was made very clear by the Senator from Vermont [Mr. AUSTIN].

Under the temporary plan, contracts already have been let. Let me put in the RECORD some of these contracts:

American Airlines, Boston to New York, 33⅓ cents a mile.

American Airlines, Fort Worth to Los Angeles, 39½ cents.

American Airlines, New York to Buffalo, on to Chicago, 39½ cents.

American Airlines, New York to Fort Worth, 13 cents.

American Airlines, Chicago to Fort Worth, 8 cents.

American Airlines, Washington to Chicago, 29 cents.

American Airlines, Cleveland to Nashville, 48¾ cents.

American Airlines, Boston to Cleveland, 24 cents.

There are two or three very singular deductions to be made. The first is that the American Airlines has a contract for carrying the mail from Fort Worth to Los Angeles at 39½ cents a mile. It also has a contract for carrying the mails from New York to Fort Worth for 13 cents a mile. Is that a transcontinental line? One contract is to carry the mail from New York to Fort Worth, another to carry the mail from Fort Worth to Los Angeles.

If the two routes are parts of a whole, then there is a line from coast to coast, from New York to Los Angeles, by way of Fort Worth; but the singular fact is that the rate from New York to Fort Worth is 13 cents a mile, while the rate from Fort Worth to Los Angeles is 39½ cents a mile. If it is counted as a single transcontinental route, then there is another transcontinental route that is operated by the Transcontinental & Western, from New York to Los Angeles, drawing 24 cents a mile for carrying the mail.

Here are two routes, one direct from New York to Los Angeles, another somewhat indirect, from New York to Fort Worth on to Los Angeles. The Transcontinental & Western gets 24 cents a mile, while the American Airlines, from New York to Fort Worth, gets 13 cents, and from Fort Worth to Los Angeles, 39½ cents. What is the basis of letting that contract?

Here is another indication of difficulty. One line, the United Airways, has a contract for carrying the mail from New York to San Francisco for 38 cents a mile. That is a transcontinental line. The United also has a contract for carrying the mail from Seattle to San Diego for 39½ cents. It has another contract for carrying the mail from Salt Lake to Seattle. According to the proposed permanent law, a company can own only one transcontinental line. It can own three additional lines if they are short. But here are primary lines, and the proposed law provides that a company may own but one primary line. Yet the United has a contract for two primary lines, one a transcontinental and the other the Western Shore. Those contracts were let as temporary. They are now in existence. This proposed permanent law violates a contract that was let. If this measure should go into effect, necessarily that line would have to give up one or the other, and the American Air Lines, which already has three contracts, is the low bidder on eight. Yet this proposed law requires that the contract be given to the low bidder. Here is a company which is the low bidder on eight contracts.

Mr. President, I make this statement, that before the year is out and the operation of this new proposal becomes a reality, it will either be repealed or so radically changed that it will not be able to identify itself.

Mr. President, as I stated at the outset, there is no great interest in discussing problems when one knows that the mind of the voter is already made up. There is not a bit of doubt in my mind that the word has gone out that this bill must not be sent back to conference. Not only that, but there is no doubt that, in the face of all the unfortunate background of recent times, this bill will become the law.

I simply satisfy myself by stating that I think it is exceedingly unfortunate. Here is the drama of vengeance; there is tragedy in every line of it; I deplore it exceedingly.

Mr. President, in the North American Review for this month the subject of the air mail was discussed by William E. Berchtold, and in his article he suggests a sound and permanent air policy. I had intended to comment on this article, but I shall not take the time to do so. I ask unanimous consent that it be printed in the RECORD.

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

THE AIR-MAIL AFFAIR—A CRITICAL APPRAISAL OF THE ADMINISTRATION'S RECENT BLUNDER, WITH SUGGESTIONS FOR THE FORMULATION OF A SOUND AND PERMANENT AIR POLICY

By William E. Berchtold

Surgeons would hardly recommend decapitation for a patient afflicted with what appeared to be a rash on the neck. But things are done differently in political clinics. The new deal consequently finds itself faced with the rather serious task of reviving an infant industry which was summarily beheaded because an incompleted political diagnosis indicated that some kind of treatment was needed.

The Black air-mail fiasco, incidentally, dealt the Roosevelt administration the first serious blow to its prestige. The White House is quick to point out that the Postmaster General and not the President canceled all air-mail contracts and that directions for the Army Air Corps to carry the mails were issued only after assurances were given that the job could be done. The General Staff of the Army says that it gave no such assurances and was not consulted. The Postmaster General testifies that he did not prepare the letter which he signed presenting to Congress his reasons for canceling the contracts. The Attorney General only advised the President on the point of law giving the Government power to cancel if fraud and collusion could be proved. The age-old game of buck-passing is usually a sure sign that a bad administrative blunder has been made.

One-third of the Senate Members and all of the House of Representatives must seek reelection in November. Although it is doubtful that the Republicans can whip the Black fiasco into anything like a major campaign issue, the President's adversaries are not likely to let him forget the incident during their fall campaigns.

The row in Congress and the administrative buck-passing have made a political football out of a problem of public policy which should have its basis in economics. The makeshift legislation which has been hastily formulated threatens to stifle development in air transportation for at least 3 years, if it does not wipe

out much of the progress already made. The new bills, written under directions from the executive departments and not on the basis of experience gained by the congressional committees which consider them, have been labeled as "emergency" legislation. The emergency, resulting purely from an administrative blunder which could have been avoided, has been used to give consideration to provisions which would not be tolerated in a bill accorded customary deliberation. It is likely that if these provisions are permitted to stand, the Air Mail Service will face another investigation a few years hence which will make the so-called "Black scandals" look like a pink tea party.

Return of the old contracts to the operators would not be conducive to a fulfillment of the administration's apparent desire for a reshuffling of the contracts. It is this ardent desire for a redistribution of the air-mail routes, on the basis of a new set of rules, which has made observers apprehensive of the future of the Air Mail Service. It opens the way for political favoritism, stock-promotion schemes, and other shady acts on a scale which may wreck the efficiency of the Air Mail Service.

II

The administration's legislation would give successful bidders for new air-mail contracts 6 months in which to prepare to qualify for carrying the mail under terms of the contract. This might enable an alert promoter, without any experience in airline operation and without knowledge of operating costs, to bid against responsible companies which have spent millions of dollars in developing their routes. If such a bid were successful, the promoter could sell his stock to the public and, during the 6 months allowed him to prepare for operations, assemble the necessary personnel and equipment. It is more than likely that he would make an offer at junk prices for the fleet of airliners used by the company which failed to get the contracts, safe in the knowledge that the unsuccessful bidder must go out of business without revenue from air mail.

The emergency legislation provides for the awarding of contracts for a period of only 3 years, 6 months before the termination of which the Interstate Commerce Commission is to pass on the question of the public convenience and necessity of such routes. It is also authorized to fix fair rates for the carrying of air mail. Unless this provision is modified, it is safe to say that further development and research on new airliners which should provide faster and safer service at lower costs will be held in abeyance for 3 years.

Rapid obsolescence of equipment in new industries makes long-term contracts imperative. The 200 new high-speed airliners placed on the air lines of the United States during the last year to provide service at from 150 to 180 miles an hour were planned in 1931 and 1932. One company alone, among those whose contracts were canceled, had $3,500,000 worth of new equipment on order for delivery in the next 6 months. It is not possible to lay such plans on the basis of contracts running for such a short period as 3 years. It was this problem which Congress had in mind when Postmaster General Brown was authorized to grant route certificates for 10 years. Private companies carrying air mail in Europe have been granted exclusive contracts for from 10 to 25 years to insure the full benefits of long-term planning. This provision limiting contracts to 3 years is not consistent with the policies of the Roosevelt administration in other fields of legislation, where industrial planning has been given primary consideration. It is certain to play havoc in the air transport field, for there is no assurance that succeeding administrations which may choose to use the air mail as a political football will not call for another reshuffling of routes.

The aviation industry can hardly share President Roosevelt's enthusiasm for the Interstate Commerce Commission as the body which will regulate air transport and fix routes and rates at the end of the 3 years. Most leaders in the industry agree that the air transportation industry should be placed in the hands of a nonpolitical body whose members are appointed for long terms, but thoughts of the Interstate Commerce Commission leave them cold. It need only be recalled that that Commission's 15 years of effort, during which millions of dollars were spent to ascertain a fair value for the railroads, have been reduced to waste paper by the falling prices of the depression. It is not difficult to understand why a new industry, which has grown steadily during a depression, should not want to become enmeshed in regulations founded on outmoded railroad practice. The more logical suggestion would be the setting up of a new commission to handle air transport, thereby taking it out of political control without fastening the millstone of senile railroad philosophy around its neck.

It is likewise doubtful whether the elaborate provisions of the new legislation providing for the unscrambling of the present corporate structures of the major aviation companies will attain its ends without severely injuring the efficiency of the service. Not only would holders of air-mail contracts be forbidden to have associations with holding companies or manufacturers of aircraft and accessories, but any successful bidder on one of the three primary transcontinental routes would be prohibited from bidding on any secondary route. This would mean the operation of the air-mail system by a score or more of unrelated companies which could not possibly have the advantages of expert supervision, research, and traffic promotion which a few well-organized units could afford. The outcome of this provision is likely to make necessary the payment of subsidies to air lines for the next 10 years instead of the period of 3 to 5 years which seems the reasonable limit necessary on the basis of the experience of the present large operating units.

The tendency in American corporate structure has been toward a few large well-organized companies. The Interstate Commerce Commission has recognized the value of such organization in forcing the consolidation of the railroads into a few major systems, yet the provisions of the emergency air-mail legislation are in direct antithesis to that recognized trend. While certain evils are made possible through the interrelation of air lines with the aircraft and equipment companies which supply them, the importance of these evils has been emphasized out of all proportion to the facts. The air lines have not been loaded with inefficient equipment by their manufacturing affiliates. If such had been the case, the air transport system of the United States would not hold its position of world leadership. This subject of corporate structures is one which needs deeper study than the hasty consideration of emergency legislation can afford it.

The provisions prohibiting the sale or transfer of any air-mail contract to another company through a merger or consolidation are likewise apt to prove prejudicial to the public interest in maintaining the best service possible. Such a clause lacks the flexibility needed for administration of an efficient service, although it probably was included to keep to a minimum the promotion schemes of bidders whose only interest might be to sell their contracts.

Competitive bidding has been stressed as a primary requirement in the new deal for the air mail. It is an instrument of great value, but it can be used with disastrous results under certain conditions. Its importance has been overestimated in connection with the discussion of air-mail-contract awards, because the Postmaster General has power to lower rates when he may see fit to do so. Consequently, if the offer of the highest bidder were accepted, it might be lowered to a rate below that of the lowest bid within a year or two after the contract had been written. The new legislation would fix the maximum rate per airplane-mile at 40 cents, which is 2 cents higher than the average rate paid in 1933 and about 5 cents higher than the average rate being paid at the time the contracts were canceled.

Perhaps the most inconsistent feature of the emergency legislation is that it retains the old formula for purchasing space in air-mail planes and paying for it on a mileage basis, regardless of the amount of mail carried. This method of payment was one of the principal points in the McNary-Watres Act to draw the fire of the Black committee during its investigation. The proposal to place the payment on a basis of 2 mills per pound-mile, which is the amount actually collected by the Government from stamps, would be more consistent. Subsidy payments up to 25 cents a mile could be made in addition on routes which are not self-sustaining. This would place the much-discussed "subsidy" on the frank basis originally suggested by the President for ocean mail, instead of burying it in the contract payments. Representative JAMES M. MEAD and Representative CLYDE KELLY of the House Committee on the Post Office and Post Roads made elaborate studies on this subject long before the Black committee heard its first witness, but apparently economics have been overthrown for political expediency.

If the emergency legislation does nothing else, it will remove one important objection to the old air-mail economics when the rate is reduced from 8 cents per ounce to 5 cents and the absurd charge of 13 cents for additional ounces is eliminated. No merchant would require a customer to pay 8 cents for his first loaf of bread and 13 cents for any additional loaves he might require, yet that is exactly what the Government has been doing with its air-mail rates for years. The new 5-cent rate should double the usefulness of the air mail to the public within a year after the rate goes into effect. If postcards could be carried for 2 cents, as a possible later revision of this section, another important step would be taken in placing the Air Mail Service on a sound economic basis.

The former holders of air-mail contracts might justly inquire why they should be required to bid at all for the new contracts which the emergency legislation directs shall be offered. Thirty-one of the 34 contracts canceled were awarded in 1925 to 1927 under competitive bidding in which there were from 3 to 9 bidders for each contract. The other three contracts were awarded in 1930 by Postmaster General Brown to the lowest responsible bidder. Anyone who will take the time to check the facts presented under oath by former Postmaster General Brown and other witnesses of the Black committee concerning Mr. Farley's charges of fraud and collusion will agree with Representative CLYDE KELLY, the father of the air mail: "I am compelled to say that evidence of fraud and collusion is not given (in Mr. Farley's letter). There is no showing to warrant such a drastic and arbitrary act as the cancelation of all contracts without a hearing. There was no justification for destroying all contracts without regard for the obligations which those contracts involved, not only for the contractors but for the Post Office Department."

The Roosevelt-Farley emergency air-mail legislation takes care of this point in a way which is, to say the least, unique. No company can bid on the new contracts advertised if "it or its predecessor is asserting or has any claim against the United States because of a prior annulment of any contract by the Postmaster General." In other words, the harassed operator must pay the penalty of waiving any just claim to damages which he may have as a result of the hasty cancelation, in order to have an opportunity to bid against competitors for the very routes which he has pioneered at the expense of millions of dollars and years of effort.

This practically bars the only avenue open to obtain redress of grievances. The lines found that they could not halt the cancelation action through injunction and that their only possible recourse would be through suits for damages in the United States Court of Claims. It is safe to say that by the time it should be possible to test the Government's grounds of fraud and collusion and obtain an opinion all of the companies would be bankrupt and out of business. The usual provision in the emergency legislation would make this bankruptcy doubly certain.

III

The cost of operating the domestic air-transport system at the present time is about $25,000,000 annually. Revenues from passengers and express amount to $10,000,000. It is obvious, therefore, that the lines must obtain revenue from air mail if they are to continue in operation. This would amount to $14,000,000 for the current year, which would leave a deficit of about $1,000,000 for the operators to meet. The best estimates made by the House Committee on Post Office and Post Roads place the income to the Government from stamps on air mail at $9,000,000, which leaves a payment of $5,000,000 as a subsidy.

It is this subsidy which much of the shouting was about during the Black investigation. It looks like small change at a time when the Government is spending hundreds of millions of dollars in enterprises which are no more than subsidies to agriculture, to railroads, to steamship lines, and to industry. It is no wonder then that many who have taken the time to probe into the economics of our air-mail policy suspect that there must be a political rat at the bottom of the Black investigation to produce such unsavory odors.

Senator BLACK had long been a critic of the air mail under Republican administrations, but his criticism was generally appraised as nothing more than the tactics of an avowed adversary of anything not done by the Democrats. While his call for an investigation of the air-mail system seemed superfluous just after Representative JAMES M. MEAD (also a Democrat and one of the few real students of air-mail policy in Congress) had completed an extraordinarily elaborate study with full recommendations for new legislation, the Senator from Alabama was not to be denied his inning after 12 years of Republican domination of the National Government.

Whether Postmaster General Farley referred to the Senator as a "publicity hound", as former Postmaster General Brown testified under oath and Farley later denied, is a question best suited to press-club-dinner satire. At any rate the Senator did not have to search widely for persons willing to pour stories of real or fancied intrigue against the public interest into his receptive ear. Even if he had been lacking in the slightest signs of a publicity complex, the stories told him were, no doubt, sufficient to cause any ambitious statesman ugly nightmares which only a senatorial investigation could dissolve.

Postmaster General Brown, who was also Mr. Hoover's campaign manager, had worked up a wide reputation as an air-mail tsar. While the results which he attained furnished the United States with an air transport system second to none, his methods were sometimes arbitrary and autocratic. Autocrats may achieve remarkable results wholly within the public interest but they make a host of enemies. His enemies were not only among the unsuccessful applicants for air-mail contracts but among some of the lines now referred to as the "favored contractors." Because air transport is a new industry and the competitive spirit has been equal to that of the railroads in the early days of the Hills and Harrimans, some of the favored contractors have not been above sniping at some of the other favored contractors. By most people who had seen this competitive spirit in its most heated form the possibilities of collusion would be appraised as a physical impossibility. The industry can charge part of its troubles to the petty jealousies of its representatives in Washington.

