

## PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. CALDWELL: A bill (H.R. 9791) for the relief of Emma S. Fletcher; to the Committee on Claims.

By Mr. COLLINS of California: A bill (H.R. 9792) granting a pension to Frances C. Liebman; to the Committee on Pensions.

By Mr. GLOVER: A bill (H.R. 9793) for the relief of J. L. Garner, C. G. Kauffman, W. G. Smiley, R. A. Burks, C. W. Brazzelton, Clyde Cornet, Ray Cash, Jim Hamilton, Otis Hamilton, R. F. Brazzelton, H. M. Coleman, John J. Smith, Dave Cash, and Mrs. A. W. Dykes; to the Committee on Claims.

By Mr. KELLY of Illinois: A bill (H.R. 9794) for the relief of Charles Wallace McGuire; to the Committee on Naval Affairs.

By Mr. REECE: A bill (H.R. 9795) for the relief of Frank E. Hankal; to the Committee on Military Affairs.

By Mr. LAMBERTSON: Joint resolution (H.J.Res. 359) for the relief of W. K. Richardson; to the Committee on Military Affairs.

## PETITIONS, ETC.

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

4828. By Mr. CULLEN: Petition of the National-American Wholesale Lumber Association, Inc., favoring the immediate passage of H.R. 9620, known as the "National Housing Act"; to the Committee on Banking and Currency.

4829. Also, petition of the Supreme Council, Catholic Benevolent Legion, urging the Congress of the United States to pass the proposed amendment to section 301 of Senate bill 2910; to the Committee on Merchant Marine, Radio, and Fisheries.

4830. By Mr. GOODWIN: Petition of the Supreme Council, Catholic Benevolent Legion, Brooklyn, N.Y., urging support of the amendment to section 301 of Senate bill 2910, providing for the insurance of equity of opportunity for educational, religious, agricultural, labor, cooperative, and similar non-profit-making associations seeking licenses for radio broadcasting by incorporating into the statute a provision for the allotment to said nonprofit associations of at least 25 percent of all radio facilities not employed in public use; to the Committee on Merchant Marine, Radio, and Fisheries.

4831. Also, petition of Court Nilan, No. 985, Catholic Daughters of America, Highland, N.Y., urging support of the amendment to section 301 of Senate bill 2910, providing for the insurance of equity of opportunity for educational, religious, agricultural, labor, cooperative, and similar non-profit-making associations seeking licenses for radio broadcasting by incorporating into the statute a provision for the allotment to said nonprofit associations of at least 25 percent of all radio facilities not employed in public use; to the Committee on Merchant Marine, Radio, and Fisheries.

4832. By Mr. LEHR: Petition of Jackson League of Women Voters, Jackson, Mich., urging passage of the Pure Food and Drugs Act amendment, S. 2800; to the Committee on Interstate and Foreign Commerce.

4833. By Mr. LINDSAY: Petition of the Supreme Council, Catholic Benevolent Legion, Brooklyn, N.Y., urging support of the amendment to section 301 of Senate bill 2910; to the Committee on Merchant Marine, Radio, and Fisheries.

4834. Also, petition of the Brooklyn Chamber of Commerce, Brooklyn, N.Y., urging the passage of legislation authorizing the Home Owners' Loan Corporation to increase its capitalization by issuing an additional \$2,000,000,000 in bonds; to the Committee on Banking and Currency.

4835. Also, petition of the Progress Lodge, No. 2325, of the Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees, New York City, urging support of Senate bill 3266 and House bills 9596 and 7430; to the Committee on Interstate and Foreign Commerce.

4836. Also, petition of the American Short Line Railroad Association, Washington, D.C., opposing the Crosser bill; to the Committee on Interstate and Foreign Commerce.

4837. Also, petition of the Independent Petroleum Jobbers' Association of Pennsylvania, opposing the Federal petroleum act (S. 3495 and H.R. 9676); to the Committee on Interstate and Foreign Commerce.

4838. Also, petition of the National American Wholesale Lumber Association, New York City, favoring the immediate passage of Senate bill 3603 and House bill 9620, the National Housing Act; to the Committee on Banking and Currency.

4839. By Mr. LUNDEEN: Petition of the Minneapolis Central Labor Union, urging the enactment of the Wagner-Connelly Disputes Act; to the Committee on Labor.

4840. Also, petition of the Sixtieth District Farmer-Labor Organization, opposing the purchase by the Federal Government of lands in northern Minnesota which have become delinquent; to the Committee on the Public Lands.

4841. Also, petition of the Graceville Council, Knights of Columbus, urging amendment to section 301 of Senate bill 2910, providing for the insurance of equity of operation for educational, religious, agricultural, and similarly non-profit-making associations, seeking licenses for radio broadcasting, by incorporating into the statutes a provision for the allotment to said non-profit-making associations of at least 25 percent of all radio facilities not employed in public use; to the Committee on Merchant Marine, Radio, and Fisheries.

4842. Also, petition of the Minneapolis Central Labor Union, urging the adoption of the Pettengill bill to amend the Interstate Commerce Act (H.R. 8100); to the Committee on Labor.

4843. By Mr. RUDD: Petition of the National American Wholesale Lumber Association, New York City, favoring support of Senate bill 3603 and House bill 9620; to the Committee on Banking and Currency.

4844. Also, petition of the Brooklyn Chamber of Commerce, Brooklyn, N.Y., favoring the passage of increased appropriation of \$2,000,000,000 in bonds to Home Owners' Loan Corporation; to the Committee on Banking and Currency.

4845. Also, petition of the Independent Petroleum Jobbers Association of Pennsylvania, opposing the enactment of the Federal Petroleum Act (S. 3495) and the Disney bill (H.R. 9676); to the Committee on Interstate and Foreign Commerce.

4846. Also, petition of the Progress Lodge, No. 2325, Brotherhood of Railway and Steamship Clerks, Freight Handlers, Express and Station Employees, New York City, urging support of House bills 9596, 7430, and Senate bill 3266; to the Committee on Interstate and Foreign Commerce.

4847. By Mr. SMITH of Washington: Petition containing approximately 300 names of residents of Washington and Oregon, supporting the Townsend old-age revolving pension plan; to the Committee on Labor.

## SENATE

WEDNESDAY, MAY 30, 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 Tuesday, May 29, was dispensed with, and the Journal was approved.

## SALARIES OF OFFICERS OF THE CLEVELAND TRACTOR CO.

The VICE PRESIDENT laid before the Senate a letter from the Acting Chairman of the Federal Trade Commission, reporting, in further response to Senate Resolution 75 (agreed to May 29, 1933), relative to salaries paid by the Cleveland Tractor Co. to its executive officers and directors,

which, with the accompanying papers, was referred to the Committee on Banking and Currency.

#### PETITIONS

Mr. COPELAND presented a letter in the nature of a petition from the Woman's Christian Temperance Union Crusade Regional Conference, assembled at New York City, signed by Ella A. Boole, international president, and also numerous petitions and letters and papers in the nature of petitions from various branches of the Woman's Christian Temperance Union, the Young Women's Christian Association, and women's clubs and other organizations in the State of New York, praying for the prompt ratification of the World Court protocols, which were referred to the Committee on Foreign Relations.

#### INTERSTATE LEGISLATIVE REFERENCE BUREAU

Mr. BARBOUR. Mr. President, I ask unanimous consent to have printed in full in the CONGRESSIONAL RECORD and appropriately referred a brief telegram which I have received from State Senator Joseph G. Wolber, advocating passage of House Joint Resolution 19.

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

NEWARK, N.J., May 26, 1934.

Hon. W. WARREN BARBOUR,

United States Senate:

As chairman of New Jersey Council of American Legislators Association, am interested in House Joint Resolution 19, concerning Interstate Legislative Reference Bureau, which association maintains. Am informed it is now in Senate Committee on the Library, of which you are a member. Am familiar with work of bureau, make constant use of its services, and find it to be most helpful to me in my legislative work. Believe congressional support of bureau would be distinct advantage to all of us engaged in legislation. Would appreciate your aid to have Senate pass this resolution before your adjournment.

Kindest personal regards.

JOSEPH G. WOLBER.

#### BRIDGE ACROSS HUDSON RIVER AT FIFTY-SEVENTH STREET, NEW YORK

Mr. BARBOUR. Mr. President, I also ask unanimous consent to have printed in the RECORD a brief telegram which I have received from Brig. Gen. George R. Dyer, of the Port of New York Authority, sent to me in opposition to Senate bill 3553. I ask that the telegram be appropriately referred.

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

NEW YORK, N.Y., May 25, 1934.

Senator W. WARREN BARBOUR,

Senate Office Building:

Request your strong opposition to Senate bill 3553, designed to overrule Secretary of War by creating commission to determine height of proposed private toll bridge across Hudson River at Fifty-seventh Street, New York. This bill will impair Public Works Administration loan of \$37,000,000 for Midtown Hudson Tunnel now under construction by Port Authority in the immediate vicinity of the proposed bridge. Proposed bridge will burden local New Jersey communities and State highway commission with insuperable traffic problems. Proposed bridge is strongly opposed by War Department, Navy Department, leading commercial organizations, Sandy Hook pilots, and Regional Plan Association, as well as by the Port of New York Authority. Proposed bridge is private venture without public support. Urge bill be recommitted and hearings held thereon with adequate advance notice. Letter follows.

GEORGE R. DYER,

Chairman the Port of New York Authority.

#### REPORTS OF COMMITTEES

Mr. CAREY, from the Committee on Military Affairs, to which was referred the bill (H.R. 3054) for the relief of Christopher Cott, reported it without amendment and submitted a report (No. 1207) thereon.

Mr. DUFFY, from the Committee on Military Affairs, to which was referred the bill (S. 2810) for the relief of Alice F. Martin, widow, and two minor children, reported it without amendment and submitted a report (No. 1210) thereon.

Mr. RUSSELL, from the Committee on Naval Affairs, to which was referred the bill (S. 2134) for the reinstatement of John Carmichael Williams in the United States Navy, reported it without amendment and submitted a report (No. 1208) thereon.

Mr. HAYDEN, from the Committee on Territories and Insular Affairs, to which was referred the bill (S. 3530) relating to Philippine currency reserves on deposit in the

United States, reported it without amendment and submitted a report (No. 1209) thereon.

#### ENROLLED BILLS PRESENTED

Mrs. CARAWAY, from the Committee on Enrolled Bills, reported that on the 29th instant that committee presented to the President of the United States the following enrolled bills:

S. 195. An act respecting contracts of industrial life insurance in the District of Columbia;

S. 1757. An act to amend an act entitled "An act to incorporate the Mount Olivet Cemetery Co. in the District of Columbia";

S. 2508. An act authorizing the Secretary of the Interior, with the approval of the National Capital Park and Planning Commission and the Attorney General of the United States, to make equitable adjustments of conflicting claims between the United States and other claimants of lands along the shores of the Potomac River, Anacostia River, and Rock Creek in the District of Columbia;

S. 2580. An act to exempt from taxation certain property of the National Society United States Daughters of 1812 in the District of Columbia;

S. 3257. An act to change the designation of Four-and-a-half Street SW. to Fourth Street; and

S. 3442. An act to dissolve the Ellen Wilson Memorial Homes.

#### BILLS AND JOINT RESOLUTION INTRODUCED

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

By Mr. FLETCHER:

A bill (S. 3700) to amend section 19 of the Federal Reserve Act, as amended, and for other purposes; to the Committee on Banking and Currency.

By Mr. TYDINGS:

A bill (S. 3701) for the relief of George J. Hannigan; to the Committee on Naval Affairs.

By Mr. COPELAND:

A bill (S. 3702) to confer jurisdiction upon the United States District Court for the Southern District of New York to determine the claim of Harriet Ziegler; to the Committee on Claims.

By Mr. REYNOLDS:

A bill (S. 3703) for the relief of the estate of W. W. McPeters; to the Committee on Claims.

By Mr. TYDINGS:

A joint resolution (S.J.Res. 129) 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.

#### NATIONAL INDUSTRIAL ADJUSTMENT BOARD—AMENDMENT

Mr. ROBINSON of Arkansas submitted an amendment intended to be proposed by him to the bill (S. 2926) to equalize the bargaining power of employers and employees, to encourage the amicable settlement of disputes between employers and employees, to create a National Labor Board, and for other purposes, which was ordered to lie on the table and to be printed.

#### DEVELOPMENT OF INDIAN RESOURCES—AMENDMENT

Mr. ASHURST submitted an amendment intended to be proposed by him to the bill (S. 3645) to conserve and develop Indian lands and resources; to establish a credit system for Indians; to provide for higher education for Indians; to extend toward Indians the right to form business and other organizations; and for other purposes, which was ordered to lie on the table and to be printed.

#### INVESTIGATION OF AMERICAN TELEPHONE & TELEGRAPH CO.

Mr. DILL submitted the following resolution (S.Res. 252), which was referred to the Committee on Interstate Commerce:

[S.Res. 252, 73d Cong., 2d sess.]

#### Resolution

Resolved, That the Committee on Interstate Commerce, or any duly authorized subcommittee thereof, is hereby authorized and



directed to make a thorough and complete investigation of the operations, relationships, and activities of the American Telephone & Telegraph Co., its subsidiaries, affiliates, associates, and other concerns in which it or they have any direct or indirect, financial interest, or which have any such interest in it, or in which any of its officers or directors hold any office or exert any control and shall report to the Senate the facts as ascertained and make recommendations for such legislation as the committee deems desirable.

In making said investigation the committee shall, among other things, investigate and report particularly on the following subjects:

(1) The financial structure and relationship of the company and its subsidiaries, associates, and affiliates and the extent to which its holding-company structure enables it to evade regulation or taxation, or enables it to conceal or absorb profits; the extent of interservice contracts or transactions between the American Telephone & Telegraph Co. and its subsidiary, affiliated, associated, or holding companies, and particularly contracts with the Western Electric Co. and other manufacturers of electrical communication equipment, if any; also the sale prices of telephone equipment, material, or devices to telephone-operating companies, the profits upon such sales and the effect of such sales upon the rate base of operating companies when used as a basis for telephone charges in the various States; and the probable savings by telephone-operating companies purchasing equipment under a system of competitive bidding.

(2) The activities of and expansion by the company and its subsidiaries, associates, holding companies, and affiliates into fields other than telephone communication, including teletype service, telephoto service, broadcasting, motion-picture distribution, and the manufacture of electrical equipment.

(3) The methods of competition with other companies and industries, with reference to equality of service, reasonableness of rates, both local and long distance, depreciation accounting practices, discriminatory practices, suppression of patents, method of accounting for royalties accruing on patents, sale and refusal to sell equipment to competing companies, maintenance of exorbitantly high prices because of monopolistic control, and particularly the relationship of the company with Electrical Research Products, Inc., and its relation to independent motion-picture organizations, and its practices in the interests of the company.

(4) The extent to which local subscribers have borne the cost of the research developments for long-distance appliances, radio, motion-picture, and other inventions not related to the improvement of local service.

(5) The reasons for voluntary reductions in long-distance charges and the failure to reduce local charges during the past few years of generally falling prices.

(6) Its relations as an employer with its employees and the extent of its reduction in number and wages of employees while maintaining exorbitant salaries for high officials and a continuous high dividend rate.

(7) The methods whereby the company or its subsidiaries or affiliates or its officers or directors have sought through propaganda, or the expenditure of money or the control of channels of publicity, to influence or control public opinion or elections.

The words "associates", "subsidiaries", "affiliates", and "holding companies" shall include all companies directly or indirectly associated or connected with the American Telephone & Telegraph Co., either by stock ownership, interlocking directorates, interlocking offices, whether by direct or indirect stock ownership, office holding, or directorates, or traceable through one or more companies, corporations, partnerships, individuals, or in any other manner.

That the said committee is hereby authorized to sit and perform its duties at such times and places as it deems necessary or proper and to require the attendance of witnesses by subpoenas or otherwise; to require the production or inspection of all accounts, books, papers, documents, memoranda, minutes, etc.; and to employ counsel, experts, and other assistants, and stenographers at a cost not exceeding 25 cents per hundred words. The chairman of the committee, or any member thereof, may administer oaths to witnesses and sign subpoenas for witnesses; and every person duly summoned before said committee, or any subcommittee thereof, who refuses or fails to obey the process of said committee, or appears and refuses to answer questions pertinent to said investigation, shall be punished as prescribed by law. The expenses of said investigation shall be paid from the contingent fund of the Senate on vouchers of the committee or subcommittee, signed by the chairman and approved by the Committee to Audit and Control the Contingent Expenses of the Senate, not to exceed \$25,000.

#### TREATY WITH CUBA

Mr. PITTMAN. Mr. President, from the Committee on Foreign Relations I report back favorably without amendment the Cuban Treaty. The report is unanimous, although there was no record vote. As in executive session, I ask unanimous consent to have the treaty read, to see if there is objection to its present consideration.

The VICE PRESIDENT. The Senator from Nevada asks unanimous consent for what?

Mr. PITTMAN. As in executive session, that we proceed to the consideration of the treaty, but I ask to have the treaty read first.

Mr. JOHNSON and Mr. McNARY rose.

The VICE PRESIDENT. Is there objection?

Mr. JOHNSON. Mr. President, I was going to suggest that I thought it would be appropriate to call for a quorum. I myself have no objection to the treaty.

Mr. PITTMAN. I have no objection to a quorum being called.

Mr. McNARY. Mr. President, that is what I was going to suggest. I make the point that a quorum is not present.

The VICE PRESIDENT. The clerk will call the roll.

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

|          |              |             |                |
|----------|--------------|-------------|----------------|
| Adams    | Costigan     | Hebert      | Pope           |
| Ashurst  | Couzens      | Johnson     | Reynolds       |
| Austin   | Cutting      | Keyes       | Robinson, Ark. |
| Bachman  | Dickinson    | King        | Russell        |
| Bankhead | Dieterich    | La Follette | Schall         |
| Barbour  | Dill         | Lewis       | Sheppard       |
| Barkley  | Duffy        | Logan       | Shipstead      |
| Black    | Erickson     | Long        | Smith          |
| Bone     | Fess         | McCarran    | Stelwer        |
| Borah    | Fletcher     | McGill      | Stephens       |
| Brown    | Frazier      | McKellar    | Thomas, Utah   |
| Bulkeley | George       | 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        |
| Clark    | Hatch        | O'Mahoney   | Walsh          |
| Connally | Hatfield     | Patterson   | White          |
| Copeland | Hayden       | Pittman     |                |

Mr. LEWIS. I announce the absence of the Senator from California [Mr. McAdoo] because of illness. I announce further the absence of the Senator from Connecticut [Mr. LONERGAN], officially attending memorial services at Gettysburg. I also announce the absence of the Senator from Oklahoma [Mr. THOMAS], the Senator from North Carolina [Mr. BAILEY], the Senator from Massachusetts [Mr. COOLIDGE], the Senator from Louisiana [Mr. OVERTON], the Senator from Florida [Mr. TRAMMELL], and the Senator from Montana [Mr. WHEELER], occasioned by official business.

Mr. HEBERT. I announce that the senior Senator from Pennsylvania [Mr. REED], the junior Senator from Pennsylvania [Mr. DAVIS], the Senator from Vermont [Mr. GIBSON], the Senator from New Jersey [Mr. KEAN], and the Senator from North Dakota [Mr. FRAZIER] are necessarily absent.

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

Mr. BYRNES. Mr. President—

The VICE PRESIDENT. At the time the quorum was called, the Chair will state to the Senator from South Carolina, the Senator from Nevada [Mr. PITTMAN] had sent to the desk and asked to have read a treaty with Cuba for the purpose, as the Chair understands, of consideration at this time. Is there objection to the request of the Senator from Nevada?

Mr. McNARY. Mr. President, is the request not only to read the treaty but to have action upon it?

The VICE PRESIDENT. The Chair assumes that that is the purpose for which the Senator from Nevada desired to have the treaty read.

Mr. PITTMAN. I should like to have the treaty read first, and then, if there be no objection, to have it considered.

Mr. McNARY. It will be useless to read it, if there is going to be objection. I think we should anticipate that situation in order to expedite consideration. The treaty was sent to the Senate last evening and referred to the Senate Committee on Foreign Relations, and this morning was reported. I desire to ask the Senator from Nevada, was there a division among the members of the committee?

Mr. PITTMAN. There was no division. I wish to say that there were two Senators who said that they had no objection, though they doubted the effect of the treaty; but the action of the committee was unanimous.

Mr. McNARY. Personally I have no objection to the present consideration of the treaty.

The VICE PRESIDENT. The clerk will read the treaty.

The legislative clerk read the treaty, as follows:

The United States of America and the Republic of Cuba, being animated by the desire to fortify the relations of friendship between the two countries and to modify, with

this purpose, the relations established between them by the Treaty of Relations signed at Habana, May 22, 1903, have appointed, with this intention, as their Plenipotentiaries:

The President of the United States of America; Mr. Cordell Hull, Secretary of State of the United States of America, and Mr. Sumner Welles, Assistant Secretary of State of the United States of America; and

The Provisional President of the Republic of Cuba, Señor Dr. Manuel Márquez Sterling, Ambassador Extraordinary and Plenipotentiary of the Republic of Cuba to the United States of America;

Who, after having communicated to each other their full powers which were found to be in good and due form, have agreed upon the following articles:

#### ARTICLE I

The Treaty of Relations which was concluded between the two contracting parties on May 22, 1903, shall cease to be in force, and is abrogated, from the date on which the present Treaty goes into effect.

#### ARTICLE II

All the acts effected in Cuba by the United States of America during its military operation of the island, up to May 20, 1902, the date on which the Republic of Cuba was established, have been ratified and held as valid; and all the rights legally acquired by virtue of those acts shall be maintained and protected.

#### ARTICLE III

Until the two contracting parties agree to the modification or abrogation of the stipulations of the agreement in regard to the lease to the United States of America of lands in Cuba for coaling and naval stations signed by the President of the Republic of Cuba on February 16, 1903, and by the President of the United States of America on the 23d day of the same month and year, the stipulations of that agreement with regard to the naval station of Guantánamo shall continue in effect. The supplementary agreement in regard to naval or coaling stations signed between the two Governments on July 2, 1903, also shall continue in effect in the same form and on the same conditions with respect to the naval station at Guantánamo. So long as the United States of America shall not abandon the said naval station of Guantánamo or the two Governments shall not agree to a modification of its present limits, the station shall continue to have the territorial area that it now has, with the limits that it has on the date of the signature of the present Treaty.

#### ARTICLE IV

If at any time in the future a situation should arise that appears to point to an outbreak of contagious disease in the territory of either of the contracting parties, either of the two Governments shall, for its own protection, and without its act being considered unfriendly, exercise freely and at its discretion the right to suspend communications between those of its ports that it may designate and all or part of the territory of the other party, and for the period that it may consider to be advisable.

#### ARTICLE V

The present Treaty shall be ratified by the contracting parties in accordance with their respective constitutional methods; and shall go into effect on the date of the exchange of their ratifications, which shall take place in the city of Washington as soon as possible.

In faith whereof, the respective Plenipotentiaries have signed the present Treaty and have affixed their seals hereto.

Done in duplicate, in the English and Spanish languages, at Washington on the twenty-ninth day of May, one thousand nine hundred and thirty-four.

[SEAL]  
[SEAL]  
[SEAL]

CORDELL HULL  
SUMNER WELLES  
M. MÁRQUEZ STERLING

Mr. LONG. Mr. President, I want to be heard a few minutes on the Latin-American situation.

Mr. PITTMAN. Mr. President, in view of the pendency of the tariff bill, if the Senator is going to speak on another subject, I will have to withdraw my request.

Mr. LONG. I have the floor, I understand, Mr. President, and I do not care to yield.

Mr. ASHURST. Mr. President—

Mr. LONG. I do not care to yield, and I decline to yield. I repeat that I want to be heard for a few minutes on the Latin-American situation.

Mr. PITTMAN. Mr. President, I rise to a point of order.

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

Mr. PITTMAN. I merely asked to have the treaty read as preliminary to a request which I intended to submit for unanimous consent. The treaty has been read, but I do not make the request that the treaty be now considered.

#### ORDER OF BUSINESS

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

Mr. LONG. I will yield for a question only.

The VICE PRESIDENT. Let the Chair state the parliamentary situation. The unfinished business at the present time is the tariff bill. Any Senator may obtain the floor on the tariff bill.

Mr. HARRISON. Mr. President, a parliamentary inquiry.

The VICE PRESIDENT. The Senator will state it.

Mr. HARRISON. Under the unanimous-consent agreement, if any Senator obtains the floor now the time he consumes will be taken out of his time on the tariff bill?

The VICE PRESIDENT. He would have 20 minutes to discuss the bill and 15 minutes to discuss any amendment that might be pending, except the agricultural amendments upon which he would have 1 hour.

Mr. ASHURST. Mr. President, the last thing I would try to do, as the Senator from Louisiana knows, would be to deprive any Senator of the floor, and I could not do so if I wished. But there are one or two resolutions, rather formal in their nature and very important, which should be considered, one of which relates to procedure in impeachment trials. I inquire of the Senator from Louisiana if he will yield for 10 or 12 minutes so that we may endeavor to dispose of two resolutions which the Senator from South Carolina [Mr. BYRNES] desires to have considered and a resolution on the table for which I shall ask consideration?

Mr. LONG. If there is no objection to my yielding for that purpose and provided I do not lose the floor, I shall be glad to do that.

The VICE PRESIDENT. The Senator from Louisiana will be recognized when the unfinished business shall again be laid before the Senate.

#### INVESTIGATION OF RECEIVERSHIP AND BANKRUPTCY PROCEEDINGS

Mr. BYRNES. Mr. President, I ask unanimous consent for the immediate consideration of Senate Resolution 203.

The VICE PRESIDENT. Is there objection?

There being no objection, the Senate proceeded to consider the resolution (S.Res. 203) submitted by Mr. ASHURST, Mr. McADOO, Mr. VAN NUYS, Mr. HEBERT, and Mr. AUSTIN on the calendar day, March 8, 1934, and reported from the Committee to Audit and Control the Contingent Expenses of the Senate, with an amendment, in line 5, to strike out "\$20,000" and insert "\$10,000", so as to make the resolution read:

*Resolved*, That the special committee authorized and directed by Senate Resolution 78 on June 13, 1933, to investigate the administration of receivership and bankruptcy proceedings in the courts of the United States is hereby authorized to expend in furtherance of such purposes the sum of \$10,000 in addition to the amount heretofore authorized and expended.

The amendment was agreed to.

The resolution, as amended, was agreed to.

#### INVESTIGATION OF RELATIONSHIP BETWEEN CONTRACTORS AND EMPLOYEES

Mr. BYRNES. Mr. President, I ask unanimous consent for the immediate consideration of Senate Resolution 228, Calendar No. 1286.

The VICE PRESIDENT. Is there objection?

There being no objection, the Senate proceeded to consider the resolution (S.Res. 228) submitted by Mr. DAVIS and Mr. WALSH on the calendar day April 30, 1934, which had been reported from the Committee to Audit and Control the



Contingent Expenses of the Senate with amendments, on page 1, line 6, to strike out "District of Columbia" and insert "United States"; on page 2, line 2, after the word "racket", to strike out the word "and"; in line 5, after the word "abuses", to insert:

(4) If contractors paying the prevailing rate of wages are discriminated against or are unable to obtain contracts for the construction or repair of such buildings or works because of underbidding by contractors paying their employees, by reason of the so-called "kick-back racket" or other similar practice, wages at less than the prevailing rate, and (5) the existence of any other abuses affecting employees or employers engaged in the construction or repair of such buildings or works; and the requirements of employment, a practice known as the "kick-back racket", (3) ing for, and in securing employment.

In line 17, after the word "recommendations", to insert the words "for necessary legislation in connection therewith"; and on page 3, line 5, to strike out "\$25,000", and insert "\$15,000", so as to make the resolution read:

*Resolved*, That the Committee on Education and Labor, or any duly authorized subcommittee thereof, is authorized and directed to examine into the relationship existing between contractors and their employees engaged in the construction of any public building, public work, or building or work in the United States financed in whole or in part by loans or grants from the United States, or in the repair thereof, with a view to determining, (1) if such employees receive the prevailing rates of wages of building-trades workers, (2) if such employees are forced to give up any part of the compensation to which they are entitled under their contract of employment, a practice known as the "kick-back racket", (3) if such employees are discharged and refused further employment on such construction projects for protesting against such "kick-back racket" or other abuses, (4) if contractors paying the prevailing rate of wages are discriminated against or unable to obtain contracts for the construction or repair of such buildings or works because of underbidding by contractors paying their employees, by reason of the so-called "kick-back racket" or other similar practice, wages at less than the prevailing rate, and (5) the existence of any other abuses affecting employees or employers engaged in the construction or repair of such buildings or works; and the requirements of employees to organizations of employees or others in qualifying for, and in securing employment. The committee shall report to the Senate, as soon as practicable, the results of its investigation, together with its recommendations for necessary legislation in connection therewith.

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

The VICE PRESIDENT. The question is on agreeing to the amendments reported by the committee.

The amendments were agreed to.

Mr. McNARY. Mr. President, I inquire as to the status of the resolution.

Mr. BYRNES. Mr. President, the resolution was reported yesterday by the Committee to Audit and Control the Contingent Expenses of the Senate, it being a unanimous report. There are several amendments, one reducing the amount of the appropriation, recommended by the Committee on Education and Labor. The amendment is satisfactory to the authors of the resolution and was approved unanimously by the Committee to Audit and Control the Contingent Expenses of the Senate.

The resolution broadens the scope of the investigation beyond the District of Columbia and makes it apply to the United States as a whole. The resolution was introduced by the Senator from Massachusetts [Mr. WALSH] and the Senator from Pennsylvania [Mr. DAVIS].

Mr. WALSH. Mr. President, I hope the Senator from Oregon will not object.

Mr. McNARY. I am not going to object, but I want to know what we are about to do.

The VICE PRESIDENT. The question is on agreeing to the resolution as amended.

The resolution as amended was agreed to.

#### MESSAGES FROM THE PRESIDENT

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

#### PROCEDURE IN IMPEACHMENT TRIALS

Mr. ASHURST. Mr. President, I desire the attention of the Senator from Oregon [Mr. McNARY] as I ask the Senate to consider Senate Resolution 242, now on the calendar, being Calendar No. 1132, reported from the Committee on the Judiciary with an amendment. I ask that the resolution be read.

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

Mr. McNARY. Mr. President, let us have the resolution read first.

The VICE PRESIDENT. The resolution will be read.

The Chief Clerk read the resolution (S.Res. 242) submitted by Mr. ASHURST on the calendar day, May 17, 1934, and reported from the Committee on the Judiciary, with amendments, as follows:

*Resolved*, That in the trial of any impeachment the Presiding Officer of the Senate, upon the order of the Senate, shall appoint a committee of 12 Senators to receive evidence and take testimony at such times and places as the committee may determine, and for such purpose the committee so appointed and the chairman thereof, to be elected by the committee, shall (unless otherwise ordered by the Senate) exercise all the powers and functions conferred upon the Senate and the Presiding Officer of the Senate, respectively, under the rules of procedure and practice in the Senate when sitting on impeachment trials.

Unless otherwise ordered by the Senate, the rules of procedure and practice in the Senate when sitting on impeachment trials shall govern the procedure and practice of the committee so appointed. The committee so appointed shall report to the Senate in writing a certified copy of the transcript of the proceedings and testimony had and given before such committee, and such report shall be received by the Senate and the evidence so received and the testimony so taken shall be considered to all intents and purposes, subject to the right of the Senate to determine competency, relevancy, and materiality, as having been received and taken before the Senate, but nothing herein shall prevent the Senate from sending for any witness and hearing his testimony in open Senate, or by order of the Senate having the entire trial in open Senate.

Mr. ASHURST. I ask unanimous consent for the immediate consideration of the resolution.

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

Mr. ASHURST. Certainly.

Mr. COUZENS. Does not the Senator believe there ought to be a provision in the resolution forbidding the committee to make any recommendation to the Senate?

Mr. ASHURST. The Senator is correct. Frankness requires me to say that the resolution originally could have been construed to permit the committee to make recommendations, but the Senate Committee on the Judiciary struck out that language and inserted language which would not allow any recommendation to be made, but simply a report of the testimony, leaving it to the Senate and remitting to the Senate its power and right and sole authority to determine the questions of relevancy, materiality, and the weight of the evidence. The committee would make no recommendations.

Mr. COUZENS. I submit there is no such prohibition, as I understood the resolution when read.

Mr. ASHURST. I am sure no committee under the amended resolution would attempt to make a recommendation.

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

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

Mr. ASHURST. Certainly.

Mr. HEBERT. I was not present at the meeting of the Judiciary Committee when the resolution was considered. I do not want to say now that I am opposed to it, but it is my understanding that it need not change the existing procedure. In other words, unless the Senate sees fit to do so, it need not appoint such committee as is provided in the resolution.

Mr. ASHURST. The Senator is correct.

Mr. HEBERT. There is one point to which I wish to invite the attention of the Senator, and that is in relation to the number of members of the committee which is proposed. Under the present wording of the resolution unless 12 Senators be present at all times it will not be competent for the committee to take any testimony. It has seemed to me that there might be some provision in the resolution for fixing a minimum number of Senators to constitute a quorum. It must be apparent to every Senator that it might be extremely difficult to have all 12 members of the committee present all the time while testimony was being taken. It occurred to me that the Chairman of the Judiciary Committee might well consider the possibility of making a change in that respect.

Mr. NORRIS rose.

Mr. ASHURST. Mr. President, the Senator from Rhode Island said he was not present at the meeting of the committee when the resolution was considered. If that be true, and it is true if the Senator says so, that it is probably the only meeting of the committee the Senator ever missed, because we have no more assiduous, diligent, and able Senator than the Senator from Rhode Island.

Mr. HEBERT. I thank the Senator.

Mr. ASHURST. I yield now to the Senator from Nebraska.

Mr. NORRIS. Mr. President, I have been consulting with the chairman of the committee about this resolution. My idea is that since the Judiciary Committee has amended the resolution so as to make of this committee a simple committee to take evidence, without power to do anything else that the committee named in the resolution is entirely too large. There is not any use of having 12 members on a committee who have no jurisdiction even to make a recommendation to the Senate. They can only take the evidence and certify it to the Senate.

I think the membership ought to be smaller than the number that has been suggested. The chairman has suggested, and other Members have suggested, that the number ought to be reduced at least to eight, and I am about to make a motion to that effect. Before doing so I should like to say in answer to the Senator's suggestion that if they cannot all be there, that in my judgment—I should like to be corrected if I am wrong—general parliamentary law would apply to this committee, whatever might be its number. There would have to be a quorum there all the time; and unless we should provide how many members should constitute a quorum, a quorum would be a majority of the committee.

So I take it that whatever the number may be, they can continue to function and take evidence so long as there is a quorum of the committee present. If the membership were 12, a quorum would be 7. If there were 8 members of the committee, they could do business as long as 5 members were present.

Mr. ASHURST. Mr. President, so far as I possess the authority, I accept the amendment suggested by the Senator from Rhode Island and the Senator from Nebraska, as follows:

A committee of 8 Senators, of whom 5 shall constitute a quorum.

Mr. HEBERT. I think that would be satisfactory.

Mr. NORRIS. That would be satisfactory. There certainly is no objection to fixing the number of a quorum at 5. It would be 5 anyway if there were 8 members of the committee.

Mr. BORAH. Mr. President, before that matter is disposed of I should like to ask a question as to construction. Is it assumed that this committee will hear witnesses as well as take documentary testimony?

Mr. ASHURST. Yes, Mr. President.

Mr. BORAH. Then may I ask another question? Assuming that the party who is on trial calls for a rehearing—that is to say, calls for a hearing of all the witnesses before the Senate instead of before the committee—would he have the right to do that; and would it be necessary to have the witnesses heard again before the Senate?

Mr. ASHURST. Under order of the Senate the Senate could send for the same witness to give his testimony or

send for additional witnesses or all witnesses. There is no intention whatever to deprive the Senate or the respondent of the right at any time the Senate chooses to hear all the testimony in open Senate or any witness in open Senate.

Instead of taking the testimony in the open Senate with all Senators presumably present, the resolution remits the duty and task of taking testimony or any part thereof to a committee if the Senate so chooses; and before that may be done the Senate must make and enter the appropriate order in each particular case.

Mr. BORAH. It seems to me that under the rules of impeachment and the law with reference to impeachment, if the respondent should call for a hearing of all witnesses before the Senate, it would have to follow as a matter of right. He would be entitled to it upon a mere request on his part to have it.

Mr. ROBINSON of Arkansas. Mr. President—

Mr. ASHURST. I yield to the Senator from Arkansas.

Mr. ROBINSON of Arkansas. Why does the Senator from Idaho assume that if the respondent should insist upon being confronted with the witnesses he would have that right?

Mr. BORAH. My view is that the Senate is the body which tries the respondent, not a subcommittee or a committee of the Senate; and therefore the respondent would be entitled to a full trial in every respect before the entire Senate if he should ask for it.

Mr. ROBINSON of Arkansas. I should think the Senate would be the judge of whether it wished to hear the witnesses in person, or to take their testimony by deposition, or in some other way. The constitutional provision which gives to the accused in criminal cases the right to be confronted with the witnesses plainly, to my mind, does not apply in impeachment proceedings, because they are not criminal cases within the meaning of the Constitution.

Mr. NORRIS. The respondent would still have that privilege. He would be confronted with the witnesses before the committee.

Mr. BORAH. He would not be compelled to go before the committee at all.

Mr. NORRIS. All right. Then he would not have availed himself of the privilege.

Mr. ROBINSON of Arkansas. He would not be deprived of any right to which he is entitled.

Mr. BORAH. I do not agree with that proposition, because he would be entitled to stand upon his right to be tried by the entire Senate, and to have the full trial before the entire Senate. He might consent to go before the committee, but if he did not do so he would not waive any of his rights to have a full trial before the Senate.

Mr. ROBINSON of Arkansas. Mr. President, in my judgment, the taking of testimony by a committee constitutes a part of the trial by the Senate. Under the Constitution, the Senate, as one branch of the law-making body, is charged with the responsibility of enacting legislation. It proceeds uniformly through committees. If the Senate chooses to take the deposition of a witness rather than to compel the attendance of a witness, even under the old practice, that may be done.

Mr. BORAH. As I see the matter—I am not desirous of opposing the resolution; I am simply expressing my view—when the Senate becomes a body to try an impeachment, it is a court. It is no longer a Senate; and the Constitution provides that the respondent may be tried by this court, and this court only. Nothing less than the Senate is the court.

Mr. ROBINSON of Arkansas. But, if the Senator will permit me, the Constitution does not provide that the respondent shall be entitled to be confronted with the witnesses. That is the point I make. Many courts with which both the Senator from Idaho and I are familiar try cases upon written evidence when the witnesses never appear in person before the court. The tribunal is just as much a court, however, as if the witnesses appeared in person.

Mr. BORAH. My research, limited though it is, finds no precedent whatever for action of this kind. Under the provisions with reference to the trial of parties by the Senate, when it becomes a court, in my opinion, it must maintain



its integrity as a court in its fullness and its completeness. When the Senate sets up a court it must be regarded as a single entity. It might be that he would be entirely satisfied with the hearings before the committee; but, if he were not, I think he would have a right to call for a full hearing before the Senate.

Mr. LEWIS. Mr. President—

Mr. ASHURST. I yield to the Senator from Illinois.

Mr. LEWIS. Mr. President, my interest in this matter, as will appear from my statement, is not wholly casual. The public press reports that there are three judges sitting in the State of Illinois who are, it is assumed, under charges which are to be the basis of investigation by the House and by the Senate.

In view of the fact that I must indulge in their behalf the presumption of innocence which attends all men charged with offense until there is proof of their guilt, I desire to have it now understood, if the able Chairman of the Judiciary Committee can inform me, if proceedings looking to impeachment should be addressed to the judges concerning whom we read in the press that there is such a possibility, would those judges be allowed to be present? And then, keeping in view the statement of the Senator from Idaho, would the persons so charged be equally permitted the right to be ultimately heard before the whole Senate when the proceedings for review came before the body as a Court of Impeachment?

Mr. ASHURST. Mr. President, I answer the able Senator from Illinois as follows:

The respondent certainly would be entitled to be heard before the committee in person, by attorney, and to summon any witnesses he saw fit to have subpoenaed, to cross-examine all the witness for the prosecution, to have the testimony taken in shorthand and transcribed into printing or typewriting; and the respondent further would have the right to ask the Senate to hear one witness, or all of them, in open Senate, in accordance with our ancient practice; and the Senate then would determine whether it wished to hear these witnesses, or all of them, in open session.

Mr. LEWIS. I appreciate the reply of the Senator. May I ask the able Senator from Nebraska [Mr. NORRIS], now a member of the Judiciary Committee and previously its chairman, whether the view expressed by my able friend from Arizona meets with the approval of the former chairman of the committee?

Mr. NORRIS. Mr. President, I desire to call attention to the constitutional provisions which I have on my desk before me. If the Senator will yield for that purpose, I will do so now.

Mr. LEWIS. Yes; I shall be pleased to have the Senator do so in reply to my inquiry.

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

Mr. ASHURST. I yield, Mr. President.

Mr. NORRIS. The Constitution says:

The Senate shall have the sole power to try all impeachments. When sitting for that purpose, they shall be on oath or affirmation. When the President of the United States is tried, the Chief Justice shall preside; and no person shall be convicted without the concurrence of two-thirds of the Members present.

It says further—and I think this has an important bearing on this question:

Judgment in cases of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States; but the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment according to law.

I think we ought to distinguish an impeachment trial from an ordinary trial before a court.

It is a special proceeding set up by the Constitution, but we are not given power to render any judgment except that which is specified in the Constitution; that is to say, if we find the respondent guilty, to remove him from office, and, if we desire, declare that he shall never afterward be allowed to hold an office under the United States. We cannot convict him of a crime, or anything of that kind. It seems to me, therefore, that we can take the evidence in any way we see fit.

I think that when we provide that a committee shall take the evidence, if the respondent in the case desires to be present before the committee, to cross-examine witnesses, and so forth, that is where he ought to appear. It is said that perhaps he would not appear there, but he would have the privilege of appearing and being represented by an attorney, cross-examining the witnesses, or offering witnesses of his own.

In other words, we delegate to a committee the tedious task of taking the evidence, and that committee, under this resolution, would have no authority whatever even to make a recommendation. They would simply certify the evidence back to the Senate. I think the Senate could appoint an individual to take the evidence if it desired to do so. The trial of the case would take place in the Senate, the evidence would be offered here, and the Senate would pass on it.

If the Senate should decide to take this action, and if, notwithstanding the taking of the evidence by the committee, the accused would have the right to have it heard again in the Senate, we should not adopt the resolution, in my judgment. We would simply have two trials instead of one. After the trial before the committee, it would be tried again, if the accused so desired, in the Senate. I do not see any reason why the Senate cannot delegate to a committee the right to take the evidence and certify it to the Senate. It is in the Senate that the trial would take place.

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

Mr. NORRIS. I yield.

Mr. ASHURST. Of course, all Senators know that another body of Congress, when they consider an impeachment, refer the matter of taking testimony to a committee.

Mr. NORRIS. Yes.

Mr. ASHURST. The testimony is not taken in the House of Representatives.

Mr. ROBINSON of Arkansas. It is fair to say, however, that that is not a trial.

Mr. ASHURST. That is true.

Mr. ROBINSON of Arkansas. That is the process by which the House reaches its conclusion as to whether or not to impeach.

Mr. NORRIS. I think the object of the resolution is to avoid what always takes place in an impeachment trial before the Senate. There are times when there is not a quorum of the Senate present, when a dozen may not be here, when there are less than the number provided as the membership of the proposed committee to take the evidence. There is no use expecting all the Senate, or a quorum of the Senate, to be present every minute while evidence is being taken. Senators have to read the evidence in the Record in order to know what it is.

Mr. FLETCHER. Mr. President, if the Senator will allow me to suggest, I take it that if the accused desired to be heard, either in person or by counsel, before the full Senate, he would have that right.

Mr. NORRIS. The Senate would have the right to give him that privilege under the resolution.

Mr. FLETCHER. I think he would have that right.

Mr. NORRIS. I do not think he would have it as a matter of right if the Senate did not want to give him the privilege; but the resolution expressly provides, in order to avoid the possibility of doing anybody a wrong, that if the Senate wishes, it can give the respondent the privilege, or, upon its own motion, take any additional evidence.

Mr. HEBERT. Mr. President, may we have read the amendment now proposed?

The VICE PRESIDENT. The clerk will state the amendment.

The LEGISLATIVE CLERK. It is proposed, on page 1, line 3, after the word "of", to strike out the word "twelve" and to insert in lieu thereof the word "eight"; and after the word "Senators", to insert the words "of whom five shall constitute a quorum."

Mr. ASHURST. So far as I have any authority to do so, I accept the amendment, and ask for a vote on the resolution.

The VICE PRESIDENT. The resolution is not yet before the Senate. The Senator from Arizona asked unanimous

consent for the consideration of the resolution. The Senator from Oregon asked to have the resolution read. Since that time unanimous consent for the consideration of the resolution has not been given.

Mr. JOHNSON. Mr. President—

The VICE PRESIDENT. Does the Senator from Arizona yield to the Senator from California?

Mr. ASHURST. I yield.

Mr. JOHNSON. May I ask the Senator whether, if unanimous consent is had, he expects to proceed at once with the resolution? I should like to occupy 5 minutes on it if we are to proceed with it, but I do not want to take up any time if we are not to proceed with it.

Mr. ASHURST. I feel that it would be a trespass on the time of the Senate and on the courtesy of other Senators if I should ask for further debate on the subject. If the able Senator from California wishes to discuss it, of course, he has that right.

Mr. JOHNSON. I will not discuss it at length, I assure the Senator, but I would not take any time on it now unless we were going ahead with the matter.

Mr. ASHURST. I should like to secure action.

Mr. JOHNSON. I have no objection to the resolution being taken up.

Mr. ASHURST. I ask that the Senate proceed to the consideration of the resolution.

The VICE PRESIDENT. Is there objection?

Mr. McNARY. Mr. President—

Mr. ROBINSON of Arkansas. Mr. President, I shall reserve the right to object.

Mr. McNARY. There could not be consideration of the resolution at this time unless unanimous consent were given.

Mr. ASHURST. That is correct.

Mr. McNARY. I am not sure that it is appropriate to take it up today. Evidently it is going to lead to considerable debate.

Mr. ASHURST. If the resolution is to lead to debate, I respectfully withdraw the request.

#### REGULATION OF SECURITIES EXCHANGES—CONFERENCE REPORT (S.DOC. NO. 185)

Mr. FLETCHER. I submit a conference report on the securities exchanges bill and ask that it may lie on the table and be printed. I shall try to call the report up on tomorrow.

The VICE PRESIDENT. The report will be received, lie on the table, and be printed.

The report is as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 9323) to provide for the regulation of securities exchanges and of over-the-counter markets operating in interstate and foreign commerce and through the mails, to prevent inequitable and unfair practices on such exchanges and markets, 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 an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

#### "TITLE I—REGULATION OF SECURITIES EXCHANGES

##### "SHORT TITLE

"SECTION 1. This act may be cited as the 'Securities Exchange Act of 1934.'

##### "NECESSITY FOR REGULATION AS PROVIDED IN THIS TITLE

"SEC. 2. For the reasons hereinafter enumerated, transactions in securities as commonly conducted upon securities exchanges and over-the-counter markets are affected with a national public interest which makes it necessary to provide for regulation and control of such transactions and of practices and matters related thereto, including transactions by officers, directors, and principal security holders, to require appropriate reports, and to impose requirements necessary to

make such regulation and control reasonably complete and effective, in order to protect interstate commerce, the national credit, the Federal taxing power, to protect and make more effective the national banking system and Federal Reserve System, and to insure the maintenance of fair and honest markets in such transactions:

"(1) Such transactions (a) are carried on in large volume by the public generally and in large part originate outside the States in which the exchanges and over-the-counter markets are located and/or are effected by means of the mails and instrumentalities of interstate commerce; (b) constitute an important part of the current of interstate commerce; (c) involve in large part the securities of issuers engaged in interstate commerce; (d) involve the use of credit, directly affect the financing of trade, industry, and transportation in interstate commerce, and directly affect and influence the volume of interstate commerce; and affect the national credit.

"(2) The prices established and offered in such transactions are generally disseminated and quoted throughout the United States and foreign countries and constitute a basis for determining and establishing the prices at which securities are bought and sold, the amount of certain taxes owing to the United States and to the several States by owners, buyers, and sellers of securities, and the value of collateral for bank loans.

"(3) Frequently the prices of securities on such exchanges and markets are susceptible to manipulation and control, and the dissemination of such prices gives rise to excessive speculation, resulting in sudden and unreasonable fluctuations in the prices of securities which (a) cause alternately unreasonable expansion and unreasonable contraction of the volume of credit available for trade, transportation, and industry in interstate commerce, (b) hinder the proper appraisal of the value of securities and thus prevent a fair calculation of taxes owing to the United States and to the several States by owners, buyers, and sellers of securities, and (c) prevent the fair valuation of collateral for bank loans and/or obstruct the effective operation of the national banking system and Federal Reserve System.

"(4) National emergencies, which produce widespread unemployment and the dislocation of trade, transportation, and industry, and which burden interstate commerce and adversely affect the general welfare, are precipitated, intensified, and prolonged by manipulation and sudden and unreasonable fluctuations of security prices and by excessive speculation on such exchanges and markets, and to meet such emergencies the Federal Government is put to such great expense as to burden the national credit.

#### "DEFINITIONS AND APPLICATION OF TITLE

"SEC. 3. (a) When used in this title, unless the context otherwise requires—

"(1) The term 'exchange' means any organization, association, or group of persons, whether incorporated or unincorporated, which constitutes, maintains, or provides a market place or facilities for bringing together purchasers and sellers of securities or for otherwise performing with respect to securities the functions commonly performed by a stock exchange as that term is generally understood, and includes the market place and the market facilities maintained by such exchange.

"(2) The term 'facility' when used with respect to an exchange includes its premises, tangible or intangible property whether on the premises or not, any right to the use of such premises or property or any service thereof for the purpose of effecting or reporting a transaction on an exchange (including, among other things, any system of communication to or from the exchange, by ticker or otherwise, maintained by or with the consent of the exchange), and any right of the exchange to the use of any property or service.

"(3) The term 'member' when used with respect to an exchange means any person who is permitted either to effect transactions on the exchange without the services of another person acting as broker, or to make use of the facilities of an exchange for transactions thereon without payment of a



commission or fee or with the payment of a commission or fee which is less than that charged the general public, and includes any firm transacting a business as broker or dealer of which a member is a partner, and any partner of any such firm.

"(4) The term 'broker' means any person engaged in the business of effecting transactions in securities for the account of others, but does not include a bank.

"(5) The term 'dealer' means any person engaged in the business of buying and selling securities for his own account, through a broker or otherwise, but does not include a bank, or any person insofar as he buys or sells securities for his own account, either individually or in some fiduciary capacity, but not as a part of a regular business.

"(6) The term 'bank' means (A) a banking institution organized under the laws of the United States, (B) a member bank of the Federal Reserve System, (C) any other banking institution, whether incorporated or not, doing business under the laws of any State or of the United States, a substantial portion of the business of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to national banks under section 11 (k) of the Federal Reserve Act, as amended, and which is supervised and examined by State or Federal authority having supervision over banks, and which is not operated for the purpose of evading the provisions of this title, and (D) a receiver, conservator, or other liquidating agent of any institution or firm included in clauses (A), (B), or (C) of this paragraph.

"(7) The term 'director' means any director of a corporation or any person performing similar functions with respect to any organization, whether incorporated or unincorporated.

"(8) The term 'issuer' means any person who issues or proposes to issue any security; except that with respect to certificates of deposit for securities, voting-trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors or of the fixed, restricted management, or unit type, the term 'issuer' means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which such securities are issued; and except that with respect to equipment-trust certificates or like securities, the term 'issuer' means the person by whom the equipment or property is, or is to be, used.

"(9) The term 'person' means an individual, a corporation, a partnership, an association, a joint-stock company, a business trust, or an unincorporated organization.

"(10) The term 'security' means any note, stock, treasury stock, bond, debenture, certificate of interest or participation in any profit-sharing agreement or in any oil, gas, or other mineral royalty or lease, any collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit, for a security, or in general, any instrument commonly known as a 'security'; or any certificate of interest or participation in, temporary or interim certificate for, receipt for, or warrant or right to subscribe to or purchase, any of the foregoing; but shall not include currency or any note, draft, bill of exchange, or banker's acceptance which has a maturity at the time of issuance of not exceeding 9 months, exclusive of days of grace, or any renewal thereof the maturity of which is likewise limited.

"(11) The term 'equity security' means any stock or similar security; or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right; or any other security which the Commission shall deem to be of similar nature and consider necessary or appropriate, by such rules and regulations as it may prescribe in the public interest or for the protection of investors, to treat as an equity security.

"(12) The term 'exempted security' or 'exempted securities' shall include securities which are direct obligations of or obligations guaranteed as to principal or interest by the

United States; such securities issued or guaranteed by corporations in which the United States has a direct or indirect interest as shall be designated for exemption by the Secretary of the Treasury as necessary or appropriate in the public interest or for the protection of investors; securities which are direct obligations of or obligations guaranteed as to principal or interest by a State or any political subdivision thereof or any agency or instrumentality of a State or any political subdivision thereof or any municipal corporate instrumentality of one or more States; and such other securities (which may include, among others, unregistered securities, the market in which is predominantly intrastate) as the Commission may, by such rules and regulations as it deems necessary or appropriate in the public interest or for the protection of investors, either unconditionally or upon specified terms and conditions or for stated periods, exempt from the operation of any one or more provisions of this title which by their terms do not apply to an 'exempted security' or to 'exempted securities.'

"(13) The terms 'buy' and 'purchase' each include any contract to buy, purchase, or otherwise acquire.

"(14) The terms 'sale' and 'sell' each include any contract to sell or otherwise dispose of.

"(15) The term 'Commission' means the Securities and Exchange Commission established by section 4 of this title.

"(16) The term 'State' means any State of the United States, the District of Columbia, Alaska, Hawaii, Puerto Rico, the Philippine Islands, the Canal Zone, the Virgin Islands, or any other possession of the United States.

"(17) The term 'interstate commerce' means trade, commerce, transportation, or communication among the several States, or between any foreign country and any State, or between any State and any place or ship outside thereof.

"(b) The Commission and the Federal Reserve Board, as to matters within their respective jurisdictions, shall have power by rules and regulations to define technical, trade, and accounting terms used in this title insofar as such definitions are not inconsistent with the provisions of this title.

"(c) No provision of this title shall apply to, or be deemed to include, any executive department or independent establishment of the United States, or any lending agency which is wholly owned, directly or indirectly, by the United States, or any officer, agent, or employee of any such department, establishment, or agency, acting in the course of his official duty as such, unless such provision makes specific reference to such department, establishment, or agency.

#### " SECURITIES AND EXCHANGE COMMISSION

"SEC. 4. (a) There is hereby established a Securities and Exchange Commission (hereinafter referred to as the "Commission") to be composed of five commissioners to be appointed by the President by and with the advice and consent of the Senate. Not more than three of such commissioners shall be members of the same political party, and in making appointments members of different political parties shall be appointed alternately as nearly as may be practicable. No commissioner shall engage in any other business, vocation, or employment than that of serving as commissioner, nor shall any commissioner participate, directly or indirectly, in any stock-market operations or transactions of a character subject to regulation by the Commission pursuant to this title. Each commissioner shall receive a salary at the rate of \$10,000 a year and shall hold office for a term of 5 years, except that (1) any commissioner appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, shall be appointed for the remainder of such term, and (2) the terms of office of the commissioners first taking office after the date of enactment of this title shall expire, as designated by the President at the time of nomination, 1 at the end of 1 year, 1 at the end of 2 years, 1 at the end of 3 years, 1 at the end of 4 years, and 1 at the end of 5 years, after the date of enactment of this title.

"(b) The Commission is authorized to appoint and fix the compensation of such officers, attorneys, examiners, and other experts as may be necessary for carrying out its func-



tions under this act, without regard to the provisions of other laws applicable to the employment and compensation of officers and employees of the United States, and the Commission may, subject to the civil-service laws, appoint such other officers and employees as are necessary in the execution of its functions and fix their salaries in accordance with the Classification Act of 1923, as amended.

#### "TRANSACTIONS ON UNREGISTERED EXCHANGES"

"SEC. 5. It shall be unlawful for any broker, dealer, or exchange, directly or indirectly, to make use of the mails or any means or instrumentality of interstate commerce for the purpose of using any facility of an exchange within or subject to the jurisdiction of the United States to effect any transaction in a security, or to report any such transaction, unless such exchange (1) is registered as a national securities exchange under section 6 of this title, or (2) is exempted from such registration upon application by the exchange because, in the opinion of the Commission, by reason of the limited volume of transactions effected on such exchange, it is not practicable and not necessary or appropriate in the public interest or for the protection of investors to require such registration.

#### "REGISTRATION OF NATIONAL SECURITIES EXCHANGES"

"SEC. 6. (a) Any exchange may be registered with the Commission as a national securities exchange under the terms and conditions hereinafter provided in this section, by filing a registration statement in such form as the Commission may prescribe, containing the agreements, setting forth the information, and accompanied by the documents, below specified:

"(1) An agreement (which shall not be construed as a waiver of any constitutional right or any right to contest the validity of any rule or regulation) to comply, and to enforce so far as is within its powers compliance by its members, with the provisions of this title, and any amendment thereto and any rule or regulation made or to be made thereunder;

"(2) Such data as to its organization, rules of procedure, and membership, and such other information as the Commission may by rules and regulations require as being necessary or appropriate in the public interest or for the protection of investors;

"(3) Copies of its constitution, articles of incorporation with all amendments thereto, and of its existing bylaws or rules or instruments corresponding thereto, whatever the name, which are hereinafter collectively referred to as the 'rules of the exchange'; and

"(4) An agreement to furnish to the Commission copies of any amendments to the rules of the exchange forthwith upon their adoption.

"(b) No registration shall be granted or remain in force unless the rules of the exchange include provision for the expulsion, suspension, or disciplining of a member for conduct or proceeding inconsistent with just and equitable principles of trade, and declare that the willful violation of any provisions of this title or any rule or regulation thereunder shall be considered conduct or proceeding inconsistent with just and equitable principles of trade.

"(c) Nothing in this title shall be construed to prevent any exchange from adopting and enforcing any rule not inconsistent with this title and the rules and regulations thereunder and the applicable laws of the State in which it is located.

"(d) If it appears to the Commission that the exchange applying for registration is so organized as to be able to comply with the provisions of this title and the rules and regulations thereunder and that the rules of the exchange are just and adequate to insure fair dealing and to protect investors, the Commission shall cause such exchange to be registered as a national securities exchange.

"(e) Within 30 days after the filing of the application, the Commission shall enter an order either granting or, after appropriate notice and opportunity for hearing, denying registration as a national securities exchange, unless the exchange applying for registration shall withdraw its application or consent to the Commission's deferring action

on its application for a stated longer period after the date of filing. The filing with the Commission of an application for registration by an exchange shall be deemed to have taken place upon the receipt thereof. Amendments to an application may be made upon such terms as the Commission may prescribe.

"(f) An exchange may, upon appropriate application in accordance with the rules and regulations of the Commission, and upon such terms as the Commission may deem necessary for the protection of investors, withdraw its registration.

#### "MARGIN REQUIREMENTS"

"SEC. 7. (a) For the purpose of preventing the excessive use of credit for the purchase or carrying of securities, the Federal Reserve Board shall, prior to the effective date of this section and from time to time thereafter, prescribe rules and regulations with respect to the amount of credit that may be initially extended and subsequently maintained on any security (other than an exempted security) registered on a national securities exchange. For the initial extension of credit, such rules and regulations shall be based upon the following standard: An amount not greater than whichever is the higher of—

"(1) 55 percent of the current market price of the security, or

"(2) 100 percent of the lowest market price of the security during the preceding 36 calendar months, but not more than 75 percent of the current market price.

Such rules and regulations may make appropriate provision with respect to the carrying of undermargined accounts for limited periods and under specified conditions; the withdrawal of funds or securities; the substitution or additional purchases of securities; the transfer of accounts from one lender to another; special or different margin requirements for delayed deliveries, short sales, arbitrage transactions, and securities to which paragraph (2) of this subsection does not apply; the bases and the methods to be used in calculating loans, and margins and market prices; and similar administrative adjustments and details. For the purposes of paragraph (2) of this subsection, until July 1, 1936, the lowest price at which a security has sold on or after July 1, 1933, shall be considered as the lowest price at which such security has sold during the preceding 36 calendar months.

"(b) Notwithstanding the provisions of subsection (a) of this section, the Federal Reserve Board, may, from time to time, with respect to all or specified securities or transactions, or classes of securities, or classes of transactions, by such rules and regulations (1) prescribe such lower margin requirement for the initial extension or maintenance of credit as it deems necessary or appropriate for the accommodation of commerce and industry, having due regard to the general credit situation of the country, and (2) prescribe such higher margin requirements for the initial extension or maintenance of credit as it may deem necessary or appropriate to prevent the excessive use of credit to finance transactions in securities.

"(c) It shall be unlawful for any member of a national securities exchange or any broker or dealer who transacts a business in securities through the medium of any such member, directly or indirectly to extend or maintain credit or arrange for the extension or maintenance of credit to or for any customer—

"(1) On any security (other than an exempted security) registered on a national securities exchange, in contravention of the rules and regulations which the Federal Reserve Board shall prescribe under subsections (a) and (b) of this section.

"(2) Without collateral or on any collateral other than exempted securities and/or securities registered upon a national securities exchange except in accordance with such rules and regulations as the Federal Reserve Board may prescribe (A) to permit under specified conditions and for a limited period any such member, broker, or dealer to maintain a credit initially extended in conformity with the rules and regulations of the Federal Reserve Board, and (B) to



permit the extension or maintenance of credit in cases where the extension or maintenance of credit is not for the purpose of purchasing or carrying securities or of evading or circumventing the provisions of paragraph (1) of this subsection.

"(d) It shall be unlawful for any person not subject to subsection (c) to extend or maintain credit or to arrange for the extension or maintenance of credit for the purpose of purchasing or carrying any security registered on a national securities exchange, in contravention of such rules and regulations as the Federal Reserve Board shall prescribe to prevent the excessive use of credit for the purchasing or carrying of or trading in securities in circumvention of the other provisions of this section. Such rules and regulations may impose upon all loans made for the purpose of purchasing or carrying securities registered on national securities exchanges limitations similar to those imposed upon members, brokers, or dealers by subsection (c) of this section and the rules and regulations thereunder. This subsection and the rules and regulations thereunder shall not apply (A) to a loan made by a person not in the ordinary course of his business, (B) to a loan on an exempted security, (C) to a loan to a dealer to aid in the financing of the distribution of securities to customers not through the medium of a national securities exchange, (D) to a loan by a bank on a security other than an equity security, or (E) to such other loans as the Federal Reserve Board shall, by such rules and regulations as it may deem necessary or appropriate in the public interest or for the protection of investors, exempt, either unconditionally or upon specified terms and conditions or for stated periods, from the operation of this subsection and the rules and regulations thereunder.