Senator BLACK could not complain about the size of the headlines given his investigation in the press, for he built up a weird story of stock-market gambling, missing and destroyed public files, secret conferences, and other questionable acts involving officials of some air lines and the Hoover Postmaster General. The ill-advised antics of William P. MacCracken, former Assistant Secretary of Commerce for Aeronautics, in refusing permission to investigators seeking to examine his files (on point of attorney's privilege), and later condoning the withdrawal of some papers from his file, brought the Black investigation to a sensational climax long before it had been completed.

Postmaster General Farley, already the butt of criticism of Democratic Congressmen dissatisfied with his patronage policies, was in danger of attacks from disgruntled party politicians for negligence of his duties in failing to act on the air-mail revelations. Solicitor Karl A. Crowley, formerly Washington lobbyist for one of the unsuccessful air-mail-contract applicants, examined the Black evidence and reported grounds of fraud and collusion warranting the cancelation of all air-mail contracts. The Attorney General confirmed the authority of the Postmaster General to make such a wholesale cancelation if grounds of fraud and collusion could be proved. Postmaster General Farley moved quickly to cancel all contracts after a White House conference.

Postmaster General Brown had not yet been called, although he made repeated requests to be permitted to appear before the committee to defend the charges made against him. Neither had some of the air-line operators holding contracts been called to testify, although officers of certain companies had been singled out for questioning. Testimony which might have been considered necessary in an impartial investigation was far from completed.

Unfortunately, the events which followed cancelation of the contracts were dominated by bitter political partisanship and public hysteria, the latter aroused by the tragic deaths of young Army fliers who were ordered to carry the mails without adequate training and equipment.

From the character of debate on the floors of Congress and editorial comment in the press it was difficult, at times, to believe that so prosaic a subject as public policy on the transportation of the mails was at the root of discussion. A woman Representative's demand that the administration halt the legalized murder of young Army fliers was met by a Member from the opposite side of the House brandishing a newspaper with the announcement that eight persons had just met death in a commercial air liner. The whole affair evolved itself into a kind of game so that anyone, without any study of the facts behind the case, might ask: "Whom are you for, Lindbergh or Roosevelt?" and proceed to tell whom he was backing.

The testimony before the Black committee runs into thousands of pages. Printing of the testimony fell so hopelessly behind that not even Members of Congress, outside the members of the Black committee, could examine the evidence pertinent to the cancelation at the time of the Postmaster General's action. The Members of Congress, along with Will Rogers and the general public, knew only what they read in the newspapers. Interested citizens might subscribe to a transcript of the testimony from a court stenographer in Washington, but such a subscription ran into hundreds of dollars of expense to those sufficiently concerned to obtain the material in this way.

Although the Black investigation made sensational front-page headlines (some of the most flagrant charges later being disproved in less conspicuous stories printed inside), there was not a major line of evidence introduced which would contribute substantially to final development of public policy on air mail. The testimony did document elaborately the fact that fortunes had been made during the golden era and that salaries and bonuses of some executives were beyond all justification.

It was surely not news that men who were lucky enough to invest in the bull market of 1927 to 1929 made huge fortunes in stock speculation. The implication made by Senator BLACK was that these fortunes in the speculative bull market were the result of exploitation of the air-mail contracts awarded certain companies. Aviation stocks were popular in the speculative market boom out of all proportion to current or future earnings, but this was not common to aviation stocks alone. Few insurance companies or pension funds, upon which widows and orphans might be expected to depend, invested in aviation stock in 1929, but they did invest in railroad and public-utility stocks. While the value of common stock in United Aircraft & Transport Corporation, the biggest of the aviation groups, was depreciating $200,000,000 from its highest peak in 1929 to its price before the air-mail contract cancelation, New York Central (a favorite railroad issue) showed a market value depreciation of more than $1,000,000,000.

The air lines certainly did not earn huge profits on the air-mail contracts. Few of the lines were able to break even or show small profits last year during the best 12 months in their history, while most of the lines have shown heavy losses since their inception. The new high-speed equipment, developed at tremendous cost for research, shows the first signs of sufficiently low operating costs to insure profits. Passenger and express revenues have been increasing at a rate which should make all operations profitable, even without the aid of a mail subsidy, within 3 to 5 years.

The McNary-Watres Act, which drew the heaviest fire from the Black committee, was not passed with the idea of providing the Government air-mail service at the cheapest price possible. It was deliberately designed to build up an air transport system of financially sound and experienced companies which would within a reasonable length of time become self-supporting. The lines were to develop passenger and express business at large, multimotored, completely equipped airliners, which would in turn cut down the dependence on mail revenues.

The Postmaster General was given authority to cut down the rate of payment as he saw fit each year, and that authority was not left unused. The cost of flying the domestic air mail decreased from $1.09 a mile in 1929 to 38 cents a mile in 1933. The price paid by the United States Government for air mail has been consistently lower than that paid by any other government in the world. Eighty-eight cents per mile was the average cost paid in 1932 by the Governments of Great Britain, Belgium, Czechoslovakia, Denmark, France, Germany, Holland, Italy, Poland, Sweden, and Switzerland. This can be compared with the cost of 54 cents paid by the United States. The lower cost on American routes is particularly significant when it is considered that American pilots are paid from $6,000 to $11,000 a year, or more than twice as much as European pilots.

The most significant feature of the economics of our air-mail system is that it is wholly possible to evolve a sound public policy which will insure the Government a profit on its air-mail system within 3 to 5 years. This can never be achieved in the transportation of mails by steamship, and has been accomplished only by first-class mail on the railroads. The deficit on second- and third-class (railroad) mail alone in the fiscal year 1933 was more than $120,000,000. The deficit on steamship mail was $28,488,000. The latter is a subsidy to develop our merchant marine in competition with foreign shipping, and the former is considered a sub-

sidy to literacy, since most of the loss is caused by transportation of newspapers, although the railroads receive the money for carrying the mail.

There is little doubt that the Postmaster General's cancelation order and the President's emergency call to the Army Air Corps would have been extraordinarily popular if the administration had been able to present evidence of fraud and collusion against all operators to support its case. It would have been a truly Rooseveltian stroke! But what might have been a Rooseveltian success became the Black air-mail fiasco. Admirers of the President and all interested in the continued development of a sound air-transportation system hope that out of the confused record of L'Affaire BLACK will emerge a public policy on air mail worthy of America's first flying President.

Such a policy should have as its basis the lifting of the air mail out of politics into the hands of a nonpartisan commission appointed by the President, with such commissioners serving for long terms in office. It should be a newly created body outside the Interstate Commerce Commission or any other existing agency, but obtaining a desirable degree of coordination with other transportation media through the Federal Coordinator of Transportation. It should not include within its jurisdiction the military or naval air forces and should be limited solely to civil aviation.

The Commission, with assurance from Congress of appropriations for air-mail subsidies not to exceed $10,000,000 annually for 5 years, could proceed to develop a Nation-wide air transport system which would be wholly self-supporting at the end of the 5-year period. Such subsidies, awarded frankly to stimulate technological development of civil air transport and provide a necessary auxiliary for national defense, would be in addition to payments to the commercial contractors for actual mail carried. Payments might most logically be made on the basis of 2 mills per pound-mile, which is equal to the amount collected by the Government from the stamps affixed to the air mail. No subsidy should be given to those companies whose mail volume is sufficient to warrant payments of 50 cents per mile, which should be the maximum. Subsidy payments might well be limited to 25 cents per mile. All contracts or route certificates should run for a period of not less than 10 years. The equities of pioneer operators in the routes they have developed should be recognized.

The commission should have full authority to decide on the public convenience and necessity of all routes. It would most logically eliminate such political routes, extensions and stops which, after a reasonable length of time, give no promise of justifying their existence economically. The money saved from the elimination of such uneconomic routes could be used to develop others which commerce and traffic volume studies show to offer opportunities for greater public service on an economic basis.

The Commission should have rigid control over the accounting procedure of subsidized airlines with powers to obtain full periodic reports and necessary audits. No system of payments to contractors on a cost-plus basis should ever be countenanced, because such a system too easily places a penalty on efficiency and rewards the inefficiency, which results in high operating costs. The prices paid for equipment and the operating efficiency of such equipment as shown by relative operating costs should be subject to rigid scrutiny of the Commission to insure maximum technological development in return for subsidies granted. Salaries might well be limited to a maximum of $18,000 as long as an airline is receiving a Government subsidy.

It would be valuable to coordinate within the jurisdiction of the Commission all agencies of the Government, now scattered in several departments, concerned with civil aeronautics. Policy control of the development of airways would be most important to the effective administration of such a commission, as would the regulations for the design and construction of aircraft and of all civil operations. To place either Army or Navy aviation, or both, within the jurisdiction of the Commission would make its task unwieldy and place the major emphasis on the airplane as a weapon of war rather than a medium of commerce. Such a policy would hamstring promising commercial development of a transportation medium to enable the fullest realization of its military possibilities. Europe's present inferior position to the United States in air transport can be ascribed to its emphasis on the airplane as a military weapon. The desirability of some link between military and commercial aviation cannot be denied, but that can be obtained through the simple procedure of conferences between the two branches. While the facilities of an interdepartmental committee have been available to achieve this desired relationship between the military and civil aviation authorities of the Government in the past, they have not been utilized as effectively as possible.

Although aviation has been the subject of numerous special investigations by Congress, by boards especially appointed by the President and by committees of Congress holding hearings on proposed legislation, the United States is still without a well-defined aviation policy which would permit advance planning with assurance of necessary appropriations. The problem is again squarely up to the White House.

MESSAGE FROM THE HOUSE—ENROLLED BILLS SIGNED

A message from the House of Representatives, by Mr. Haltigan, one of its clerks, announced that the Speaker had affixed his signature to the following enrolled bills, and they were signed by the President pro tempore:

S. 1077. An act for the relief of Lueco R. Gooch;

S. 1126. An act for the relief of M. M. Twichel;

S. 1191. An act for the relief of the Sultzbach Clothing Co.;

S. 1401. An act to pay a gratuity to Emma Ferguson Starrett;

S. 1516. An act for the relief of Michael Bello;

S. 2023. An act for the relief of Claudia L. Polski; and

S. 2636. An act for the relief of James Slevin.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Latta, one of his secretaries.

CONVEYANCE OF CERTAIN BUILDINGS, ETC., TO HAITI (H.DOC. NO. 396)

The PRESIDING OFFICER laid before the Senate a message from the President of the United States, which was read and referred to the Committee on Naval Affairs, as follows:

To the Congress of the United States:

Next October our marine and naval forces will be withdrawn from the Republic of Haiti. During a period of almost 20 years in which they have been stationed in Haiti they have rendered valuable assistance to the Haitian Government and people in training the Haitian constabulary. This constabulary, known as the "garde", has been using certain equipment and material loaned to them by our marine and naval forces, and the Haitian Government would welcome the opportunity of retaining this equipment and material. Also, there are various buildings, barracks, garages, and workshops which our marine and naval forces have constructed and which would be of practical use to the Haitian Government. It would seem to me a fitting climax to the close of the period of special relationship which has existed between Haiti and the United States if our Government were to make a gift of these buildings and of a portion of this material and equipment to the Haitian Government. In the joint statement which the President of Haiti and I issued on April 17 following our conversations during President Vincent's visit to Washington, I expressed my intention of seeking the necessary authorization from the Congress of the United States in order to make such a gift.

With the foregoing in mind, therefore, I recommend the enactment of legislation authorizing me in my discretion to convey to the Government of Haiti, without cost to that Government, such buildings, material, and equipment now in Haiti owned by our Government as may appear to me to be appropriate.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, *June 5, 1934.*

PERSONNEL OF FEDERAL RADIO COMMISSION

Mr. DICKINSON. Mr. President, there is in conference a communications bill. It has already passed the House. It passed the Senate some few days ago. The proposed law will provide for a communications commission consisting of either five or seven members. There are certain phases of the legislation to which I wish to call the attention of the Senate.

A few days ago the Senate, without a roll call, passed a voluminous bill on the subject of electrical communications—radio, telegraph, telephone, and cable. In all likelihood very few of us were sufficiently familiar with the technical aspects of the subject and its many ramifications to have any very definite idea of what the bill did or did not purport to accomplish. There was virtually no debate on the merits of the bill, and such debate as there was, was largely confined to a particular amendment which was defeated.

The principal impression I have of the bill, and I suppose the same is true of most of the Senators, is that it creates a new commission, a commission on communications, and that the new commission is to exercise the powers heretofore exercised by the Federal Radio Commission over radio sta-

tions and by the Interstate Commerce Commission over communication common carriers—telegraph, telephone, cable, and radio—together with certain new and additional powers, particularly over communication common carriers. The combination seems plausible and logical enough, and I voted for it on that basis. Although I regret to have a part in creating any new commissions, this really did not add to the total number now in existence.

The bill has now passed the House. In any event, I am told, the bill is on the President's prescribed list of bills which he has instructed Congress to enact this session and, I suppose, will in all likelihood become law before we adjourn.

My greatest concern, however, is not with the merits or demerits of the bill. What I am concerned with, and what I am sure we all are concerned with, is the personnel of this new commission. The rumor is current that the White House has already prepared its slate of appointments, at least in part, and that conferences on this subject have taken place between the President, certain Senate Democratic leaders, and last but not least, Postmaster General Farley. I do not know what names, if any, have been agreed on, although the same rumor has it that the present Chairman of the Federal Radio Commission is certain of reappointment. I have even been told that to get this reappointment he has had to agree to provide more and better jobs to help assuage the appetite of the Democratic patronage machine, and that this involves the sacrifice of several important and competent members of the Radio Commission staff, including Dr. Jolliffe, the chief engineer, who are so unfortunate as to be suspected of Republican tendencies. I do not charge that this is so; I hope it is not; for it would be a calamity if the Radio Commission should lose the services of a man like Dr. Jolliffe.

It is also said that among those slated to be ousted is Commissioner H. A. Lafount, of the fifth zone, who, the broadcasters tell me, is head and shoulders above the rest of the Commissioners in ability, in industry, in common sense, and in all other qualifications which go toward making a good commissioner.

In view of the fact that I have mentioned the name of Mr. Lafount in order to show what has been heretofore contemplated, I ask unanimous consent that there be printed in the RECORD at this point, as a part of my remarks, a newspaper release by Mr. Lafount of August 14, 1933.

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

The matter referred to is as follows:

FEDERAL RADIO COMMISSION,
Washington, D.C., August 14, 1933.

It is the patriotic, if not the bounden and legal duty, of all licensees of radio broadcasting stations to deny their facilities to advertisers who are disposed to defy, ignore, or modify the codes established by the N.R.A., Commissioner Harold A. Lafount declared today in a statement.

Mr. Lafount's observations were based on experiences gained on his recent inspection trip of 107 radio stations in 11 Western and Pacific Coast States. While he found a disposition on the part of practically all broadcasting stations to support enthusiastically the industrial recovery program of the Government, a few isolated cases of flagrant violations were brought to his attention which he feels should not go unnoticed. For instance, in a Pacific coast city, a delegation of business men called on him and protested vehemently against a licensee of a broadcasting station who permitted one of their associates to go on the air offering his service at greatly reduced prices.

The chairman of the delegation said, in effect:

"We have signed the N.R.A. code and we intend to support the Government to the limit in its recovery program. But we feel that we are the victims of a grave injustice when Government agencies, in the form of franchises for the use of radio facilities, are allowed to ruin our business. We should be afforded protection from such practices."

Protestants declared that one of their associates after signing the code had gone on the air with a price-cutting program and as a result he had a big boom in business at their expense.

Of course such trade practices and unfair competition should not be countenanced, Mr. Lafount declared, but there is little or nothing the Commission can do about it. He added:

"Under the Radio Act the Commission has no right of censorship. However, the Commission has the right to take into consideration the kind of programs broadcast when licensees apply for renewals.

"In the present crucial time, when the Government is making a determined effort to restore prosperity and to provide employment for vast groups, by establishing codes for industry, tending to provide more jobs, by reducing working hours and advancing wage scales, it is questionable, in my individual opinion, if the Commission should ignore such protests as the one filed by the delegation mentioned.

"Of course, when the people are fully informed concerning the N.R.A. drive, its purport, and the philosophy back of it, listeners will ignore appeals for business based on price-cutting. In fact, such appeals will be considered unfair, unpatriotic and un-American.