"(e) The provisions of this section or the rules and regulations thereunder shall not apply on or before July 1, 1937, to any loan or extension of credit made prior to the enactment of this title or to the maintenance, renewal, or extension of any such loan or credit, except to the extent that the Federal Reserve Board may by rules and regulations prescribe as necessary to prevent the circumvention of the provisions of this section or the rules and regulations thereunder by means of withdrawals of funds or securities, substitutions of securities, or additional purchases or by any other device.

#### "RESTRICTIONS ON BORROWING BY MEMBERS, BROKERS, AND DEALERS

"Sec. 8. It shall be unlawful for any member of a national securities exchange, or any broker or dealer who transacts a business in securities through the medium of any such member, directly or indirectly—

"(a) To borrow in the ordinary course of business as a broker or dealer on any security (other than an exempted security) registered on a national securities exchange except (1) from or through a member bank of the Federal Reserve System, (2) from any nonmember bank which shall have filed with the Federal Reserve Board an agreement, which is still in force and which is in the form prescribed by the Board, undertaking to comply with all provisions of this act, the Federal Reserve Act, as amended, and the Banking Act of 1933, which are applicable to member banks and which relate to the use of credit to finance transactions in securities, and with such rules and regulations as may be prescribed pursuant to such provisions of law or for the purpose of preventing evasions thereof, or (3) in accordance with such rules and regulations as the Federal Reserve Board may prescribe to permit loans between such members and/or brokers and/or dealers, or to permit loans to meet emergency needs. Any such agreement filed with the Federal Reserve Board shall be subject to termination at any time by order of the Board, after appropriate notice and opportunity for hearing, because of any failure by such bank to comply with the provisions thereof or with such provisions of law or rules or regulations; and, for any willful violation of such agreement, such bank shall be subject to the penalties provided for violations of rules and regulations prescribed under this title. The provisions of sections 21 and 25 of this title shall apply in the case of any such proceeding

or order of the Federal Reserve Board in the same manner as such provisions apply in the case of proceedings and orders of the Commission.

"(b) To permit in the ordinary course of business as a broker his aggregate indebtedness to all other persons, including customers' credit balances (but excluding indebtedness secured by exempted securities), to exceed such percentage of the net capital (exclusive of fixed assets and value of exchange membership) employed in the business, but not exceeding in any case 2,000 percent, as the Commission may by rules and regulations prescribe as necessary or appropriate in the public interest or for the protection of investors.

"(c) In contravention of such rules and regulations as the Commission shall prescribe for the protection of investors to hypothecate or arrange for the hypothecation of any securities carried for the account of any customer under circumstances (1) that will permit the commingling of his securities without his written consent with the securities of any other customer, (2) that will permit such securities to be commingled with the securities of any person other than a bona fide customer, or (3) that will permit such securities to be hypothecated, or subjected to any lien or claim of the pledgee, for a sum in excess of the aggregate indebtedness of such customers in respect of such securities.

"(d) To lend or arrange for the lending of any securities carried for the account of any customer without the written consent of such customer.

#### "PROHIBITION AGAINST MANIPULATION OF SECURITY PRICES

"Sec. 9. (a) It shall be unlawful for any person, directly or indirectly, by the use of the mails or any means or instrumentality of interstate commerce, or of any facility of any national securities exchange, or for any member of a national securities exchange—

"(1) For the purpose of creating a false or misleading appearance of active trading in any security registered on a national securities exchange, or a false or misleading appearance with respect to the market for any such security, (A) to effect any transaction in such security which involves no change in the beneficial ownership thereof, or (B) to enter an order or orders for the purchase of such security with the knowledge that an order or orders of substantially the same size, at substantially the same time, and at substantially the same price, for the sale of any such security, has been or will be entered by or for the same or different parties, or (C) to enter any order or orders for the sale of any such security with the knowledge that an order or orders of substantially the same size, at substantially the same time, and at substantially the same price, for the purchase of such security, has been or will be entered by or for the same or different parties.

"(2) To effect, alone or with one or more other persons, a series of transactions in any security registered on a national securities exchange creating actual or apparent active trading in such security, or raising or depressing the price of such security, for the purpose of inducing the purchase or sale of such security by others.

"(3) If a dealer or broker, or other person selling or offering for sale or purchasing or offering to purchase the security, to induce the purchase or sale of any security registered on a national securities exchange by the circulation or dissemination in the ordinary course of business of information to the effect that the price of any such security will or is likely to rise or fall because of market operations of any one or more persons conducted for the purpose of raising or depressing the price of such security.

"(4) If a dealer or broker, or other person selling or offering for sale or purchasing or offering to purchase the security, to make, regarding any security registered on a national securities exchange, for the purpose of inducing the purchase or sale of such security, any statement which was at the time and in the light of the circumstances under which it was made, false or misleading with respect to any material fact, and which he knew or had reasonable ground to believe was so false or misleading.



"(5) For a consideration, received directly or indirectly from a dealer or broker, or other person selling or offering for sale or purchasing or offering to purchase the security, to induce the purchase or sale of any security registered on a national securities exchange by the circulation or dissemination of information to the effect that the price of any such security will or is likely to rise or fall because of the market operations of any one or more persons conducted for the purpose of raising or depressing the price of such security.

"(6) To effect either alone or with one or more other persons any series of transactions for the purchase and/or sale of any security registered on a national securities exchange for the purpose of pegging, fixing, or stabilizing the price of such security in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

"(b) It shall be unlawful for any person to effect, by use of any facility of a national securities exchange, in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors—

"(1) Any transaction in connection with any security whereby any party to such transaction acquires any put, call, straddle, or other option or privilege of buying the security from or selling the security to another without being bound to do so; or

"(2) Any transaction in connection with any security with relation to which he has, directly or indirectly, any interest in any such put, call, straddle, option, or privilege; or

"(3) Any transaction in any security for the account of any person who he has reason to believe has, and who actually has, directly or indirectly, any interest in any such put, call, straddle, option, or privilege with relation to such security.

"(c) It shall be unlawful for any member of a national securities exchange directly or indirectly to endorse or guarantee the performance of any put, call, straddle, option, or privilege in relation to any security registered on a national securities exchange, in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

"(d) The terms 'put', 'call', 'straddle', 'option', or 'privilege' as used in this section shall not include any registered warrant, right, or convertible security.

"(e) Any person who willfully participates in any act or transaction in violation of subsection (a), (b), or (c) of this section, shall be liable to any person who shall purchase or sell any security at a price which was affected by such act or transaction, and the person so injured may sue in law or in equity in any court of competent jurisdiction to recover the damages sustained as a result of any such act or transaction. In any such suit the court may, in its discretion, require an undertaking for the payment of the costs of such suit, and assess reasonable costs, including reasonable attorneys' fees, against either party litigant. Every person who becomes liable to make any payment under this subsection may recover contribution as in cases of contract from any person who, if joined in the original suit, would have been liable to make the same payment. No action shall be maintained to enforce any liability created under this section, unless brought within 1 year after the discovery of the facts constituting the violation and within 3 years after such violation.

"(f) The provisions of this section shall not apply to an exempted security.

#### "REGULATION OF THE USE OF MANIPULATIVE AND DECEPTIVE DEVICES"

"Sec. 10. It shall be unlawful for any person, directly or indirectly, by the use of any means or instrumentality of interstate commerce or of the mails, or of any facility of any national securities exchange—

"(a) To effect a short sale, or to use or employ any stop-loss order in connection with the purchase or sale, of any security registered on a national securities exchange, in con-

travention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

"(b) To use or employ, in connection with the purchase or sale of any security registered on a national securities exchange or any security not so registered, any manipulative or deceptive device or contrivance in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

#### "SEGREGATION AND LIMITATION OF FUNCTIONS OF MEMBERS, BROKERS, AND DEALERS"

"SEC. 11. (a) The Commission shall prescribe such rules and regulations as it deems necessary or appropriate in the public interest or for the protection of investors, (1) to regulate or prevent floor trading by members of national securities exchanges, directly or indirectly for their own account or for discretionary accounts, and (2) to prevent such excessive trading on the exchange but off the floor by members, directly or indirectly for their own account, as the Commission may deem detrimental to the maintenance of a fair and orderly market. It shall be unlawful for a member to effect any transaction in a security in contravention of such rules and regulations, but such rules and regulations may make such exemptions for arbitrage transactions, for transactions in exempted securities, and, within the limitations of subsection (b) of this section, for transactions by odd-lot dealers and specialists, as the Commission may deem necessary or appropriate in the public interest or for the protection of investors.

"(b) When not in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors, the rules of a national securities exchange may permit (1) a member to be registered as an odd-lot dealer and as such to buy and sell for his own account so far as may be reasonably necessary to carry on such odd-lot transactions, and/or (2) a member to be registered as a specialist. If under the rules and regulations of the Commission a specialist is permitted to act as a dealer, or is limited to acting as a dealer, such rules and regulations shall restrict his dealings so far as practicable to those reasonably necessary to permit him to maintain a fair and orderly market, and/or to those necessary to permit him to act as an odd-lot dealer if the rules of the exchange permit him to act as an odd-lot dealer. It shall be unlawful for a specialist or an official of the exchange to disclose information in regard to orders placed with such specialist which is not available to all members of the exchange, to any person other than an official of the exchange, a representative of the Commission, or a specialist who may be acting for such specialist; but the Commission shall have power to require disclosure to all members of the exchange of all orders placed with specialists, under such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors. It shall also be unlawful for a specialist acting as a broker to effect on the exchange any transaction except upon a market or limited price order.

"(c) If because of the limited volume of transactions effected on an exchange, it is in the opinion of the Commission impracticable and not necessary or appropriate in the public interest or for the protection of investors to apply any of the foregoing provisions of this section or the rules and regulations thereunder, the Commission shall have power, upon application of the exchange and on a showing that the rules of such exchange are otherwise adequate for the protection of investors, to exempt such exchange and its members from any such provision or rules and regulations.

"(d) It shall be unlawful for a member of a national securities exchange who is both a dealer and a broker, or for any person who both as a broker and a dealer transacts a business in securities through the medium of a member or otherwise, to effect through the use of any facility of a national securities exchange or of the mails or of any means or instrumentality of interstate commerce, or otherwise in



the case of a member, (1) any transaction in connection with which, directly or indirectly, he extends or maintains or arranges for the extension or maintenance of credit to or for a customer on any security (other than an exempted security) which was a part of a new issue in the distribution of which he participated as a member of a selling syndicate or group within 6 months prior to such transaction: *Provided*, That credit shall not be deemed extended by reason of a bona fide delayed delivery of any such security against full payment of the entire purchase price thereof upon such delivery within 35 days after such purchase, or (2) any transaction with respect to any security (other than an exempted security) unless, if the transaction is with a customer, he discloses to such customer in writing at or before the completion of the transaction whether he is acting as a dealer for his own account, as a broker for such customer, or as a broker for some other person.

"(e) The Commission is directed to make a study of the feasibility and advisability of the complete segregation of the functions of dealer and broker, and to report the results of its study and its recommendations to the Congress on or before January 3, 1936.

#### "REGISTRATION REQUIREMENTS FOR SECURITIES

"Sec. 12. (a) It shall be unlawful for any member, broker, or dealer to effect any transaction in any security (other than an exempted security) on a national securities exchange unless a registration is effective as to such security for such exchange in accordance with the provisions of this title and the rules and regulations thereunder.

"(b) A security may be registered on a national securities exchange by the issuer filing an application with the exchange (and filing with the Commission, such duplicate originals thereof as the Commission may require), which application shall contain—

"(1) Such information, in such detail, as to the issuer and any person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the issuer, and any guarantor of the security as to principal or interest or both, as the Commission may by rules and regulations require, as necessary or appropriate in the public interest or for the protection of investors, in respect of the following:

"(A) the organization, financial structure and nature of the business;

"(B) the terms, position, rights, and privileges of the different classes of securities outstanding;

"(C) the terms on which their securities are to be, and during the preceding 3 years have been, offered to the public or otherwise;

"(D) the directors, officers, and underwriters, and each security holder of record holding more than 10 percent of any class of any equity security of the issuer (other than an exempted security), their remuneration and their interests in the securities of, and their material contracts with, the issuer and any person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the issuer;

"(E) remuneration to others than directors and officers exceeding \$20,000 per annum;

"(F) bonus and profit-sharing arrangements;

"(G) management and service contracts;

"(H) options existing or to be created in respect of their securities;

"(I) balance sheets for not more than the 3 preceding fiscal years, certified if required by the rules and regulations of the Commission by independent public accountants;

"(J) profit and loss statements for not more than the 3 preceding fiscal years, certified if required by the rules and regulations of the Commission by independent public accountants; and

"(K) any further financial statements which the Commission may deem necessary or appropriate for the protection of investors.

"(2) Such copies of articles of incorporation, bylaws, trust indentures, or corresponding documents by whatever name known, underwriting arrangements, and other similar docu-

ments of, and voting trust agreements with respect to, the issuer and any person directly or indirectly controlling or controlled by, or under direct or indirect common control with, the issuer as the Commission may require as necessary or appropriate for the proper protection of investors and to insure fair dealing in the security.

"(c) If in the judgment of the Commission any information required under subsection (b) is inapplicable to any specified class or classes of issuers, the Commission shall require in lieu thereof the submission of such other information of comparable character as it may deem applicable to such class of issuers.

"(d) If the exchange authorities certify to the Commission that the security has been approved by the exchange for listing and registration, the registration shall become effective 30 days after the receipt of such certification by the Commission or within such shorter period of time as the Commission may determine. A security registered with a national securities exchange may be withdrawn or stricken from listing and registration in accordance with the rules of the exchange and, upon such terms as the Commission may deem necessary to impose for the protection of investors, upon application by the issuer or the exchange to the Commission; whereupon the issuer shall be relieved from further compliance with the provisions of this section and section 13 of this title and any rules or regulations under such sections as to the securities so withdrawn or stricken.

"An unissued security may be registered only in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors. Such rules and regulations shall limit the registration of an unissued security to cases where such security is a right or the subject of a right to subscribe or otherwise acquire such security granted to holders of a previously registered security and where the primary purpose of such registration is to distribute such unissued security to such holders.

"(e) Notwithstanding the foregoing provisions of this section, the Commission may by such rules and regulations as it deems necessary or appropriate in the public interest or for the protection of investors permit securities listed on any exchange at the time the registration of such exchange as a national securities exchange becomes effective, to be registered for a period ending not later than July 1, 1935, without complying with the provisions of this section.

"(f) The Commission is directed to make a study of trading in unlisted securities upon exchanges and to report the results of its study and its recommendations to Congress on or before January 3, 1936. Notwithstanding the foregoing provisions of this section, the Commission may, by such rules and regulations as it deems necessary or appropriate for the protection of investors, prescribe terms and conditions under which, upon the application of any national securities exchange, such exchange (1) may continue until June 1, 1936, unlisted trading privileges to which a security had been admitted on such exchange prior to March 1, 1934, and for such purpose exempt such security and the issuer thereof from the provisions of this section and sections 13 and 16, or (2) may extend until July 1, 1935, unlisted trading privilege to any security registered on any other national securities exchange which security was listed on such other exchange on March 1, 1934.

"A security for which unlisted trading privileges are so continued shall be considered a 'security registered on a national securities exchange' within the meaning of this title. The rules and regulations of the Commission relating to such unlisted trading privileges for securities shall require that quotations of transactions upon any national securities exchange shall clearly indicate the difference between fully listed securities and securities admitted to unlisted trading privileges only.

#### "PERIODICAL AND OTHER REPORTS

"Sec. 13. (a) Every issuer of a security registered on a national securities exchange shall file the information, documents, and reports below specified with the exchange (and shall file with the Commission such duplicate originals



thereof as the Commission may require), in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate for the proper protection of investors and to insure fair dealing in the security—

"(1) Such information and documents as the Commission may require to keep reasonably current the information and documents filed pursuant to section 12.

"(2) Such annual reports, certified if required by the rules and regulations of the Commission by independent public accountants, and such quarterly reports, as the Commission may prescribe.

"(b) The Commission may prescribe, in regard to reports made pursuant to this title, the form or forms in which the required information shall be set forth, the items or details to be shown in the balance sheet and the earning statement, and the methods to be followed in the preparation of reports, in the appraisal or valuation of assets and liabilities, in the determination of depreciation and depletion, in the differentiation of recurring and nonrecurring income, in the differentiation of investment and operating income, and in the preparation, where the Commission deems it necessary or desirable, of separate and/or consolidated balance sheets or income accounts of any person directly or indirectly controlling or controlled by the issuer, or any person under direct or indirect common control with the issuer; but in the case of the reports of any person whose methods of accounting are prescribed under the provisions of any law of the United States, or any rule or regulation thereunder, the rules and regulations of the Commission with respect to reports shall not be inconsistent with the requirements imposed by such law or rule or regulation in respect of the same subject matter, and, in the case of carriers subject to the provisions of section 20 of the Interstate Commerce Act, as amended, or carriers required pursuant to any other act of Congress to make reports of the same general character as those required under such section 20, shall permit such carriers to file with the Commission and the exchange duplicate copies of the reports and other documents filed with the Interstate Commerce Commission, or with the governmental authority administering such other act of Congress, in lieu of the reports, information, and documents required under this section and section 12 in respect of the same subject matter.

"(c) If in the judgment of the Commission any report required under subsection (a) is inapplicable to any specified class or classes of issuers, the Commission shall require in lieu thereof the submission of such reports of comparable character as it may deem applicable to such class or classes of issuers.

#### " PROXIES

"SEC. 14. (a) It shall be unlawful for any person, by the use of the mails or by any means or instrumentality of interstate commerce or of any facility of any national securities exchange or otherwise to solicit or to permit the use of his name to solicit any proxy or consent or authorization in respect of any security (other than an exempted security) registered on any national securities exchange in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

"(b) It shall be unlawful for any member of a national securities exchange or any broker or dealer who transacts a business in securities through the medium of any such member to give a proxy, consent, or authorization in respect of any security registered on a national securities exchange and carried for the account of a customer in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

#### " OVER-THE-COUNTER MARKETS

"SEC. 15. It shall be unlawful, in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest and to insure to investors protection comparable to that provided by and under authority of this title in the case of national securi-

ties exchanges, (1) for any broker or dealer, singly or with any other person or persons, to make use of the mails or any means or instrumentality of interstate commerce for the purpose of making or creating, or enabling another to make or create, a market, otherwise than on a national securities exchange, for both the purchase and sale of any security (other than an exempted security or commercial paper, bankers' acceptances, or commercial bills, or unregistered securities the market in which is predominantly intrastate and which have not previously been registered or listed), or (2) for any broker or dealer to use any facility of any such market. Such rules and regulations may provide for the regulation of all transactions by brokers and dealers on any such market, for the registration with the Commission of dealers and/or brokers making or creating such a market, and for the registration of the securities for which they make or create a market and may make special provision with respect to securities or specified classes thereof listed, or entitled to unlisted trading privileges, upon any exchange on the date of the enactment of this title, which securities are not registered under the provisions of section 12 of this title.

#### " DIRECTORS, OFFICERS, AND PRINCIPAL STOCKHOLDERS

"SEC. 16. (a) Every person who is directly or indirectly the beneficial owner of more than 10 percent of any class of any equity security (other than an exempted security) which is registered on a national securities exchange, or who is a director or an officer of the issuer of such security, shall file, at the time of the registration of such security or within 10 days after he becomes such beneficial owner, director, or officer, a statement with the exchange (and a duplicate original thereof with the Commission) of the amount of all equity securities of such issuer of which he is the beneficial owner, and within 10 days after the close of each calendar month thereafter, if there has been any change in such ownership during such month, shall file with the exchange a statement (and a duplicate original thereof with the Commission) indicating his ownership at the close of the calendar month and such changes in his ownership as have occurred during such calendar month.

"(b) For the purpose of preventing the unfair use of information which may have been obtained by such beneficial owner, director, or officer by reason of his relationship to the issuer, any profit realized by him from any purchase and sale, or any sale and purchase, of any equity security of such issuer (other than an exempted security) within any period of less than 6 months, unless such security was acquired in good faith in connection with a debt previously contracted, shall inure to and be recoverable by the issuer, irrespective of any intention on the part of such beneficial owner, director, or officer in entering into such transaction of holding the security purchased or of not repurchasing the security sold for a period exceeding 6 months. Suit to recover such profit may be instituted at law or in equity in any court of competent jurisdiction by the issuer, or by the owner of any security of the issuer in the name and in behalf of the issuer if the issuer shall fail or refuse to bring such suit within 60 days after request or shall fail diligently to prosecute the same thereafter; but no such suit shall be brought more than 2 years after the date such profit was realized. This subsection shall not be construed to cover any transaction where such beneficial owner was not such both at the time of the purchase and sale, or the sale and purchase, of the security involved, or any transaction or transactions which the Commission by rules and regulations may exempt as not comprehended within the purpose of this subsection.

"(c) It shall be unlawful for any such beneficial owner, director, or officer, directly or indirectly, to sell any equity security of such issuer (other than an exempted security), if the person selling the security or his principal (1) does not own the security sold, or (2) if owning the security, does not deliver it against such sale within 20 days thereafter, or does not within 5 days after such sale deposit it in the mails or other usual channels of transportation; but no person shall be deemed to have violated this subsection if he proves



that notwithstanding the exercise of good faith he was unable to make such delivery or deposit within such time, or that to do so would cause undue inconvenience or expense.

"(d) The provisions of this section shall not apply to foreign or domestic arbitrage transactions unless made in contravention of such rules and regulations as the Commission may adopt in order to carry out the purposes of this section.

"ACCOUNTS AND RECORDS, REPORTS, EXAMINATIONS OF EXCHANGES, MEMBERS, AND OTHERS

"SEC. 17. (a) Every national securities exchange, every member thereof, every broker or dealer who transacts a business in securities through the medium of any such member, and every broker or dealer making or creating a market for both the purchase and sale of securities through the use of the mails or of any means or instrumentality of interstate commerce, shall make, keep, and preserve for such periods, such accounts, correspondence, memoranda, papers, books, and other records, and make such reports, as the Commission by its rules and regulations may prescribe as necessary or appropriate in the public interest or for the protection of investors. Such accounts, correspondence, memoranda, papers, books, and other records shall be subject at any time or from time to time to such reasonable periodic, special, or other examinations by examiners or other representatives of the Commission as the Commission may deem necessary or appropriate in the public interest or for the protection of investors.

"(b) Any broker, dealer, or other person extending credit who is subject to the rules and regulations prescribed by the Federal Reserve Board pursuant to this title shall make such reports to the Board as it may require as necessary or appropriate to enable it to perform the functions conferred upon it by this title. If any such broker, dealer, or other person shall fail to make any such report or fail to furnish full information therein, or, if in the judgment of the Board it is otherwise necessary, such broker, dealer, or other person shall permit such inspections to be made by the Board with respect to the business operations of such broker, dealer, or other person as the Board may deem necessary to enable it to obtain the required information.

"LIABILITY FOR MISLEADING STATEMENTS

"SEC. 18. (a) Any person who shall make or cause to be made any statement in any application, report, or document filed pursuant to this title or any rule or regulation thereunder, which statement was at the time and in the light of the circumstances under which it was made false or misleading with respect to any material fact, shall be liable to any person (not knowing that such statement was false or misleading) who, in reliance upon such statement, shall have purchased or sold a security at a price which was affected by such statement, for damages caused by such reliance, unless the person sued shall prove that he acted in good faith and had no knowledge that such statement was false or misleading. A person seeking to enforce such liability may sue at law or in equity in any court of competent jurisdiction. In any such suit the court may, in its discretion, require an undertaking for the payment of the costs of such suit, and assess reasonable costs, including reasonable attorneys' fees, against either party litigant.

"(b) Every person who becomes liable to make payment under this section may recover contribution as in cases of contract from any person who, if joined in the original suit, would have been liable to make the same payment.

"(c) No action shall be maintained to enforce any liability created under this section unless brought within 1 year after the discovery of the facts constituting the cause of action and within 3 years after such cause of action accrued.

"POWERS WITH RESPECT TO EXCHANGES AND SECURITIES

"SEC. 19. (a) The Commission is authorized, if in its opinion such action is necessary or appropriate for the protection of investors—

"(1) After appropriate notice and opportunity for hearing, by order to suspend for a period not exceeding 12

months or to withdraw the registration of a national securities exchange if the Commission finds that such exchange has violated any provision of this title or of the rules and regulations thereunder or has failed to enforce, so far as is within its power, compliance therewith by a member or by an issuer of a security registered thereon.

"(2) After appropriate notice and opportunity for hearing, by order to deny, to suspend the effective date of, to suspend for a period not exceeding 12 months, or to withdraw, the registration of a security if the Commission finds that the issuer of such security has failed to comply with any provision of this title or the rules and regulations thereunder.

"(3) After appropriate notice and opportunity for hearing, by order to suspend for a period not exceeding 12 months or to expel from a national securities exchange any member or officer thereof whom the Commission finds has violated any provision of this title or the rules and regulations thereunder, or has effected any transaction for any other person who, he has reason to believe, is violating in respect of such transaction any provision of this title or the rules and regulations thereunder.

"(4) And if in its opinion the public interest so requires, summarily to suspend trading in any registered security on any national securities exchange for a period not exceeding 10 days, or with the approval of the President, summarily to suspend all trading on any national securities exchange for a period not exceeding 90 days.

"(b) The Commission is further authorized, if after making appropriate request in writing to a national securities exchange that such exchange effect on its own behalf specified changes in its rules and practices, and after appropriate notice and opportunity for hearing, the Commission determines that such exchange has not made the changes so requested, and that such changes are necessary or appropriate for the protection of investors or to insure fair dealing in securities traded in upon such exchange or to insure fair administration of such exchange, by rules or regulations or by order to alter or supplement the rules of such exchange (insofar as necessary or appropriate to effect such changes) in respect of such matters as (1) safeguards in respect of the financial responsibility of members and adequate provision against the evasion of financial responsibility through the use of corporate forms or special partnerships; (2) the limitation or prohibition of the registration or trading in any security within a specified period after the issuance or primary distribution thereof; (3) the listing or striking from listing of any security; (4) hours of trading; (5) the manner, method, and place of soliciting business; (6) fictitious or numbered accounts; (7) the time and method of making settlements, payments, and deliveries and of closing accounts; (8) the reporting of transactions on the exchange and upon tickers maintained by or with the consent of the exchange, including the method of reporting short sales, stopped sales, sales of securities of issuers in default, bankruptcy or receivership, and sales involving other special circumstances; (9) the fixing of reasonable rates of commission, interest, listing, and other charges; (10) minimum units of trading; (11) odd-lot purchases and sales; (12) minimum deposits on margin accounts; and (13) similar matters.

"(c) The Commission is authorized and directed to make a study and investigation of the rules of national securities exchanges with respect to the classification of members, the methods of election of officers and committees to insure a fair representation of the membership, and the suspension, expulsion, and disciplining of members of such exchanges. The Commission shall report to the Congress on or before January 3, 1935, the results of its investigation, together with its recommendations.

"LIABILITIES OF CONTROLLING PERSONS

"SEC. 20. (a) Every person who, directly or indirectly, controls any person liable under any provision of this title or of any rule or regulation thereunder shall also be liable jointly and severally with and to the same extent as such controlled person to any person to whom such controlled



person is liable, unless the controlling person acted in good faith and did not directly or indirectly induce the act or acts constituting the violation or cause of action.

"(b) It shall be unlawful for any person, directly or indirectly, to do any act or thing which it would be unlawful for such person to do under the provisions of this title or any rule or regulation thereunder through or by means of any other person.

"(c) It shall be unlawful for any director or officer of, or any owner of any of the securities issued by, any issuer of any security registered on a national securities exchange, without just cause to hinder, delay, or obstruct the making or filing of any document, report, or information, required to be filed under this title or any rule or regulation thereunder.

#### "INVESTIGATIONS; INJUNCTIONS AND PROSECUTION OF OFFENSES"

"SEC. 21. (a) The Commission may, in its discretion, make such investigations as it deems necessary to determine whether any person has violated or is about to violate any provision of this title or any rule or regulation thereunder, and may require or permit any person to file with it a statement in writing, under oath or otherwise as the Commission shall determine, as to all the facts and circumstances concerning the matter to be investigated. The Commission is authorized, in its discretion, to publish information concerning any such violations, and to investigate any facts, conditions, practices, or matters which it may deem necessary or proper to aid in the enforcement of the provisions of this title, in the prescribing of rules and regulations thereunder, or in securing information to serve as a basis for recommending further legislation concerning the matters to which this title relates.

"(b) For the purpose of any such investigation, or any other proceeding under this title, any member of the Commission or any officer designated by it is empowered to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records which the Commission deems relevant or material to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States or any State at any designated place of hearing.

"(c) In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Commission may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, correspondence, memoranda, and other records. And such court may issue an order requiring such person to appear before the Commission or member or officer designated by the Commission, there to produce records, if so ordered, or to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district whereof such person is an inhabitant or wherever he may be found. Any person who shall, without just cause, fail or refuse to attend and testify or to answer any lawful inquiry or to produce books, papers, correspondence, memoranda, and other records, if in his power so to do, in obedience to the subpoena of the Commission, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than \$1,000 or to imprisonment for a term of not more than 1 year, or both.

"(d) No person shall be excused from attending and testifying or from producing books, papers, contracts, agreements, and other records and documents before the Commission, or in obedience to the subpoena of the Commission or any member thereof or any officer designated by it, or in any cause or proceeding instituted by the Commission, on the ground that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subject to any penalty or forfeiture for or on account of any transaction, matter, or thing con-

cerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

"(e) Whenever it shall appear to the Commission that any person is engaged or about to engage in any acts or practices which constitute or will constitute a violation of the provisions of this title, or of any rule or regulation thereunder, it may in its discretion bring an action in the proper district court of the United States, the Supreme Court of the District of Columbia, or the United States courts of any Territory or other place subject to the jurisdiction of the United States, to enjoin such acts or practices, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond. The Commission may transmit such evidence as may be available concerning such acts or practices to the Attorney General, who may, in his discretion, institute the necessary criminal proceedings under this title.

"(f) Upon application of the Commission the district courts of the United States, the Supreme Court of the District of Columbia, and the United States courts of any Territory or other place subject to the jurisdiction of the United States, shall also have jurisdiction to issue writs of mandamus commanding any person to comply with the provisions of this title or any order of the Commission made in pursuance thereof.

#### "HEARINGS BY COMMISSION"

"SEC. 22. Hearings may be public and may be held before the Commission, any member or members thereof, or any officer or officers of the Commission designated by it, and appropriate records thereof shall be kept.

#### "RULES AND REGULATIONS; ANNUAL REPORTS"

"SEC. 23. (a) The Commission and the Federal Reserve Board shall each have power to make such rules and regulations as may be necessary for the execution of the functions vested in them by this title, and may for such purpose classify issuers, securities, exchanges, and other persons or matters within their respective jurisdiction.

"(b) The Commission and the Federal Reserve Board, respectively, shall include in their annual reports to Congress such information, data, and recommendation for further legislation as they may deem advisable with regard to matters within their respective jurisdictions under this title.

#### "INFORMATION FILED WITH THE COMMISSION"

"SEC. 24. (a) Nothing in this title shall be construed to require, or to authorize the Commission to require, the revealing of trade secrets or processes in any application, report, or document filed with the Commission under this title.

"(b) Any person filing any such application, report, or document may make written objection to the public disclosure of information contained therein, stating the grounds for such objection, and the Commission is authorized to hear objections in any such case where it deems it advisable. The Commission may, in such cases, make available to the public the information contained in any such application, report, or document only when in its judgment a disclosure of such information is in the public interest; and copies of information so made available may be furnished to any person at such reasonable charge and under such reasonable limitations as the Commission may prescribe.

"(c) It shall be unlawful for any member, officer, or employee of the Commission to disclose to any person other than a member, officer, or employee of the Commission, or to use for personal benefit, any information contained in any application, report, or document filed with the Commission which is not made available to the public pursuant to subsection (b) of this section: *Provided*, That the Commission may make available to the Federal Reserve Board any information requested by the Board for the purpose of enabling it to perform its duties under this title.