"During the World War those who refused to do their part were labeled 'slackers'—a term of contempt. Those who refuse to aid the Government in this critical time in its war against depression should be placed in the same category. So far they have been dubbed 'chiselers', but to my mind that is too mild a term.

"The success of the recovery drive, it is generally conceded, depends on teamwork on the part of the whole Nation—the buyers as well as the producers. Many are called upon to make sacrifices for the common good and those who refuse to play the game deserve, and undoubtedly will receive, the odium of all true Americans.

"It is to be hoped that radio stations, using valuable facilities loaned to them temporarily by the Government, will not unwittingly be placed in an embarrassing position because of the greed or lack of patriotism on the part of a few unscrupulous advertisers."

Mr. DICKINSON. Mr. Lafount has been the least subject to political pressure. I regret to say, however, that he is a Republican, one of the two Republicans on the present Commission. What is even more unfortunate, I am told, he failed to vote according to instructions from the White House in a case which the Commission had before it, the so-called "Shreveport-New Orleans case", in which one or more of the other Commissioners shifted their votes back and forth at least three times in an endeavor to accommodate the conflicting desires of Postmaster General Farley and the White House, the latter speaking through Col. Louis Howe, of messkit fame. This, let it be clearly understood, was in a case that had been extensively heard on the oral testimony of witnesses in open hearing, and was supposed to be decided on the merits as disclosed by that evidence.

I should like to inquire of whoever is administration spokesman on this subject, Is there any basis for these rumors?

I desire to suggest that I have introduced a resolution providing for an investigation. It is now pending before the Interstate Commerce Committee of the Senate. I think we ought to know whether or not many of these things are true.

I for one voted for the new Commission on the assumption, or rather with the hope, that it would be, as the statute purports to make it, a nonpolitical regulatory body. I suppose such a hope is rather a forlorn one in view of the performances of the Federal Radio Commission during the past year under its present chairman, to which subject I shall refer in a moment. In the words of Shelley, however, I—

> Hope till hope creates
> From its own wreck the thing it contemplates.

The point I desire to emphasize is this: Will the Senate of the United States have an opportunity to pass intelligent judgment on the fitness of the new appointees? Or will the appointments be thrust at us at the last moment, with no opportunity to study their merits, thus facing us with the unpleasant dilemma of either accepting the President's choice blindly and with misgiving, or leaving the new Commission completely up in the air by our failure to confirm, to be followed by recess appointment? I for one wish to know who the appointees are, and whether they are the right kind of men for the job. If any of the present members of the Federal Radio Commission are to be appointed, I think we are entitled to know it now.

Because of the rumors I have mentioned, and because of the alleged performances of the Federal Radio Commission during the past year or two, I have introduced a resolution calling for an immediate investigation of the present members of the Federal Radio Commission, with particular reference to their fitness for the new appointments in view of their past record. I do not know how else we can get at the facts in time to be of service to us.

After all, the members of the Federal Radio Commission are, and the members of the new Commission will be, judges

who sit to determine important issues vitally affecting citizens of this country on formal notice and hearing of evidence. True, they have other duties which are not judicial in character, such as certain routine administrative functions and certain legislative functions, namely, the making of rules and regulations, violation of which is a crime subject to substantial penalty. In fact, both the present Commission and the new Commission represent that unholy combination of executive, legislative, and judicial powers in one tribunal. The same body makes the rules, determines who shall be proceeded against for violation of the rules, and sits in judgment on the alleged violator. This is particularly true in proceedings involving revocation of a radio license or applications for renewal of license.

I realize that at this late date it is fruitless to declaim on the unsoundness—yes; the unconstitutionality—of this modern device called the administrative tribunal. All lawyers in this body know that the result is that, with minor exceptions, these tribunals are virtually free of any judicial review or control. This is because their decisions are final on issues of fact, and all they need is a scintilla of evidence to support a finding of fact. Give me power to dress up the findings of fact in such a proceeding, and 99 times out of 100 I defy any of you to overturn me on a question of law. Why I am told that at the Radio Commission the Commission first decides a case and afterward has its lawyers write the decision. Ridiculous as it may seem, these lawyers decide and state the Commission's reasons for a particular decision. These are the same lawyers who later must defend the decision from attack in court if an appeal is taken. In the Shreveport-New Orleans case, I am told, a young attorney in the Commission's legal division wrote and rewrote the Commission's decision and the Commission's reasons for the decision three times to keep time to the dance of the Commissioners' chameleonlike votes to the tune of White House music. Mind you, this was all on the basis of the same hearing, the same evidence.

What I am getting at is that if ever there is a time more important than another for exercising vigilance over appointments, it is with respect to appointments to these quasi-judicial administrative tribunals. The highest order of judicial integrity is imperatively necessary, because the temptation to depart from the standard of judicial ethics is great, and the opportunity to yield to that temptation without detection is also great. These men are not appointed for life and, unlike our Federal judges, are all too likely to yield to considerations which may have an effect on their reappointment, or even on the amount of their appropriation. They are legitimately accessible to parties, attorneys, Congressmen, and White House secretaries on matters having to do with the exercise of their purely routine administrative functions, and perhaps also their legislative functions. This makes it all too easy for them to be similarly accessible to persons who wish to talk to them in chambers about some pending case. Having made the very rules under which they decide cases, it is all too easy for them to wink at a violation in one case and to make it the vehicle for drastic discipline, such as closing down a radio station, in another, although in the latter case the real reason may be something entirely behind the scenes.

I can conceive of no administrative tribunal where judicial integrity great enough to resist these temptations is more important than the proposed commission on communications. Freedom of speech over the air is at stake when we give the power to license and to destroy. Uncontrolled power to regulate our avenues of communication, our telegraph and cable systems, is the power to throttle the transmission of intelligence, with its consequent effect on the press and the public platform. We must have men of the highest caliber on this new commission.

Mr. President, I am not satisfied that certain of the present members of the Federal Radio Commission possess the necessary qualifications. I do not say they do not, but I do say there is enough evidence of their being politically minded and not judicially minded to warrant our being very careful before we assent to their appointment to the new commission. I think it is fully as important that they be called before a committee which will study their qualifications as in the case of judges.

I have here a series of articles written by Arthur Sears Henning, printed in the Chicago Tribune, which I ask to have printed in the RECORD at this point as a part of my remarks. These articles are of date of May 4, May 6, May 8, May 9, May 10, May 11, May 12, and May 13. They give a history of the very matters I am now discussing.

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

The newspaper articles referred to are as follows:

SEE CENSORSHIP AS GOAL OF UNITED STATES WIRES CONTROL—CHARGES PROGRAM TO CURB PRESS

By Arthur Sears Henning

WASHINGTON, D.C., May 4.—Charges that the "new dealers" are reaching out for political domination and censorship of the telegraph and telephone services and of the transmission of news to newspapers will figure prominently in the consideration of the communications bill by Congress.

Although these accusations are vigorously denied by the Roosevelt administration, which has sponsored the proposed legislation to place all communications under control of a Federal commission, the opponents of the project see nothing more nor less than the extension to the wire services and the press of the present political control of radio.

A score or more of episodes, some of them highly ludicrous, are being cited as illuminative of the subserviency and numerous other Democratic powers that be.

RAMIFICATIONS REVEALED

These incidents disclose the ramifications of political influence in the Commission, making and unmaking decisions involving the rights and interests of radio-communications systems and the fate of radio broadcasting stations. They reveal those with investments in radio service at stake leading a precarious business existence at the mercy of political machinations.

They show that the efficacy of political influence in the Commission is generally recognized and that applicants for licenses and other rulings habitually invoke the most powerful of such influences at their command. Fortunate is he who is able to obtain the intervention of the White House, the slightest hint from which works wonders in the Commission.

According to the information obtained by Senators opposing the legislation, at least one officer of the Radio Commission has close relations with certain lawyers specializing in practice before the Commission. These lawyers are thus enabled to learn with celerity the decisions, rulings, and other actions of the Commission in supposedly secret session and to sell their services to clients seeking a reversal or modification of orders.

INTIMIDATION IS CHARGED

Much of the evidence assembled shows to what extent the broadcasting concerns have been intimidated by the Radio Commission and by the power of the Roosevelt administration to crack down on them through the Radio Commission for offending the White House or the Democratic high command. It also shows how the broadcasting systems seek to curry favor with the administration by giving time free of charge to administration officials and by denying the air to critics of the administration. By this means an effective censorship of radio broadcasting already has been established.

Senator WALLACE WHITE (Republican, Maine) and other leaders of the opposition to the communications bill declare the measure the opening wedge to political domination of all mediums of communication and to censorship and intimidation of the press. They contend that a commission empowered to regulate communications systems would be subject on a large scale to the political influences to which the Radio Commission has yielded.

The telephone and telegraph companies, as well as the commercial radio concerns, would be at the mercy of a politically constituted commission eager to translate into action the slightest whim of the Executive or of the "big shots" of the party in power. Just as the Radio Commission warned all broadcasters to beware of criticism of the N.R.A. on pain of losing their licenses, the communications commission, it is pointed out, might warn all telegraph, telephone, and wireless systems to transmit no news or comment unfavorable to the administration.

CALLED BEGINNING OF END

In this manner, without establishing an outright censorship or control of the press, the administration would be enabled to determine what telegraphic dispatches from Washington newspapers should or should not print. Such tampering with the stream of information flowing to the press would undermine public confidence in the press in the same manner that public confidence in the independence of radio broadcasters has already been shaken. It would be the beginning of the end of the freedom of the press.

The Radio Commission consists of the following members: Eugene O. Sykes (Democrat, Mississippi), chairman; Thad H. Brown (Republican, Ohio), vice chairman; Harold A. Lafount (Republican, Utah); James H. Hanley (Democrat, Nebraska).

Representative ANNING S. PRALL (Democrat, New York) has been appointed to fill the vacancy caused by the expiration of the term of William D. L. Starbuck, but will not assume office until Congress adjourns.

The Radio Commission, it transpires, is not the only quasi judicial body that is dominated by partisan political influence. By his removal of Republican members of the Power Commission and the Federal Trade Commission on the ground that they were not in sympathy with his policies, the President destroyed the independence of members unwilling to risk the loss of a lucrative job.

TARIFF COMMISSION CITED

Subserviency of the Tariff Commission to the White House was admitted a few days ago in testimony by its Republican hold-over chairman, Robert Lincoln O'Brien, before the Senate Finance Committee.

"The President appoints the members of the Tariff Commission", said Mr. O'Brien. "He naturally holds certain views concerning the tariff. It is not hard for him to find men in either party who think as he does. The members of the Tariff Commission are human, you know, and want to keep their jobs. At all times the White House and the Tariff Commission are not—er—well, unrelated factors.

"I am estopped from saying most of the things I know from a sense of official propriety. If it weren't for official propriety I could tell of one President who became very angry with a former chairman because he wouldn't do what the President wanted done."

The Shipping Board was notoriously subservient to the White House and other political influences, not to mention representatives of various shipping interests who knew how to reach members of the Board with subtle forms of bribery, as revealed by a recent congressional investigation.

OTHER INCIDENTS RECALLED

Even the oldest and most securely established of our quasi judicial bodies, the Interstate Commerce Commission, has not been immune from political influences. In the depression of 1921 Mr. Hoover, then Secretary of Commerce, was vigorously advocating a reduction of freight rates on coal, iron, and other basic commodities. President Harding one day stalked over to the Commission in person, and in a secret session with the members sought to obtain such action. How the members reacted to this pressure by their appointing power was never revealed. Some months later the Commission ordered a 10-percent reduction of the rates on all commodities.

In the lake cargo coal case the Commission decided in favor of the southern coal fields and against Pennsylvania. This incensed the Pennsylvanians, and at the first opportunity Senator DAVID A. REED (Republican, Pennsylvania) took the warpath. When the nomination of Thomas F. Woodlock to the Commission was under consideration by the Senate in March 1926 Senator REED said that Pennsylvania deeply resented having been passed over in the matter of appointments to the Commission and "that has inspired us to protest against this and other appointments."

While the Woodlock nomination was being held up by Mr. REED in the Senate, the White House announced in a formal statement that President Coolidge in future appointments to the Commission would give special consideration to the "South, Southwest, and Pennsylvania." Senator REED promptly withdrew his opposition to Woodlock, and the nomination was confirmed. A few months later Mr. Coolidge appointed Cyrus E. Woods of Pennsylvania to the Commission, but the nomination failed of confirmation.

COMMISSIONER CHANGES VOTE

At that time the lake cargo coal case was before the Commission again for a rehearing, and the southerners were up in arms against the appointment of a Pennsylvanian whose vote would reverse the ruling of the Commission so as to favor Pennsylvania. They beat the nomination of Woods, but they had not reckoned with the Wisconsin member of the Commission, John J. Esch. In the first trial of the case Esch voted in favor of the southerners and against Pennsylvania. In the rehearing he voted for Pennsylvania, and his vote reversed the ruling and gave the decision to Pennsylvania.

This happened close to the end of the term of Mr. Esch, who was a candidate for reappointment. He was accused of switching his vote in order to win a reappointment from an administration that was visibly giving aid and comfort to the Pennsylvanians. Mr. Esch indignantly denied the charge, asserting that he had voted differently because of a different showing of facts on the rehearing. President Coolidge reappointed Mr. Esch, but the nomination failed of confirmation after another airing of the coal case in the Senate.

Senators have not hesitated to browbeat the quasi-judicial commissions, demanding favorable decisions on pain of refusal to confirm the renomination of commissioners. Congressmen as well as Senators have not hesitated to demand favors on pain of a curtailment of appropriations. So notorious at one time became such political interference that the Interstate Commerce Commission addressed a letter to the national legislators reminding them that it is obligated to decide cases on their merits without consideration of political influence.

TRY POLITICAL APPROACH

Persons seeking to influence these commissions invariably try to approach members through the political powers responsible for the selection of the commissioners. It may be the White House which is the appointing power, or Senators, who are the confirming power, or the national committee, which is the patronage-dispensing power. How to "reach" a commissioner and what commissioners cannot be "reached" is a part of the underground information possessed by the politicians, political lawyers, and lobbyists of Washington.

Some members of these quasi-judicial commissions habitually consult the White House on decisions and votes. One member of the Radio Commission told me that he had asked the White House on several occasions whether President Roosevelt had any preference in a pending decision of a controversy between rival radio interests. Invariably, he said, he had been told by a White House secretary that the President was not interested, and that the Commissioner was at liberty to vote his convictions.

WHITE HOUSE TAKES PART IN RADIO CONTROL—HOWE AIDS BOARD TO ALTER RULING

By Arthur Sears Henning

WASHINGTON, D.C., May 6.—Of all the instances of White House dictation to the Radio Commission, probably the most notorious is that of the Shreveport-New Orleans case. In this case the White House summoned the acting chairman of the Commission and procured his promise to reverse the Commission's decision.

If the White House does not hesitate to use its tremendous power to shape the decisions of the quasi-judicial Radio Commission, contend the opponents of the pending communications bill, it may be expected to dominate the quasi-judicial commission which this legislation proposes to set up to control the telegraph and telephone systems and radio.

In the manner in which the White House dictated the decision of the Shreveport-New Orleans case, the White House could cause the communications commission to prohibit transmission to newspapers by wire or wireless systems of dispatches critical of the administration. Thus would a censorship of the press be achieved.

TROUBLE AT SHREVEPORT

For years KWKH, at Shreveport, La., had been a notoriously bad actor, being operated by one Henderson under the name of Hello World Broadcasting Corporation. Henderson frequently broadcast when intoxicated, and his obscenity (in violation of a specific provision of the Radio Act) had shocked the radio audiences. The station was of fairly high power on a clear channel. It divided time with WWL, at New Orleans, owned and operated by Loyola University, a Roman Catholic institution.

Henderson had been before the Commission on several occasions on the score of his broadcasting misbehavior, but each time had escaped discipline through political pressure, although other stations have been put off the air for far less serious offenses.

Finally WWL at New Orleans applied for full time on the frequency, which would mean the deletion of KWKH. The application was heard by a Commission examiner who recommended that WWL be granted full time. Then the situation was complicated by an application for assignment of Henderson's license to a new corporation at Shreveport, to which Henderson desired to sell his station. The law requires the Commission's approval of an assignment of license. There were oral arguments before the Commission which were virtually between the proposed assignee (who really represented Henderson's interests) and the New Orleans station.