#### "COURT REVIEW OF ORDERS"

"SEC. 25. (a) Any person aggrieved by an order issued by the Commission in a proceeding under this title to which



such person is a party may obtain a review of such order in the Circuit Court of Appeals of the United States, within any circuit wherein such person resides or has his principal place of business, or in the Court of Appeals of the District of Columbia, by filing in such court, within 60 days after the entry of such order, a written petition praying that the order of the Commission be modified or set aside in whole or in part. A copy of such petition shall be forthwith served upon any member of the Commission, and thereupon the Commission shall certify and file in the court a transcript of the record upon which the order complained of was entered. Upon the filing of such transcript such court shall have exclusive jurisdiction to affirm, modify, and enforce or set aside such order, in whole or in part. No objection to the order of the Commission shall be considered by the court unless such objection shall have been urged before the Commission. The finding of the Commission as to the facts, if supported by substantial evidence, shall be conclusive. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for failure to adduce such evidence in the hearing before the Commission, the court may order such additional evidence to be taken before the Commission and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The Commission may modify its findings as to the facts, by reason of the additional evidence so taken, and it shall file such modified or new findings, which, if supported by substantial evidence, shall be conclusive, and its recommendation, if any, for the modification or setting aside of the original order. The judgment and decree of the court, affirming, modifying, and enforcing or setting aside, in whole or in part, any such order of the Commission, shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in sections 239 and 240 of the Judicial Code, as amended (U.S.C., title 28, secs. 346 and 347).

"(b) The commencement of proceedings under subsection (a) shall not, unless specifically ordered by the court, operate as a stay of the Commission's order.

#### "UNLAWFUL REPRESENTATIONS

"SEC. 26. No action or failure to act by the Commission or the Federal Reserve Board, in the administration of this title shall be construed to mean that the particular authority has in any way passed upon the merits of, or given approval to, any security or any transaction or transactions therein, nor shall such action or failure to act with regard to any statement or report filed with or examined by such authority pursuant to this title or rules and regulations thereunder, be deemed a finding by such authority that such statement or report is true and accurate on its face or that it is not false or misleading. It shall be unlawful to make, or cause to be made, to any prospective purchaser or seller of a security any representation that any such action or failure to act by any such authority is to be so construed or has such effect.

#### "JURISDICTION OF OFFENSES AND SUITS

"SEC. 27. The district courts of the United States, the Supreme Court of the District of Columbia, and the United States courts of any Territory or other place subject to the jurisdiction of the United States shall have exclusive jurisdiction of violations of this title or the rules and regulations thereunder, and of all suits in equity and actions at law brought to enforce any liability or duty created by this title or the rules and regulations thereunder. Any criminal proceeding may be brought in the district wherein any act or transaction constituting the violation occurred. Any suit or action to enforce any liability or duty created by this title or rules and regulations thereunder, or to enjoin any violation of such title or rules and regulations, may be brought in any such district or in the district wherein the defendant is found or is an inhabitant or transacts business, and process in such cases may be served in any other district of which the defendant is an inhabitant or wherever the

defendant may be found. Judgments and decrees so rendered shall be subject to review as provided in sections 123 and 240 of the Judicial Code, as amended (U.S.C., title 28, secs. 225 and 347). No costs shall be assessed for or against the Commission in any proceeding under this title brought by or against it in the Supreme Court or such other courts.

#### "EFFECT ON EXISTING LAW

"SEC. 28. (a) The rights and remedies provided by this title shall be in addition to any and all other rights and remedies that may exist at law or in equity; but no person permitted to maintain a suit for damages under the provisions of this title shall recover, through satisfaction of judgment in one or more actions, a total amount in excess of his actual damages on account of the act complained of. Nothing in this title shall affect the jurisdiction of the securities commission (or any agency or officer performing like functions) of any State over any security or any person insofar as it does not conflict with the provisions of this title or the rules and regulations thereunder.

"(b) Nothing in this title shall be construed to modify existing law (1) with regard to the binding effect on any member of any exchange of any action taken by the authorities of such exchange to settle disputes between its members, or (2) with regard to the binding effect of such action on any person who has agreed to be bound thereby, or (3) with regard to the binding effect on any such member of any disciplinary action taken by the authorities of the exchange as a result of violation of any rule of the exchange, insofar as the action taken is not inconsistent with the provisions of this title or the rules and regulations thereunder.

#### "VALIDITY OF CONTRACTS

"SEC. 29. (a) Any condition, stipulation, or provision binding any person to waive compliance with any provision of this title or of any rule or regulation thereunder, or of any rule of an exchange required thereby shall be void.

"(b) Every contract made in violation of any provision of this title or of any rule or regulation thereunder, and every contract (including any contract for listing a security on an exchange) heretofore or hereafter made the performance of which involves the violation of, or the continuance of any relationship or practice in violation of, any provision of this title or any rule or regulation thereunder, shall be void (1) as regards the rights of any person who, in violation of any such provision, rule, or regulation, shall have made or engaged in the performance of any such contract, and (2) as regards the rights of any person who, not being a party to such contract, shall have acquired any right thereunder with actual knowledge of the facts by reason of which the making or performance of such contract was in violation of any such provision, rule or regulation.

"(c) Nothing in this title shall be construed (1) to affect the validity of any loan or extension of credit (or any extension or renewal thereof) made or of any lien created prior or subsequent to the enactment of this title, unless at the time of the making of such loan or extension of credit (or extension or renewal thereof) or the creating of such lien, the person making such loan or extension of credit (or extension or renewal thereof) or acquiring such lien shall have actual knowledge of facts by reason of which the making of such loan or extension of credit (or extension or renewal thereof) or the acquisition of such lien is a violation of the provisions of this title or any rule or regulation thereunder, or (2) to afford a defense to the collection of any debt or obligation or the enforcement of any lien by any person who shall have acquired such debt, obligation, or lien in good faith for value and without actual knowledge of the violation of any provision of this title or any rule or regulation thereunder affecting the legality of such debt, obligation, or lien.

#### "FOREIGN SECURITIES EXCHANGES

"SEC. 30. (a) It shall be unlawful for any broker or dealer, directly or indirectly, to make use of the mails or of any means or instrumentality of interstate commerce for the purpose of effecting on an exchange not within or subject to the jurisdiction of the United States, any transaction in any security the issuer of which is a resident of, or is organ-



ized under the laws of, or has its principal place of business in, a place within or subject to the jurisdiction of the United States, in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors or to prevent the evasion of this title.

"(b) The provisions of this title or of any rule or regulation thereunder shall not apply to any person insofar as he transacts a business in securities without the jurisdiction of the United States, unless he transacts such business in contravention of such rules and regulations as the Commission may prescribe as necessary or appropriate to prevent the evasion of this title.

#### "REGISTRATION FEES

"SEC. 31. Every national securities exchange shall pay to the Commission on or before March 15 of each calendar year a registration fee for the privilege of doing business as a national securities exchange during the preceding calendar year or any part thereof. Such fee shall be in an amount equal to one five-hundredths of 1 percent of the aggregate dollar amount of the sales of securities transacted on such national securities exchange during the preceding calendar year and subsequent to its registration as a national securities exchange.

#### "PENALTIES

"SEC. 32. Any person who willfully violates any provision of this title, or any rule or regulation thereunder the violation of which is made unlawful or the observance of which is required under the terms of this title, or any person who willfully and knowingly makes, or causes to be made, any statement in any application, report, or document required to be filed under this title or any rule or regulation thereunder, which statement was false or misleading with respect to any material fact, shall upon conviction be fined not more than \$10,000, or imprisoned not more than 2 years, or both, except that when such person is an exchange, a fine not exceeding \$500,000 may be imposed; but no person shall be subject to imprisonment under this section for the violation of any rule or regulation if he proves that he had no knowledge of such rule or regulation.

#### "SEPARABILITY OF PROVISIONS

"SEC. 33. If any provision of this act, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of the act, and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

#### "EFFECTIVE DATE

"SEC. 34. This act shall become effective on July 1, 1934, except that sections 6 and 12 (b), (c), (d), and (e) shall become effective on September 1, 1934; and sections 5, 7, 8, 9 (a) (6), 10, 11, 12 (a), 13, 14, 15, 16, 17, 18, 19, and 30 shall become effective on October 1, 1934.

#### "TITLE II—AMENDMENTS TO SECURITIES ACT OF 1933

"SEC. 201. (a) Paragraph (1) of section 2 of the Securities Act of 1933 is amended to read as follows:

"(1) The term "security" means any note, stock, treasury stock, bond, debenture, evidence of indebtedness, certificate of interest or participation in any profit-sharing agreement, collateral-trust certificate, preorganization certificate or subscription, transferable share, investment contract, voting-trust certificate, certificate of deposit for a security, fractional undivided interest in oil, gas, or other mineral rights, or, in general, any interest or instrument commonly known as a "security", or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing."

"(b) Paragraph (4) of such section 2 is amended to read as follows:

"(4) The term "issuer" means every person who issues or proposes to issue any security; except that with respect to certificates of deposit, voting-trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment trust not having a board of directors (or persons performing similar functions) or of the fixed, restricted management, or unit type, the

term "issuer" means the person or persons performing the acts and assuming the duties of depositor or manager pursuant to the provisions of the trust or other agreement or instrument under which such securities are issued; except that in the case of an unincorporated association which provides by its articles for limited liability of any or all of its members, or in the case of a trust, committee, or other legal entity, the trustees or members thereof shall not be individually liable as issuers of any security issued by the association, trust, committee, or other legal entity; except that with respect to equipment-trust certificates or like securities, the term "issuer" means the person by whom the equipment or property is or is to be used; and except that with respect to fractional undivided interests in oil, gas, or other mineral rights, the term "issuer" means the owner of any such right or of any interest in such right (whether whole or fractional) who creates fractional interests therein for the purpose of public offering."

"(c) Paragraph (10) of such section 2 is amended to read as follows:

"(10) The term "prospectus" means any prospectus, notice, circular, advertisement, letter, or communication, written or by radio, which offers any security for sale; except that (a) a communication shall not be deemed a prospectus if it is proved that prior to or at the same time with such communication a written prospectus meeting the requirements of section 10 was sent or given to the person to whom the communication was made, by the person making such communication or his principal, and (b) a notice, circular, advertisement, letter, or communication in respect of a security shall not be deemed to be a prospectus if it states from whom a written prospectus meeting the requirements of section 10 may be obtained and, in addition, does no more than identify the security, state the price thereof, and state by whom orders will be executed."

"SEC. 202. (a) Paragraph (2) of section 3 (a) of such act is amended to read as follows:

"(2) Any security issued or guaranteed by the United States or any Territory thereof, or by the District of Columbia, or by any State of the United States, or by any political subdivision of a State or Territory, or by any public instrumentality of one or more States or Territories, or by any person controlled or supervised by and acting as an instrumentality of the Government of the United States pursuant to authority granted by the Congress of the United States, or any certificate of deposit for any of the foregoing, or any security issued or guaranteed by any national bank, or by any banking institution organized under the laws of any State or Territory or the District of Columbia, the business of which is substantially confined to banking and is supervised by the State or Territorial banking commission or similar official; or any security issued by or representing an interest in or a direct obligation of a Federal Reserve bank;"

"(b) Paragraph (4) of such section 3 (a) is amended by striking out 'corporation' and inserting in lieu thereof 'person.'

"(c) Such section 3 (a) is further amended by striking out the period at the end of paragraph (8) and inserting in lieu thereof a semicolon, and by inserting immediately after such paragraph (8) the following new paragraphs:

"(9) Any security exchanged by the issuer with its existing security holders exclusively where no commission or other remuneration is paid or given directly or indirectly for soliciting such exchange;

"(10) Any security which is issued in exchange for one or more bona fide outstanding securities, claims or property interests, or partly in such exchange and partly for cash, where the terms and conditions of such issuance and exchange are approved, after a hearing upon the fairness of such terms and conditions at which all persons to whom it is proposed to issue securities in such exchange shall have the right to appear, by any court, or by any official or agency of the United States, or by any State or Territorial banking or insurance commission or other governmental authority expressly authorized by law to grant such approval;

"(11) Any security which is a part of an issue sold only to persons resident within a single State or Territory, where



the issuer of such security is a person resident and doing business within, or, if a corporation, incorporated by and doing business within, such State or Territory.'

"Sec. 203. (a) Paragraph (1) of section 4 of such act is amended (1) by striking out 'not with or through an underwriter and'; and (2) by striking out 'last' and inserting in lieu thereof 'first.'

"(b) Paragraph (3) of such section 4 is hereby repealed.

"Sec. 204. Subsection (c) of section 5 of such act is hereby repealed.

"Sec. 205. Paragraph (1) of section 10 (b) of such act is amended to read as follows:

"(1) When a prospectus is used more than 13 months after the effective date of the registration statement, the information in the statements contained therein shall be as of a date not more than 12 months prior to such use, so far as such information is known to the user of such prospectus or can be furnished by such user without unreasonable effort or expense.'

"Sec. 206. (a) Section 11 (a) of such act is amended by adding after the last line thereof the following new sentence: 'If such person acquired the security after the issuer has made generally available to its security holders an earning statement covering a period of at least 12 months beginning after the effective date of the registration statement, then the right of recovery under this subsection shall be conditioned on proof that such person acquired the security relying upon such untrue statement in the registration statement or relying upon the registration statement and not knowing of such omission, but such reliance may be established without proof of the reading of the registration statement by such person.'

"(b) Clauses (C) and (D) of paragraph (3) of section 11 (b) of such act are amended to read as follows: '(C) as regards any part of the registration statement purporting to be made on the authority of an expert (other than himself) or purporting to be a copy of or extract from a report or valuation of an expert (other than himself), he had no reasonable ground to believe and did not believe, at the time such part of the registration statement became effective, that the statements therein were untrue or that there was an omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading, or that such part of the registration statement did not fairly represent the statement of the expert or was not a fair copy of or extract from the report or valuation of the expert; and (D) as regards any part of the registration statement purporting to be a statement made by an official person or purporting to be a copy of or extract from a public official document, he had no reasonable ground to believe and did not believe, at the time such part of the registration statement became effective, that the statements therein were untrue, or that there was an omission to state a material fact required to be stated therein or necessary to make the statements therein not misleading, or that such part of the registration statement did not fairly represent the statement made by the official person or was not a fair copy of or extract from the public official document.'

"(c) Subsection (c) of such section 11 is amended to read as follows:

"(c) In determining, for the purpose of paragraph (3) of subsection (b) of this section, what constitutes reasonable investigation and reasonable ground for belief, the standard of reasonableness shall be that required of a prudent man in the management of his own property.'

"(d) Subsection (e) of such section 11 is amended to read as follows:

"(e) The suit authorized under subsection (a) may be to recover such damages as shall represent the difference between the amount paid for the security (not exceeding the price at which the security was offered to the public) and (1) the value thereof as of the time such suit was brought, or (2) the price at which such security shall have been disposed of in the market before suit, or (3) the price at which such security shall have been disposed of after suit but before judgment if such damages shall be less than the

damages representing the difference between the amount paid for the security (not exceeding the price at which the security was offered to the public) and the value thereof as of the time such suit was brought: *Provided*, That if the defendant proves that any portion or all of such damages represents other than the depreciation in value of such security resulting from such part of the registration statement, with respect to which his liability is asserted, not being true or omitting to state a material fact required to be stated therein or necessary to make the statements therein not misleading, such portion of or all such damages shall not be recoverable. In no event shall any underwriter (unless such underwriter shall have knowingly received from the issuer for acting as an underwriter some benefit, directly or indirectly, in which all other underwriters similarly situated did not share in proportion to their respective interests in the underwriting) be liable in any suit or as a consequence of suits authorized under subsection (a) for damages in excess of the total price at which the securities underwritten by him and distributed to the public were offered to the public. In any suit under this or any other section of this title the court may, in its discretion, require an undertaking for the payment of the costs of such suit, including reasonable attorney's fees, and if judgment shall be rendered against a party litigant, upon the motion of the other party litigant, such costs may be assessed in favor of such party litigant (whether or not such undertaking has been required) if the court believes the suit or the defense to have been without merit, in an amount sufficient to reimburse him for the reasonable expenses incurred by him, in connection with such suit, such costs to be taxed in the manner usually provided for taxing of costs in the court in which the suit was heard.'

"Sec. 207. Section 13 of such act is amended (a) by striking out '2 years' wherever it appears therein and inserting in lieu thereof '1 year'; (b) by striking out '10 years' and inserting in lieu thereof '3 years'; and (c) by inserting immediately before the period at the end thereof a comma and the following: 'or under section 12 (2) more than 3 years after the sale.'

"Sec. 208. Section 15 of such act is amended by inserting immediately before the period at the end thereof a comma and the following: 'unless the controlling person had no knowledge of or reasonable ground to believe in the existence of the facts by reason of which the liability of the controlled person is alleged to exist.'

"Sec. 209. (a) The first sentence of subsection (a) of section 19 of such act is amended by inserting after the word 'accounting' a comma and the word 'technical.'

"(b) Subsection (a) of such section 19 is further amended by adding at the end thereof the following new sentence: 'No provision of this title imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule or regulation of the Commission, notwithstanding that such rule or regulation may, after such act or omission, be amended or rescinded or be determined by judicial or other authority to be invalid for any reason.'

"Sec. 210. Upon the expiration of 60 days after the date upon which a majority of the members of the Securities and Exchange Commission appointed under section 4 of title I of this act have qualified and taken office, all powers, duties, and functions of the Federal Trade Commission under the Securities Act of 1933 shall be transferred to such Commission, together with all property, books, records, and unexpended balances of appropriations used by or available to the Federal Trade Commission for carrying out its functions under the Securities Act of 1933. All proceedings, hearings, or investigations commenced or pending before the Federal Trade Commission arising under the Securities Act of 1933 shall be continued by the Securities and Exchange Commission. All orders, rules, and regulations which have been issued by the Federal Trade Commission under the Securities Act of 1933 and which are in effect shall continue in effect until modified, superseded, revoked, or repealed. All rights and interests accruing or to accrue under the Securities Act of 1933, or any provision of any



regulation relating to, or out of action taken by, the Federal Trade Commission under such act, shall be followed in all respects and may be exercised and enforced.

"SEC. 211. The Commission is authorized and directed to make a study and investigation of the work, activities, personnel, and functions of protective and reorganization committees in connection with the reorganization, readjustment, rehabilitation, liquidation, or consolidation of persons and properties and to report the result of its studies and investigations and its recommendations to the Congress on or before January 3, 1936."

And the Senate agree to the same.

DUNCAN U. FLETCHER,  
ALBEN W. BARKLEY,  
JAMES F. BYRNES,  
PHILLIPS LEE GOLDSBOROUGH,  
JAMES COUZENS,

*Managers on the part of the Senate.*

SAM RAYBURN,  
GEORGE HUDDLESTON,  
CLARENCE F. LEA,  
CARL E. MAPES,

*Managers on the part of the House.*

#### 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. 85. An act for the relief of Paul J. Sisk;
- S. 177. An act for the relief of Woodhouse Chain Works;
- S. 256. An act for the relief of Milburn Knapp;
- S. 308. An act to authorize the award of a decoration for distinguished service to Harry H. Horton;
- S. 512. An act for the relief of Peter Pierre;
- S. 1073. An act for the relief of E. Walter Edwards;
- S. 1081. An act for the relief of McKimmon & McKee, Inc.;
- S. 1429. An act for the relief of Anthony J. Lynn;
- S. 1460. An act for the relief of Edgar Stivers;
- S. 1772. An act for relief of the Western Montana Clinic, Missoula, Mont.;

S. 2745. An act to provide for changing the time of the meeting of Congress, the beginning of the terms of Members of Congress, and the time when the electoral votes shall be counted, and for other purposes;

S. 2748. An act to authorize an appropriation for the reimbursement of Stelio Vassiliadis;

S. 2798. An act for the relief of Nephew K. Clark;  
S. 2889. An act for the relief of certain Indians of the Fort Peck Reservation, Mont.;

S. 2969. An act for the relief of the Mary Black Memorial Hospital;

S. 3128. An act to pay certain fees to Maude G. Nicholson, widow of George A. Nicholson, late a United States commissioner; and

S. 3307. An act for the relief of W. H. Le Duc.

The message also announced that the House had passed the bill (S. 785) for the relief of Elizabeth Bolger, with amendments, in which it requested the concurrence of the Senate.

The message further announced that the House had passed the following bills of the Senate, severally with an amendment, in which it requested the concurrence of the Senate:

- S. 1126. An act for the relief of M. M. Twichel;
- S. 2002. An act for the relief of R. S. Howard Co., Inc.;
- and
- S. 2342. An act for the relief of I. T. McRee.

The message also announced that the House had passed the following bills, in which it requested the concurrence of the Senate:

H.R. 387. An act donating bronze trophy guns to the Cohoes Historical Society, Cohoes, N.Y.;

H.R. 471. An act for the relief of Physicians and Surgeons Hospital, Ltd.;

H.R. 1306. An act for the relief of Clarence A. Wimley;

H.R. 1308. An act for the relief of John Parker Clark, Sr.;

H.R. 1345. An act for the relief of John Parker Clark, Jr.;

H.R. 1354. An act for the relief of C. V. Mason;

H.R. 3176. An act for the relief of Ernest Elmore Hall;

H.R. 3595. An act for the relief of St. Ludgers Catholic Church, of Germantown, Henry County, Mo.;

H.R. 3912. An act for the relief of Roland Zolesky;

H.R. 4175. An act for the relief of Oscar C. Olson;

H.R. 4387. An act for the relief of Mary A. Rockwell;

H.R. 5400. An act for the relief of Thomas F. Olsen;

H.R. 5809. An act to provide compensation for Robert Rayford Wilcoxson for injuries received in citizens' military training camp;

H.R. 6284. An act for the relief of John R. Novak;

H.R. 6497. An act for the relief of James Henry Green;

H.R. 6625. An act for the relief of Charles Farr;

H.R. 6696. An act for the relief of William T. Roche;

H.R. 7107. An act for the relief of Frank Baglione;

H.R. 7161. An act to provide for the refund or abatement of the customs duty on altar candlesticks and cross imported for the Church of the Good Shepherd, Memphis, Tenn.;

H.R. 7264. An act for the relief of M. N. Lipinski;

H.R. 7272. An act for the relief of John W. Adair;

H.R. 7372. An act for the relief of Donald K. Warner;

H.R. 7560. An act for the relief of Charles E. Dagenett;

H.R. 7623. An act granting a renewal of Patent No. 54296, relating to the badge of the American Legion;

H.R. 7624. An act granting a renewal of Patent No. 5398, relating to the badge of the American Legion Auxiliary;

H.R. 7631. An act for the relief of Arthur A. Burn, Sr., and J. K. Ryland;

H.R. 7697. An act for the relief of William Chinsky;

H.R. 7781. An act for the relief of Rosemund Pauline Lowry;

H.R. 7816. An act for the relief of Oswald H. Halford, Hunter M. Henry, William C. Horne, Rupert R. Johnson, David L. Lacey, William Z. Lee, Fenton F. Rodgers, Henry Freeman Seale, Felix M. Smith, Edwin C. Smith, Robert S. Sutherland, and Charles G. Ventress;

H.R. 7893. An act for the relief of Ralph LaVern Walker; and

H.R. 8035. An act for the relief of James M. Pace.

#### RECIPROCAL-TARIFF AGREEMENTS

The Senate resumed the consideration of the bill (H.R. 3687) to amend the Tariff Act of 1930.

#### AMERICAN IMPERIALISTIC FINANCE

Mr. LONG. Mr. President, I desire to discuss this tariff question in connection with our Latin American problems and the Cuban involvements.

A few days ago we were presented with a resolution seeking to prevent the shipment of munitions and war supplies to Paraguay and Bolivia. That resolution, I am convinced, had behind it a good purpose and was offered with a good intent. We agreed to the resolution with very little debate.

Some few months before that resolution was offered, we were concerned with a Cuban revolution, and considerable action has been taken by the Congress and by our executive department on account of the Cuban embroilment.

I wish to be heard with regard to what is involved in the Paraguay-Bolivia war. As is usually the case, it is the forces of imperialistic finance which are today responsible for the war between Bolivia and Paraguay, and it is the financial interests of this country which are responsible, in large measure, for the conditions prevailing in Cuba.

I have before me a brief memorandum showing what the present war between Paraguay and Bolivia involves. Only recently considerable oil development has occurred in what is known as the "Chaco area" of Paraguay. Paraguay is served by a navigable river, known as the "River Paraguay", which flows along the border line of Argentina and Brazil and Paraguay and empties into the Atlantic Ocean.

The Standard Oil Co. of New Jersey, an American corporation, the promoter of revolutions in Central America, South America, and Mexico ever since they have wanted oil concessions, has found it necessary to have the Chaco terri-



tory. The Chaco territory has been adjudicated to belong to Paraguay, and has been held to be Paraguayan property so long that there is practically no reasonable person who entertains any doubt as to who is the owner of the Chaco.

As far back as 1874 a controversy arose between Argentina and Paraguay as to who owned the Chaco territory, and the United States was called in to mediate the dispute. The President of the United States at that time, President Rutherford B. Hayes, rendered a report, in which he held that Paraguay—to use his own words—“has a just and legal title to the Chaco territory.” That was not only recognized by Argentina, it was not only recognized by Paraguay, it was recognized by Bolivia, and was held to be the basis of ownership on which the United States predicated everything it did relating to South American controversies over the Chaco territory. There is an agreement in effect today, we are told, recognizing the Chaco territory as a part of the Paraguayan Government's domain.

But, Mr. President, they have discovered oil in the Chaco and Bolivia. It seems that it will cost considerable money for them to reach the deep water with the oil of the Standard Oil Co. which has been discovered in Bolivia, and, therefore, Bolivia finds itself in need of a pipe line route to navigable Paraguayan rivers, which it does not want to acquire on such terms and conditions as will be required by the Paraguayan Government.

Not only that but the territory of the Chaco itself is rich in natural resources and probably in mineral deposits. So a war has broken out, financed by whom? The war is between Bolivia, a country with around 3,000,000 population, fighting against Paraguay, a country with a population of probably less than 1,000,000 people, although their population is largely transitory; many of its people are employed seasonally in some of the countries around Paraguay for the planting and gathering of crops. But the Standard Oil Co. of the United States and other affiliated interests have been guilty of promoting this war and financing Bolivia, for no purpose under God's sun than to take that territory away from that little Latin American country which America already has held owns the Chaco. Time after time America has adjudicated the differences and held that it was Paraguayan territory, and Bolivia has recognized it, Argentina has recognized it, and the United States has recognized it, Mr. President, now for a period of almost 60 years. Notwithstanding that fact, we came in here the other day with a resolution by which we professed to declare our neutrality.

What develops? It develops, so I am reliably informed, from persons who have reason to know, that Bolivia had, with the aid of the Standard Oil Co., largely equipped itself with the munitions of war and other combustibles necessary to carry on its offensive war against Paraguay. Paraguay has not gone one foot into the Bolivian territory. Mr. President, every foot of advance has been by the Bolivian Army.

I have in my hand an official document published by the Bolivian Government. Here is a contract entered into by the Standard Oil Co. of New Jersey, an American corporation, in which it has agreed to furnish the petroleum and gasoline necessary to Bolivia in order for that country to carry on its offensive warfare against Paraguay. The document is in Spanish, but I will read the translation of part of it.

Four hundred thousand liters of gasoline (approximately 100,000 gallons) for aviation and 800,000 for trucks monthly. (Approximately 200,000 gallons.)

We reproduce a continuation of the decree in respect to the Bolivian Government that we take from *El Diario*, of La Paz, edition of the 14th of March past.

The executive has given the following supreme decree:

Seen and considered:

The necessity of consuming preferably national gasoline for the needs of the campaign (war), and greater reason due to the considerable increase of consumption that will be caused by the securing of new motor units and of aviation:

That an agreement has been arrived at with the Standard Oil Co. of Bolivia.

It is known, Mr. President, that they always pretend to be a company and a product of the particular country or part of the country they are ravishing, just as when they were

freezing out the territory of Louisiana, the Standard Oil Co. of Louisiana claimed itself to be the product of our native territory down there, against whose citizens they were conducting a pipe-line embargo at the time.

That an agreement had been arrived at with the Standard Oil Co. of Bolivia that is agreeable. In fixing the price for gasoline, for trucks and for aviation and for kerosene and in virtue of this (due to fixing the price) the company will increase its distillation of these products—

They will increase it, Mr. President, in price because they need it down there for war at this time—

until arriving at almost the total fiscal consumption, being repaid with these prices for the expenses incurred because of these new installations.

I am not going to read further. I have read enough so the Senate may know that my remarks in this respect are verified, but I am sending to the desk the Spanish text and the translation, Mr. President, and ask that at the conclusion of my remarks they may be printed in the *RECORD* in parallel columns.

THE PRESIDING OFFICER (Mr. CLARK in the chair). Without objection, it is so ordered.

(See exhibit A.)

Mr. LONG. Mr. President, the United States is practically a party to this war that is being carried on at this time against Paraguay in Latin America. This Government, which has asserted itself as a protector; this Government, which has held itself out as a big brother; this country, which has ever refereed the dispute and awarded the title and the ownership of that Chaco territory, which is in area about the size of the State of Louisiana, to Paraguay, has allowed a capitalistic interest because of the fact that it has an oil field in Bolivia and because of the fact that part of the Paraguay territory is rich in mineral deposits and other natural resources—because of those facts it has allowed this Standard Oil outfit to go down into that country, corrupting the Bolivian Government when it could not corrupt the Paraguayan Government, to carry on an aggressive warfare, and that outfit has furnished munitions and supplies with which to conduct the war down there today.

The United States Government, after Bolivia has been supplied with the necessary munitions of war and combustibles necessary to carry on an aggressive warfare into the territory of Paraguay, into the territory which the United States as a referee has adjudicated was territory of Paraguay, which has been recognized by Argentina, which has been recognized by Brazil, which has been recognized by Bolivia under the decrees of the United States, has now folded its hands and declared its neutrality, with its capitalistic interests of the Standard Oil Co. down there trying to steal this territory from poor little Paraguay with a population of only 850,000.

These murderers have gone down there and hired their assassins. This same element, which knows no such thing as human propriety, which is exploiting this people in revolution after revolution, if it has the big capitalistic interests of Wall Street on its side, care nothing about the referee decision of the President of the United States. To that element the decision does not amount to a tinker's dam; does not amount to as much as the paper on which it is written. And the best that we have done is that we have folded our arms in a majestic, blissful neutrality, after Bolivia has been financed by the Standard Oil Co. and entered into an open contract to furnish them with the combustibles necessary for the war, and America is now going to shut off little Paraguay, which has not got the money, anyway, which country is today being invaded by Bolivia, financed by the Standard Oil Co. of the United States.

Mr. President, that is the blissful kind of Government policy that we adopted the other day, and our newspapers and the people generally were taken in by the proposition declaring ourselves to be a neutral, thinking ourselves a marvelous, peace-loving country, and the Standard Oil Co. down in that country financing a foreign army, importing soldiers into that country, giving them the munitions, trying to take away country from Paraguay because the Paraguayan Government cannot be corrupted by the Standard Oil Co.,



and Standard Oil has the Bolivian Government under its heels.

If we allow a thing of this kind to go on, Mr. President, if this country allows its imperialistic masters of finance to go on, the embroilments in which this country is going to be concerned will be insurmountable.

They have undertaken to claim that there is some foreign interest interfering in the matter; that the Dutch Shell Oil Co. is a British interest and is concerned down there. How long do they think they can fool people with that statement?

Mr. President, the Dutch Shell Oil Co., which they call a British company, is affiliated in companies down there with the Standard Oil Co. of the United States too often to have anybody question it. There are too many common ownerships down there, too many joint ownerships of stock in companies down there exploiting the Latin American countries for anybody to be fooled by such a statement which they are trying to foist upon the American people. There is nothing to that statement whatever.

Mr. President, here is the decree of America. Here is the referee's decision which the United States made back here 40 years ago. Here is the territory which was allotted to Paraguay. It is Paraguay's territory. It always has been Paraguay's territory.

The PRESIDING OFFICER. The time of the Senator on the amendment has expired.

Mr. LONG. I will take my 20 minutes on the bill.

I read from a report on this matter:

Bolivia has invaded the zone—

Mr. President, according to this report—that President Hayes adjudicated to Paraguay—

That is not disputed—

and has taken possession of it manu militari.

That is, by force of arms.

Bolivia has violated not only the Hayes decision but also the pact of the statu quo which she signed with Paraguay in Buenos Aires in 1907. Bolivia has done this notwithstanding the fact that she has renewed in five successive protocols the statu quo pact of 1907. And what is more, the pact of 1907 is in full legal force even up to this very day.

All of which was founded on the decision made by President Rutherford B. Hayes in 1874, when there was a controversy between Argentina and Paraguay at that time when this great country of the Argentine made as though it would take this territory away from that little power, Paraguay. But they have gone to Bolivia, a country with 3,000,000 people, where they have acquired all the oil concessions, and it is easy, Mr. President, as I understand the topography of that country, for them to get their pipe line out to the sea nearly as easy as it is to take the pipe line down through Paraguay to the River Paraguay, which is navigable, and leading into the Atlantic Ocean, and probably the Chaco territory as a part of Paraguay is also so valuable that it becomes important to the Standard Oil Co.'s business.

While I am speaking of Paraguay, Mr. President, I will say that this has also been our policy with Mexico to some extent, but more recently it has been our policy with Nicaragua, and it has been our policy with some other countries down there. It has been openly flaunted here in this American Congress time after time that when they get ready to take certain fruit lands away from certain countries down in Central America, to do that, to make secure the titles and vesting them sufficiently satisfactory to them, they employ revolutionists to do it.

Now we come to Cuba. What is the trouble with Cuba today? Mr. President, the trouble with Cuba today is simply this:

The Chase National Bank and other financial interests have financed the Cuban Government. They loaned to Machado many millions of dollars, much of which had already been held to be unconstitutionally loaned under the Cuban constitution. The land in Cuba had been parceled out among foreign interests. The Cuban Government was bonded heels over head. The Chase National Bank, upon seeing that part, if not all, of its money had been illegally

loaned, advised its clientele that it had an excellent security in the form of Cuban bonds that they were willing to parcel out among the people of the United States. So, after it had been advised by its own agents that that money was illegally being taken by Machado, they took the bonds they held in their own vaults and sold them to the investing public of the United States at large.

Then came the revolution. After these loans had been parceled out in the United States, a revolution occurred in Cuba; Machado was run out. What did we do? There was a radio address delivered by President Grau in which he said:

I am not going to be recognized as the President of Cuba, due to the fact that the government of which I am the head declines to recognize the validity of certain bonds that were sold to the Chase National Bank and floated by that bank to other parties.

Said Mr. Grau, according to my best recollection of the report of that radio address—

I cannot get recognition for this country, unless I am willing that the Cuban Government, of which I am the head, shall recognize these obligations that have been incurred to the Chase National Bank and to other parties.

President Grau was not recognized. The only man who would be recognized had to be someone who would recognize the Cuban Government as responsible for the loans that were made to Mr. Machado and the government that was headed by him. Therein, Mr. President, lies a further proposition. They are unable to exploit Cuba; Cuba cannot be exploited to the entire sum necessary to retire the obligations of these private interests. What is to be done? They have now come to the proposition that they have got to "take it out of the hide" of the American farmer.

We have a statement from Mr. Machado, who is temporarily residing in this country, as I understand—and I do not have any purpose in keeping him from residing here so long as he wants to, so far as I am concerned—but we have a statement from Mr. Machado that the trouble in Cuba today is the tariff on sugar exported by Cuba to the United States of America.

Here is the United States of America, with sugar being sold within its borders today cheaper than sugar is sold in any other country, undertaking to develop a domestic sugar business; here are interests from Wall Street that have gone into Cuba and have placed hundreds of millions of dollars at the disposal of the Cuban Government and private interests in Cuba. They have acquired, lock, stock, and barrel, nearly everything that Cuba has got inside it; and now, with that white elephant on their hands, in order that they may make whole the Chase National Bank and its affiliates, and make whole the National City Bank and its affiliates, they propose to come now and say to the American farmer, "You have got to stand for the aggression that must be made by our domestic capital invested in a foreign land; we have got to scuttle the market; we have got to scuttle the trade, not only of the Cubans, not only of the Paraguayans, but we have got to scuttle the business of the Americans in order that something may be obtained out of it which probably will make us whole on the realization of the investments we have made."

How long will we stand for this Paraguayan aggression? Is the American Government going to stand idly by and allow the Standard Oil Co. to promote a war, through Bolivia, against Paraguay, for a territory which the United States has already recognized as being a part, and very properly so, of Paraguay? Are we going to sit here and allow that under the pretense of our neutrality? If so, why did we ever enter into any understanding with them, as a big brother, to arbitrate over its territorial integrity of the smaller countries and to prevent such outbreaks as they have there? Why is America so silent? America has never been so blissfully neutral in any other war prevailing in that territory; America has taken some kind of a stand; America has said something; but America is now silent, as silent as the tomb. We are saying nothing because the "big papa" of the American capitalistic system is down there today stealing Paraguay away from the 850,000 natives who own the country. America is perfectly silent, blissfully silent.



I notice that my good friend, whom I have never met, Mr. Vincent Astor, has had a great deal to do with some of these concerns. It is funny, Mr. President, how you connect them up. All you have got to do is to look under the barrel, and you will find the motive every time you look. Mr. Vincent Astor is a director of the Chase National Bank, and there you find all the interest that it is necessary to find. The Chase National Bank, Mr. President, is known as the "Rockefeller bank"; the Rockefeller bank is the Standard Oil bank; the Chase National Bank is the Standard Oil Co.; the Chase National Bank is Rockefeller; Rockefeller is the Standard Oil Co.; the Standard Oil Co. is Rockefeller, and vice versa; all in the same clique. Here is Rockefeller, with one army, stealing Paraguay, taking the Chaco, going in as the aggressor and taking territory adjudicated to be a part of Paraguay 40 years ago; and here is the same Chase National Bank, another Rockefeller institution, reaching over and making them validate illegal bonds sold to the Government of Cuba; and here is America, blissfully silent, retiring constantly, while the private munitions of war are supplied down into those Latin American countries. That is the imperialistic aggression of the Rockefellers and the Chase National Bank and the Standard Oil Co.

Mr. President, if the United States stands by with that kind of thing going on, if the United States permits that kind of alliance to use the processes of this country against its own treaties outside its boundaries, if the United States Government will stand for the Standard Oil Co.'s carrying on this kind of an illegal, unconscionable, murderous, imperialistic design—well should we begin here today, on Memorial Day, the hour of mourning, to understand it, in order that for the first time Memorial Day will have its true spirit and intent as a day of mourning of the American people, not so much for what has been lost in the past—not entirely for that—but for the fact that imperialistic principles, the domination of the Standard Oil Co., and the combination of Vincent Astor, the Rockefellers, and the Chase National Bank have become more mighty than the solemn treaties and pronouncements of the United States Government itself.

## EXHIBIT A

[From El Diario, Sunday, Apr. 15, 1934]

CUATROCIENTOS MIL LITROS DE GASOLINA PARA AVIACION Y OCHOCIENTOS MIL PARA CAMIONES, MENSUALMENTE

Reproducimos a continuación el Decreto respectivo del Gobierno Boliviano, que tomamos de "El Diario", de La Paz, edición del 14 de Marzo, p. pdo.:

"El Ejecutivo ha dado el siguiente decreto supremo:

"Vistos y considerando:

"La necesidad de consumir preferentemente gasolina nacional para las necesidades de la campaña, con mayor razón dentro del considerable aumento de consumo que ocasionará la adquisición de nuevas unidades motrices y de aviación;

"Que se ha llegado a convenir un punto de equidad con la Standard Oil Co. of Bolivia, al fijar un precio para la gasolina de camiones y de aviación y para el kerosene, debiendo en tal virtud la compañía aumentar la destilación de estos productos hasta llenar la casi totalidad del consumo fiscal, reembolsándose con dichos precios de los gastos en que incurra con motivo de las nuevas instalaciones;

"Que todas las autoridades técnicas del Supremo Gobierno han aconsejado aceptar tales precios por ser convenientes en comparación al costo de gasolina importada que se paga en oro;

"Con los informes de la Dirección de Obras Públicas; de la

## [Translation]

FOUR HUNDRED THOUSAND LITERS OF GASOLINE PER MONTH FOR AVIATION AND EIGHT HUNDRED THOUSAND FOR TRUCKS

[1 liter = one-fifth gallon]

We reproduce in continuation the Decree of the Bolivian Government, which we take from El Diario of La Paz, Bolivia, of March 14, 1934:

"The Executive has given the following supreme decree:

Whereas and considering:

"The necessity of consuming preferentially national gasoline for the necessities of the campaign, along with the greater reason arising from the considerable increase of consumption which the acquisition of new motorized units and aviation will occasion;

"That an equitable agreement has just been arrived at with the Standard Oil Co. of Bolivia to fix a price for gasoline for trucks and aviation and for kerosene, and subsequently in virtue of this the company will increase the distillation of these products enough to fill almost completely the fiscal consumption, reimbursing itself with these prices for the expenses which it will incur because of the new installations;

"That all the technical authorities of the Supreme Government have consented to accept these prices as equitable in comparison with the cost of im-

CUATROCIENTOS MIL LITROS DE GASOLINA PARA AVIACION Y OCHOCIENTOS MIL PARA CAMIONES, MENSUALMENTE—CON.

Dirección de Transportes y de la Dirección General de Aprovechamiento de gasolina y lubricantes.

"Se resuelve:

"Artículo 1º: Quedan suspendidos los efectos de la resolución suprema de 31 de octubre de 1932 mediante la cual el estado tomó a su cargo la explotación de los pozos petrolíferos de Camiri.

"Artículo 2º: La Standard Oil Co. of Bolivia, en cambio, conforme a su oferta de 7 de diciembre de 1933, presentada al Ministerio de Industria, ampliará sus instalaciones de destilería de petróleo en Bolivia, hasta producir mensualmente cuatrocientos mil litros de gasolina de aviación de superior calidad, tipo 'otano 80', conforme a las especificaciones de la inspección fiscal de petróleos y ochocientos mil litros de gasolina para automóviles, cuyos precios de venta al Supremo Gobierno serán de 45 centavos (moneda nacional), el litro de gasolina de aviación y al mismo precio actual de 18 centavos la gasolina para automóviles. Para el kerosene se fija el precio de 17 centavos el litro. Las ampliaciones de sus destilerías quedarán concluidas y la producción nueva estará disponible en el término de 90 días después de notificada esta resolución suprema a la compañía. Todo el residuo proveniente después de la destilación de gasolina y kerosene será de propiedad y entregado libre de todo gasto al Supremo Gobierno.

"Artículo 3º: El Supremo Gobierno consumirá por lo menos 350,000 litros de gasolina de aviación y 700,000 de gasolina para camiones de la producción de la Compañía."

Los pozos de Camiri, pues, han vuelto a poder de la Standard Oil. De allí sale la casi totalidad del combustible que utiliza el enemigo. Demás está decir que el Gobierno Boliviano no abona un solo centavo por la nafta que consume y que el tal contrato no es sino uno de los tantos procedimientos para disimular la protección que presta la empresa a Bolivia, protección que permite a ese país sostener hasta hoy la guerra.

## [Translation]

FOUR HUNDRED THOUSAND LITERS OF GASOLINE PER MONTH FOR AVIATION AND EIGHT HUNDRED THOUSAND FOR TRUCKS—CON.

ported gasoline, for which gold must be paid;

"With the advice of the Department of Public Works, of the Department of Transportation, and of the General Department of Provisions of gasoline and lubricants;

"Be it resolved:

"Article the first: That the effect of the supreme resolution of October 31, 1932, by means of which the state took charge of the exploitation of the oil wells of Camiri, be suspended.

"Article the second: The Standard Oil Co. of Bolivia, in exchange and in conformity with its offer of December 7, 1933, made to the Ministry of Industry, will increase its installations for distilling petroleum in Bolivia until capable of producing monthly 400,000 liters of aviation gasoline of superior quality, of the '80 octane' type, and conforming to the specifications of the fiscal inspection of petroleum; and in addition 800,000 liters of automobile gasoline; the sale prices of these to the Supreme Government will not be more than 45 centavos (Federal currency) per liter for aviation gasoline, and at the same time the actual price of 18 centavos for automobile gasoline. For kerosene the price of 17 centavos per liter is fixed. The enlargement of the distilleries shall be concluded and the new production shall be available at the expiration of 90 days after the notification of the company of this supreme resolution. All the residue remaining after the distillation of the gasoline and kerosene shall be the property of and be delivered free of all cost to the Supreme Government.

"Article the third: The Supreme Government shall consume at least 350,000 liters of aviation gasoline and 700,000 liters of truck gasoline of the production of the company."

The wells of Camiri, then, have returned to the power of Standard Oil. From there goes out almost all the fuel which the enemy uses. Beyond this it is said that the Bolivian Government does not pay a single centavo for the fuel it consumes, and that this contract is nothing but one of the many proceedings to hide the protection the enterprise lends to Bolivia, a protection which permits that country to extend until today the war.

## FOREIGN-TRADE ZONES

Mr. COPELAND. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of House bill 9322, which was sent to the Senate from the House of Representatives yesterday.

The PRESIDING OFFICER. Is there objection to the request of the Senator from New York?

There being no objection, the Senate proceeded to consider 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, which was read twice by its title.



Mr. COPELAND. Mr. President, I move to amend by striking out all after the enacting clause and inserting in lieu thereof Senate bill 2001, which we passed a few weeks ago.

The PRESIDING OFFICER. The clerk will state the amendment.

The CHIEF CLERK. It is proposed to strike out all after the enacting clause and in lieu thereof to insert the following:

That when used in this act—

The term "Secretary" means the Secretary of Commerce;

The term "public corporation" means a State, a legal subdivision thereof, or a municipality, or a lawfully authorized public agency of a State or municipality, or a corporate municipal instrumentality of one or more States;

The term "person" includes corporations, partnerships, and associations existing under or authorized by the laws of the United States, or any State, Territory, District, or possession thereof;

The term "grantee" means a public corporation or person applying for the right to establish, operate, and maintain a foreign-trade zone;

The term "grantee" means a public corporation or person to which the privilege of establishing, operating, and maintaining a foreign-trade zone has been granted;

The term "zone" means a "foreign-trade zone" as provided in this act.

SEC. 2. (a) The Secretary is hereby authorized, subject to the conditions and restrictions of this act and of the rules and regulations made thereunder, upon application as hereinafter provided, to grant to public corporations or persons the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States. Not more than one zone shall be authorized in or adjacent to any port of entry, except that when a port of entry is located within the confines of more than one State a zone may be authorized in each State in the territory comprised in such port of entry.

(b) In case of any State in which harbor facilities of any port of entry are owned and controlled by the State and in which State harbor facilities of any other port of entry are owned and controlled by a municipality. The Secretary shall not grant an application by any public corporation or person for the establishment of any zone in such State, unless such application has been authorized by an act of the legislature of such State (enacted after the date of enactment of this act).

SEC. 3. Foreign and domestic merchandise of every description, except such as is prohibited by law, may, without being subject to the customs laws of the United States, except as otherwise provided in this act, be brought into a zone and there stored, exhibited, broken up, repacked, assembled, distributed, sorted, refined, graded, cleaned, mixed with foreign or domestic merchandise or otherwise manipulated, and be exported, and foreign merchandise may be sent into customs territory of the United States therefrom, in the original package or otherwise; but when foreign merchandise is so sent from a zone into customs territory of the United States it shall be subject to the laws and regulations of the United States affecting imported merchandise: *Provided*, That when the privilege shall be requested the collector of customs shall supervise the unloading of foreign merchandise in the zone, cause such merchandise or any portion thereof to be appraised and the duties liquidated thereon. Thereafter it may be stored or manipulated under the supervision and regulations prescribed by the Secretary of the Treasury, and within 2 years after such unloading such merchandise, whether mixed with domestic merchandise or not, may be sent into customs territory upon the payment of such liquidated duties thereon; and if not so sent into customs territory within such period of 2 years such merchandise shall be disposed of under rules and regulations prescribed by the Secretary of the Treasury and out of the proceeds the duties shall be paid and the remainder, if any, to be delivered to the owners of the property: *Provided further*, That subject to such regulations respecting identity and safeguarding of the revenue as the Secretary of the Treasury may deem necessary, articles the growth, product, or manufacture of the United States, and articles previously imported on which duty has been paid, or which have been admitted free of duty, may be taken into a zone from the customs territory of the United States, and may be brought back thereto free of duty, whether or not they have been combined with or made part, while in such zone, of other articles: *Provided*, That if in the opinion of the Secretary of the Treasury their identity has not been lost, such articles not entitled to free entry by reason of noncompliance with the requirements made hereunder by the Secretary of the Treasury, shall be treated, when they reenter the customs territory of the United States, as foreign merchandise under the provisions of the tariff laws in force at that time.

SEC. 4. The Secretary of the Treasury shall assign to the zone the necessary customs officers and guards to protect the revenue and to provide for the admission of foreign merchandise into customs territory.

SEC. 5. Vessels entering or leaving a zone shall be subject to the operation of all the laws of the United States, except as otherwise provided in this act, and vessels leaving a zone and arriving in customs territory of the United States shall be subject to such regulations to protect the revenue as may be prescribed by the

Secretary of the Treasury: *Provided, however*, That nothing in this act shall be construed in any manner so as to permit vessels under foreign flags to carry goods or merchandise from one foreign trade zone to another zone or port in the protected coastwise trade of the United States.

SEC. 6. Each application shall state in detail—

(1) The location and qualifications of the area in which it is proposed to establish a zone, showing (a) the land and water or land or water area or land area alone if the application is for its establishment in or adjacent to an interior port; (b) the means of segregation from customs territory; (c) the fitness of the area for a zone; and (d) the possibilities of expansion of the zone area.

(2) The facilities and appurtenances which it is proposed to provide and the preliminary plans and estimate of the cost thereof, and the existing facilities and appurtenances which it is proposed to utilize.

(3) The time within which the applicant proposes to commence and complete the construction of the zone and facilities and appurtenances.

(4) The methods proposed to finance the undertaking.

(5) Such other information as the Secretary may require.

The Secretary may upon his own initiative or upon request permit the amendment of the application. Any expansion of the area of an established zone shall be made and approved in the same manner as an original application.

SEC. 7. If the Secretary finds that the proposed plans and location are suitable for the accomplishment of the purpose of a foreign trade zone under this act and that the facilities and appurtenances which it is proposed to provide are sufficient, he shall make the grant. If the Secretary refuses the grant, the applicant may appeal to a board consisting of the Secretary of Commerce, the Secretary of the Treasury, and the Secretary of War, whose decision shall be rendered within 3 months from the filing of such appeal and be final as to the grant of the application.

SEC. 8. The Secretary shall prescribe such rules and regulations not inconsistent with the provisions of this act or the rules and regulations of the Secretary of the Treasury made hereunder and as may be necessary to carry out this act.

SEC. 9. The Secretary shall cooperate with the State subdivision, and municipality in which the zone is located in the exercise of their police, sanitary, and other powers in and in connection with the free zone. He shall also cooperate with the United States Customs Service, the Post Office Department, the Public Health Service, the Bureau of Immigration, and such other Federal agencies as have jurisdiction in ports of entry described in section 2.

SEC. 10. For the purpose of facilitating the investigations of the Secretary and his work in the granting of the privilege, in the establishment, operation, and maintenance of a zone, the President may direct the executive departments and other establishments of the Government to cooperate with the Secretary, and for such purpose each of the several departments and establishments is authorized, upon direction of the President, to furnish to the Secretary such records, papers, and information in their possession as may be required by him, and temporarily to detail to the service of the Secretary such officers, experts, or engineers as may be necessary.

SEC. 11. If the title to or right of user of any of the property to be included in a zone is in the United States, an agreement to use such property for zone purposes may be entered into between the grantee and the department or officer of the United States having control of the same, under such conditions approved by the Secretary and such department or officer, as may be agreed upon.

SEC. 12. Each grantee shall provide and maintain in connection with the zone—

(a) Adequate slips, docks, wharves, warehouses, loading and unloading and mooring facilities where the zone is adjacent to water; or in the case of an inland zone, adequate loading, unloading, and warehouse facilities;

(b) Adequate transportation connections with the surrounding territory and with all parts of the United States, so arranged as to permit of proper guarding and inspection for the protection of the revenue;

(c) Adequate facilities for coal or other fuel and for light and power;

(d) Adequate water and sewer mains;

(e) Adequate quarters and facilities for the officers and employees of the United States, State, and municipality whose duties may require their presence within the zone;

(f) Adequate enclosures to segregate the zone from customs territory for protection of the revenue, together with suitable provisions for ingress and egress of persons, conveyances, vessels, and merchandise;

(g) Such other facilities as may be required by the Secretary of Commerce, the Secretary of War, and the Secretary of the Treasury, acting jointly.

SEC. 13. The grantee may, with the approval of the Secretary of Commerce and the Secretary of the Treasury, and under reasonable and uniform regulations for like conditions and circumstances to be prescribed by them, permit private persons, firms, corporations, or associations to erect such buildings and other structures within the zone as will meet their particular requirements: *Provided*, That such permission shall not constitute a vested right as against the United States, nor interfere with the regulation of the grantee or the permittee by the United States, nor interfere with or complicate the revocation of the grant by the United States: *And provided further*, That in the event of the United States or the grantee desiring to acquire the property of the permittee no good-



will shall be considered as accruing from the privilege granted to the zone: *And provided further*, That such permits shall not be granted on terms that conflict with the public use of the zone as set forth in this act.

Sec. 14. Each zone shall be operated as a public utility, and all rates and charges for all services or privileges within the zone shall be fair and reasonable, and the grantee shall afford to all who may apply for the use of the zone and its facilities and appurtenances uniform treatment under like conditions, subject to such treaties or commercial conventions as are now in force or may hereafter be made from time to time by the United States with foreign governments and the cost of maintaining the additional customs service required under this act shall be paid by the operator of the zone.

Sec. 15. No individual shall be allowed to reside within the zone except Federal, State, or municipal officers or agents whose resident presence is deemed necessary by the Secretary.

The Secretary shall prescribe rules and regulations regarding employees and other persons entering and leaving the zone. All rules and regulations concerning the protection of the revenue shall be approved by the Secretary of the Treasury.

The Secretary may at any time order the exclusion from the zone of any goods or process of treatment that in his judgment is detrimental to the public interest, health, or safety.

No retail trade shall be conducted within the zone except under permits issued by the grantee and approved by the Secretary. Such permittees shall sell no goods except such as are brought into the zone from customs territory.

Sec. 16. The form and manner of keeping the accounts of each zone shall be prescribed by the Secretary.

Each grantee shall make to the Secretary annually, and at such other times as he may prescribe, reports containing a full statement of all the operations, receipts, and expenditures, and such other information as the Secretary may require.

The Secretary shall make a report to Congress on the first day of each regular session containing a summary of the operation and fiscal condition of each zone and transmit therewith copies of the annual report of each grantee.

Sec. 17. The grant shall not be sold, conveyed, transferred, set over, or assigned.

Sec. 18. In the event of repeated willful violations of any of the provisions of this act by the grantee, the Secretary of Commerce, the Secretary of War, and the Secretary of the Treasury, or a majority of them, may revoke the grant after 4 months' notice to the grantee and affording it an opportunity to be heard. The testimony taken before the Secretaries shall be reduced to writing and filed in the records of the Department of Commerce together with the decision reached thereon.

In the conduct of any proceeding under this section for the revocation of a grant the Secretaries may compel the attendance of witnesses and the giving of testimony and the production of documentary evidence, and for such purpose may invoke the aid of the district courts of the United States.

An order under the provisions of this section revoking the grant issued by the Secretaries shall be final and conclusive, unless within 90 days after its service the grantee appeals to the circuit court of appeals for the circuit in which the zone is located by filing with the clerk of said court a written petition praying that the order of the Secretaries be set aside. The clerk of the court in which such a petition is filed shall immediately cause a copy thereof to be delivered to each of the Secretaries and they shall forthwith prepare, certify, and file in the court a full and accurate transcript of the record in the proceedings held before them under this section, the charges, the evidence, and the order revoking the grant. The testimony and evidence taken or submitted before the Secretaries, duly certified and filed as a part of the record, shall be considered by the court as the evidence in the case.

On such appeal the court shall review the record of proceedings before the Secretaries and, if a decision of said Secretaries shall be supported by evidence, shall only make decision on errors of law.

Sec. 19. In case of a violation of this act, or any regulation of the Secretary under this act, by the grantee, any officer, agent, or employee thereof responsible for or permitting any such violation shall be subject to a fine of not more than \$1,000. Each day during which a violation continues shall constitute a separate offense.

Sec. 20. If any provision of this act or the application of such provision to certain circumstances be held invalid, the remainder of the act and the application of such provisions to circumstances other than those as to which it is held invalid shall not be affected thereby.

Sec. 21. The right to alter, amend, or repeal this act is hereby reserved.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time and passed.

Mr. COPELAND. Mr. President, I move that the Senate insist on its amendment, ask for a conference with the House of Representatives on the disagreeing votes of the

two Houses thereon, and that the Chair appoint the conferees on the part of the Senate.

The motion was agreed to; and the Presiding Officer appointed Mr. STEPHENS, Mr. COPELAND, and Mr. McNARY conferees on the part of the Senate.

#### HOUSE BILLS REFERRED

The following bills were severally read twice by their titles and referred as indicated below:

H.R. 387. An act donating bronze trophy guns to the Cohoes Historical Society, Cohoes, N.Y.;

H.R. 5809. An act to provide compensation for Robert Rayford Wilcoxson for injuries received in citizen's military training camp; and

H.R. 6497. An act for the relief of James Henry Green; to the Committee on Military Affairs.

H.R. 471. An act for the relief of Physicians and Surgeons Hospital, Ltd.;

H.R. 1306. An act for the relief of Clarence A. Wimley;

H.R. 1308. An act for the relief of John Parker Clark, Sr.;

H.R. 1345. An act for the relief of John Parker Clark, Jr.;

H.R. 1354. An act for the relief of C. V. Mason;

H.R. 3176. An act for the relief of Ernest Elmore Hall;

H.R. 3595. An act for the relief of St. Ludgers Catholic Church, of Germantown, Henry County, Mo.;

H.R. 3912. An act for the relief of Roland Zolesky;

H.R. 4175. An act for the relief of Oscar C. Olson;

H.R. 4387. An act for the relief of Mary A. Rockwell;

H.R. 5400. An act for the relief of Thomas F. Olsen;

H.R. 6284. An act for the relief of John R. Novak;

H.R. 6625. An act for the relief of Charles Farr;

H.R. 6696. An act for the relief of William T. Roche;

H.R. 7107. An act for the relief of Frank Baglione;

H.R. 7161. An act to provide for the refund or abatement of the customs duty on altar candlesticks and cross imported for the Church of the Good Shepherd, Memphis, Tenn.;

H.R. 7264. An act for the relief of M. N. Lipinski;

H.R. 7272. An act for the relief of John W. Adair;

H.R. 7372. An act for the relief of Donald K. Warner;

H.R. 7631. An act for the relief of Arthur A. Burn, Sr., and J. K. Ryland;

H.R. 7697. An act for the relief of William Chinsky;

H.R. 7816. An act for the relief of Oswald H. Halford, Hunter M. Henry, William C. Horne, Rupert R. Johnson, David L. Lacey, William Z. Lee, Fenton F. Rodgers, Henry Freeman Seale, Felix M. Smith, Edwin C. Smith, Robert S. Sutherland, and Charles G. Ventress;

H.R. 7893. An act for the relief of Ralph LaVern Walker; and

H.R. 8035. An act for the relief of James M. Pace; to the Committee on Claims.

H.R. 7560. An act for the relief of Charles E. Dagenett; to the Committee on Indian Affairs.

H.R. 7623. An act granting a renewal of Patent No. 54296 relating to the badge of the American Legion; and

H.R. 7624. An act granting a renewal of Patent No. 5398, relating to the badge of the American Legion Auxiliary; to the Committee on Patents.

H.R. 7781. An act for the relief of Rosemund Pauline Lowry; to the Committee on Foreign Relations.

#### RECIPROCAL-TARIFF AGREEMENTS

The Senate resumed the consideration of the bill (H.R. 8687) to amend the Tariff Act of 1930.

The PRESIDING OFFICER. The question is on the first amendment reported by the committee.

Mr. McNARY. Mr. President, I presume that refers to the amendment on page 1, line 8?

Mr. HARRISON. Let me say to the Senator from Oregon, with his permission, that the first amendments, as we all know, are merely clarifying amendments.

Mr. McNARY. I observe the same language was used in line 11, but has been transposed to line 8. I assume that is to clarify the provision and make it more effective. Is that correct?



Mr. HARRISON. The Senator is alluding to the pending amendment?

Mr. McNARY. Yes; the amendment on page 1, line 8, inserting the words "in the present emergency." That is a transposition of the same language found on line 11?

Mr. HARRISON. Yes.

Mr. McNARY. And I assume it is to make it more certain and make the expression more emphatic?

Mr. HARRISON. That is very true, so that if the question shall be tested in the courts the law itself will show it is enacted "in the present emergency." I may say that the committee was unanimous in adopting these amendments.

Mr. McNARY. I do not suppose the Senator means that all the amendments were unanimously agreed to in the committee?

Mr. HARRISON. I mean the clarifying amendments.

Mr. McNARY. Of course, we might disagree as to what is a "clarifying amendment", but I can see the force of the language and the transposition that has taken place. I have no objection to that.

The PRESIDING OFFICER. The question is on agreeing to the amendment reported by the committee.

The amendment was agreed to.

The PRESIDING OFFICER. The next amendment of the committee will be stated.

The CHIEF CLERK. On page 1, line 11, after the word "public", it is proposed to strike out "in the present emergency."

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The next amendment was, on page 2, line 10, after the word "finds", to insert "as a fact."

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The next amendment was, on page 2, line 11, after the word "restrictions", to insert "of the United States or any foreign country."

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The next amendment was, on page 2, at the beginning of line 14, to strike out the word "or" and insert the word "and."

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The next amendment was, on page 2, line 15, after the word "the", to strike out "use of the power herein conferred" and insert "means hereinafter specified."

Mr. McNARY. Mr. President, will the Senator from Mississippi explain that change?

Mr. HARRISON. The Senator will note that in the clause reading "will be promoted by the use of the powers herein conferred" the words "use of the powers herein conferred" are stricken out and the words "means hereinafter specified" inserted. The State Department and the draftsmen thought that the language would be improved by striking out the words "use of the powers herein conferred" and substituting the language "promoted by the means hereinafter specified." It does not alter the meaning at all, but they thought it was better language.

Mr. McNARY. Who recommended that change, may I ask the Senator?

Mr. HARRISON. That was recommended by Dr. Sayre and the draftsmen, Dr. Sayre representing the State Department.

Mr. McNARY. Was there any division of opinion in the committee when that matter was considered?

Mr. HARRISON. There was none at all over that amendment.

Mr. LEWIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LEWIS. Would it be a violation of any agreement should I address the Senate on a matter before the Senate? I might occupy 5 minutes, and then later we could take up the tariff bill. I would speak with the understanding that the length of time I should occupy would be taken from my time in any final argument I might wish to make later in the day.