POLITICS, RELIGION, RADIO

Following the arguments the Commission in executive session decided in favor of granting full time to the New Orleans station. The decision was unanimous. Henderson and the proposed assignee immediately learned of it. They got busy at once pulling all the customary political wires leading into the Commission. But this wire pulling at first had no effect. The Commission could not be budged and everything was all set to take Henderson's station off the air and give full time to the Catholic institution.

At that juncture the Shreveport interests bethought themselves of Senator J. T. ROBINSON, of Arkansas, Democratic leader of the Senate. He seemed to them to be the logical man to champion their cause against the Loyola University's station and to go the limit in procuring a reversal of the Radio Commission's decision.

Shreveport is situated in northern Louisiana not far from the Arkansas border, and Arkansas constituted a large part of the Shreveport station's radio audience. Senator ROBINSON is a pillar in the Methodist church and resides at the Methodist Building opposite the Capitol. Moreover, he is on bad terms with Senator HUEY LONG, who was favoring the cause of the New Orleans station.

SENATOR ROBINSON EXPLAINS

Pressure was brought to bear on Senator ROBINSON to use his influence to save the Henderson station from being taken off the air. He says that he acted upon receipt of several hundred appeals of Shreveport citizens by wire and letter. He explains that he did so because of representations that Shreveport could not obtain justice through HUEY LONG, and had appealed as a last resort to a near neighbor, the Senator from Arkansas.

Senator ROBINSON says that he telephoned the White House, asking that something be done to save the Shreveport station. He does not remember whether he talked to the President himself or to one of his Secretaries. At any rate, the Arkansas Senator's appeal soon lodged in the hands of Col.. [Kentucky] Louis M. Howe, the silent, elusive, mystery man of the White House Secretariat. Mr. Howe went into action without delay.

According to his version of the incident, Mr. Howe telephoned Herbert L. Pettey, secretary of the Commission, that the White House was interested in seeing that no injustice be done to Shreveport. He denies that he went any further than that. Of

course, he would not need to. The merest hint officially conveyed of what the White House wanted would be sufficient. Incidentally, young Mr. Pettey was appointed secretary of the Commission at the instance of Mr. Howe. Mr. Pettey handled radio arrangements for the Democratic National Committee in the 1932 campaign. When Mr. Howe got the Radio Commission job for Pettey he remarked that the White House thus would be able to keep track of what was going on in the Commission.

Mr. Pettey, who is a facile denier, denied that Mr. Howe or anyone else at the White House had communicated with him about the New Orleans-Shreveport case or about any other radio case.

CALLS VICE CHAIRMAN

It turns out, however, that Mr. Howe concealed from me the most effective thing he did to procure a reversal of the decision in the New Orleans-Shreveport case. He summoned Vice Chairman Thad H. Brown, of the Radio Commission, to the White House. Mr. Brown was then acting chairman of the Commission because of the absence of Chairman Eugene O. Sykes in Mexico.

Mr. Brown told his fellow Commissioners what happened when he was summoned to the presence of Mr. Howe. The White House secretary told Mr. Brown that the White House felt it most essential to bring home the bacon for Senator ROBINSON. The majority leader of the Senate, upon whom the President leaned most heavily in the hour of need, had earnestly requested that the Shreveport station be kept on the air and the White House was disposed to move heaven and earth to get what the Senator wanted.

Mr. Howe, it appears, waxed quite affecting in his efforts to persuade Acting Chairman Brown to procure a reversal of the decision. He painted a distressful picture of what would happen if Shreveport were taken off the air. The New Orleans station, which Mr. Howe said was under the thumb of HUEY LONG, would pour forth a stream of propaganda designed to injure JOE ROBINSON, whom LONG bitterly hates, and there JOE ROBINSON would be next door in Arkansas without a radio station to combat the abuse emanating from New Orleans. Mr. Howe is said to have got quite watery about the eyes at his own recital.

CITES UNANIMOUS DECISION

Vice Chairman Brown is said to have assured Mr. Howe that he, for one, would be willing to change his vote to accommodate the White House. But he pointed out that the decision in favor of New Orleans had been unanimous, and that it would be necessary to change 3 votes before the finding could be reversed.

Well, that was exactly what happened. Mr. Brown and two other members of the Commission changed their votes, the application of the New Orleans station for full time was denied, and the Shreveport station was left on the air. The decision was then made public. In the meantime Rosel Hyde, of the Legal Division of the Commission, had had to write and rewrite the decision to justify contrary findings on the same evidence.

When the decision was published the Catholics were greatly aroused, and when they learned that the White House had been instrumental in effecting the reversal they bore down on the Executive Office. They were particularly incensed by the representations that the New Orleans station was under the thumb of HUEY LONG. When the Catholic dignitaries finished with Mr. Howe, the White House Secretary felt that he had gone off on the wrong tack. Efforts were then initiated to extricate the White House from its embarrassing position by some concession to the New Orleans station, but nothing has come of them up to date. The New Orleans and Shreveport stations are still dividing time, and Henderson is out of the Shreveport set-up.

A CASE IN VIRGINIA

How the mere nod of a Congressman, with power of life and death over the meal ticket of these quasi-judicial commissions commands instant compliance is illustrated by the case of WDBJ at Roanoke, Va., which applied for an increase in power. Virginia already had stations the aggregate power of which exceeded the quota allotted to that State. To grant the application would mean that Virginia would be over quota to a greater extent than before.

The Commission was about to hold a hearing on the application when Representative CLIFTON A. WOODRUM, Democratic Member from the Roanoke district, intervened. Now, Mr. WOODRUM is the particular power in Congress of whom the quasi-judicial commissions stand in awe. He is the chairman of the subcommittee of the House Appropriations Committee which frames the appropriation bills for these commissions and other so-called "independent offices." It is within his power to treat a commission lavishly in allotment of Government funds or to starve it by tightening the purse strings.

In a meeting of the Commission, Chairman Sykes stated that Congressman WOODRUM had told him he would like to see the increased power allowed to WDBJ. Mr. Sykes explained that WDBJ is "one of Mr. WOODRUM's pets." Enough said. The Commission thereupon granted the increased power to the Roanoke station without a hearing.

RADIO LAWYERS CREDITED WITH INSIDE TRACK—MULLEN'S FRIEND WINS CASES BEFORE BOARD

By Arthur Sears Henning

WASHINGTON, D.C., May 8.—A communications commission, as proposed in the pending communications bill, with its power of life and death over wire and wireless systems and the telegraphic news of the press, would be a bonanza for the political lawyers, if one may judge from their operations in and about the Radio Commission.

They have garnered rich pickings at the Radio Commission, pickings that are small change, however, compared with the fees which might logically be exacted if the infinitely greater investment in the telegraph and telephone systems and the press for protection of rights threatened by governmental regimentation, experimentation, censorship, and persecution were involved.

EVEN BENEFICIARY IS SUPERVISED

The influencing of decisions of the Radio Commission by the political lawyers is so notorious as to have caused wide-spread comment and loosed a flood of gossip. One of the political lawyers himself remarked to me that the state of affairs at the Commission in this particular is somewhat odoriferous.

Although the Radio Commission is supposedly a quasi-judicial body, many applicants for privileges, whether legitimate or illegitimate, have found themselves merely butting their heads against a stone wall until they hired one of the lawyers reputed to have the "inside track" at the Commission. Tips on the lawyers to be employed for the most favorable results are procurable at the Commission itself.

A leading specialist in business before the Radio Commission is Paul D. P. Spearman, close personal friend of Herbert L. Pettey, secretary of the Commission.

MULLEN, JACKSON ARE POPULAR

Arthur Mullen and Robert Jackson also have a large Radio Commission practice. Mr. Mullen was until recently Democratic national committeeman for Nebraska. He was floor manager of the Roosevelt forces in the Chicago convention. Mr. Jackson was secretary of the Democratic national committee and committeeman for New Hampshire. Both were forced off the committee by the President's declaration that he considered it improper for national committeemen to be accepting retainers from clients on the assumption that the committeemen had access to the back door of the administration.

Commissioner James H. Hanley owes his appointment to the Radio Commission solely to Mr. Mullen. He was closely associated with Mr. Mullen in the law business and in Democratic politics in Nebraska for many years.

JOB FOR MULLEN FRIEND

Mr. Mullen wanted to be Attorney General, but Mr. Roosevelt countered with the offer of an appointment to the Radio Commission. Mr. Mullen declined this for himself, but said he had a friend for the place. Mr. Roosevelt, about to be inaugurated, asked Mr. Mullen to send him the friend's name. Mr. Hanley was appointed forthwith.

Elmer W. Pratt was chief examiner of the Commission. He resigned a year ago and set up as a specialist in Radio Commission business. He became closely associated with Mr. Mullen, having an office adjoining Mr. Mullen's until recently, when he moved to the floor above. Mr. Pratt, from the start, has handled all the radio business for clients of Mr. Mullen.

QUINCY-PEORIA RADIO FIGHT

One of the most bitterly contested radio cases and one presenting a bewildering interplay of political influences was that of Peoria versus Quincy, Ill. WTAD at Quincy and WMBD at Peoria were sharing time on 1,440 kilocycles. Each applied for full time on the frequency which would have had the effect of putting the other station off the air. Emory H. Lancaster, owner of the Quincy station, also wanted to remove it to East St. Louis.

After a hearing last fall the Commission decided in favor of the application of the Quincy station. At that time the Peoria station was represented by Attorney Horace Lohnes. Having lost, the owners of the Peoria station sought a rehearing and hired an additional lawyer—Elmer Pratt. The appearance of Mr. Pratt in the case generally was supposed to indicate that the powerful Mr. Mullen had been retained.

PEORIA APPEAL EFFECTIVE

After the second hearing of the case, Mr. Mullen's appointee, Commissioner Hanley, changed his vote and swung the decision in favor of Peoria. Mr. Hanley denies he changed his vote because Mr. Mullen's radio specialist, Elmer Pratt, had appeared in the case. He says that he changed his vote because the chairman of the Commission, Eugene O. Sykes, changed his vote and produced a majority in favor of allowing the Quincy station to move to East St. Louis.

Mr. Hanley says he thought it most objectionable to locate another station in the St. Louis area, and by changing his vote produced a majority against the Quincy application. Mr. Mullen denies that he was retained by the Peoria station. This, he says, was Mr. Pratt's individual case.

WGES, which is operated by Guyon's Paradise Ballroom in Chicago, has an allotment of three-sevenths of the time on 1,360 kilocycles. The other four-sevenths of the time became available when WIND, at Gary, with which it was sharing time, obtained another frequency.

MR. MULLEN AND WGES

WGES applied for temporary authority to use the other four-sevenths of the time. It was repeatedly turned down by the Commission, but finally got a permit for 28 days. It was reported that the retention of Arthur Mullen brought about this concession. Mr. Mullen says he had represented WGES all along, but was unable to get the temporary permit, which the station obtained through other representatives.

"Arthur Mullen is my friend and the only person to whom I am indebted for appointment to the Commission", said Commissioner Hanley. "But we never discuss radio matters and I have voted against him and Pratt oftener than I have voted for them."

KSEI, at Pocatello, Idaho, asked for a change in frequency to 890 kilocycles. This was granted without a hearing. KFPY, Spokane, Wash., at the same time, had filed an application for the same frequency, but its application had not reached Washington, being in the hands of the local inspector. The Spokane station appealed and the court reversed the Commission for failing to give a hearing before granting the Pocatello application.

SENATOR GAINS HIS POINT

After the hearing had been accorded the Commission decided again in favor of Pocatello. Senator CLARENCE C. DILL (Democrat, Washington) received an underground report of the Commission's decision and protested with such effectiveness that the Commission held up the opinion. Eventually, Spokane won.

Senator DILL is the father of the present Radio Act and wields a powerful influence at the Commission. The gossip was that the Commission ruled after the hearing in favor of KSEI instead of KFPY because the confusing similarity of sound of the call letters caused a radio Commissioner to misunderstand Senator DILL's pleasure in their telephone conversation. This Senator DILL denies.

"DRAG" IN RADIO FORECASTS FATE WIRES MAY FACE—POLITICS SHOWN TO RULE BOARD'S DECISIONS

By Arthur Sears Henning

WASHINGTON, D.C., May 9.—White House dictation to the Radio Commission and other quasi-judicial Federal boards under the Roosevelt administration is not an innovation, it appears. It obtained also under the Hoover administration.

The only period free of such interference by the White House with the Radio Commission, at least, was the Coolidge administration. This is the testimony of a former member of the Commission, a Democrat. Mr. Coolidge, he said, would not tolerate the subjection of the Commission to White House influence and always backed up the Commission's rulings.

After the Coolidge regime, however, the Commission became the football of political influence, and its reputation for integrity and independence suffered accordingly.

WIRES HAVE REASON TO FEAR

"Of course, the wire systems and the newspapers have reason to fear the creation of a communications commission to control all communications", said a radio company official today. "They know they will be at the mercy of a new and powerful agency of a political bureaucracy. They know that they will have to reckon with White House domination of the Commission and with all sorts of political manipulations just as we have had to in the case of the Radio Commission."

In the latter part of the Hoover administration there arose a famous radio case in which political influence figured prominently. Through such political influence two Chicago broadcasting stations, representing an investment of $400,000, were wiped out and a reallocation of wave lengths was effected that has strengthened the Columbia Broadcasting System, one of the two chains (the other being the National Broadcasting Co.) which are rapidly absorbing the broadcasting facilities of the country.

DETAILS OF THE DEAL

WJKS (now known as WIND) was a station at Gary, Ind., operating four-sevenths of the time on 1,360 kilocycles. Ralph Atlass, brother of Leslie Atlass, who is president of the Columbia corporation in Chicago, bought for a song the controlling interest in the Gary station and set out to develop it into an important and valuable station. On its wave length the Gary station could cover Gary but not Chicago. To cover Chicago he needed a different wave length.

For his purposes Mr. Atlass coveted the frequency 560 kilocycles, on which two Chicago stations, WIBO and WPCC, were dividing time. The owners of the Gary station applied to the Commission for the frequency held by the Chicago stations with an aggregate investment of $400,000. This was tantamount to a proposal to put WIBO and WPCC off the air. The ground for the application was that Illinois had more than its quota and Indiana less than its quota of broadcasting facilities.

LONG HEARING ENSUES

There was a long hearing before the Commission's chief examiner, Ellis A. Yost, a man of unquestioned integrity, in which the Gary station owners made what was commonly regarded as a weak showing of justification for the favor they sought. They lost out completely before the examiner. Mr. Yost, in his report to the Commission, recommended that the application of the Gary station be denied, and that the two Chicago stations be permitted to retain their wave lengths.

At this point politics enters. The owners of the Gary station had retained as counsel Mrs. Mabel Walker Willebrandt, a political lawyer famed for her successful wire pulling in the Hoover administration. She was now reinforced by the political influence of the late Representative Will Wood, of the Gary district. Wood had a somewhat stormy meeting with the chairman of the Commission, but was able to bring such pressure to bear that the body rejected the examiner's recommendation and granted the Gary station the wave length held by the Chicago stations.

NO ORAL ARGUMENT

The Commission took this step without giving any opportunity for oral argument. The Chicago stations were put off the air in October 1931. WIBO and WPCC appealed to the courts. The Court of Appeals of the District of Columbia reversed the Commission, holding the decision arbitrary and capricious. The case then went to the Supreme Court, which declared it could not disturb the Commission's decision.

Having obtained the coveted wave length, the Gary station became virtually a second outlet for the Columbia System in the Chicago area, the other station being WBBM, headed by Leslie Atlass. The Gary station is managed by Ralph Atlass from offices adjoining his brother's. The Gary station moved its transmitter somewhat nearer Chicago and is now making technical changes to improve its reception on the extreme north side of Chicago.

The Gary station obtained the Chicago station's wave length upon representations that it would function as an Indiana and not a Chicago station and would give a peculiarly local service to the foreign population of Gary. Complaints were made to the Commission that this understanding was being violated and that the Gary station was in reality a Chicago station, but they were ignored. Were it not for the influence of the Columbia System, these complaints would have been given a hearing.

COLUMBIA ON THE INSIDE

The National Broadcasting Co. enjoyed special favor at the Radio Commission under the Hoover administration, but the Columbia System has the inside track under the Roosevelt administration, a circumstance that suggests that with a commission in control of all communications, the fortunes of the telegraph and telephone systems and the newspaper telegraph services would vary with the political complexion of the party in power.

The Commission granted the wave length to the Gary station on the ground that Illinois was over and Indiana under quota. But while it was engaged in destroying WIBO and WPPC the Commission granted additional facilities to other stations in Chicago, thus increasing Illinois' excess quota. One of those thus favored was Columbia's station WBBM.

The sequel is almost as interesting. After the Gary station had taken over the WIBO length several stations applied for the wave length vacated by the Gary station, among them a South Bend, Ind., station, which was dividing time with an Indianapolis station. Both are outlets of the Columbia System. Recently, after a hearing, one of the Commission's examiners, Ralph Walker, recommended that the Commission give the South Bend station the Gary station's former wave length and grant the Indianapolis station full time on its present wave length. The Commission has yet to act on this recommendation.

BROOKLYN RADIO TANGLE CREATES CRY OF "POLITICS"—SILENCING OF FOUR STATIONS CONSIDERED

By Arthur Sears Henning

WASHINGTON, D.C., May 10.—Charges and countercharges of improper influences operating in and about the Radio Commission have given a sensational setting to what is known as the "Brooklyn mess."

The Commission has under consideration a recommendation by its chief examiner to put four Brooklyn broadcasting stations off the air. In the background are a number of other radio interests scrambling to get the wave length that will become vacant if the four Brooklyn stations are deleted.

Representatives of the Brooklyn stations assert that powerful political influences are being brought to bear on the Commission in behalf of the interests that seek their wave length. On the other hand, according to members of the Commission, there has been a steady procession of Senators and Congressman to their Chambers to persuade or coerce the Commissioners to keep the Brooklyn stations on the air.

USE SAME WAVE LENGTH

The four stations in question are WARD, WBBC, WLTH, and WVFW, all located in Brooklyn and all dividing time with each other on the same wave length, 1,400 kilocycles. About a year ago, as frequently happens when so many stations are forced to divide time on the same wave length, these stations became involved in a dispute with each other and took their controversy before the Commission, each asking for more time at the expense of the others.

At the outset the case followed the Commission's normal procedure, and the matter was referred to an examiner, in this case Ralph L. Walker. For certain technical legal reasons the Commission's rules require that in such a dispute all the parties file applications for renewal license so that there will be no legal obstacles in the way of a Commission decision changing the allotment of time or even putting one or more of the stations off the air so as to give the time to the other stations.

NINE-DAY HEARING HELD

An extended hearing was held before Examiner Walker, lasting 9 days, during the latter part of August and the early part of September. At the time of the hearing and for a considerable period thereafter these four stations were the only parties to the dispute. The normal outcome in such a case would be a decision leaving the stations as they were, or rearranging their time, or, in case good cause were shown, deleting one or more of them and giving the time to the other stations.

On November 27, 1933, long before the examiner had made any report or recommendation in the matter, an entirely new factor appeared in the situation. A corporation known as the Brooklyn Daily Eagle Broadcasting Co., Inc., filed an application with the Commission to establish a new station in Brooklyn on the wave length now used by the four stations. The applicant is, in part at least, a subsidiary of the Brooklyn Eagle, but it is said that other persons are interested in it.

ENJOYS OFFICIAL FRIENDSHIPS

Its attorney is Paul D. P. Spearman, who is reputed to enjoy close relations with Herbert L. Pettey, politically minded secretary of the Commission. Mr. Spearman, who was formerly assistant general counsel of the Commission, was brought to Washington and placed on the legal staff in 1929 by his Mississippi friend, Eugene O. Sykes, present Chairman of the Commission.

Mr. Spearman denies that he has sought to influence either Chairman Sykes or Secretary Pettey in this or any other radio case; denies any close relationship with Mr. Pettey and denies that Mr. Pettey sends him radio clients, asserting that he has had no clients in this first year of the Roosevelt administration that he did not have under the preceding Republican administration.

Another who is seeking the wave length of the four Brooklyn stations is the watch manufacturer, Arte Bulova, proprietor of the WNEW broadcasting station. Mr. Bulova's principal political friend at court is Representative WILLIAM I. SIROVICH (Democrat, New York). Contingent upon the acquisition of the Brooklyn wave length an offer to manage the broadcasting has been made by both Mr. Bulova and the Brooklyn Eagle Broadcasting Co. to an official of the Columbia Broadcasting System. Congressman SIROVICH helped Mr. Bulova present this offer, but he denies financial interest in the Bulova station.

DINNER ATTRACTS ATTENTION

Much significance has been attached to a dinner Congressman SIROVICH gave on the eve of the oral arguments before the Radio Commission on the question of putting the Brooklyn stations off the air. Mr. Bulova and the members of the Radio Commission were among the guests. Mr. SIROVICH indignantly denies the significance. He says he had 110 guests, including members not only of the Radio but the Tariff, Trade, Power, and other Commissions.

Another concern seeking the Brooklyn wave length is the American Radio Production Institute, Inc., headed by Ralph Steinburg, who is in the foreign-language division of the N.R.A.

Up to date the case has proceeded satisfactorily to those coveting the wave lengths of the Brooklyn stations. Examiner Walker recommended that all four Brooklyn stations be put off the air. He does not claim that any of the four stations has violated the law or any of the Commission's regulations, or has been guilty of any misconduct in the usual meaning of the word.

HITS FOREIGN-LANGUAGE PROGRAM

Examiner Walker says, however, that "the denial of the applications here involved would result in decreasing the present overquota status of the State of New York", but omits to mention that within recent months the Commission has on several occasions added to the supposed overquota status of this same State. He criticizes three of the stations by saying that "an excessive amount of time has been devoted to commercial foreign-language programs", although it was this same feature of the programs of WIND at Gary, Ind., that the Federal Radio Commission found to be a great virtue and as in part justifying its destruction of the Chicago stations WIBO and WPCC. Examiner Walker also says that "a number of stations render a good service throughout the Brooklyn area and it does not appear that the present applicants add materially to the service so received."

In other words, these stations may be put off the air because they are not better than nor different from other stations in the same city.

RADIO BOARD'S RULING CREATES CAPITAL GOSSIP—DECISIONS ARE UNMADE BY MYSTERIOUS INFLUENCES

By Arthur Sears Henning

WASHINGTON, D.C., May 11, 1934.—The mysterious influences that make and unmake the decisions of the quasi-judicial Radio Commission are discernible in a multitude of cases coming before that tribunal.

One that created no end of gossip in official Washington was the case of the Los Angeles broadcasting stations. KTM and KELW, of Los Angeles, were dividing time on the same wave length. In the fall of 1932 they were involved in a long hearing before one of the Commission's examiners of their applications for renewal of license.

The examiner recommended that the applications be denied and the stations put off the air because of their unsavory broadcasting performances. After the examiner had made this report to the Commission the Hearst evening paper in Los Angeles purchased an option of both stations and an application for assignment of the licenses of KHM and KELW to the newspaper was filed with the Commission.

MUST BE O.K.'D BY COMMISSION

Under the law it is necessary that such assignments be approved by the Commission.

In the meantime other interests had filed application for the use of the frequency of KTM and KELW when the two stations should be put off the air. One such application was filed by Don Lee, Inc., which operates a chain of broadcasting stations on the Pacific coast and which proposed to establish a new station at Redlands, Calif., which has no station.

KTM and KELW were represented by Attorney Paul D. P. Spearman, political protégé of Eugene O. Sykes, chairman, and close personal friend of Herbert L. Pettey, secretary of the Commission. Mr. Pettey, it will be recalled, was placed in this position by Col. (Kentucky) Louis M. Howe, President Roosevelt's secretary, to constitute a liaison between the White House and the Commission.

Mr. Spearman didn't get to first base in the hearing before Chief Examiner Yost, but he fared better when the case came before the Commission. The Commission reversed the examiner and granted the application of the two stations for renewal of their licenses. It ordered a hearing on the assignment of the licenses to the Hearst paper and on the competing application. It also ordered rehearing on the license renewal applications of the two stations.

RECORD OF STATIONS IS AIRED

At these new hearings the unsavory record of the two stations was aired again and the financial responsibility of the Hearst paper inquired into. Another examiner, Ralph Walker, heard the case this time and he also filed a report recommending that KTM and KELW be put off the air. He also recommended that the application for assignment of the licenses to the Hearst paper be denied and that the Don Lee application be granted.

There were oral arguments before the full Commission. At first the Commission decided to deny all the applications, including those of KTM and KELW. This leaked out and the wire pulling began to get the Commission to change its decision. There were rumors that the White House intervened to cause the Commission to change its decision in this case, as it did in the case of the New Orleans and Shreveport stations. This is denied at the White House. Mr. Spearman, who by that time was representing the Hearst paper, denies that any political influence was exerted. The Commission eventually granted the Hearst application, and the KTM and KELW wave length was transferred to the Los Angeles paper.

CHURCHMEN MAKE COMPLAINT

The procedure of the Commission in all cases at the time lent itself to the invocation of political influences to procure a reversal of decisions. It was the custom of the Commission to take what it called a "tentative vote" on a case, but no public announcement of the decision would be made until the law branch had written it. This might take several weeks, in which time the action would leak out and the defeated parties would bring their political influence to bear to induce the Commission to reverse itself. This happened so frequently and the legal department was compelled to write and rewrite the decision so often that the situation became notorious.

Commissioner James H. Hanley says that he was instrumental in procuring a change of the procedure in the interest of reform. Now a decision is announced as soon as it is voted and written up afterward by the law office.

KFYO, a Lubbock, Tex., broadcasting station, became involved in some unpleasantness with its radio audience. There was complaint of the character of its programs, emanating chiefly from churchmen, it appears. An application for its facilities was made by interests desiring to establish a station at Abilene, Tex.

This application was about to be granted by the Commission when Congressman THOMAS L. BLANTON (Democrat), of Texas, intervened to save KFYO from being put off the air. BLANTON marshaled an array of Methodist and Baptist church pastors to repudiate the complaints against KFYO. Mr. BLANTON asserted that the whole complaint when boiled down was that T. E. Kirksey, owner of KFYO, had permitted a singer to broadcast the Volga Boatmen song.

MORTGAGED TO CONGRESSMAN'S SON

Congressman BLANTON won out, and KFYO still is on the air. The Texas Congressman stated that he was representing Mr. Kirksey merely in the relationship of Congressman and constituent and without pay. It is against the law for a Senator or Congressman to practice before the administrative departments and commissions for compensation. Later it transpired that a mortgage on KFYO had been recorded at Abilene in favor of Congressman BLANTON'S son. The Congressman denied that this involved any indirect compensation for him.

"My two sons are lawyers", said the Congressman. "They have been Mr. Kirksey's attorneys for many years. They never have received any compensation for their work except this mortgage and they did not represent him in this radio matter."

CONDUCTS EXTENDED HEARINGS

In the summer of 1929 Commissioner Sykes held extended hearings in Florida on the possible rearrangement of two Clearwater stations on different wave lengths. In October the commission announced a series of decisions which involved putting certain stations on 620 kilocycles, a frequency also used by WTMJ, a station at Milwaukee, Wis., owned by the Milwaukee Journal, but the Florida stations put on the frequency were not such as to cause serious interference.

Immediately, however, Florida Congressmen put extreme pressure on Commissioners and a week later without any further hearing the Commission announced a new set of decisions, placing WFLA-WSUN, of Clearwater, on 620 kilocycles in spite of protests filed by the Milwaukee station. The latter appealed to the courts and the Court of Appeals reversed the Commission with

instructions to restore WTMJ to its former position so far as interference from Florida was concerned. This was done by providing a directional antenna at Clearwater to shut off interference to the northwest.

PULL AND HAUL ON RADIO BOARD; POLITICS WORKS—YOUNG ROOSEVELT TAKES A HAND IN FIGHT

By Arthur Sears Henning

WASHINGTON, D.C., May 12.—Pressure upon the United States Radio Commission in behalf of this and that broadcasting station is almost continuous, and the pressure is usually political. Provision for licensing of stations of course involves influence, and this is brought to bear on the Commission. The working of the system has been pointed to as an object lesson on what to expect if the Government takes control of all communications systems.

In the case of the application for a license for a broadcasting station at Portland, Maine, the system was exhibited. A multitude of political wires was pulled to control the decision of the Radio Commission. The application was filed on January 3, 1933, by Charles W. Phelan, representing the Shepard Stores, of Boston. The prospective station was to broadcast the programs of the Yankee chain.

PRESIDENT'S SON AIDS

Early in February James Roosevelt, son of the President, who was then broadcasting for the Yankee chain for a consideration, is alleged to have sent a telegram to the Radio Commission asking favorable action on Phelan's application. Apparently quick results followed. On February 10 the Commission granted a permit for the station without holding a hearing.

Young Mr. Roosevelt, who has been reported as quite active in New England politics, has just retired as one of three partners in the insurance business in Boston. Only last Thursday the firm dissolved. "It just did not work as we had hoped", said Douglas Lawson, a partner.

FAVORABLE VOTE AT ONCE

But as to the reported influence exerted by James Roosevelt on the Radio Commission in behalf of the Portland broadcasters: According to two members of the Commission the telegram from young Mr. Roosevelt was read in a meeting of the body and the favorable vote followed immediately. In the telegram, said these Commissioners, Mr. Roosevelt said Phelan was a friend of his and he would appreciate favorable consideration of the application. Two other members said they could not recall the telegram being read, one of them saying that he had never heard of it, the other stating that he understood James Roosevelt had sent such a communication either by letter or wire.

Questioned regarding a report that the telegram had been abstracted from the Commission files when its existence became known, Herbert L. Pettey, secretary of the Commission, said:

"No communication of any kind was ever received from James Roosevelt."

DIRECT REPLY EVADED

I telegraphed James Roosevelt at Boston, asking him whether, while he was broadcasting for the Yankee chain for a consideration, he requested the Radio Commission to act favorably on the application for a broadcasting station at Portland. He wired the following reply:

"In answer your wire proposed Portland, Maine, station had no financial or other connection with Yankee chain for which I broadcast. I understand application for Portland station turned down some time ago and matter closed."

I immediately telegraphed again to Mr. Roosevelt, calling his attention to his failure to say whether he did or did not request the radio station for favorable action on the application and inquiring whether he cared to answer that part of my inquiry.

To this telegram I have received no reply.

GANNETT PAPERS PROTEST

Six days after the Commission granted a license for the Portland station, the Portland Publishing Co., publisher of the Gannett papers in Maine, filed a protest against the action. Similar protests were received from four radio stations located in Portland and Augusta, Maine; Manchester, N.H.; and Toledo, Ohio. All wanted the wave length sought by Phelan. On February 21 the Commission rescinded its action licensing the Phelan station.

Then ensued a period of political wire pulling of several months' duration. Phelan retained as his attorney Paul D. P. Spearman, former assistant general counsel of the Commission, a close personal friend of Secretary Pettey. Gov. Louis J. Brann of Maine and United States Attorney John D. Clifford, both Democrats, went to bat for the Gannett papers. After reconnoitering the situation, Mr. Clifford recommended that the Portland Publishing Co. retain Robert Jackson, who was then Democratic national committeeman for New Hampshire and secretary of the national committee, with the reputation of being the most influential political lawyer in Washington. Mr. Jackson is one of the Democratic national committeemen who resigned from the party organization when President Roosevelt frowned upon the activities of Democratic leaders accepting retainers from clients upon the understanding they possessed access to the back door of the administration.

HEAVY "PULL" PUT AT WORK

Mr. Jackson got busy at once. He knew about the influence James Roosevelt had exerted to procure favorable action on Phelan's application and he was afraid that the pull possessed by a son of the President of the United States would prove a hurdle too difficult for him to surmount. Mr. Jackson finally went to young Mr. Roosevelt and asked him just how far he intended to go in behalf of Phelan. In this conversation Mr. Jackson is understood to have anticipated by several months President Roosevelt's moral stand, which eventually reacted so devastatingly upon himself. Mr. Jackson allowed young Mr. Roosevelt to gather that it was not exactly ethical for highly placed Democrats to be asking favors of Government officials. After this talk Mr. Jackson reported to his clients that young Mr. Roosevelt had telegraphed the Commission merely to oblige his friend Phelan and was not disposed to go further in holding the Commission in line for the Phelan application.

PHELAN FINALLY LOSES

In the summer of 1933 the Commission's engineer reported in favor of granting a license to the Portland Publishing Co. Then the Commission decided to hear the case en banc. All kinds of political pressure was brought to bear on the Commissioner, who eventually last December turned down the Phelan application and granted the facilities to Manchester, N.H. The decision was reached by a 3 to 2 vote, a minority holding out for Phelan, supposedly at the time because of the influence of James Roosevelt.