The PRESIDING OFFICER. The Senator is entitled to 15 minutes on any amendment and to 20 minutes on the bill.

Mr. LEWIS. Assuming that I shall occupy only 5 minutes?

The PRESIDING OFFICER. Under the unanimous-consent agreement heretofore entered into each Senator may speak only once on any amendment and only once on the bill. Whether it is 1 minute or 15 minutes, it must be considered a speech on the amendment or on the bill.

Mr. HARRISON. The Senator may speak on the amendment which is now pending.

Mr. LEWIS. I did not know I was interrupting the consideration of an amendment pending. I beg the pardon of the Senate. I shall not intrude at this time.

The PRESIDING OFFICER. The question is on agreeing to the amendment reported by the committee.

The amendment was agreed to.

The next amendment of the Committee on Finance was, on page 3, line 6, after the word "indirectly", to strike out "except that nothing in this section shall be construed to prevent the granting of exclusive preferential treatment to articles the growth, produce, or manufacture of the Republic of Cuba."

Mr. HARRISON. Mr. President, the Senator from Oregon [Mr. McNARY] will appreciate that the language stricken out is covered by paragraph (b) at the bottom of page 3, in the form of a new amendment. The change was made at the instance of the State Department only to make it more explicit and to clarify the situation. There is no real difference in the meaning of the two.

Mr. McNARY. Mr. President, I was about to propound the inquiry if paragraph (b), at the bottom of page 3, is inserted in lieu of the language in lines 6, 7, 8, and 9, on the same page, to be stricken out, as just read by the clerk.

Mr. HARRISON. That is true, and it was approved unanimously by the committee.

Mr. FESS. Mr. President, may I inquire of the Senator from Mississippi if there is any conflict between subsection (b) and the preceding amendment reported by the committee?

Mr. HARRISON. There is no conflict. It was to make explicit and specific that there could be no greater reduction than 50 percent under a commercial agreement with Cuba.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

Mr. FLETCHER. Mr. President, I have an amendment to offer to the language proposed to be stricken out, but I do not know whether it applies as an amendment to the committee amendment.

Mr. HARRISON. It would. The Senator has an amendment which he is going to offer to a part of the language proposed to be stricken out. It would come in this provision. I ask unanimous consent that the Senator from Florida shall lose no right by virtue of the adoption of the amendment and that he may offer his amendment at a later time.

Mr. FLETCHER. The purpose of my amendment is to enable arrangements to be made not only with reference to the duties as provided in the tariff act and fixed by the Congress but with reference to the free list as well.

Mr. HARRISON. I may say to the Senator that we were very doubtful of the constitutionality of the proposal and we did not go into that matter because we did not want to disrupt the bill or destroy the legislation by some interpretation of law involving taking an item from the free list and putting it upon the dutiable list.

Mr. FLETCHER. Then I shall make no objection to agreeing to the committee amendment at this time, provided I am not prohibited from offering my amendment later.

Mr. HARRISON. There will be no objection, I am sure, when that time comes.

The PRESIDING OFFICER. Without objection, the request of the Senator from Mississippi that the Senator from Florida be permitted to offer his amendment later is granted.



Mr. McNARY. Mr. President, what is the nature of the agreement?

The PRESIDING OFFICER. The Senator from Mississippi asks unanimous consent that the Senator from Florida may be permitted later to offer an amendment to certain language which is now being stricken out. Is there objection? The Chair hears none. The question is on agreeing to the committee amendment.

The amendment of the committee was agreed to.

The next amendment was, on page 3, after line 18, to insert the following new subsection:

(b) Nothing in this section shall be construed to prevent the application, with respect to rates of duty established under this section pursuant to agreements with countries other than Cuba, of the provisions of the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on December 11, 1902, or to preclude giving effect to an exclusive agreement with Cuba concluded under this section, modifying the existing preferential customs treatment of any article the growth, produce, or manufacture of Cuba: *Provided*, That the duties payable on such an article shall in no case be increased or decreased by more than 50 percent of the duties now payable thereon.

Mr. LONG. Mr. President, not being very familiar with the parliamentary status, I understand I would have a right to reserve the offering of amendments to committee amendments until a later time. If we adopt the committee amendment at this time, does that preclude our later proposing to amend it?

The PRESIDING OFFICER. The Chair will state to the Senator from Louisiana that an amendment to a committee amendment should be offered when the committee amendment is pending, unless unanimous consent be granted that it may be offered later.

Mr. HARRISON. I shall offer no objection to individual amendments being offered later.

Mr. LONG. May we have that understood by unanimous consent?

Mr. HARRISON. If the Senator has an amendment he desires to offer, he may do so later.

Mr. LONG. Some of the amendments of other Senators may somewhat transgress that rule; for instance, if the ruling be very strictly applied on amendments relating to agricultural products.

Mr. HARRISON. There will be no objection to agricultural amendments being offered at the proper time. I do not think the Senator will have any cause for complaint on that score.

Mr. JOHNSON. Mr. President, will the Senator from Mississippi yield?

Mr. HARRISON. Certainly.

Mr. JOHNSON. My understanding of the parliamentary situation is that it would not be appropriate to offer agricultural amendments at the present time, but only when action shall have been taken on the committee amendments.

Mr. HARRISON. I have asked unanimous consent, and it was agreed to, that committee amendments should be disposed of first. Of course, if there is an amendment to be offered to a committee amendment, it ought to be offered, under the regular practice, at the time the committee amendment is being considered. However, I am going to raise no question about that and I do not think the question will be raised by anyone else, so that each Senator may have a chance to offer his amendment.

Mr. JOHNSON. I do not want any misunderstanding in respect to it, because I think possibly the Senator from Louisiana had some misapprehension about it. For instance, the agricultural amendment, which would comprise another section of the bill, is an amendment appropriate to be offered at the conclusion of the consideration of the committee amendments.

Mr. HARRISON. The Senator is correct.

Mr. JOHNSON. The amendment that is presented or that will be presented soon by the Senator from Michigan [Mr. VANDENBERG] to the amendment of the committee is quite in order and will be heard with the committee amendment.

Mr. HARRISON. That is true.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The next amendment was, on page 4, line 20, to strike out:

The third paragraph of section 311 of the Tariff Act of 1930 shall not apply to any agreement concluded pursuant to this act within any country which does not grant exclusive preferential duty to the United States with respect to flour.

And to insert in lieu thereof the following:

The third paragraph of section 311 of the Tariff Act of 1930 shall apply to any agreement concluded pursuant to this act to the extent only that such agreement assures to the United States a rate of duty on wheat flour produced in the United States which is preferential in respect to the lowest rate of duty imposed by the country with which such agreement has been concluded on like flour produced in any other country; and upon the withdrawal of wheat flour from bonded manufacturing warehouses for exportation to the country with which such agreement has been concluded, there shall be levied, collected, and paid on the imported wheat used, a duty equal to the amount of such assured preference.

Mr. McNARY. Mr. President, there are in the Senate many representatives of the wheat-growing States. Flour being a byproduct of wheat is likewise of interest to them. Because of their absence I am going to suggest the absence of a quorum.

Mr. HARRISON. Mr. President, may I say, before the Senator does that, that the language is proposed to be stricken out of the bill at the suggestion of the State Department. The language which is proposed to be inserted is language suggested by the southwestern wheat growers and milling interests. It is peculiarly strange, but the interests at Buffalo and in the Southwest got together upon this language, and that is why we propose to insert it. We have not had a single protest against it. Everyone with whom I have talked and who has investigated was very well satisfied. It is intended to protect the people in the Southwest in the matter of preferential treatment.

Mr. McNARY. There are other sections of the country devoted to the production of wheat, and I want Senators from those sections of the country to be present while the amendment is being considered.

Mr. HARRISON. I have no objection to that, of course. If the Senator would permit the amendment to be agreed to and then there should arise any question about it, I should be perfectly willing to have the vote by which the amendment was agreed to reconsidered.

Mr. McNARY. I adhere to my suggestion of the absence of a quorum.

The PRESIDING OFFICER. The Senator from Oregon suggests the absence of a quorum. The clerk will call the roll.

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

|          |              |             |                |
|----------|--------------|-------------|----------------|
| Adams    | Costigan     | Hebert      | Pope           |
| Ashurst  | Couzens      | Johnson     | Reynolds       |
| Austin   | Cutting      | Keyes       | Robinson, Ark. |
| Bachman  | Dickinson    | King        | Russell        |
| Bankhead | Dieterich    | La Follette | Schall         |
| Barbour  | Dill         | Lewis       | Sheppard       |
| Barkley  | Duffy        | Logan       | Shipstead      |
| Black    | Erickson     | Long        | Smith          |
| Bone     | Fess         | McCarran    | Steiwer        |
| Borah    | Fletcher     | McGill      | Stephens       |
| Brown    | Frazier      | McKellar    | Thomas, Utah   |
| Bulkley  | George       | 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        |
| Clark    | Hatch        | O'Mahoney   | Walsh          |
| Connally | Hatfield     | Patterson   | White          |
| Copeland | Hayden       | Pittman     |                |

Mr. LEWIS. I beg to reannounce the absence of Senators announced on previous roll calls, again relating the reasons for those absences, and ask that they stand for the day.

The PRESIDING OFFICER. Eighty-three Senators having answered to their names, a quorum is present. The question is on the amendment of the committee.

Mr. McNARY. Mr. President, I suggested the absence of a quorum on account of the somewhat confusing language



employed in the attempt to amend that part of paragraph 3 of section 311 of the Tariff Act of 1930 relating to bonded manufacturing warehouses. That act reads:

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

I think I know what that means. When I read this amendment I note that it provides—

The third paragraph of section 311 of the Tariff Act of 1930—

Which I read just a moment ago—

shall apply to any agreement concluded pursuant to this act to the extent only—

And then follows certain language. It is a partial modification of the existing third paragraph of section 311. I should like to have the impressions of some of those who represent wheat-growing States as to whether that is satisfactory. I am not clear about the amendment and what effect it has in its modification of existing statutes.

Mr. HARRISON. I may say to the Senator that the statute referred to, section 311 of the act of 1930, was the one, he will recall, in connection with which there was quite a fight between the southwestern millers and the Buffalo millers with respect to wheat brought into the United States in bond and afterward shipped into Cuba, getting the preferential treatment because of the commercial treaty with Cuba. This amendment does not disturb that status quo, because in the case of wheat brought from Canada, say, into Buffalo, and flour made from it and shipped into Cuba, because of the 20-percent differential, the difference between whatever is collected by virtue of that differential and the ordinary tax is paid into the Treasury of the United States, in order to put them all upon a parity. That is what the southwestern millers wanted. They did not want the proximity to Canada of the Buffalo millers to give them an advantage in getting wheat and milling it into flour and shipping it to Cuba.

Consequently, section 311 was written, in order to put the two upon a parity.

In negotiating trade agreements we did not want that status quo affected, because we did not think it was fair to affect it; and that is why this language is used. After conference between the millers representing the Southwest and the Buffalo millers they have agreed on this language.

Mr. McNARY. I understand that; but, as the Senator presents the subject matter to me, it appears that this is a sectional agreement. The converters in Buffalo, the northeastern part of the country, and the wheat growers in the southwestern part of the country have agreed; but between those two points are the wheat fields of America. I desire to know if this agreement is acceptable to those who grow wheat and convert wheat in the great Mississippi Valley, the great northwestern section, and the territory tributary to the Ohio River.

Mr. HARRISON. So far as the Finance Committee is concerned, not a single protest has been received by us, and I am informed that that is true with reference to the State Department, as to the language incorporated in the bill as a result of the agreement. Section 311 of the Tariff Act of 1930 has worked very well.

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

The PRESIDING OFFICER. Does the Senator from Oregon yield to the Senator from Delaware?

Mr. McNARY. I do.

Mr. HASTINGS. Is it or not true that if we should leave this amendment out of the bill the President, in making the agreements which he will have authority to make under the bill, could do exactly what the amendment prescribes? In other words, without this amendment may not the President do what the amendment says must be done?

Mr. HARRISON. Unless we repeal the present law. In the House bill it is not repealed. We made an exception in certain language to section 311 of the Tariff Act of 1930, which is an exception to the general law, because while it

does not specifically name Cuba, it does apply only by virtue of any preferential agreement that we have. The difference in duty that there may be by virtue of that preferential agreement is to be paid into the Treasury. Cuba is the only country to which that would apply.

Mr. HASTINGS. I heard the chairman make the same explanation of this matter in the committee. I did not understand it then, and I do not understand it now—not even after the Senator's explanation—because to me it is a very difficult subject; but what I am interested in is whether or not, upon the request of somebody or some group of persons, we have undertaken, by this amendment, to protect them. That is the reason why I inquired whether the President, in making trade agreements, may not do, if he wants to, exactly what he may do if this amendment shall be agreed to.

Mr. HARRISON. No; if we did not insert one of these amendments, the foreign country would get the advantage. For instance, Canada could ship its flour into Cuba, and, getting no preferential treatment, it would be very much to the disadvantage of our millers who use American wheat and ship their flour into Cuba.

I should like to read to the Senate an explanation of this matter from the report of the committee. The Senator will find this on page 20 of the report:

The third paragraph of section 311 of the Tariff Act of 1930 is made inapplicable to any agreement concluded under the present bill with any country which does not grant exclusive preferential duties to the United States with respect to flour.

This paragraph provides that no flour manufactured in a bonded warehouse from imported wheat shall be withdrawn for exportation without the payment of a duty on the imported wheat equal to any reduction in duty which by treaty will apply in respect of such flour in the country to which it is to be exported.

Of course, we, having only one treaty which gives preferential treatment, it would apply only to Cuba.

The purpose was to prevent any benefit accruing, under the exclusive reciprocity treaty between the United States and Cuba, to flour manufactured from imported wheat. That treaty was the only reciprocity arrangement with another country in force at the time when the act of 1930 was passed. The present bill contemplates reciprocity agreements with many countries, but the language is designed so that, so far as Cuba is concerned, the present situation will remain unchanged.

The new reciprocity agreements with foreign countries will not be exclusive. In other words, the other parties to those agreements will normally generalize the reductions to the United States in accordance with their most-favored-nation obligations with still other countries. The result would be that, if American millers were required to pay into the United States Treasury the amounts of the reductions of duties in the countries to which they export their flour, the generalization of such duties by the other countries would result in their competitors receiving reductions which would be denied to American manufacturers. It is desired that American manufacturers shall not be thus put at a disadvantage; and, accordingly, when the flour shipments, under the new agreements, are made to countries which do not, like Cuba, grant exclusive preferences to the United States, the provisions of the third paragraph of section 311 will not apply.

The PRESIDING OFFICER. The question is on agreeing to the amendment reported by the committee.

The amendment was agreed to.

The PRESIDING OFFICER. The clerk will state the next amendment.

The CHIEF CLERK. On page 5, after line 18, it is proposed to strike out:

(c) The provisions of this act shall terminate 3 years from the date of its enactment.

And to insert in lieu thereof the following:

(c) The authority of the President to enter into foreign-trade agreements under section 1 of this act shall terminate on the expiration of 3 years from the date of the enactment of this act.

Mr. McNARY. Mr. President, I am advised that there are in course of preparation some amendments touching this provision, and I ask the Senator from Mississippi to allow it to go over for the present.

Mr. HARRISON. Very well.

The PRESIDING OFFICER. The Senator from Oregon asks that the committee amendment be passed over. Is there objection? The Chair hears none, and the amendment will be passed over. The clerk will state the next amendment.



The CHIEF CLERK. On page 6, after line 3, it is proposed to insert the following:

SEC. 4. Before any foreign-trade agreement is concluded with any foreign government or instrumentality thereof under the provisions of this act, reasonable public notice of the intention to negotiate an agreement with such government or instrumentality shall be given in order that any interested person may have an opportunity to present his views to the President, or to such agency as the President may designate, under such rules and regulations as the President may prescribe; and before concluding such agreement the President shall seek information and advice with respect thereto from the United States Tariff Commission, the Departments of State, Agriculture, and Commerce, and from such other sources as he may deem appropriate.

Mr. VANDENBERG. Mr. President, I offer the following amendments to the committee amendment.

The PRESIDING OFFICER. The clerk will state the amendments to the amendment.

The CHIEF CLERK. On page 6, line 8, after the word "instrumentality", it is proposed to add the following words: "and the commodities contemplated to be affected by such agreement"; and on page 6, line 10, after the word "designate", to insert the words "at a public hearing and."

Mr. VANDENBERG. Mr. President, inasmuch as these two amendments are interrelated, I ask unanimous consent that they be considered en bloc.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. VANDENBERG. Mr. President, I wish to submit to the Senate the importance of adopting these proposals in the interest of fair play to American industry and agriculture and in the interest of making the proposed notice and hearing actually and in fact a free opportunity for an expression from the interested American parties involved.

Let me read the committee amendment as it would read if the amendments I have offered were agreed to. The provision for notice and hearing would then read as follows:

Before any foreign-trade agreement is concluded with any foreign government or instrumentality thereof under the provisions of this act reasonable public notice of the intention to negotiate an agreement with such government or instrumentality and the commodities contemplated to be affected by such agreement shall be given, in order that any interested person may have an opportunity to present his views to the President, or to such agency as the President may designate, at a public hearing and under such rules and regulations as the President may prescribe.

And so forth.

Mr. President, great importance has been ascribed to the Senate committee amendment intending to provide for notice and hearing. It seems to be admitted that the President and his executive policy committee, which evidently is to be the body which is to pass upon these proposals, should not act in the nature of a drumhead court martial. As a matter of fact, even at a drumhead court martial the defendant has an opportunity to be heard and to be present at his own hearing.

Under the bill as originally drawn there was provided no opportunity whatsoever for the interested American industries or the interested American agricultural commodity to have the remotest chance to know what was in contemplation in respect of its destiny, or to know what might happen to it in respect to one of the proposed tariff bargains. The only thing any of them could know would be to read in the morning paper that a death warrant had been pronounced upon them. The Senate committee evidently acknowledged that this was un-American, unwise, and improper, so the committee reported the amendment which is now pending before the Senate.

I submit with great earnestness that the amendment as pending is little more than a gesture, and is not even remotely calculated to accomplish the purposes which evidently were acknowledged in its original authorship, except as it be extended in some such fashion as I have proposed.

Let me make this matter plain. As drawn, and as pending, the only notice the President has to give respecting a pending trade agreement is "his intention to negotiate an agreement with such government." In other words, the notice might say that he intends to negotiate an agreement

with Spain. That simple, indefinite announcement would completely comply with the amendment as drawn and submitted by the committee.

Mr. President, I submit that that is pure camouflage and shadow boxing. What notice does it carry to any affected interest in the United States to know simply that the President contemplates an agreement with Spain? Let us take an even more specific and identified example. We know that already an agreement has been consummated with the Republic of Colombia in respect to one of these trade agreements. What was the notice given by the Department of State on December 15, 1933, respecting this trade agreement? And I take it that, since the State Department made this announcement on December 15, it may be assumed that it is typical of the kind of announcement the State Department would consider fully to comply with the text of the Senate amendment as pending. What was it that the State Department announced with respect to this trade agreement? It announced solely and simply that it had signed a reciprocal trade agreement with the Republic of Colombia.

Does it involve fruit? Does it involve oil? Does it involve coffee? Does it involve minerals? Does it involve any one of innumerable commodities which are interexchanged between Colombia and the United States?

Of what earthly practical use is a notice to the people of the United States simply that an agreement with Colombia is contemplated? If there is any good faith whatsoever in the purpose to give notice to the affected people and interests, if there is any remote idea of making the notice effective, it is perfectly obvious that the affected commodities or the commodities which are contemplated to be affected by the agreement must be noticed along with the attempt to make the agreement itself. It seems to me that that is axiomatic.

It seems to me, save as the notice is extended—I now read the language of the pending amendment which I have offered—to include notice respecting "the commodities contemplated to be affected by such agreement", that the notice amounts literally to nothing, and this proposal to give notice becomes nothing more or less than an imposition upon the good faith of the American people.

That, Mr. President, is not the only thing. It seems to be perfectly obvious that, if the notice and the subsequent hearing are to proceed in the normal American fashion, the hearing should be public. If it is not public, we have reverted to secret diplomacy, we have reverted to secret covenants secretly arrived at. We have reverted to a system of negotiations and relationship which is not only outmoded but which is repudiated by all modern thinking. Under the terms of the Senate committee amendment as pending, the hearing can be behind closed doors. It can be a secret negotiation and nothing else. There will be no adequate information given to the American people respecting vital concerns involving their lives and their livelihood. Again, it seems to me utterly elementary that the hearings should be public.

Mr. President, we are put upon notice by a decision of the Supreme Court that it is very important in respect to these hearings to be somewhat specific in our language if we intend the hearings to be anything other than an idle gesture.

I shall quote from the case of the Norwegian Products Co., petitioners, against United States of America, decided on February 6, 1933, in the Supreme Court (288 U.S. 294). I may say that this case turns on the question of what kind of hearings are required under the language of the flexible-tariff section of the law requiring reasonable hearing. The court specifically says:

There are times when the obscurity of one section as contrasted to the clearness of another may be ascribed to inattention. The need is not perceived of filling up the outlines because what is within them is assumed or carelessly overlooked.

Now, then comes this important statement:

Not so in this case, where Congress had its attention sharply directed to the fact that plain speech was needed if a hearing was to mean so much.



I submit that plain speaking is necessary if the Senate intends to do what the Senate amendment pretends to do. I submit that if we mean what we say when we propose in the Senate amendment to permit American industry and agriculture to have their day in court before they shall be sacrificed to one of these tariff bargains, then we must be willing to speak in plain language upon the subject, and we certainly should not balk, first, at requiring reasonable notice, that being the first section of my amendment; secondly, we should not balk at requiring the notice to include an indication of the commodities to be affected by the agreement, that being the second section of my pending amendment; and, third, that the hearing of interested parties shall be in public and not behind closed doors, that being the third section of my pending amendment.

Mr. President, I can scarcely conceive that the committee would object to these amendments. I shall be surprised if the Senator from Mississippi does not indicate his willingness, so far as he can, to accept these amendments, because it seems to me that any refusal to extend these definitions through the addition of these simple words must confess that the committee amendment has been proposed to the bill purely for the purpose of temporarily assuaging criticism and temporarily lulling the American people into a false sense of security.

I submit the amendments and I earnestly hope they may be approved.

Mr. HARRISON. Mr. President, as to the first amendment embodied in the Senator's amendments, which is to insert the word "reasonable" before "public notice", I see no objection to it, and shall not oppose the adoption of such an amendment, disconnected from the remainder of the amendments of the Senator from Michigan, because I imagine that any public notice would be reasonable. I have no objection in the world to "reasonable" being written in the language of the bill.

The question as to having public hearings, however, was one which was discussed in the committee, and if we are to undertake to negotiate reciprocal trade agreements with other countries, and if we must have public hearings and give notice to the opposition country of everything that may be said about a proposition in a public hearing, it would, in my opinion, almost destroy the effect of this proposed legislation. I hope very much that the amendment, so far as public hearings is concerned, shall be voted down.

We went just as far as we thought it was possible to go in writing this language. The bill, when it came from the House, had nothing in it about hearings of any kind. As the Senator will recall, there was a good deal of criticism leveled at the bill as it came from the House, because of the failure to mention anything about hearings. So we consulted with the administration concerning the Senate committee amendment. There was no objection raised to it, and in the committee it was unanimously agreed to.

Everyone who is interested in a proposed agreement will be heard; and reasonable public notice can and will be given. It seems to me that we have gone just as far as we ought to go.

The Senator knows that if public notice were given that we were about to begin to negotiate a trade agreement with Cuba, say, those who were interested and wanted to be heard one way or the other and to present their views, would know what products there are in Cuba about which to negotiate. The same thing is true of almost every other country. If we are obliged to give public notice and cite the commodities concerning which negotiations are to be had, and one is left out, then when conversations are had with the representatives of the foreign country we must begin all over again and give another notice, and include another commodity, and so on.

What we are trying to do is to cope with foreign countries that are making reciprocal trade agreements overnight and building up their export trade. If we shackle and put so many restrictions around the representatives we are delegating to try to negotiate reciprocal trade agreements for the advantage of the American farmer and American in-

dustry, then we cannot get anywhere. And certainly if public hearings must be had and then if, as the question arises in conversation, every commodity must be published, the negotiations will be greatly delayed, as well as the final agreements.

I am perfectly willing, if the Senate desires, to accept the word "reasonable", but I hope the amendments, so far as public hearings are concerned, and as to the naming of the commodities, will be voted down. Even section 336, the flexible provision of the present tariff law, which gives the President broad powers, does not provide for public hearings but merely for "hearings."

The Senator must display some confidence in the gentlemen who are directing the affairs of the Government. I appreciate the fact that it is a great and grave and important function which they are to perform, but if the measure is to be a success, we must not restrict them too greatly by enabling other countries to know exactly what we are to bargain about, and thereby give them all the advantages. We will be trying to enter into trades to the advantage of the United States.

Mr. VANDENBERG. Mr. President—

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

Mr. HARRISON. Yes; I yield to the Senator.

Mr. VANDENBERG. I have had sent to me a copy of a letter which the distinguished Senator from Wyoming [Mr. O'MAHONEY] sent out respecting wool, in which he said:

I want to call your attention particularly to the letter which Secretary of State Hull wrote giving me positive assurance that no action would be taken with respect to any commodity until, first, negotiations had been held with foreign countries, and, second, until public hearings had been held to permit all persons affected to make their views known.

That would indicate that the Secretary of State is not opposed to public hearings.

Mr. HARRISON. Well, the Senator ought to have some faith in the Secretary of State; he ought to have some faith in the President. We say here that the rules and regulations shall be prescribed by the President of the United States, and I cannot assume that the President is going to act disadvantageously to the United States and against the interests of the United States. It seems to me, Mr. President, it is the wise course and the safe course in a matter such as this to leave the rules and regulations to be prescribed with reference to the hearings, with reference to the notice, and so forth, in the hands of the President of the United States, since we are delegating to him this power.

Mr. DICKINSON. Mr. President, it is pleasing to note that the Senator from Mississippi [Mr. HARRISON] has conceded that the word "reasonable" should be written in in line 6. The reason that word should be written in is because what is reasonable with reference to one commodity might not be reasonable with reference to another commodity. I do not see how any concern is going to be permitted to know how its interests will be affected unless it knows what commodity is involved in the negotiations.

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

Mr. DICKINSON. I yield.

Mr. VANDENBERG. Can the Senator imagine what a notice that we were about to negotiate with the British Empire might convey to the American people in respect to identified commodities? If such a negotiation would not cover the entire tariff list, I do not know what would.

Mr. DICKINSON. I would have no conception of the commodity concerning which negotiations were to be undertaken. In addition to that, let us take, for example, a negotiation with Mexico. It might probably include livestock on the hoof or onions or vegetables produced across the Rio Grande River. How in the world could the beef producers in the Northwest know whether or not their interests were involved unless there was some notice given that negotiations were to be undertaken with reference to tariff rates affecting the importation of cattle on the hoof? The same



thing would be true with reference to Brazil. An agreement with Brazil might provide for additional importations of coffee, but, on the other hand, it might provide for the importation of canned meat from the packing concerns of South America which might be allowed to come in here at a lower tariff rate than is now scheduled. How would the beet producers of the Northwest know whether or not their interests were going to be affected?

Mr. DIETRICH. Mr. President, will the Senator yield?  
Mr. DICKINSON. I yield.

Mr. DIETRICH. Would not the President, in sending notice that a certain treaty was about to be consummated, take into consideration what provisions such treaty contained and would he not give those persons who were interested in a given commodity notice that it might be dealt with in the treaty? Could he give anybody else any notice?

Mr. DICKINSON. That is just what we want him to say, namely, as to what commodities negotiations are going to be entered into.

Mr. HARRISON. Mr. President—

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

Mr. DICKINSON. I yield.

Mr. HARRISON. There is nothing in the world in the provision that has been recommended by the Finance Committee now before the Senate that prohibits the President or restrains the President, if he so desires, from giving notice of the particular commodities. We merely say, "Give him a free rein under such rules and regulations as he may prescribe."

Mr. DICKINSON. But the reply to the Senator from Mississippi is that we want to know whether or not negotiations are being carried on concerning our commodities.

Mr. HARRISON. And the reply of the Senator from Mississippi to the Senator from Iowa is that, no matter what we may put in the bill, the Senator from Iowa will not vote for this proposal.

Mr. DICKINSON. If the Senator is going to take that attitude, let us consider his position on the tariff.

Mr. HARRISON. May I ask the Senator, if this amendment were adopted, would he vote for the proposal?

Mr. DICKINSON. No; I do not want to vote for it at all.

Mr. HARRISON. Of course the Senator would not vote for it.

Mr. DICKINSON. I do not believe in this sort of thing.

Mr. HARRISON. Of course not.

Mr. DICKINSON. But if we are going to have it—and the Democrats have the votes to adopt it—I should like to see the bill written in such form so that it will protect, so far as we can afford protection, the interests that are going to be crucified.

Mr. HARRISON. If the Senator will yield further, of course, I accept that as his version, but there are some who would like to destroy the effectiveness of the measure so that it will be a failure. Of course, I do not put the Senator from Iowa in that category. He wants to see it made a success, even though he is going to vote against it.

Mr. DICKINSON. No; I am not for the delegation of power contained in this bill at all, and I will give a few reasons for my opposition before I conclude. In view of the suggestion of the Senator from Mississippi, I want to read from the New York Times of April 26, 1930:

Senator PAT HARRISON, Democrat, of Mississippi, in an address last night at the seventeenth annual dinner of the Association of Stock Exchange Firms at the Hotel Astor, declared that acceptance by Congress of the Senate coalition's flexible-tariff provision was necessary for final approval of the tariff bill. He warned that defeat of the Senate amendment was likely to result in defeat of tariff legislation at the present session of Congress.

Then I quote from the Senator:

There is no item on which the two Houses disagree that will consume more time and call for a higher degree of statesmanship than the flexible provision. The Executive contends for the present law; the Senate battle for a change. It is a contest so important in character and so grounded in principle that defeat of the Senate amendment is likely to spell defeat for tariff legislation at the present session of Congress.

The Senate amendment provided that whatever was negotiated had to come back for approval by the Senate. I quote further:

I never want to see another tariff bill written in the manner and under the influences that operated in the formulation of the pending one. The serpent of selfishness hisses through every item and its slimy stains smear every paragraph. Tariff rates should be written through expert counsel after an impartial investigation.

I should like to know how we can have an impartial investigation unless the people who are interested are given the right to present their side of the case. That is all we are pleading for in the amendments offered by the Senator from Michigan [Mr. VANDENBERG].

In reference to secrecy and the suggestion that it is necessary that all these matters be kept under cover, let me say that we have too much secrecy all along the line in everything. I am going to show something about secrecy in one of the departments, not in a matter which affects the tariff bill but one which does affect some of the things that are being done in various executive departments of this Government. I read from a letter signed by Harold L. Ickes, under date of April 30, 1934, in which he says:

It was anticipated that there would be resistance to any plan designed to increase the protective features of the Indian policy and at the same time to decrease Federal overlordship; but it was not expected that employees of the Indian Service would deliberately attempt to obstruct the program that has been developed by those carrying the administrative responsibility. I fully appreciate the faithful service of the great majority of the employees, across many years, and their loyalty to the new program. Unfortunately, however, I have increasing evidence that there is a subtle, misleading propaganda against the new Indian program emanating from a minority of employees within the Indian Service. Their action can only be characterized as disloyal and pernicious.

My purpose in addressing you is to notify all of those engaged in this scheme to defeat our program that a continuance will be under penalty of dismissal from the Service. It is not intended to deny to any employee the freedom of expression or the right to petition Congress, but these privileges do not carry with them the right to interfere with administration by undercover methods. There is a point at which such interference can be defined as insubordination to the detriment of the Service.