RADIO CHAINS SEEK STAND-IN AT WHITE HOUSE—THEY FACE PERIL OF BEING CRACKED DOWN ON

By Arthur Sears Henning

WASHINGTON, D.C., May 13.—The significant and often amusing scramble of the great radio broadcasting chains for the "inside track" at the White House and the Radio Commission prophetically illuminates the predicament in which the telegraph and telephone systems, the news agencies, and the newspapers will find themselves if Congress places them under the control of the proposed Government commission.

With the White House dictating decisions of the Radio Commission and "cracking down" on radio interests in disfavor it has become a matter of vital importance for them to "stand in" with the powers that be.

During the Hoover administration it was the National Broadcasting Co., with 15 broadcasting stations, itself a subsidiary of the Radio Corporation of America with several thousand licenses at stake, that enjoyed preferential favor at the White House.

ENCOUNTERS ROUGH GOING

For the last year, under the Roosevelt administration, the Columbia Broadcasting System, with eight broadcasting licenses at stake, has been closer to the throne than its rival has been. Columbia has had little difficulty in getting anything it wanted from the White House and the Commission, while N.B.C. has encountered a lot of rough going.

With all communications under control of a Government commission the wire services, the news-gathering agencies, and the newspapers undoubtedly would be scrambling in like manner for White House favor to promote their interests and avert official "cracking-down." The newspapers particularly would be at the mercy of the power of the White House to direct a censorship of telegraphic news dispatches.

The Columbia Broadcasting System, having been less fortunate than National Broadcasting Co. under the Hoover regime, set out to change its luck when the Roosevelt administration came into power. It placed in charge of its Washington headquarters Henry A. Bellows, vice president of the system, who previously had been in charge of the system's northwestern territory, with headquarters at Minneapolis. Mr. Bellows is a Democrat, a former member of the Radio Commission, and a friend of President Roosevelt, their friendship dating from their youth at Harvard, where Mr. Roosevelt was in the class of 1904 and Mr. Bellows in the class of 1906.

NEVER GOES BEYOND SECRETARY

Mr. Bellows, who is a man of great ability and of the highest character, says he never has presumed upon the friendship to get favors from the White House. He never has gone higher than a Secretary to the President to get what he wanted. As chairman of the legislative committee of the National Association of Broadcasters Mr. Bellows also comes into close contact with the legislative branch of the Government.

The Roosevelt administration was no sooner established in power than Mr. Bellows, on March 18, 1933, announced:

"Assurance of full and complete cooperation has been given directly to the President, to all the members of his Cabinet, and to the leaders of the Senate and House of Representatives. Furthermore, as a matter of public policy during the present emergency, we limit broadcasts of public events and discussions of public questions by ascertaining that such programs are not contrary to the policies of the United States Government."

COLUMBIA HAS INSIDE TRACK

The word soon went forth that Columbia had the inside track at the White House, and it later appeared that equally close relations had been established between the Washington staff of the broadcasting system and officers of the Radio Committee.

At this juncture the National Broadcasting Co. began to betray signs of anxiety. It was bruited about that National Broadcasting Co. was in disfavor because its president, Merlin Hall Aylesworth, not only was a dyed-in-the-wool Republican, but had asserted during the 1932 campaign that if Roosevelt were elected he would leave the country. Of course, this placed Mr. Aylesworth poles asunder from Mr. Bellows, who was an FRBC—For Roosevelt Before Chicago.

The Washington representative of NBC in a personal interview sought to convince the President that Mr. Aylesworth never ut-

tered the damning statement attributed to him. Mr. Roosevelt told the emissary he was sure Mr. Aylesworth never said it, but the President gave the assurance to the accompaniment of a hilarity that did not altogether allay anxiety. Presently, however, NBC made a move calculated to curry favor at the White House. It replaced its Washington news commentator, William Hard, close friend of former President Hoover, with the brother-in-law of one of the President's Secretaries.

HIGH SALARY, LONG-TERM CONTRACT

Columbia has a long record of unusual favors from the Radio Commission, going back several years, but becoming more pronounced since the advent of the Roosevelt administration. Another of its vice presidents is Sam Pickard, a former member of the Commission, who resigned February 1, 1929, and went directly to Columbia at a high salary on a long-term contract.

While Mr. Pickard was a member of the Commission WKRC, a Cincinnati (Ohio) broadcasting station, was able to procure from the Commission an exceedingly favorable wave length, which was transferred from an inferior assignment. It was charged that this was done in violation of all sound engineering considerations, for it immediately caused destructive interference with other stations on the same wave length at St. Louis and Buffalo.

On June 15, 1929, the Commission, without a hearing or a notice to anyone, increased WKRC's hours of operation to unlimited time, and on December 16 increased the power of the station from 500 to 1,000 watts on an experimental basis. The power has never been reduced, although at a subsequent hearing interference was conclusively shown by the stations affected. Mr. Bellows says that since the installation of a directional antenna by WKRC there has been no interference and the protests have been withdrawn. This is disputed by representatives of the complaining stations.

TRANSFER OF OWNERSHIP

In the summer of 1929 there was a formal transfer of the ownership of WKRC to Mr. Pickard and J. S. Boyd, a lawyer who frequently had handled radio cases before the Radio Commission and had been in particularly close contact with Mr. Pickard while the latter was a member of the Commission. It is not known when Messrs. Pickard and Boyd purchased the station or how much they paid for it.

It is known, however, that soon after the Commission granted WKRC the 100-percent increase in power they sold the station to WKRC, Inc., which is virtually a 100-percent subsidiary of the Columbia Broadcasting System. Columbia is said to have paid approximately $300,000 for the interest in the station to Messrs. Pickard and Boyd.

LINKS POLITICS TO DEMOCRATS IN RADIO FIGHT—EVANGELIST DECLARES BOSS GUFFEY INTERPRETED

By Arthur Sears Henning

WASHINGTON, D.C., May 14.—Charges of trafficing in political influence of the Radio Commission cropped out of a hearing last week on an application by Tri-State Radio, Inc., of Washington, Pa., to obtain the wave length of WNBO.

John Brownlee Spriggs, evangelist owner of WNBO, located at Washington, Pa., made formal charges before the Commission that Joseph F. Guffey, Democratic boss of Pennsylvania, had declared himself "in a position to dictate to the Radio Commission." This was in connection with a deal Mr. Spriggs said he made with Guffey to get the Commission's approval of increased power and a change of location for WNBO.

FALLS OUT WITH GUFFEY

Mr. Spriggs said he later fell out with Mr. Guffey whereupon the latter and Special Assistant Attorney General Robert L. Vann sought to get WNBO put off the air and its wave length assigned to Tri-State Radio. Mr. Guffey was subpenaed by the Commission but did not appear. Mr. Spriggs demanded the issuance of a warrant for the Democratic boss. The next day Tri-State withdrew its application for the WNBO wave length and the demand for the presence of Mr. Guffey was waived.

Mr. Spriggs in his formal charge said that at a testimonial dinner for Mr. Vann in Pittsburgh in the summer of 1933 Mr. Guffey and Mr. Vann proposed a deal to get the transfer of site for WNBO in consideration of time on WNBO for political broadcasting.

"Pursuant to the said discussion", said the Spriggs affidavit, "an arrangement was entered into between this affiant and said Robert L. Vann and the said Joseph F. Guffey. The said Joseph F. Guffey then and there represented to your affiant that he was in a position to dictate to the Radio Commission and that he was the distributor of all Federal patronage in the State of Pennsylvania, and that he maintained headquarters permanently in Washington, D.C., and that by reason of his connection with the administration, could accomplish overnight the transfer sought by WNBO. This representation on the part of Mr. Guffey was substantiated, corroborated, and elaborated upon by the Special Assistant Attorney General of the United States, aforementioned.

HANDLE CHANGE OF SITES

"The said Joseph F. Guffey and the said Robert L. Vann stipulated and agreed that 'they would handle' the change of sites for WNBO and increase the power of station WNBO from 100 watts to 1,000 wattage, pay all legal expenses, and all costs of the moving of the apparatus, equipment, etc., which estimate approximated $2,000.

"In consideration of the promises and agreements, representations and considerations of the said Joseph F. Guffey and the said Robert L. Vann as aforementioned, your affiant covenanted and agreed that he would furnish sufficient time of his broadcasting station of a value equivalent to at least $2,000 at the option of the said Joseph F. Guffey and the said Robert L. Vann."

The license of WNBO expired last December and has operated since then on a temporary permit. After Mr. Spriggs and the politicians fell out, Tri-State came into the picture as an applicant for the wave length of WNBO.

DENIES ANY INTEREST IN TRI-STATE

"An investigation disclosed that the attorney of record for Tri-State Radio, Inc., was affiant's lawyer, the aforementioned R. F. Lohnes, and the incorporator and majority stockholder of said Tri-State Radio, Inc., were the very persons named to the affiant by Joseph F. Guffey and Robert L. Vann as the individuals who would accomplish his renewal of license with increased wattage", Mr. Spriggs' affidavit continues.

"Affiant is advised and believes and therefore avers that it is common rumor in Democratic political circles that affiant's license is to be revoked and that the facilities heretofore enjoyed by him are and will be at the disposal of Joseph F. Guffey, Democratic leader of Pennsylvania."

Neither Mr. Guffey nor Mr. Vann is in Washington, but Mr. Guffey's secretary denied that Mr. Guffey is interested in any way in the Tri-State concern.

ELIMINATE POLITICAL ELEMENT

The withdrawal by Tri-State of its application for WNBO's wave length operated to eliminate the political element in the case, but the hearing was continued on Mr. Spriggs' application for a renewal of license for WNBO.

Charges of political influence are involved in numerous other cases coming before the Commission. They were heard in connection with the grant of additional power and unlimited time to WCAH at Columbus, Ohio, although Ohio already exceeds its quota of radio facilities. Also in connection with approval of an application for a new station, WMAS, at Springfield, Mass., which was given without a hearing. Also in connection with a special authorization to WPRO, Providence, R.I., to operate on a better frequency with increased power, although it is far under the recommended mileage separation from other stations on the same wave length. Also in connection with a new station, WLEO, at Erie, Pa., after another station of the same classification, WERE, had been put off the air at Erie.

TEXAS IS OVER STATE'S QUOTA

KTRH operates on 1,120 kilocycles at Houston, Tex., with 500 watts power, sharing time with WTAW at College Station, Tex. KTRH filed an application for 630 kilocycles, full-time operation and power increased to 1 kilowatt in the daytime. Although Texas is over quota, the application was granted on an experimental basis. KTRH is operated by the newspaper owned by Jesse Jones, Chairman of the Reconstruction Finance Corporation.

WFI, Philadelphia, was denied an increase of power twice, went through several hearings and appeals and finally resorted to political influence and got the increase without further trouble.

Mr. DICKINSON. If one-half of what Mr. Henning states is true, impeachment would be a mild reward for the conduct of some of the Commissioners. We have impeached judges for far less. What our friends on the other side of the aisle are pleased to call the "air-mail scandals" pale into virtuous dealing beside these charges. We cannot abide that such men should be entrusted with the regulation of the transmission of all intelligence in this country, including broadcasting and the communication of news by telegraph and cable.

I do not know whether or not Mr. Henning has the facts straight. I hope, for the sake of the individuals involved, that he is mistaken. We are certainly put on notice, however, with such charges appearing in the public press. In fact, his are not the only such charges. From time to time intimations of the same sort have appeared in other newspapers, among them the Washington Post.

I am sure we all are interested in seeing to it that the new Commission is nonpartisan, nonpolitical, not merely in form but also in fact. Consequently, I hope some attention can be given to this matter, and that in the end we can have a real investigation of the personnel of this Commission along the line I have heretofore suggested.

I desire to refer, Mr. President, to the question of propaganda. I have before me the Democratic Digest, dated June 1934, no. 6; and on page 13 I see the following:

REPORTER PLAN EXPLAINS THE NEW DEAL—WOMEN IN EVERY PART OF THE COUNTRY STUDY RECOVERY ADMINISTRATION

Any woman who studies the new deal is helping her country. The country will be benefited only by giving the new-deal agencies a chance to succeed. Such a chance can best be got by keeping in power the administration that began the great recovery

plan. Thousands of women realize this. They are sending to their party headquarters in precinct and county for information about the recovery plan. When they themselves know accurately the meaning of the different agencies they are ready at once to become missionaries among the uninformed.

New-deal reporters who have studied their present Government say that when Republicans and independents understand the objectives of the recovery administration they respond immediately. They feel that the country for its own good must consider issues, not personalities. Moreover, they are pleased that the reporters take pains to explain to them the administration program.

The people learn from the reporters about the new deal—what it is trying to do, what its activities are, how the country needs it.

Then I turn to pages 10 and 11. Here are the pictures of 15 fine looking women, and I find the following statement:

The new-deal study group of the Federal emergency agencies. Senior reporters—Cuyahoga County, Ohio.

The senior reporters are a group of women from the public affairs committee who have volunteered their services to act as instructors on the Federal emergency agencies.

Each senior reporter is in charge of 22 junior reporters, selected from the wards and suburbs.

They are all excellent speakers and are available for club meetings and social gatherings.

Who are these women? The first one is Mrs. Sam Fitzsimmons, Federal Coordinator of Transportation. I take it she is drawing a Federal salary, and yet she is advertised as one of the ladies who want to go out and give their time and services, when drawing a Federal salary, to spread propaganda in support of the new deal. I do not know how much of her salary she earns here in her position as Federal Coordinator of Transportation.

The next lady is Mrs. Edgar Bowerfind, Federal Alcohol Control Administration. I know nothing about her services and her duties, but I do know, according to this advertisement, that while she is occupying that position she is also available to go out and explain the new deal to the good people who want to listen to her and who want to be sold on the new deal.

The next woman is Mrs. Mary P. Warner, Public Works Administration. Next is Mrs. Edward Carran, National Recovery Administration, National Labor Board. Next is Miss Marie Wing, Consumers' Advisory Board. I had been of the opinion that if the consumers were a little better protected under the N.R.A. the general public would be much better off. I presume Miss Wing is fulfilling her position and doing her work there, but, nevertheless, she is available as a spokesman to go out and spread the gospel of the new deal.

Next is Mrs. Marguerite Reilley, Agricultural Adjustment Administration, Commodity Credit Corporation. It seems she has time, in view of the fact that she is in control of commodity credits, to go out and spread the gospel of the new deal.

Next is Judge Lillian Westropp, Federal Surplus Relief Corporation. Next is Mrs. George Kerr, National Emergency Council. Next is Miss Susan Rebhan, Federal Subsistence Homestead Corporation. She is engaged in the business of finding subsistence homesteads so that people may be taken from the place where they want to be and put at some place where they do not want to be, and may be given a piece of land in order to try to make them contented. It will work out like the old homestead system. When the prairies were being taken up by the homesteaders, there was about 1 family out of 10 that ever stayed and weathered the storm. I suppose that will be true with reference to the Federal Subsistence Homestead Corporation plan.

Next is Mrs. Roy T. Longley, Federal Deposit Insurance Corporation. I suggest to the junior Senator from Michigan [Mr. VANDENBERG] that this lady belongs to the organization which he helped to create. I presume she is carrying out the functions of her office and performing her duties to earn her Federal salary, and yet she is one of the excellent speakers and is available for club meetings and social gatherings.

Next is Mrs. David Ralph Hertz, Federal Emergency Relief Administration, Civil Works Administration. Next is Mrs. N. B. Harris, Civilian Conservation Corps. She is helping to take care of the boys in the conservation camps.

Next is Mrs. Cora C. Cooley, Public Works Emergency Housing Corporation; and last is Mrs. John Gorman, Home Owners' Loan Corporation.

This is a Democratic club document.

Mr. DAVIS. Mr. President, may I ask if these are appointees of the several Government organizations throughout the United States?

Mr. DICKINSON. Not all of them. They are from various Government bureaus and commissions created under the new deal; some 60 or 70 of them, we believe, but we do not even know how many there are.

Mr. DAVIS. Is the jurisdiction of these women confined to the United States or only to the city of Cleveland?

Mr. DICKINSON. Oh, the United States. These women are practically all located in Washington, but they are being sent out as this advertisement states. It simply indicates the agencies which are created in the various organizations covering the United States.

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

Mr. DICKINSON. Certainly.

Mr. FESS. The Senator read something about Cuyahoga County. That is Cleveland. What does that mean?