If any employee wishes to oppose the new policy he should do so honestly and openly from outside of the Service. This would mean his resignation. Any other course is unscrupulous and is detrimental to the Indians, because it acts on the Service like a canker.

That shows what secrecy does. Employees shall not be permitted to express themselves on a matter of public concern.

Now, I want to go a little further. We have an executive policy committee that is going to be an advisory committee to the President in connection with all matters under the pending bill, if it shall become a law. I referred to that committee the other day. The Assistant Secretary of State, Mr. Sayre, who is now honoring us with his presence, is on that committee. Two other members on that committee represent the A.A.A., and I presume are to advise with reference to agricultural matters. What I have in mind is, if we do not provide for public hearings, how are we going to know that anyone who is familiar with agriculture and the problems of agriculture is going to participate in the negotiations? That is a phase of this matter in which I am intensely interested.

The first man representing the A.A.A. is Dr. H. R. Tolley. He was born in Indiana, and, so far as can be found out, never engaged in farming. He attended Indiana University and specialized in agricultural statistics. He has been in the Government service 15 or 20 years, coming to Washington as statistician in agricultural engineering in the Department of Agriculture. Later he was made head of the Division of Farm Management in the Bureau of Agricultural Economics. Subsequently he was made Assistant Chief of the Bureau of Agricultural Economics in charge of research. About 1930 he was taken to California as director of the Gianinni Foundation to conduct all kinds of agricultural research, particularly for the benefit of California farmers. In 1933 he was brought back to Washington by the A.A.A. to head up the special crops section. Now, he is assistant to



Administrator Davis and in charge of the long-time planning policy. I suggest there is nothing there to show that this principal adviser, so far as the farmer is concerned, has had any intimate contact with farm problems from actual experience.

The next man is L. R. Edminster, who was born in Illinois about 1893. So far as can be found, he has had no actual farming experience; if any, it was while he was very young. He received his A.B. at Harvard in 1916. In 1917 he taught at Lake Forest Academy in Illinois. In 1918 he taught in Kansas State Normal College.

Mr. LONG. Mr. President—

The PRESIDING OFFICER. Does the Senator from Iowa yield to the Senator from Louisiana?

Mr. DICKINSON. I yield.

Mr. LONG. Surely the Senator is not contending for such a ridiculous proposition, is he, as that a man appointed to regulate agriculture should know anything about farming?

Mr. DICKINSON. I understand that the best Secretary of the Treasury that could be found would be a man who was a good farmer. I do not know whether a man, because he has been a good economist or statistician, would make a good adviser so far as agriculture is concerned.

Mr. LONG. The Senator, I hope, is not trying to have it understood that in order to be an adviser to the Agricultural Department a man should know anything about farming and farm products?

Mr. DICKINSON. Not under the present administration.

Mr. LONG. We would be depopulating the Department of Agriculture, if the Senator should succeed in the enforcement of that policy.

Mr. DICKINSON. I might suggest that if we are going to have tariff adjustments which are going to affect the farming interests of the country, there ought to be a public hearing; there ought to be reasonable notice; the commodities involved ought to be named, and there ought to be permitted an opportunity to present the side of the case which will protect the producers of the raw products in this country.

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

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

Mr. DICKINSON. I yield.

Mr. FESS. I think the Senator is innocently making a very good excuse for the lack of public hearings. The whole truth about the matter is that if public hearings should be held there would be opposition and there would be no trade agreement. That is what it is desired to get away from. The Department does not want any voice raised in opposition, because that would defeat the principal purpose of the bill. It is desired that the negotiations shall be conducted in secrecy.

Mr. DICKINSON. That shows why the whole scheme is impractical and impossible and should never be attempted. It is just as impractical and impossible as the N.R.A.

Mr. FESS. That is the whole truth about the matter, and that is the frank confession which the Senator from Mississippi [Mr. HARRISON] made when he stated a while ago that we could not do this except in secret.

Mr. DICKINSON. If we have to do it in secret, I would prefer not to do it at all.

I continue about Mr. Edminster. He is the man who is going to be on the policy committee to determine what is going to be done, and he is going to be there representing agriculture. From 1919 to 1926 he was economist with the Tariff Commission. From 1926 to 1928 he taught at the University of Virginia. From 1928 to 1930 he was with the Brookings Institute at Washington in connection with tariff studies, principally with regard to cattle and wheat. About 1930 Secretary Hyde brought him over to the Bureau of Agricultural Economics as head of the foreign section to work on foreign trade and tariff problems. His principal report is entitled "Tariff Barriers." Recently he has been transferred or promoted to be head of the export-import section of the A.A.A., and more recently was made a member of the President's new executive policy committee.

The PRESIDING OFFICER. The time of the Senator from Iowa on the amendment has expired.

Mr. DICKINSON. I will take some time on the bill.

The PRESIDING OFFICER. The Senator is recognized on the bill.

Mr. DICKINSON. I have another interesting comment here, which does not strictly apply to this particular item, but I wish to submit it because I think it contains much information. It is a new-deal note being circulated in Iowa. The note is in the following terms, and bankers and others familiar with the forms of notes will be greatly interested in this new form:

#### NEW-DEAL NOTE CIRCULATED

For value received, 2 years after date (unless (1) the time of payment be extended by law, or (2) the obligation to pay be terminated by act of legislature or by Executive order, or unless (3) at the time of maturity hereof the country or locality be suffering from economic depression, low prices for produce, drought, cyclone, fire, pestilence, or unless (4) there shall exist some kind of emergency, declared by act of the legislature, or Executive order, to be an emergency), I, we or either of us promise to pay to the order of ----- dollars (unless some other form of money be made lawful either by legislative act or by Executive order, and unless (2) a different amount in dollars, or in such other medium of exchange or currency which shall or may be established by law, or Executive order, be made the equivalent of the sum herein above specified), with interest at the rate of ---- percent per annum (unless some other rate be established by law, or by Executive order, or unless interest be so abolished), payable semiannually (unless the time of payment be extended or postponed by law or by Executive order).

The maker, endorsers, and guarantors of this note, jointly and severally agree to and with the payee and his assigns, that (1) they will perform as little labor as possible, working not to exceed 30 hours per week; (2) that they will save nothing, but will, for the purpose of giving circulation to money (or whatever may be declared by law or by Executive order to be money), expend promptly all moneys coming into their hands; (3) that they and each of them for the purpose of bringing back prosperity and promoting recovery will borrow all money which shall or may become available for borrowing to them and each of them and that they and each of them will promptly destroy all produce, livestock, hay, cotton, or other crops (growing or harvested) which might contribute toward an overproduction of such article or articles as Government statistics may from time to time indicate, or as we may be requested to do by the new deal, the P.W.A., C.W.A., N.R.A., A.A.A., or any other agency which may from time to time be established by law or by Executive order. And we and each of us do jointly and severally hereby agree that if this note be placed in the hands of an attorney for collection, or if suit be brought for the collection hereof, that we and each of us, our sons, relatives, and neighbors will promptly hang or otherwise disable such attorney. It is hereby agreed that an emergency exists, and that we will not pay this note if we don't want to do so; and that we don't want to.

(This form to be used to promote recovery, provide for the circulation of money, and to do away with the old out-of-date methods of industry, honesty, and thrift, and to guard against overproduction of pigs, etc., to abolish self-reliance, and to insure the personal popularity of the new deal—especially among dead beats.)

Mr. President, I hope the amendment of the Senator from Michigan will be adopted.

Mr. NORRIS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. NORRIS. Are there three proposals contained in the pending question?

The PRESIDING OFFICER. That is correct. By unanimous consent it was ordered by the Senate that the three amendments be considered en bloc.

Mr. NORRIS. Then I would be precluded under the unanimous-consent agreement from asking for a division of the question, would I not?

The PRESIDING OFFICER. The Senator might ask to rescind the order that the three amendments be considered en bloc.

Mr. NORRIS. So far as I am concerned, I want to vote for the insertion of the word "reasonable" before the word "public" in line 6, page 6, but I do not want to vote for the two other proposals contained in the amendment.

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

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

Mr. NORRIS. I yield.



Mr. HARRISON. May I ask the Senator from Michigan [Mr. VANDENBERG] if he will not agree to let us adopt the first amendment, to which we have no objection?

Mr. VANDENBERG. I shall be very glad to do so. Then we can have the issue on the two supplemental items.

The PRESIDING OFFICER. Without objection, the first amendment of the Senator from Michigan to the amendment of the committee is agreed to, being the insertion of the word "reasonable" before the word "public" on page 6, line 6.

Mr. NORRIS. I desire to be heard briefly on the amendment as it is now pending.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. NORRIS. Mr. President, I have no criticism to make against any Senator if he is opposed to the whole bill. I think there are a great many legitimate arguments which may be made against it. If we were not in the midst of a depression and if we were not confronted with the activities of foreign governments, involving the tariff walls which have been built up by those governments, overnight very often, I would be opposed to the whole measure. I justify myself in being in favor of it because of what I believe to be the necessity.

Moreover, while I am in favor of the bill itself, I care nothing about section 4, the committee amendment which we are now seeking to amend by other amendments. As I look at the matter, it is very doubtful whether section 4 adds anything to the bill or whether it is otherwise; but if we are to have section 4, I do not think we ought to have the amendment suggested by the Senator from Michigan, because I think it circumscribes too much the power that we otherwise are placing in the hands of the President.

I can see, I think, how the President might give the notice want to narrow the matter down to a definite proposition, how the insertion, after the word "instrumentality", in line 8, of the words provided for in the Senator's amendment might seriously affect entering into a trade agreement. I realize that many people, with the best of intentions in the world, are opposed to giving the President authority to enter into trade agreements. I am not finding fault with that position; but, assuming that we are going to give the authority, we ought not to handicap the President by unnecessary amendments which will circumscribe his freedom of action when he is negotiating those agreements. I think this amendment tends to do that.

I can see, I think, how the President might give the notice and name the commodity; or, if the amendment should be agreed to, he would have to name in the notice the commodities about which he was going to negotiate. When he got into the negotiation, and was trying to trade with a representative of a foreign nation, he might find it desirable, he might find it necessary, that commodities other than those included in the notice should be taken into consideration in order to reach an agreement.

If this amendment were adopted, and such a predicament were presented, and anything should be put into the agreement that was not included in the notice, its legality would at once be questioned, and the first thing would be an action in court.

Moreover, referring to the other part of the amendment as to the desirability of public hearings, while it sounds well to talk about, ever since Congress has been framing tariff bills we have been having public hearings. If that amendment were adopted a demand could be made for public hearings that would last a year, and the object of making the agreement would be entirely nullified. If they were shut off arbitrarily there would be great consternation, and a great argument would be made that the interested parties were not given their opportunity to be heard, their day in court.

I presume we have more statistics on tariff rates and more hearings on the tariff than on any other one subject of legislation. If we are to grant this authority at all, we ought to let the President go into the deal with his hands untied. Otherwise, he will meet in the conferences repre-

sentatives of nations who come there without any strings tied to their authority. He ought to go into the conferences free and untrammelled; and if we are to send our representatives into such conferences I believe it would be better to send them there with just as little red tape as possible.

If this plan shall succeed, as I hope it will, it will succeed, I believe, because we put our representatives on an equal footing with the representatives of other nations whom they must meet in these conferences.

The PRESIDING OFFICER. The question is on the amendment of the Senator from Michigan [Mr. VANDENBERG].

Mr. VANDENBERG. I call for the yeas and nays.

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

The PRESIDING OFFICER. The absence of a quorum being suggested, the clerk will call the roll.

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

|          |              |             |                |
|----------|--------------|-------------|----------------|
| Adams    | Copeland     | Hayden      | Pope           |
| Ashurst  | Costigan     | Hebert      | Reynolds       |
| Austin   | Couzens      | Johnson     | Robinson, Ark. |
| Bachman  | Cutting      | Keyes       | Russell        |
| Bankhead | Dickinson    | La Follette | Schall         |
| Barbour  | Dieterich    | Lewis       | Sheppard       |
| Barkley  | Dill         | Logan       | Shipstead      |
| Black    | Duffy        | Long        | Smith          |
| Bone     | Erickson     | McGill      | Stefwer        |
| Borah    | Fess         | McKellar    | Stephens       |
| Brown    | Fletcher     | McNary      | Thomas, Utah   |
| Bulkley  | George       | Metcalf     | Thompson       |
| Bulow    | Glass        | Murphy      | Townsend       |
| Byrd     | Goldsborough | Neely       | Tydings        |
| Byrnes   | Gore         | Norbeck     | Vandenberg     |
| Capper   | Hale         | Norris      | Walsh          |
| Caraway  | Harrison     | Nye         | White          |
| Carey    | Hastings     | O'Mahoney   |                |
| Clark    | Hatch        | Patterson   |                |
| Connally | Hatfield     | Pittman     |                |

Mr. LEWIS. I beg to reannounce the absence of certain Senators announced by me on previous roll calls, to restate the reasons for those absences, and ask to have them all apply upon the present roll call, and the approaching vote following the roll call.

The PRESIDING OFFICER (Mr. BACHMAN in the chair). Seventy-seven Senators having answered to their names, a quorum is present. The question is on the amendment of the Senator from Michigan [Mr. VANDENBERG].

Mr. VANDENBERG. I ask for the yeas and nays.

Mr. LONG. Mr. President, as I understand, we are voting now only on the proposition as to whether or not people are entitled to public notice of these proposed agreements. That is all that is before us, as I understand. The other point was accepted?

Mr. HARRISON. The word "reasonable" was inserted before the word "notice."

The PRESIDING OFFICER (Mr. CLARK in the chair). The Chair will state to the Senator from Louisiana that the first amendment proposed by the Senator from Michigan was agreed to by unanimous consent. Under the previous unanimous-consent agreement, the other two amendments proposed by the Senator from Michigan are to be voted on en bloc.

Mr. LONG. As I take it, the only thing we are concerned with now is whether or not those who produce a commodity that is to be affected are to have a right to know that it is to be affected by a treaty. In other words, we are now voting, for instance, that if sugar or oil or cottonseed is to be affected, the persons engaged in the particular industry shall have the right to be publicly notified that it is to be affected by a treaty.

My understanding is that that is all we have before us now. In other words, as I understand, the question at the present time is whether there shall be a public hearing on a commodity that is to be affected, or whether or not there shall be public notice, or at least some notice, of a commodity that is affected.

Of course, I am not going to vote for this bill even though this amendment shall be inserted. I do not understand how, in view of Secretary Hull's letter, we can stand in the way of letting the people know publicly.



There is a practice in my State under which everyone may consult the public pay roll, and know the public duties of every man who is employed, and we take it that the provision under which the public is allowed to get that knowledge does not hurt anyone. Certainly, if you are to have a tariff against us, we ought to know about it. This thing of saying that we may judge that it is bound to be on our products does not mean anything, because a country may produce hundreds of products on which there might be tariffs. I hope we will be given the benefit of public notice.

Mr. HASTINGS. Mr. President, I called attention to this amendment in a rather lengthy speech I made some days ago with respect to the bill generally. I called attention at that time to the testimony of Secretary Hull before the committee.

Secretary Hull stated when he was before the committee that other countries had the opportunity to deal directly with a country with which they were negotiating, and that the United States would be at a great disadvantage if it did not have the same kind of an opportunity and the same power.

He called attention to the fact that when a certain tariff bill was before the House of Representatives its consideration occupied several months, and he stated generally that that showed that it was not possible to give an opportunity to everybody to be heard.

The Senator from Kentucky [Mr. BARKLEY] suggested that if those persons who were interested in changing the rates were to be heard, other persons would be heard also, and that it would result in a joint debate which would take a long time. The Secretary replied to that generally that it would be necessary to have two more Commerce Buildings here to take care of the situation and that there would not be lawyers enough in Washington to look after the various interests which would want to be heard at such hearings.

I asked the Secretary at that time whether or not, from his point of view, it was not impractical to give notice to the interested parties. After a long explanation, part of which I have described, the Secretary said several times that it was impractical to give such notice.

Subsequent to that, this particular provision was submitted to the committee, and I am not certain that it was not submitted by the chairman of the committee himself. I was very much interested in observing the newspaper comments about the proposed notice. The newspaper headlines were to the effect that the administration had now agreed to the suggested amendment that notice should be given with respect to any agreements that were to be made.

A few days ago, when I was addressing the Senate, I called attention to the fact that this amendment was wholly innocuous. I should like to ask Senators who are now about to vote upon the amendment to read carefully the amendment which was approved by the committee.

I am very much inclined to agree with the Secretary of State, as I said the other day: If it be important to this country that we enter into these agreements, and that we enter into them promptly when the opportunity arrives, I doubt very much whether it would be possible or practicable to give to the interested parties any notice. The pending amendment carefully avoids provision for any notice, that is, any notice which would in any way be effective.

Bear with me a moment while I read the language:

Before any foreign-trade agreement is concluded with any foreign governments or instrumentality thereof under the provisions of this act—

As now amended, assuming the conference agrees to the amendments—

reasonable public notice of the intention to negotiate an agreement with such government or instrumentality shall be given in order that any interested person may have an opportunity to present his views.

It is before it is concluded that the notice must be given. But it certainly must be true that when we make up our minds that we are going to try to negotiate an agreement with France, that, as the language, "public notice of the intention to negotiate an agreement with such government \* \* \* shall be given."

Does that mean or does it not mean that we shall, before we begin to talk to France at all, give notice? If it does mean that, to whom shall we give the notice? It is a perfectly silly proposition, because, in the first place, we do not know, before we talk with France, what particular commodities will be involved, so that it is absurd to provide that we shall give notice before we begin to talk. We must, therefore, negotiate, have conversations, with France, before it is necessary to give any notice. The officials would not violate this amendment by doing it just that way. It is only before we conclude it that we must give the notice.

Who determines the kind of notice and the persons interested? The President of the United States. Who decides what opportunity is to be given to the interested parties? The President of the United States.

Then, when that opportunity is presented, it is presented to the President, "or to such agency as the President may designate." But under what rules and regulations is it to be presented? "Under such rules and regulations as the President may prescribe."

So that the President may very well prescribe that, in order to comply with section 4 of the proposed act, the Secretary of State shall, before concluding an agreement with any foreign government, post a notice on his door to all persons interested that on a certain day he proposes to conclude an agreement with France under this provision, and that will be a compliance with the notice provision of the proposed law.

Oh, but it is said that he will not do that. I say he will not do it unless in the emergency—and that is the basis of this legislation—he finds it necessary to do it. If he finds it necessary, the emergency will be sufficient excuse for doing it in exactly that way.

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

Mr. HASTINGS. I yield.

Mr. HARRISON. Can the Senator tell the Senate of one instance in any Republican tariff law where a public hearing was prescribed—just one?

Mr. HASTINGS. Where a public hearing was prescribed?

Mr. HARRISON. Yes; or where any provision was written into the law as liberal as the provision now under discussion.

Mr. HASTINGS. I say to the Senator in reply—

Mr. HARRISON. Give me just one instance.

Mr. HASTINGS. I say in reply that when a tariff bill is pending in the United States Senate or House of Representatives every person interested knows it, and every person interested has an opportunity to be heard. He has an opportunity to present his view to the free trader from Mississippi, if he desires, or he has an opportunity to present it to me as one who does not believe in free trade.

Mr. HARRISON. As one who is an inordinately high protectionist from Delaware.

Mr. HASTINGS. Or he may present it to the high protectionists on this side of the Chamber. He has an opportunity to present it to the Senate committee; he has all kinds of opportunities to be heard; and therefore it is not necessary to provide for any public hearing, because a public hearing is the thing which Americans have believed from time immemorial they had through their Representatives and their Senators in the United States Congress, and that is to be denied them under the proposed law, and that is what I am complaining about.

Mr. HARRISON. Under the flexible provision, which delegates power to the Tariff Commission, and which was conceived by the Senator or his Republican friends—

Mr. HASTINGS. And which is not repudiated under the pending bill, by the way.

Mr. HARRISON. The Senator has repudiated it time after time when the rates were not increased but were lowered. Aside from that, however, was any public hearing then provided for?

Mr. HASTINGS. The language of the flexible provision of the tariff itself distinctly provides for such hearing; and if the Senator will provide for that kind of public hearing

in the pending bill, I am certain the Senator from Michigan will so amend his amendment as to conform to it.

Mr. HARRISON. Will the Senator let me read the provision into the Record?

Mr. HASTINGS. I will permit the Senator to interrupt me long enough to do so.

Mr. HARRISON. It reads:

In the course of the investigation, the Commission shall hold hearings and give reasonable public notice thereof, and shall afford reasonable opportunity for parties interested to be present to produce evidence to be heard at such hearings.

There is nothing in the world about public hearings in that provision. I may say further to the Senator that in the Dingley law, enacted under the Senator's guidance and that of his party, which gave authority to the President—

Mr. HASTINGS. Oh, no, Mr. President; that was before I was born.

Mr. HARRISON. No; that was not before the Senator was born, because that was only 37 years ago, in 1897. There was no provision in that law for notice of any kind, nor was any kind of hearing provided for. In the McKinley law—which was a Republican measure, and therefore, of course, good authority—in giving similar authority to the President, no hearing of any kind was provided for. The Senator can scan these delegated powers, and in no instance will he find provision for public hearings.

Mr. HASTINGS. I hope the Senator will not insist upon going back of the Smoot-Hawley tariff bill for the Republican position with respect to the tariff.

Mr. HARRISON. I do not want to go back to it for anything.

Mr. HASTINGS. Very well. We still stand on it. May I inquire of the Senator from Mississippi, however, before he takes his seat, whether or not he is willing to accept an amendment to the amendment proposed by the distinguished Senator from Michigan, which would provide for notice and hearing similar to the notice and hearing permitted under the flexible provision of the present tariff law? If he will, I will stop talking about it.

I suggest that amendment, to which I am sure the Senator from Michigan will agree.

Mr. HARRISON. If the amendment suggested by the Senator from Delaware should be adopted, would he vote for the bill?

Mr. HASTINGS. I do not propose to vote for the bill under any circumstances.

Mr. HARRISON. No; of course, not. I expected as much.

Mr. HASTINGS. But knowing that the Senator from Mississippi expects to pass the bill, I should like to have it as harmless as it is possible to make it.

The PRESIDING OFFICER. The time of the Senator from Delaware on the amendment has expired.

The question is on the amendments of the Senator from Michigan [Mr. VANDENBERG]. The yeas and nays have been demanded. Is the demand seconded?

The yeas and nays were ordered, and the Chief Clerk proceeded to call the roll.

Mr. ROBINSON of Arkansas (when his name was called). I transfer my general pair with the Senator from Pennsylvania [Mr. REED] to the junior Senator from Florida [Mr. TRAMMELL], who is necessarily absent, and vote "nay."

Mr. STEPHENS (when his name was called). I have a general pair with the senior Senator from Indiana [Mr. ROBINSON]. I transfer that pair to the senior Senator from Montana [Mr. WHEELER], who is necessarily absent, and vote "nay."

The roll call was concluded.

Mr. ROBINSON of Arkansas. I desire to announce that the Senator from Connecticut [Mr. LONERGAN] is absent attending Memorial Day services at Gettysburg.

Mr. PATTERSON (after having voted in the affirmative). I have a general pair with the junior Senator from New York [Mr. WAGNER]. I transfer that pair to the senior Senator from New Jersey [Mr. KEAN] and will allow my vote to stand.

Mr. LOGAN. I have a general pair with the junior Senator from Pennsylvania [Mr. DAVIS]. In his absence I trans-

fer that pair to the junior Senator from Connecticut [Mr. LONERGAN] and will vote. I vote "nay."

Mr. HEBERT. I desire to announce the following pairs: The junior Senator from Vermont [Mr. GIBSON] with the senior Senator from North Carolina [Mr. BAILEY];

The Senator from Connecticut [Mr. WALTOTT] with the Senator from California [Mr. McADOO]; and

The Senator from North Dakota [Mr. FRAZIER] with the Senator from Oklahoma [Mr. THOMAS].

I am informed that the Senator from Vermont [Mr. GIBSON], the Senator from Connecticut [Mr. WALTOTT], and the Senator from North Dakota [Mr. FRAZIER] if present would vote "yea" on this question; and that the Senator from North Carolina [Mr. BAILEY], the Senator from California [Mr. McADOO], and the Senator from Oklahoma [Mr. THOMAS] would vote "nay."

I also desire to announce that the Senator from Pennsylvania [Mr. REED], the Senator from Indiana [Mr. ROBINSON], the Senator from New Jersey [Mr. KEAN], and the Senator from Pennsylvania [Mr. DAVIS] are necessarily absent. If present the last-named Senators would vote "yea" on this question.

Mr. LEWIS. Mr. President, I desire to announce a special pair between the Senator from Louisiana [Mr. OVERTON] and the Senator from Utah [Mr. KING]. If present, the Senator from Louisiana would vote "yea", and the Senator from Utah would vote "nay" on this question.

I further wish to announce that the Senator from Wisconsin [Mr. DUFFY], the Senator from Massachusetts [Mr. COOLIDGE], the Senator from Utah [Mr. KING], the Senator from Louisiana [Mr. OVERTON], the Senator from North Carolina [Mr. BAILEY], the Senator from Indiana [Mr. VAN NUYS], and the Senator from New York [Mr. WAGNER] are necessarily detained from the Senate on important public business.

I also announce the absence of the Senator from California [Mr. McADOO], due to continued illness.

I wish also to announce that the Senator from Oklahoma [Mr. THOMAS], the Senator from Washington [Mr. DILL], and the Senator from Nevada [Mr. MCCARRAN] are detained from the Senate making Memorial Day speeches.

The result was announced—yeas 29, nays 46, as follows:

#### YEAS—29

|         |              |             |            |
|---------|--------------|-------------|------------|
| Adams   | Dickinson    | Keyes       | Schall     |
| Austin  | Fess         | La Follette | Steinwer   |
| Barbour | Goldsborough | Long        | Townsend   |
| Borah   | Hale         | McNary      | Vandenberg |
| Capper  | Hastings     | Metcalf     | White      |
| Carey   | Hatfield     | Norbeck     |            |
| Couzens | Hebert       | Nye         |            |
| Cutting | Johnson      | Patterson   |            |

#### NAYS—46

|          |           |           |                |
|----------|-----------|-----------|----------------|
| Ashurst  | Clark     | Hayden    | Robinson, Ark. |
| Bachman  | Connally  | Lewis     | Russell        |
| Bankhead | Copeland  | Logan     | Sheppard       |
| Barkley  | Costigan  | McGill    | Shipstead      |
| Black    | Dieterich | McKellar  | Smith          |
| Bone     | Erickson  | Murphy    | Stephens       |
| Brown    | Fletcher  | Neely     | Thomas, Utah   |
| Bulkley  | George    | Norris    | Thompson       |
| Bulow    | Glass     | O'Mahoney | Tydings        |
| Byrd     | Gore      | Pittman   | Walsh          |
| Byrnes   | Harrison  | Pope      |                |
| Caraway  | Hatch     | Reynolds  |                |

#### NOT VOTING—21

|          |          |                |         |
|----------|----------|----------------|---------|
| Bailey   | Gibson   | Overtton       | Wagner  |
| Coolidge | Kean     | Reed           | Walcott |
| Davis    | King     | Robinson, Ind. | Wheeler |
| Dill     | Loneran  | Thomas, Okla.  |         |
| Duffy    | McAdoo   | Trammell       |         |
| Frazier  | McCarran | Van Nuys       |         |

So Mr. VANDENBERG's amendments to the committee amendment were rejected.

The PRESIDING OFFICER. The question is on the committee amendment as modified by the first amendment of the Senator from Michigan [Mr. VANDENBERG].

Mr. CUTTING. Mr. President, is this the last of the committee amendments to be voted on?

Mr. HARRISON. There is one other committee amendment which was passed over.

The PRESIDING OFFICER. One committee amendment was passed over by unanimous consent.



Mr. CUTTING. Will that be voted on next?

Mr. HARRISON. The Senator from Oregon asked that that be carried over. I shall not oppose that being done, and, as suggested by the Senator from Oregon, take up the agricultural amendment next.

Mr. McNARY. I continue in my hope and request that action be deferred on the amendment that was passed over. If that arrangement be satisfactory, the senior Senator from California [Mr. JOHNSON] will offer an amendment.

Mr. CUTTING. Mr. President, in that event, I think this would be an appropriate moment to congratulate the Finance Committee on the splendid job which they did in amending the bill as it came from the other House.

If we take these amendments and study them seriatim we shall see that a thoroughly unconstitutional bill has been turned into one which cannot possibly be attacked on any constitutional grounds. Take the first amendment in which the Senate committee transposed the words "in the present emergency" from line 11 to line 8. As the bill came from the other House the words "the present emergency" applied merely to increasing the purchasing power of the American public, but, as we have the bill now, its whole purport, from start to finish, deals with an emergency. That, of course, Mr. President, is a matter of supreme gratification to many of us.

I am sure that all Senators realize that we are living in a world in which words count vastly more than realities; and the Senate Finance Committee has taken cognizance of that fact.

If we turn to the second committee amendment, we notice a still more extraordinary and magical transformation of the bill. As the measure came from the other House it was provided that the President can act—

Whenever he finds that any existing duties or other import restrictions are unduly burdening and restricting the foreign trade of the United States.

We all know, Mr. President, that it is an old legislative principle that a legislative body has the right to delegate to any agent the power of acting when a certain state of facts exists. Everyone also knows, of course, that the question whether an existing duty or import restriction is unduly burdening and restricting foreign trade is a question of opinion. Any import restriction restricts foreign trade by the very nature of the fact. Now, the question is whether a particular import restriction is "unduly" restricting the foreign trade of the United States. The question of exactly when a restriction becomes an undue restriction would be determined differently by each member of a body of 96 men. Just how much restriction does there have to be in order to make it unduly burdensome? It would seem clear that that is a question of opinion and not a question which can be measured by a yardstick. So what did the Finance Committee of the Senate do? They inserted the words "as a fact"; and the clause now reads:

The President, whenever he finds as a fact that any existing duties or other import restrictions \* \* \* are unduly burdening and restricting the foreign trade of the United States.

Naturally, Mr. President, we are interested in the verbal aspect of the matter. The insertion of those words "as a fact" makes it perfectly clear that it is henceforth a fact whether at any particular time a restriction is or is not unduly restrictive.

I suppose that we might legislate that the President could act when at some particular time he found that a toothache was unduly burdensome or that a brick was unduly red. If he found "as a fact" that the world was flat, we should no doubt have a right to delegate to him the authority to take over duties which had hitherto been considered legislative duties.

I think it is an important point, Mr. President, because all through the Bill of Rights in the American Constitution we can find over and over again descriptive phrases such as "unreasonable searches and seizures", "just compensation", "excessive fines", and "cruel and unusual punishments." From the action of the Finance Committee it would follow, I suppose, that we could delegate to the

President power to take particular action when he found "as a fact" that a compensation of 5 cents was a "just" compensation for a valuable piece of property, or that he might be granted the authority to burn someone at the stake if he found "as a fact" that that was not a "cruel and unusual punishment." We have been under the impression hitherto that questions of that sort were determined by the courts, but here, Mr. President, with scarcely a word of comment, we insert in a fundamental piece of legislation that the President may find "as a fact" that an existing duty or import restriction is unduly burdensome and restrictive.

I think that is a very magnificent amendment. I think it was a piece of wise statesmanship on the part of the Senate Committee on Finance, and I want to congratulate them accordingly.

Mr. President, since we are acting under a limitation of debate, and I may not have another opportunity today of taking the floor, I desire to allude briefly to another matter.

I see before me the junior Senator from Oregon [Mr. STEIWER], and I want to remind that Senator that this is Memorial Day and that a year ago he stood upon the floor of the Senate and exposed the manner in which the Executive by regulation had manipulated the provisions of a law by which we parted with legislative power.