Mr. DICKINSON. I presume that means an organization of these reporters in the city of Cleveland. These advertisements are being put out stating "if you want to know about the new deal, the Democratic Party, through its personnel in the various bureaus, will send someone to spread the gospel of the new deal and preach it to you, and either convert you or try to close your lips so you will not criticize."

Mr. FESS. That is not a Cleveland publication, is it?

Mr. DICKINSON. Oh, no. This is a Washington publication, published by the Women's National Democratic Club, 1526 New Hampshire Avenue NW., Washington, D.C.

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

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Texas?

Mr. DICKINSON. I yield.

Mr. CONNALLY. If the Senator from Iowa read the report this morning from the primaries out in Iowa, his State, it would seem he would realize there is no necessity for advertising the new deal out there any more.

Mr. DICKINSON. Let me suggest to the Senator from Texas that the Democratic vote in Iowa was below the usual percentage; that we had a greater percentage of votes for Republicans than in the usual primary.

Mr. CONNALLY. I suppose that is because the Senator from Iowa has been doing all the criticizing, then, spending most of his time in spreading political propaganda.

Mr. DICKINSON. If somebody did not help to keep the Democrats straight they would be stealing the gold off the dome of the Capitol. [Laughter.]

Mr. CONNALLY. The Senator's party did not leave any gold on the dome when it went out of office! [Laughter.]

Mr. DICKINSON. Oh, yes! There is a little of it still left there.

Mr. President, let me proceed just a little bit further. This splendid program of economy on the part of the Democrats, the way they were going to abolish bureaus and do away with useless commissions, is interesting in the light of some information contained in the last report of the Civil Service Commission. Of course the Commission has had to report to us those who are employed in the various bureaus and agencies where a civil-service status is not required.

I find that in the month of April they are still proceeding to add employees. I believe not quite all the Democrats are on the Federal pay roll as yet. Why? I find that the net gain during the month of April was as follows:

Permanent in the District of Columbia, 1,026.

Temporary in the District of Columbia, 1,202.

Permanent outside the District of Columbia, 5,402.

Temporary outside the District of Columbia, 9,073.

Not previously reported, 3,846.

Total net gain for the month of April on the Federal pay roll, 20,549 new personnel!

I find that on March 31 the number was 623,559 while on the 30th day of April it was 644,108. There will be no question about what will happen in the next election if the Democratic Party can get 51 percent of the voters on the Federal pay roll.

Mr. McKELLAR subsequently said: A few moments ago the Senator from Iowa, in making a political speech, spoke of results in Iowa. I desire to read a short excerpt from the Washington Daily News of today:

NEW DEAL VICTORIOUS IN IOWA PRIMARIES—DEMOCRATS RETURNED—REPUBLICANS FAIL TO UPSET OPPONENTS' HOLD ON STATE THAT THE G.O.P. USED TO CONTROL

DES MOINES, IOWA.—Iowa Democrats saw today in results of the primary yesterday a strong approval of the new deal as mounting returns showed the Democrats had exceeded their strength of 2 years ago by at least 25,000 votes.

Staking their political futures solely on the national recovery issue, only three met opposition in the primary, and all, it appeared, had won renomination. Three were unopposed.

Observers who watched the results of the balloting for political straws in the winds which until 1932 had blown Republicans into office for 48 years, noted that the Democratic Party, despite an almost lethargic campaign and little opposition to State office incumbents, polled an active primary vote, and Gov. Clyde L. Herring received his party's reendorsement for Governor by a 5 to 1 count.

Mr. DICKINSON. I desire to suggest that no comment is made in the newspaper article with reference to the size of the Republican vote in comparison with the Democratic vote. When the percentages are taken they show that the Republican vote is more than normal. I desire to suggest further that there was no contest—that is, no serious contest—so far as the renomination of Governor Herring is concerned.

Mr. McKELLAR. No; there was no serious contest, but the Republicans lost out all along the line.

REVISION OF AIR-MAIL LAWS

The Senate resumed the consideration of the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the bill (S. 3170) to revise the air-mail laws.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The report was agreed to.

MONETARY USE AND PURCHASE OF SILVER

The Senate resumed the consideration of the bill (H.R. 9745) to authorize the Secretary of the Treasury to purchase silver, issue silver certificates, and for other purposes.

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

The PRESIDING OFFICER. The absence of a quorum is suggested. The clerk will call the roll.

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

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

Mr. LEWIS. I reannounce the absences of Senators as previously announced on former roll calls, and for the reasons given, and ask that the announcement stand for the day.

The PRESIDING OFFICER. Ninety-one Senators have answered to their names. A quorum is present.

Mr. PITTMAN. Mr. President, I simply desire to make an announcement at this time.

The unfinished business was temporarily laid aside earlier in the day in order that the conference report on the air-mail bill might be considered. That report has been disposed of. Tomorrow, by agreement, the calendar will come before the Senate, so that the unfinished business, which is the silver bill, will not come up until 2 o'clock. I desire to give notice that at that time, with the consent of the Senate I shall explain the bill and the difference between the House bill and the Senate bill introduced by me.

That is all the notice I desire to give.

The Senator from Arizona [Mr. HAYDEN] wishes to have the unfinished business temporarily laid aside in order that he may have a bill considered. If it does not require any debate or time I am sure it will be satisfactory to the Senate to take that course.

EMERGENCY CONSTRUCTION OF PUBLIC HIGHWAYS

Mr. HAYDEN. Mr. President, I ask unanimous consent that the unfinished business may be temporarily laid aside, and that the Senate proceed to the consideration of House bill 8781, to increase employment by authorizing an appropriation to provide for emergency construction of public highways and related projects, and for other purposes.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request of the Senator from Arizona?

Mr. McNARY. Mr. President, I desire to ask a question of the Senator from Arizona. There are not many Senators present. It is nearly half past 5. If I were sure the bill would not lead to debate, I should not object; but if there is to be a general debate, I shall object.

Mr. HAYDEN. So far as I am concerned, I expect to make a very brief explanation of the bill. I think I can state its terms to the Senate in a very few words. The bill has been on the calendar for some days. I think it is quite generally understood. If it should lead to any long debate, of course, I should have to withdraw the bill tonight. I should not attempt to hold the Senate in session to pass the bill tonight.

Mr. PITTMAN. In the event the bill should lead to debate, I would have to call for the regular order, the unfinished business.

Mr. McNARY. Mr. President, the calendar is to be considered tomorrow. Does the Senator think we can pass the bill during the calendar hour?

Mr. HAYDEN. It is quite far down on the calendar.

Mr. McNARY. Would the Senator be willing to have his bill follow the call of the calendar? That is, would he be willing to bring up the bill upon the conclusion of the call of the calendar at 2 o'clock?

Mr. HAYDEN. I could not well do that without the consent of the Senator from Nevada, who has given notice that he expects to speak on the silver bill. That is why I should like to have this measure disposed of this evening.

Mr. McKELLAR. Mr. President, let me make a suggestion. I think there was a unanimous report on the bill from the Committee on Post Offices and Post Roads, and that it is a measure in which practically every Senator is interested and which most of them favor. I am wondering whether the Senator from Arizona may not explain the bill in just a moment or two.

Mr. McNARY. I am willing to have the Senator from Arizona explain his bill, and then, if there shall be considerable debate, or an indication that there will be, I shall call for the regular order.

Mr. HAYDEN. That is entirely agreeable to me.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. HAYDEN. Mr. President, the bill as passed by the House of Representatives authorized an appropriation of $400,000,000 as a grant to the States for highway construction, not to be matched in any manner. When the Senate Committee on Post Offices and Post Roads came to study the bill and ascertain the facts, it was found that of the previous $400,000,000, appropriated by Congress last year for highways, only $170,000,000 would be expended by the 30th of next June, which would mean a carry-over into the next fiscal year of $230,000,000.

That being the case, the committee decided that it was not necessary at this time to appropriate an additional $400,000,000, which would unbalance the Federal road-building program. Therefore the committee, instead of adopting the proposal of the House of Representatives, recommends the authorization of an appropriation of $200,000,000 as a Federal grant, $100,000,000 of which will be added to the $230,000,000, which will be carried over, making a road program for the next fiscal year of $330,000,000. In the following fiscal year the committee proposes to make an unmatched grant of the second hundred million dollars and authorize Federal aid to the extent of a hundred million dollars, which would mean the appropriation in all of $200,000,000 from the Federal Treasury, to be matched by a hundred million dollars from the States. By so doing there will be a total of $300,000,000 for highway construction for the fiscal year ending June 30, 1936.

Then, for the fiscal year ending June 30, 1937, we would be back to the old Federal-aid basis of $100,000,000 appropriated by Congress to be matched by $100,000,000 from the States.

Mr. COPELAND. Mr. President, is provision to be made for the roads in the Virgin Islands and Puerto Rico?

Mr. HAYDEN. Yes; an amendment provides that part of the money authorized to be appropriated may be used in Alaska, Puerto Rico, and the Virgin Islands.

Mr. VANDENBERG. Mr. President, what is the basis of allocation?

Mr. HAYDEN. The basis of allocation in the grant of money amounting to $200,000,000 is exactly as was provided in the $400,000,000 allocation made last year. Future allocations are to be on the basis provided in the Federal Aid Act of 1916. It will be remembered that there was a slight accentuation, on the population factor in the grant of $400,000,000, because it was a relief measure. When Congress returns to the old basis of matching Federal aid by the States, then the old and well-established formula of apportionment will be used.

Mr. VANDENBERG. We will still have the accentuation, as I understand it?

Mr. HAYDEN. As to $200,000,000.

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

Mr. HAYDEN. I yield.

Mr. HALE. Is the Senator familiar with the action which has been taken in the House of Representatives on the deficiency bill in regard to this matter?

Mr. HAYDEN. I am. The difficulty is that, in order to carry out all the purposes of this bill, legislation is required. Certainly it is preferable for a legislative committee in the House of Representatives and a legislative committee in the Senate to consider and recommend future Federal-aid authorizations than for Congress to attempt to legislate on an appropriation bill, which will have to be done if the pending bill shall not pass.

Mr. HALE. However, as long as the House has legislated in this way, the matter is not subject to a point of order, and we have a right to adopt their legislation.

Mr. HAYDEN. The Senator has made a correct statement. If the pending bill shall fail of enactment, then the next thing to do is to take the entire text of the bill and insert it as an amendment in the deficiency bill. The Senate has a perfect right to do it either way.

Mr. HALE. Is the Senator not satisfied with what the House has inserted in the deficiency bill?

Mr. HAYDEN. The Senator from Arizona is not satisfied, because the deficiency bill provides for only $100,000,000 for the year 1936, one-half of which is to be matched by the States. In my opinion, that is withdrawing Federal support, in a period of depression, too rapidly. The program arranged by the Committee on Post Offices and Post Roads is that there will be paid out of the Federal Treasury in the next fiscal year $230,000,000; in 1936, $200,000,000; in 1937, $100,000,000. The committee recommends that Congress gradually go back to the old Federal-aid basis, on the theory that the Nation is slowly getting out of the existing economic depression. But to suddenly drop off unmatched grants of money from the Federal Treasury, as the deficiency bill proposes to do, would involve difficulty among many States.

Mr. BYRNES. Mr. President, will not the Senator explain the difference between the legislative provision in the deficiency bill now before the Senate Committee on Appropriations, and the bill on which he is seeking action? As I read the legislative provision annexed to the deficiency bill, it provides $100,000,000 for the fiscal year 1935. Is that correct?

Mr. HAYDEN. That is correct.

Mr. BYRNES. It also provides $100,000,000 for the fiscal year ending June 30, 1936, and $100,000,000 for the fiscal year ending June 30, 1937.

Mr. HAYDEN. Or a total program of $300,000,000 spread over 3 years.

Mr. BYRNES. Yes.

Mr. HAYDEN. The Committee on Post Offices and Post Roads recommends a road program of $400,000,000 spread over 3 years. Otherwise, there will be a $330,000,000 Federal expenditure for highway construction in 1935, then there will be a drop to $100,000,000 in 1936. I am convinced that going off on that rapid basis would lead to demands which Congress would have to meet later.

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

Mr. HAYDEN. I yield.

Mr. DICKINSON. On page 10417 of yesterday's CONGRESSIONAL RECORD I find that Chairman BUCHANAN, of the Committee on Appropriations of the House of Representatives, has inserted a statement with reference to the funds available for highway purposes, as follows:

Funds available for highway program, fiscal years 1934 and 1935:	
Obligated or allocated as of July 1, 1933 (roundly)	$110,000,000
Unobligated, July 1, 1933	15,190,331
Section 204, National Industrial Recovery Act	400,000,000
State contributions to section 204 program	16,162,865
This bill for 1935	100,000,000
Total	641,353,196
Estimated expenditures or Treasury withdrawals:	
1934	$275,055,000
1935	300,000,000

It would seem to me that that definitely shows that they think they are arranging for a program of $300,000,000 for next year.

Mr. HAYDEN. The deficiency bill does arrange for a very substantial road-construction program for the next fiscal year; there is no question about it. There is no difference at all between this bill and the deficiency bill as passed by the House of Representatives, so far as the fiscal year 1935 is concerned. The two measures are exactly the same in that particular. But from there on, in order to carry out the idea of the Senate Committee on Post Offices and Post Roads, Congress should not drop down, as the deficiency bill proposes to do, to but $100,000,000 for 1936, of which that bill provides that one-half shall be matched by the States. Under the terms of the deficiency bill there would be a total highway construction program of $330,000,000 for 1935, and only $150,000,000 for 1936.

Mr. VANDENBERG. Mr. President, is the House program recommended by the President and his relief administration?

Mr. HAYDEN. The President submitted a Budget estimate for an unmatched grant of an additional hundred million dollars for highway construction for the next fiscal year, and that is all the recommendation there is. Both bills conform to that recommendation.

Mr. VANDENBERG. The Senator is asking the Senate to do more than the President and his relief administrators have asked Congress to do.

Mr. HAYDEN. No; no more and no less; but to do exactly what the President has estimated in his Budget for 1935. However, it is proposed to carry on an adequate road-building program for 1936 and 1937. The legislatures of 44 of the States will meet early in the next year. Congress should let the States know exactly what the Federal Government is going to do in the way of Federal aid in order

that they may know what they must do to match the Federal contributions. As I have stated, it is proposed to get back as best we can and as quickly as we can to the old system of matching road money with States.

Mr. VANDENBERG. Does the Senator mean that the President's relief program is silent in respect to subsequent years?

Mr. HAYDEN. Yes. No Budget estimates for Federal aid beyond 1935 were submitted, but the deficiency bill contains authorizations for 1936 and 1937.

Mr. VANDENBERG. Why is it not all right to remain silent until we reach those years?

Mr. HAYDEN. If we do that, what is the situation we will have to face? Congress will say nothing, and 44 State legislatures will meet next January and February. The legislatures will have no Federal-aid program before them. They will take it for granted that the States can depend upon the Federal Government to provide continuing grants of road money, and they will make no provision to match it. The committee believes it is entirely proper, if we are to go back to the old Federal-aid system, that Congress now give the States due and ample notice by the enactment of this legislation.

Mr. President, I ask that the Senate proceed to the consideration of the bill.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Post Offices and Post Roads with amendments.

Mr. HAYDEN. I ask unanimous consent that the formal reading of the bill be dispensed with and that the bill be read for amendment, the committee amendments to be first considered.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the clerk will state the first amendment of the committee.

The first amendment of the committee was, on page 1, line 7, after the word "of", to strike out "$400,000,000 for allocation" and to insert in lieu thereof "$200,000,000, which shall be apportioned by the Secretary of Agriculture immediately upon the passage of this act"; on page 2, line 2, after the parenthesis, to strike out the words "in making grants under such section to the highway departments of" and to insert in lieu thereof the word "to"; on line 4, after the word "by", to strike out the word "such" and to insert the words "their highway"; on line 6, to strike out "*Provided*, That not to exceed 1½ percent of the allotment of this appropriation to any State may be used for surveys and plans of projects for future construction on the Federal-aid system in such State: *Provided*, That not less than 25 percent of the allotment of this appropriation shall be applied to secondary or feeder roads including farm to market roads and rural free delivery mail roads and public school bus routes" and to insert in lieu thereof "*Provided*, That the Secretary of Agriculture shall act upon projects submitted to him under his apportionment of this authorization, and his approval of any such project shall be deemed a contractual obligation of the Federal Government for the payment of its proportional contribution thereto: *Provided further*, That not less than 25 percent of the apportionment to any State shall be applied to secondary or feeder roads, including farm to market roads, rural free delivery mail roads, and public-school bus routes, except that the Secretary of Agriculture, upon request and satisfactory showing from the highway department of any State, may fix a less percentage of the apportionment of such State for expenditure on secondary or feeder roads: *And provided further*"; and on page 3, line 6, after the word "traffic", to insert the following proviso: "*And provided further*, That the President may also, from the funds made available under this section, make allotments for the construction, repair, and improvement of public highways not to exceed the following sums: In the Virgin Islands $250,000, in Alaska $1,500,000, in Puerto Rico $1,000,000", so as to make the section read:

Be it enacted, etc., That for the purpose of increasing employment by providing for emergency construction of public highways and other related projects there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $200,000,000, which shall be apportioned by the Secretary of Agriculture immediately upon the passage of this act under the provisions of section 204 of the National Industrial Recovery Act, approved June 16, 1933 (in addition to any sums heretofore allocated under such section), to the several States to be expended by their highway departments pursuant to the provisions of such section, and to remain available until expended: *Provided*, That the Secretary of Agriculture shall act upon projects submitted to him under his apportionment of this authorization, and his approval of any such project shall be deemed a contractual obligation of the Federal Government for the payment of its proportional contribution thereto: *Provided further*, That not less than 25 percent of the apportionment to any State shall be applied to secondary or feeder roads, including farm-to-market roads, rural-free-delivery mail roads, and public-school bus routes, except that the Secretary of Agriculture, upon request and satisfactory showing from the highway department of any State, may fix a less percentage of the apportionment of such State for expenditure on secondary or feeder roads: *And provided further*, That any funds allocated under the provisions of section 204 (a) (2) of such act shall also be available for the cost of any construction that will provide safer traffic facilities or definitely eliminate existing hazards to pedestrian or vehicular traffic: *And provided further*, That the President may also, from the funds made available under this section, make allotments for the construction, repair, and improvement of public highways not to exceed the following sums: In the Virgin Islands $250,000, in Alaska $1,500,000, in Puerto Rico, $1,000,000.

The amendment was agreed to.

The next amendment of the committee was, in section 2, on page 3, line 20, after the word "for", to insert the words "the survey, construction, reconstruction, and maintenance of"; and in line 22, after the word "and", to insert the words "monuments (including areas transferred to the National Park Service for administration by Executive order dated June 10, 1933), national", so as to make the section read:

SEC. 2. To further increase employment by providing for emergency construction of public highways and other related projects, there is hereby also authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $50,000,000 for allotment under the provisions of section 205 (a) of the National Industrial Recovery Act, approved June 16, 1933 (in addition to any sums heretofore allotted under such section), to be expended for the survey, construction, reconstruction, and maintenance of highways, roads, trails, bridges, and related projects in national parks and monuments (including areas transferred to the National Park Service for administration by Executive order dated June 10, 1933), national forests, Indian reservations, and public lands, pursuant to the provisions of such section, and to remain available until expended.

The amendment was agreed to.

The next amendment of the committee was to strike out section 3, as follows:

SEC. 3. There is hereby also authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the sum of $10,000,000 for an emergency relief fund, which shall be available for expenditure by the Secretary of Agriculture, in accordance with the provisions of the Federal Highway Act, after receipt from a State or States of application therefor, in the repair or reconstruction of highways and bridges on the system of Federal aid highways damaged or destroyed by floods, hurricanes, earthquakes, or landslides when he shall find, after investigation, that the damage to or the destruction of such highways or bridges has resulted from such unusual or extraordinary condition.

The amendment was agreed to.

The next amendment was, on page 4, after line 15, to insert the following new section:

SEC. 3. Not to exceed $10,000,000 of any money heretofore, herein, or hereafter appropriated for expenditure in accordance with the provisions of the Federal Highway Act shall be available for expenditure by the Secretary of Agriculture, in accordance with the provisions of the Federal Highway Act, as an emergency relief fund, after receipt of an application therefor from the highway department of any State, in the repair or reconstruction of highways and bridges on the system of Federal-aid highways, which he finds, after investigation, have been damaged or destroyed by floods, hurricanes, earthquakes, or landslides, and there is hereby authorized to be appropriated any sum or sums necessary to reimburse the funds so expended from time to time under the authority of this section.

The amendment was agreed to.

The next amendment was, on page 5, after line 4, to insert the following section:

SEC. 4. For the purpose of carrying out the provisions of the act entitled "An act to provide that the United States shall aid

the States in the construction of rural post roads, and for other purposes", approved July 11, 1916, and all acts amendatory thereof and supplementary thereto, there is hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, the following sums, to be expended according to the provisions of such act as amended: The sum of $100,000,000 for the fiscal year ending June 30, 1936; and the sum of $100,000,000 for the fiscal year ending June 30, 1937.

All sums authorized in this section and apportioned to the States shall be available for expenditure for 1 year after the close of the fiscal year for which said sums, respectively, are authorized, and any sum remaining unexpended at the end of the period during which it is available for expenditure shall be reapportioned among the States as provided in section 21 of the Federal Highway Act.

The amendment was agreed to.

The next amendment was, on page 5, after line 22, to insert the following new section:

SEC. 5. For the purpose of carrying out the provisions of section 23 of the Federal Highway Act, approved November 9, 1921, there is hereby authorized to be appropriated for forest highways, roads, and trails, the following sums, to be available until expended in accordance with the provisions of said section 23: The sum of $10,000,000 for the fiscal year ending June 30, 1936; the sum of $10,000,000 for the fiscal year ending June 30, 1937.

The amendment was agreed to.

The next amendment was, on page 6, after line 5, to insert the following new section:

SEC. 6. For the purpose of carrying out the provisions of section 3 of the Federal Highway Act, approved November 9, 1921, as amended June 24, 1930 (46 Stat. 805), there is hereby authorized to be appropriated for the survey, construction, reconstruction, and maintenance of main roads through unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations other than the forest reservations, the sum of $2,500,000 for the fiscal year ending June 30, 1936, and the sum of $2,500,000 for the fiscal year ending June 30, 1937, to remain available until expended.

The amendment was agreed to.

The next amendment was, on page 6, after line 16, to insert the following new section:

SEC. 7. For the construction, reconstruction, and improvement of roads and trails, inclusive of necessary bridges, in the national parks, monuments, and other areas administered by the National Park Service, including areas authorized to be established as national parks and monuments, and national park and monument approach roads authorized by the act of January 31, 1931 (46 Stat. 1053), as amended, there is hereby authorized to be appropriated the sum of $10,000,000 for the fiscal year ending June 30, 1936, and the sum of $10,000,000 for the fiscal year ending June 30, 1937.

The amendment was agreed to.

The next amendment was, on page 7, after line 2, to insert the following new section:

SEC. 8. For construction and improvement of Indian reservation roads under the provisions of the act approved May 26, 1928 (45 Stat. 750), there is hereby authorized to be appropriated the sum of $4,000,000 for the fiscal year ending June 30, 1936, and the sum of $4,000,000 for the fiscal year ending June 30, 1937.

The amendment was agreed to.

The next amendment was, on page 7, after line 8, to insert the following new section:

SEC. 9. The term "highway" as defined in the Federal Highway Act, approved November 9, 1921, as amended and supplemented, shall for the period covered by this act be deemed to include such main parkways as may be designated by the State and approved by the Secretary of Agriculture as part of the Federal-aid highway system.

The amendment was agreed to.

The next amendment was, on page 7, after line 14, to insert the following new section:

SEC. 10. Section 19 of the Federal Highway Act, approved November 9, 1921, is hereby amended to read as follows:

"That on or before the 3d day of January of each year the Secretary of Agriculture shall make a report to Congress, which shall include a detailed statement of the work done, the status of each project undertaken, the allocation of appropriations, and an itemized statement of the expenditures under this act during the preceding fiscal year."

The amendment was agreed to.

The next amendment was, at the top of page 8, to insert the following new section:

SEC. 11. With the approval of the Secretary of Agriculture, not to exceed 1½ percent of the amount apportioned for any year to any State under sections 1 and 4 of this act may be used for surveys, plans, and engineering investigations of projects for future construction in such State, either on the Federal-aid highway system and extensions thereof or on secondary or feeder roads.

The amendment was agreed to.

The next amendment was, on page 8, after line 7, to insert the following new section:

SEC. 12. Since it is unfair and unjust to tax motor-vehicle transportation unless the proceeds of such taxation are applied to the construction, improvement, or maintenance of highways, after June 30, 1935, Federal aid for highway construction shall be extended only to those States that use at least 60 percent of the revenue derived for State purposes from State motor vehicle registration fees, licenses, gasoline taxes, and other special taxes on motor-vehicle owners and operators of all kinds for the construction, improvement, and maintenance of highways and administrative expenses in connection therewith, including the retirement of outstanding bonds for the payment of which such revenues heretofore have been pledged, and for no other purposes, under such regulations as the Secretary of Agriculture shall promulgate from time to time: *Provided*, That in no case shall the provisions of this section operate to deprive any State of more than one-third of the amount to which that State would be entitled under any apportionment hereafter made, for the fiscal year for which the apportionment is made.

The amendment was agreed to.

The next amendment was, on page 9, line 12, after the word "act", to insert the words "or on account of amounts paid under the provisions of title I of the Emergency Relief and Construction Act of 1932 for furnishing relief and work relief to needy and distressed people", so as to make the section read:

SEC. 14. No deductions shall hereafter be made on account of prior advances and/or loans to the States for the construction of roads under the requirements of the Federal Highway Act or on account of amounts paid under the provisions of title I of the Emergency Relief and Construction Act of 1932 for furnishing relief and work relief to needy and distressed people.

The amendment was agreed to.

Mr. HAYDEN. Mr. President, I move to strike out on page 3, line 16, the sum "$50,000,000" and to insert in lieu thereof the sum "$30,000,000."

The amendment was agreed to.

Mr. MCNARY. Mr. President, I send to the desk an amendment, which I ask to have stated.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. On page 9, after line 15, it is proposed to insert the following as a new section 15:

SEC. 15. To provide for the continuation of the cooperative reconnaissance surveys for a proposed inter-American Highway as provided in Public Resolution No. 104, approved March 4, 1929 (45 Stat. 1697), and for making location surveys, plans, and estimates for such highway, the Secretary of Agriculture is hereby authorized to pay all costs hereafter incurred for such work from any moneys available from the administrative funds provided under the act of July 11, 1916 (U.S.C., title 23, sec. 21), as amended, or as otherwise provided.

Mr. HAYDEN. Mr. President, I shall be very glad to accept the amendment proposed by the Senator from Oregon.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Oregon.

The amendment was agreed to.

Mr. HAYDEN. Mr. President, that, I believe, concludes the amendments.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment of the amendments and the third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read the third time, and passed.

The title was amended so as to read: "An act to increase employment by authorizing an appropriation to provide for emergency construction of public highways and related projects, and to amend the Federal Aid Road Act approved July 11, 1916, as amended and supplemented, and for other purposes."

MARION VON BRUNING

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 1731) for the relief of Marion Von Bruning (nee Marion

Hubbard Treat), which was, on page 1, line 12, after "1920", to insert:

: *Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

Mr. TYDINGS. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

A. E. SHELLEY

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 2377) for the relief of A. E. Shelley, which was, on page 1, line 11, after "Service", to insert:

: *Provided*, That no part of the amount appropriated in this act in excess of 10 percent thereof shall be paid or delivered to or received by any agent or agents, attorney or attorneys, on account of services rendered in connection with said claim. It shall be unlawful for any agent or agents, attorney or attorneys, to exact, collect, withhold, or receive any sum of the amount appropriated in this act in excess of 10 percent thereof on account of services rendered in connection with said claim, any contract to the contrary notwithstanding. Any person violating the provisions of this act shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined in any sum not exceeding $1,000.

Mr. ASHURST. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

RECORD OF REGISTRY OF CERTAIN ALIENS

The PRESIDING OFFICER laid before the Senate the amendments of the House of Representatives to the bill (S. 2692) relating to the record of registry of certain aliens, which were, on page 1, line 7, after "Commissioner", to insert "General"; on page 1, line 8, to strike out "and Naturalization"; on page 1, line 11, to strike out "January" and insert "July"; on page 2, line 2, to strike out "or" and insert "and"; and on page 2, line 12, to strike out "January" and insert "July."

Mr. COPELAND. I move that the Senate concur in the amendments of the House.

The motion was agreed to.

MONEYS OF PHILIPPINE ISLANDS DEPOSITED IN UNITED STATES

Mr. TYDINGS. Mr. President, a short while ago the Senate passed Senate bill 3439 and the House passed House bill 9280. Both bills are identical. I ask that the House bill be read twice, considered, and acted upon at this time.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill (H.R. 9280) relating to deposits in the United States of public moneys of the government of the Philippine Islands, which was read twice by its title.

The PRESIDING OFFICER. The question is on the third reading of the bill.

The bill was ordered to a third reading, read the third time, and passed.

MONETARY USE AND PURCHASE OF SILVER

The Senate resumed the consideration of the bill (H.R. 9745) to authorize the Secretary of the Treasury to purchase silver, issue silver certificates, and for other purposes.

ADJOURNMENT

Mr. PITTMAN. I move that the Senate adjourn in accordance with the unanimous-consent agreement entered into this morning.

The motion was agreed to; and (at 5 o'clock and 40 minutes p.m.) the Senate adjourned until tomorrow, Wednesday, June 6, 1934, at 12 o'clock meridian.

HOUSE OF REPRESENTATIVES

TUESDAY, JUNE 5, 1934

(Legislative day of Monday, June 4, 1934)

The recess having expired, the House was called to order by the Speaker at 11 o'clock a.m.

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. 8687. An act to amend the Tariff Act of 1930.

The message also announced that the Senate agrees to the amendments of the House to bills of the Senate of the following titles:

S. 1077. An act for the relief of Lueco R. Gooch;

S. 1126. An act for the relief of M. M. Twichel;

S. 1191. An act for the relief of Sultzbach Clothing Co.;

S. 1401. An act to pay a gratuity to Emma Ferguson Starrett;

S. 1516. An act for the relief of Michael Bello;

S. 2023. An act for the relief of Claudia L. Polski; and

S. 2636. An act for the relief of James Slevin.

MONEY, STOCK AND BONDS, DEBTS, AND DEPRESSION

Mr. DICKINSON. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. DICKINSON. Mr. Speaker, money, the medium of exchange, mainly consists of gold, silver, and currency. Gold is no longer circulated as money. It has been withdrawn from private holding and ownership and is locked up in the vaults of the United States Treasury and held as a basis of currency and for settlement of balances abroad. The Gold Act of 1934 vested in the United States Government the custody and control of our stocks of gold as a reserve for our paper currency and as a medium of settling international balances. Likewise, gold certificates have been retired from circulation. Silver long discredited as primary money is sought to be restored in a measure by the pending Dies bill, which authorizes the Secretary of the Treasury to purchase silver, issue silver certificates, which shall be legal tender for all debts, public and private, public charges, taxes, duties, and dues, and redeemable in standard silver dollars, and known as the "Silver Purchase Act of 1934."

This bill after a full hearing was favorably reported from the Ways and Means Committee. The passage of this act in the House brought back memories of 1895, when I attended as a delegate the great silver convention at Memphis, Tenn. An outstanding, dominant figure in that great convention was William Jennings Bryan, of Nebraska, who 12 months thereafter, at Chicago, Ill., was nominated for President of the United States as candidate of the Democratic Party. A part of the Democratic platform of 1896 and its main issue was a declaration for bimetallism and to restore silver to free coinage, which reads as follows:

We demand the free and unlimited coinage of both silver and gold at the present legal ratio of 16 to 1 without waiting for the aid or consent of any other nation. We demand that the standard silver dollar shall be a full legal tender equally with gold for all debts, public and private, and we favor such legislation as will prevent for the future the demonetization of any kind of legal-tender money for private contract. We are opposed to the policy and practice of surrendering to the holders of the legal obligations of the United States the option reserved by law to the Government of redeeming such obligations in either silver or gold coin.

The Constitution of the United States gave to Congress the power "to coin money, regulate the value thereof and of foreign coin, and fix the standard of weights and measure." The pending bill is in the right direction, and its passage will be in the public interest and may lead to the full restoration of silver to its rights under the Constitution. It now circulates as small change, along with copper pennies.