When the Economy Act was passed, pledges were made by some of the most honored and respected Members of this body as to what Executive action would be taken and what Executive action would not be taken as a result of that legislation; and 1 year ago today the Senator from Oregon exposed the manner in which those pledges had been disregarded.

Last March, by a two-thirds majority of both Houses, it became possible for Congress to recover some part, at least, of the powers with which they parted in March of the preceding year, but it took a long, a hard, and a serious fight. Many of the veterans of the United States are lying under the soil as a result of the delay in obtaining again a power which we had voluntarily surrendered.

This is Memorial Day, on which we pay lip service, at any rate, to the Unknown Soldier, although we may persecute and torture his less fortunate survivors. I mention it merely because we are undertaking today something which in magnitude, it seems to me, exceeds the surrender which we made in March 1933. We are delegating away the taxing power, the power to regulate commerce, and the power to ratify treaties or agreements, whatever term may be applied most properly to the arrangements into which it is proposed to enter. If anyone thinks that because some Senator rises in his place and says, "If this power is granted it will not be used for some particular end", he has only to look back to recent history to see what was done within the past year under the terms of the so-called "Economy Act."

We have been told that wool is going to be excluded. We have been assured it would be absurd to apply the terms of the bill to agricultural products, when everyone of us knows that these assurances are worthless unless they are written into the legislation. I trust in spite of the vote which we have just taken that it may be possible, before the bill is finally disposed of, to embody in it some of the things which the Senate wishes to have guaranteed. I hope this bill will not be passed, but if that is inevitable, let us at least remember in the meantime that powers surrendered can be regained only by a two-thirds vote.

Mr. JOHNSON. Mr. President, I send to the desk an amendment which I offer and ask to have read.

Mr. ROBINSON of Arkansas. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. ROBINSON of Arkansas. Was the previous amendment agreed to?

The PRESIDING OFFICER. The committee amendment, as amended, is now pending.

Mr. JOHNSON. I thought we had voted on it and it was adopted.

Mr. ROBINSON of Arkansas. I think the Chair did not actually declare the result of the vote. The Senator from

New Mexico [Mr. CUTTING], as I understood it, did not intend to interrupt the declaration of the vote by the Chair.

Mr. CUTTING. Mr. President, I have no interest in the matter at all. I thought the vote had not been taken.

Mr. ROBINSON of Arkansas. I suggest that the result of the vote already taken be declared by the Chair.

Mr. CUTTING. I do not wish to have the RECORD show I was speaking on the amendment of the Senator from California, of course. I intended to speak on the last committee amendment.

Mr. ROBINSON of Arkansas. I so understood and I think the RECORD will show, when the result of the vote is declared, that the speech of the Senator from New Mexico was made on the then pending amendment.

The PRESIDING OFFICER. Without objection, the committee amendment, as amended, is agreed to.

Mr. JOHNSON. I now offer my amendment.

The PRESIDING OFFICER. The amendment will be stated.

The CHIEF CLERK. It is proposed, at the end of the bill, to insert the following new section:

Sec. —. No foreign trade agreement shall be entered into under the provisions of this act with respect to any agricultural or horticultural product, including the commercial articles or materials made therefrom by usual first processings.

Mr. LONG. Mr. President, may I have the attention of the Senator from Florida [Mr. FLETCHER]?

Mr. JOHNSON. Mr. President, I believe I have the floor. If the Senator from Louisiana wants me to yield for a moment, very well.

Mr. LONG. I beg the Senator's pardon. Will he yield for a moment?

Mr. JOHNSON. I yield.

Mr. LONG. May I have the attention of the Senator from Florida [Mr. FLETCHER]? The amendment which has been offered by the Senator from California is almost identical with an amendment which is to be offered by the Senator from Florida. In order that we may permit the matter to come to a vote, if we have an hour on the amendments, I would ask the Senator from California if he would have any objection to me offering the amendment of the Senator from Florida as a substitute for his amendment?

Mr. JOHNSON. Does the Senator from Florida wish his amendment offered as a substitute for mine?

Mr. FLETCHER. Mr. President, I should like to have it voted on at some time. I do not know whether this is the time to do it.

Mr. JOHNSON. Very well. There will be ample opportunity. Let me suggest to the Senator from Louisiana that he let the matter pass and that he take up with the Senator from Florida the question of offering his amendment, and let them agree upon the procedure which it may be desired to pursue.

Mr. LONG. Very well.

Mr. JOHNSON. I am perfectly willing to agree to any procedure which will bring before this body any amendment it may be desired to present.

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

The PRESIDING OFFICER. Does the Senator from California yield to the Senator from Oregon?

Mr. JOHNSON. Certainly.

Mr. McNARY. May I have the attention of the Senator from Mississippi [Mr. HARRISON]? The agreement is that the amendment on page 5 goes over for the present, I understand.

Mr. HARRISON. That is the termination amendment. That can be brought up later.

Mr. McNARY. Very well. 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   | Bankhead | Bone    | Bulow  |
| Ashurst | Barbour  | Borah   | Byrd   |
| Austin  | Barkley  | Brown   | Byrnes |
| Bachman | Black    | Bulkley | Capper |

|           |              |           |                |
|-----------|--------------|-----------|----------------|
| Caraway   | Glass        | Long      | Robinson, Ark. |
| Carey     | Goldsborough | McCarran  | Russell        |
| Clark     | Gore         | McGill    | Schall         |
| Connally  | Hale         | McKellar  | Sheppard       |
| Copeland  | Harrison     | McNary    | Shipstead      |
| Costigan  | Hastings     | Metcalf   | Smith          |
| Couzens   | Hatch        | Murphy    | Steiger        |
| Cutting   | Hatfield     | Neely     | Stephens       |
| Dickinson | Hayden       | Norbeck   | Thomas, Utah   |
| Dieterich | Hebert       | Norris    | Thompson       |
| Dill      | Johnson      | Nye       | Townsend       |
| Duffy     | Keyes        | O'Mahoney | Tydings        |
| Erickson  | King         | Patterson | Vandenberg     |
| Fess      | La Follette  | Pittman   | Walsh          |
| Fletcher  | Lewis        | Pope      | White          |
| George    | Logan        | Reynolds  |                |

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

Mr. JOHNSON. Mr. President, pursuing a course that I have ever pursued in this body, I do not intend to argue the constitutionality of this particular provision, but merely refer to it, and then, if I am able, to discuss somewhat the policy of the measure and from that something of the policy which is involved in the amendment I have presented.

In referring to the policy and the record that have been made in the Congress of the United States, I do not do it invidiously, nor is there any design upon my part to arouse intense feelings upon the part of those with whom I have stood in years gone by against this kind of legislation; nor is it my purpose to refer even to the consistency of the attitude of any Member of this body. I recognize, as a great statesman once said, that "consistency is the vice of fools"; and I recognize, too, that there are other apostrophes that we might deliver to consistency that would have little or no influence in this body, and little or no application to any argument upon this bill.

By way of diversion, I can recall in my early days when a new party sprang up in the State of California called the Workingmen's Party, and its election of its first representative in the senate of that State—how that representative—singularly enough called Senator Bones—used repeatedly to deliver eloquent appeals and eloquent apostrophes to any subject which arose; and on one occasion when he was twitting his fellows about their lack of consistency he rose to great heights, sir, and with his hand upraised, he said:

Oh, consistency! Thou art a jewel of the deepest dye.

[Laughter.]

So, Mr. President, I would not refer to the consistency of my brethren upon this floor. It might be, emanating from this side of the Chamber, like the pot calling the kettle black. I refer to the RECORD, sir, only because such glorious, magnificent, convincing arguments were made by Senators on the other side of this Chamber, and the excellence of those arguments commends them to us today.

Twice, sir, those who have served, as I have, for a long period of time, have had here for discussion the peculiar provisions of the tariff law; and twice, sir, we have had debates that distinguished the Senators who participated in them, and that embellished the RECORD where they are now entombed.

Twice, sir, in this body I have heard Senators upon the other side speak of the flexible provisions of the tariff. Never did I hear such eloquent, such magnificent, such glorious oratorical outbursts as I heard on those two occasions when we discussed those flexible provisions. They differ from the bill before us only in degree. They were of small consequence; this much greater and more important.

I remember when an honored Member of this body was the leader of the Democratic Party in 1922, the late Oscar Underwood. I recall how he called down upon us the anathemas that might be pronounced upon those false to their trust in supporting the nefarious scheme, that relating to a flexible tariff.

I recall how in 1929 we fought the good fight all over again, and I remember—there are many of them upon this floor today—how Senators upon the other side not only aroused my interest but shook my emotions, sir, as I heard them denounce the flexible provisions of the tariff and the tyranny of that kind of thing.



I stood, sir, with you on the other side of this Chamber in 1929 fighting the good fight. I stand today, sir, just where I stood in 1929. I declined in 1922 and in 1929 to yield to the executive branch of the Government the power that was ours in the legislative branch of the Government. I decline, sir, today, notwithstanding my admiration, my respect, and even my affection for the gentleman who occupies the White House, to do otherwise than I did in those days gone by upon the fundamental principle involved.

And, sir, that we may understand something of what was said in those days, I refer again to the RECORD. Some of it already has been referred to in this debate; but I refer to it in order that I may recall to those who fought the fight in the days gone by just why I am fighting today the fight that you and I fought in the days gone by, but which I am fighting today in some loneliness over here. I shall not read the eloquent words in 1922 or 1929 of the then Senator from Montana, Mr. Walsh; but I read something of what was said by the then Democratic leader, away back in 1922, and again the fervid eloquence of 1929, today forgotten, and forgotten in the main by the men who made the tremendous appeal in the days gone by.

I do not object to that. I do not object to a man changing his mind upon any particular matter that may come before us for legislation—not in the slightest—but, sir, there is something more than a legal aspect to this that we are doing here today, something far more important. There is a great policy that is at stake in what we are asked to do, a great policy that we ought to be able to solve for ourselves as legislators, and solve it as we were sent here to solve it by those we represent.

Legally, I repeat, I do not discuss the question. If there were presented to us as a matter of first impression the law of this case, there are not any two men here who claim to be lawyers who would disagree in the slightest minute particular. If there had been no decisions rendered by the Supreme Court in relation to the flexible provisions of the tariff, there would be a unanimity of sentiment among all who had even a rudimentary knowledge of the law upon the invalidity of the power that is sought this day to be given unto the President of the United States.

Now that the decisions that we have before us have been rendered in the Clark case and the Hampton case, the question may be doubtful. I do not pretend to say that it is of one sort or another; but no longer is our case one of first impression, and we may dismiss the constitutionality or the legality of the matter, and leave it for an ultimate and another decision of the Supreme Court probably. The big thing that yet remains, sir, is the policy involved in what we are doing.

Shall we delegate the legislative power that is ours and transfer it to the Executive department? Shall we grant the taxing power that is ours unto the Executive department? Shall we eliminate, as so many internationalists in this land desire us to eliminate, our participation in the treaty-making power?

These are three of the great questions of policy that confront us today; and these questions of policy ought to be determined by every one of us upon his oath, and as best he can, no matter what may transpire.

As was said 12 years ago and 5 years ago, it is not a matter of partisanship; and this was often reiterated in 1929 by a party that was in the minority upon this question, save for the few votes that it obtained from this side of the Chamber. It is not a partisan matter today, except so far as it may be made partisan by those who will not think otherwise in this particular Senate. It is not a partisan question, and it ought not to be a political question at all. We ought to be able to determine ourselves, for ourselves, for our people, whether we desire to delegate the powers that were committed to our care, and which, under our oaths, were the most sacred of all the powers that have been given by the people unto us.

This question of policy was determined in days gone by, determined so that there was no question about how our Democratic brethren stood, and, I may add in fairness, no

question about how our Republican brethren stood, apparently, upon the other side. So I speak not from a partisan standpoint at all; but I speak as one who, with a sacred principle at stake, has at least pursued his own weary way, in his own particular fashion, on every occasion when that principle has come before our people, or come before this body.

In 1922 the then leader of the Democratic Party, Mr. Underwood, in speaking to those who were likely to vote in favor of the flexible provisions of the tariff, said:

It is a plea of guilty to the charge of incompetency whenever the Congress of the United States passes a measure delegating its constitutional powers to the executive branch of the Government, as it proposes to do in the pending amendment.

More than that, Mr. President, outside of the constitutional question, outside of the shameful confession that is being made by the Congress of the United States in advocating the surrender of its powers, I oppose this proposition because it is very dangerous to the people of the United States to put into the hands of the Executive—and I am not criticizing the present Chief Executive; there is no personal political allusion in what I intend to say; I will apply the remarks to all the Executives we have had in the past and to all we may have in the future—I say it is very dangerous to place this great power of taxation in the hands of any one man.

There was Democratic doctrine, enunciated by the leader of the Democratic Party. I believed in it. I believed in it 7 years subsequently, in 1929, when the question again arose. I believe in it today, and I am voting today just as I voted in the years gone by when this matter came before us, and the question of the delegation of our power was before the Senate for determination.

Mr. Underwood added:

Of course, I know the President of the United States will not exercise this power personally.

That is what I know; that is what others know. It is useless to deny it. He will appoint some agent or agents to do it. Necessarily, he must. In the multiplicity of his duties, in the administration of powers such as are proposed to be accorded him, he must delegate the power to agents, just as Senator Underwood said in 1922:

As I have said, of course, I know, as every other Senator knows, that the President, in his great office, with the vast amount of work which confronts him, will be unable to exercise this power himself, and that he must delegate it to somebody.

How much more do we know that fact today. Today we have a President burdened as no other man in the Presidential office ever was burdened in the history of this Nation; a man undertaking more marvelous adventures economically than were ever undertaken in the history of this land; a man devoting hour after hour, day and night, to the solution of the terrible problems which confront us. Of course, sir, he cannot tell whether he should make a trade agreement—a horse-trade agreement, as some of these gentlemen say—with some foreign country over eggs or potatoes or something of that sort. Some individual, some particular agency, some organization, must be intrusted with it first, and the President of the United States, with all the burdens he has on him, with all the crushing efforts by which he is endeavoring to bring us—and succeeding—out of a depression such as we have never experienced before, the President himself cannot do the job, and it is no reflection on him to say that, as was said in 1922 by Mr. Underwood concerning the then occupant of the White House. Mr. Underwood, the leader of the Democratic Party in the Senate, then said:

This power in many instances cannot only be used to make but it can be used to destroy, and when you put this power in the hands of one man, what is going to be the effect not only on the burdens that the American people must bear in the future but on future elections in the United States? Are you going to organize in this way a machine that will wrest the control of elections from the American people unless it gets so great that we have a political revolution to tear it down? No, Mr. President; whenever you adopt this measure the Republican Party will plead guilty to its own incompetency to legislate, and it will put in the hands of its own Executive a power that no executive in this world should possess.

Mr. President, that was a patriotic utterance by a patriotic man, one who had the regard and the respect of all of us.



In that same session, may I call to the attention of the Senators from North Carolina, remarks were made by that grand old Roman from the State of North Carolina, Senator Overman, in regard to this power. He said:

It is indefensible and most iniquitous; and not only so, but by the adoption of this amendment it will be made absolutely revolutionary. Great Senators, representing a great people, absolutely abdicate the sacred trust reposed in them by a free people to preserve and maintain the Constitution. The power reserved by the people in section 8, article I, of the Constitution, which says that Congress shall levy all taxes and imposts, this bill proposes to delegate to one man, centralizing in the Executive the power to kill or to make alive.

I simply wanted to protest not only against this bill but against this violation of the Constitution of the United States, and in behalf of a great State, representing a great people, always jealous of their rights, desiring to preserve the Constitution and liberties of the people guaranteed to them, protest against the passage of the bill and most emphatically the adoption of this amendment, and I ask for the yeas and nays upon its passage.

These were early statements, statements made in 1922. I will not repeat the statements made in 1929. In the RECORD have been placed all of the speeches that were made during 1929, and those who have followed the RECORD at all have found that practically every man who was a Member of the Senate in that period expressed himself in one way or another on that occasion.

More than that, so important was the subject, of such transcendent consequence was it to the people of this country, that the minority members of the Committee on Finance, with "a decent regard for the opinion of mankind", went to the people themselves and published their round robin throughout this land in order that there should be no mistake about their attitude and about what we were endeavoring to do in the Senate at that time.

I read but a little, in order that I may hurry. The joint statement by the minority members of the Senate Finance Committee said these things in 1929. And, remember, it was but a little encroachment then that was proposed with the peculiar provisions of the flexible tariff. Today the gap has been widened until, in the language of the Senator from Maryland [Mr. TYDINGS], not only is there the little break in the dam, but the onrush is permitted to come through the destroying of the legislative power and the delegation to the Executive of that legislative power.

In 1929 the minority, with its "decent regard for the opinion of mankind", and pursuing the course which had been pursued in the days when we sought our independence in this Nation, to the world gave their views upon the unrighteous and the tyrannical effort that was being made in the Congress of the United States to give unto the Executive a power he never before had possessed and which they said he never should possess at all. Then the minority of the Finance Committee said, in this address published throughout the land:

A question of far-reaching consequences transcending considerations of party prompts us to issue a public statement in relation to the so-called "flexible provisions" of the tariff bill now pending before the Senate.

The question involved is one that, in our opinion, strikes at the very roots of constitutional government. It concerns the preservation unimpaired or the abandonment of the power of levying taxes by that branch of the Government which the forefathers agreed should alone be charged with that duty and responsibility.

Again:

Authority in the Executive to make the laws that govern the course of commerce through taxation is especially objectionable. It is an entering wedge toward the destruction of a basic principle of representative government, for which the independence of the country was attained and which was secured permanently in the Constitution.

What glorious language was this! What a patriotic fervor unquestionably lent itself to those gentlemen of high repute, who thus went to the Nation itself in denouncing the proposed usurpation of power. Again they said:

The arbitrary exercise of the taxing power, all the more dangerous if disguised and not obvious, in its basic character is tyranny.

Tyranny, said these minority members of the Finance Committee in 1929, was a flexible tariff hedged around with all sorts of restrictions so that it could do little or no

harm. Tyrannical it was then, and now, when there are no restrictions, when the delegation of power is complete, when the flood dam of delegation is open so that all power which Congress has may, with this as a precedent, go forward into the Executive hands, now it is a glorious thing, out of which we are to have horse trades and Yankee bargaining, Yankee bargaining and horse trades. We are going to take the eyeteeth of those abroad by our Yankee bargaining, and we are going to have horse trades which will enable us to do all sorts of things to the countries beyond the seas.

What a naive, what a childish, what a blandlike faith that is, to imagine that we are going to do all these things to those with whom we deal and with whom we trade. But I am using the language of those who are militant in behalf of this measure outside of the Chamber in speaking of horse trading and Yankee bargaining.

Yankee bargaining! We are going to teach these people over across the sea that we will make money out of that bargaining, and that they will make none. We are going to teach them that we can out trade them, and we are going to out trade them so magnificently that our export trade is going to boom and boom and boom, and we are no longer going to have any depression of any kind or any character.

Yankee bargaining and horse trading! We are going to trade some spavined thing for some great thoroughbred, and we are going to teach these people across the sea how easy it is for us to trade that which we have for that which they have, and we get all the better of the bargain!

The arbitrary exercise—

In 1929 said the minority members of the Finance Committee—

of the taxing power, all the more dangerous if disguised and not obvious, in its basic character is tyranny. Resistance to the impairment of this popular right has largely occasioned many of the wars and revolutions of the past.

I quote further:

In an age where there has been a steady tendency to rob the individual citizen of his power and influence in his Government through bureaucracy we deem it our duty to vigorously protest any further encroachments in this direction, and especially with respect to taxation.

The concluding sentence of this great Magna Carta issued by the minority members of the Finance Committee is as follows:

In the hope of arousing the people, regardless of party, to take a broad and public view of this important public question, we make this appeal.

It is signed by Furnifold N. Simmons, of North Carolina; Pat Harrison, of Mississippi; William H. King, of Utah; Walter F. George, of Georgia; David I. Walsh, of Massachusetts; Alben W. Barkley, of Kentucky; Elmer Thomas, of Oklahoma; Tom Connally, of Texas.

I congratulate the gentlemen who signed that round robin and that address to the people of this land, upon the high plane upon which it was issued, and upon their courageous patriotism in taking the stand they did.

None of them is here today, I recognize. While names be similar upon this document, none of them is in this Chamber, and none of them, of course, has been heard in this Chamber upon the particular measure that is before us today. Similarity of names simply adds to the luster of those who were here then and who presented this magnificent address to our people.

I ask that I may be permitted to put the whole of this in my remarks, and that I may be pardoned from reading it all, so that I may not be unduly occupied.

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

The joint statement in full is as follows:

JOINT STATEMENT BY THE MINORITY MEMBERS OF THE SENATE  
FINANCE COMMITTEE

A question of far-reaching consequences transcending considerations of party prompts us to issue a public statement in relation to the so-called "flexible provisions" of the tariff bill now pending before the Senate.

The question involved is one that in our opinion strikes at the very roots of constitutional government. It concerns the preservation unimpaired or the abandonment of the power of levying



taxes by that branch of the Government which the forefathers agreed should alone be charged with that duty and responsibility.

Whatever argument could be advanced during the war and immediately following for delegation to a degree of the taxing power to the Executive unquestionably no longer exists. To incorporate now in the law any recognition of a right of the Executive to impose taxes without the concurrence of the legislative branch is without justification.

Authority in the Executive to make the laws that govern the course of commerce through taxation is especially objectionable. It is an entering wedge toward the destruction of a basic principle of representative government for which the independence of the country was attained and which was secured permanently in the Constitution.

There is no issue here as to the integrity of any Executive who has had or may have extended to him the exercise of this power. The issue is one of taxation by one official, be he President or monarch, in contrast to taxation by the representatives of the people elected, entrusted exclusively with the power to seize the property of the citizens through taxation. If proof be needed that the danger which the forefathers foresaw is inherent in this issue, a mere casual inquiry into the methods employed, selfish influences used, sinister schemes and contrivances brought to bear, one need but examine the record.

#### PROCESS HELD VIRTUALLY SECRET

The principle is: Are taxation laws and their application to be made virtually in secret, whatever may be said about a limiting rule, or are they to be enacted by the responsible representatives of the people in the Congress, where public debate is held and a public record made of each official's conduct?

The arbitrary exercise of the taxing power, all the more dangerous if disguised and not obvious, in its basic character is tyranny. Resistance to the impairment of this popular right has largely occasioned many of the wars and revolutions of the past.

An issue of this importance should not be associated with the opinions or necessities of those interests, States, or sections that directly profit by some rate schedule in the body of the tariff act. With respect to the principle here at stake any trading or log-rolling is especially unjustifiable and indefensible. Neither should we be unduly influenced by the attempt to divert attention from this momentous issue by condemnation of and emphasis upon the dilatory and unsatisfactory results of congressional procedure.

#### POINT TO AMENDMENTS

No one seeks to prevent or in any way to interfere with the investigations and reports of the Tariff Commission in connection with emergency tariff legislation. The point is, we emphatically insist that final action and responsibility based on Tariff Commission reports shall be taken by the Congress.

For the purpose of preventing apprehended congressional delay an amendment has been made providing for the submission of the reports to the Congress by the President, and, furthermore, an amendment will be presented strictly limiting action by the Congress to matters germane to the particular subject matter or rates recommended by the President after investigation by the Tariff Commission.

We do not hesitate to say that if this extraordinary and what we believe to be unconstitutional authority passes now from the Congress, it is questionable if there will ever again be a tariff bill originated and enacted by the Congress.

It is our solemn judgment that hereafter all taxation through the tariff and regulation of commerce thereby will be made by the Executive. It is the inherent tendency of this tariff-changing device and the apparently conscious purpose of its proponents to use it to keep the tariff out of Congress, where it is such an embarrassing business, as everybody knows, to the party that profits politically by it. So also it will be of distinct advantage to the interests that are the direct beneficiaries of the tariff.

In an age where there has been a steady tendency to rob the individual citizen of his power and influence in his Government through bureaucracy, we deem it our duty to vigorously protest any further encroachments in this direction, and especially with respect to taxation.

In the hope of arousing the people, regardless of party, to take a broad and public view of this important public question, we make this appeal.

FURNIFOLD M. SIMMONS, of North Carolina.  
PAT HARRISON, of Mississippi.  
WILLIAM H. KING, of Utah.  
WALTER F. GEORGE, of Georgia.  
DAVID I. WALSH, of Massachusetts.  
ALBEN W. BARKLEY, of Kentucky.  
ELMER THOMAS, of Oklahoma.  
TOM CONNALLY, of Texas.

[CONGRESSIONAL RECORD, vol. 71, pt. 4, pp. 4150, 4151, 71st Cong., 1st sess., Oct. 2, 1929.]

Mr. JOHNSON. And in order that there might be no mistake concerning the emergency, the senior Senator from the State of Massachusetts then said:

You say the need is to provide a means of meeting an emergency. What would you think of a proposal giving the President the authority to increase the Army or the Navy upon investigation and advice by boards of Army or Navy officers whenever he deemed an emergency existed? If increase of power and responsibility in the field of taxation when emergencies exist can safely and advantageously be lodged in the President, why not let him be the judge of the extent of preparations that are necessary to provide for public defense without the concurrence of the Con-

gress? Why stop at the mere protection of safeguarding of property? Is not the protection of life and the defense of the country of greater moment?

And then in a burst of eloquence in the closing sentence, he stated:

Senators, pause, I plead with you, before you vote for such a destructive interference with the liberties and rights of our people.

I wish that I had his eloquence, and I wish that I had his facility of expression. I wish the appeal could be made by me such as he made in those days; and I would say to the Senate: "Senators, pause, I plead with you, before you vote for such a destructive interference with the liberties and rights of our people."

And, sir, we were not dependent upon the mere statements, the ebullition of eloquence that came upon the floor of the Senate during that period, for the entire Democratic press of this country was a unit, and its articles were blistering upon the power that was sought in a flexible tariff. I believed them all, and I voted that way during that period. All during that time the Democratic press of this country never faltered for a moment in its view. They were eternally right in that fight they then made, and they were eternally right in what they said upon that subject.

I read from a paper which is now deceased; I read from it in order that there may be no invidious comparisons now. I read an article from the New York World that at that time was published upon this subject. It will bear, sir, repetition.

The Democratic members of the Senate Finance Committee have taken hold of the right end of an exceedingly important public issue when they appeal for support against tariff flexibility by Presidential decision. There can be no doubt whatever that a tariff rate is a tax, and it will be difficult to dispute their argument that taxation is the business of the Legislature and not of the Executive. The proposal to have the President use the flexible provision is in fact a proposal to let the President legislate by decree. This is certainly contrary to the spirit of the Constitution even though on narrow technical grounds the validity of the present law has been sustained. In any case it is clearly an unwarranted confusion of powers.

President Hoover's desire to have this power conferred upon him arises apparently out of his belief that he could revise the tariff more efficiently than Congress can revise it. The methods of Congress are cumbersome. They have gross and obvious defects. But their defects are bound up with the working of popular government, and impatience with these defects is the usual beginning of a desire for a dictatorship. We do not for a moment suppose that Mr. Hoover has any such desire.

I pause there to say that I resent the suggestion that is made by some people here and elsewhere that there is any desire on the part of President Roosevelt to become a dictator or assume dictatorial powers. I recognize in him something else entirely, and it is apart from his personality that I argue this case today and argue it not upon the fact that we have in the White House a President in whom I have the utmost confidence and upon whom I place utmost dependence; I argue it upon the broad ground of the powers that are ours, that should remain ours, and that should not be delegated under any circumstances.

I continue to quote:

We do not for a moment suppose that Mr. Hoover has any such desire. But his state of mind is not a healthy one; the normal processes of popular government ought not lightly to be supplanted merely for the sake of efficiency. For if the President can revise the tariff more efficiently than Congress, it may be, if he is as able a President as Mr. Hoover, that he could make better laws on almost any other subject.

And that will be the argument ever for any power that is sought to be delegated to the executive branch of government, that it can act with greater alacrity, with more celerity, and that it can make better laws than can be made by the Congress itself. But after all, this is a democracy, this is a people's government, and the fact that our ways are cumbersome, and that they are even tainted with long delay, does not in the slightest degree affect the situation or the argument upon the question.

For if the President—

Said this article—

can revise the tariff more efficiently than Congress, it may be, if he is as able a President as Mr. Hoover, that he could make better laws on almost any other subject. It would nevertheless be undesirable to give him the power to make laws on any subject.



There is no more reason why the President should supplant Congress in order to revise the tariff than that he should supplant it in order to revise any other law. Self-government is self-government, and in this country, however irksome it may be at times, it has been worth the price.

And self-government is worth the price, the price that any man may pay, politically or otherwise, for standing for it; self-government is worth the price, and self-government must not be frittered away upon one specious plea or another, upon one design or another. It should be retained where originally it was deposited, and it should be by those who are its trustees maintained in all its pristine purity.

I do not and can not, sir, recite all the references that I have here concerning statements which have been made, and time will not permit that I should go forward with them all.

Mr. President, I have spoken now from the standpoint of the policy involved. I have demonstrated out of the mouths of those who are greater men than I can ever expect to be, that the policy is one which never ought to be surrendered by a Congress, and which a Congress never should permit itself to be persuaded to delegate to any other branch of the Government.

But, Mr. President, there are certain other questions involved in this proposal. I have spoken, as I think, from the standpoint of highest ideals and ideas that should actuate one in connection with the policy that should be pursued by those who represent the people. There is another side as well to this issue.

This bill, if it shall become a law and be intrusted to the President, for enforcement must be administered by those who are his agents. We know from the hearings that have been had who will administer this law. We know that it will be the Agricultural Department and the Department of State. There is no question concerning that, I take it; and so we can picture exactly, from the mental attitude of the Secretary of Agriculture and the Secretary of State, the peculiar views which they will bring to bear upon reciprocal trade agreements and tariff rates throughout this land.

For both these gentlemen, I hasten to say, I have a profound respect and regard; for their assistants I have more than that; and having that, I would not say aught in the slightest degree that could be considered criticism of either, but reading the words of both, listening to both, I think I can understand just exactly what the situation will be when the bargaining begins.

I am a Californian, sir. I was born in that State, of practically the second generation of children born in it. I have seen that State in its swaddling clothes in years gone by, and I have seen it advance, as the years have passed, to become the fifth State of the Union, possessing the fourth city in population in the United States. I walked through that fourth city in the United States at one time when its inhabitants numbered fewer than 12,000, and beyond it there was nothing but a desert. I have seen that city grow and develop until now it has attained its present eminence; and I have seen the region surrounding it abound in those luscious fruits with which we are all familiar and which have made that section of California famous. I come, sir, from the northern part of the State, where in my office on the twentieth floor of a great building I can watch the great steamers of the world go forth through the Golden Gate and, in imagination, at least, though denied me otherwise, I can go with them to mad adventure in the South Seas and upon the sands of the various islands of those storied waters. I have seen that State grow from a mere border State to its present position. I know what it requires. I have sat in this Congress during two tariff fights when I gave every ounce of energy I possessed to get for that State certain tariffs which were required in order that it might be prosperous and in order that it might meet competition from abroad.

When I made the last fight here for California products, it was south Mediterranean states that were here with serried ranks against us, through chambers of commerce in New York City, and with representatives here every day during all that long fight. I know what is required in the

State of California, and I know that no man whose views are wholly internationalist in character, who believes in free trade, or in a modified free trade, can understand this State in which I was born and which I love as I love no other place on the face of the earth. I will not willingly intrust that State and its future to two gentlemen, however much I admire them and however much I trust them, whose philosophy is so different from mine and who would deny us the tariffs we need for our prosperity, aye, which we require for our very life. I decline to do that, Mr. President, with my vote, at least; and whether we are defeated or whether we are not, I shall maintain my position; and whether it is resented that I take the stand I do today or whether it is not is a matter of absolute indifference to me. I am a Californian, loving the soil and loving the State, and I will not intrust that State, with all it has become and with the future that is its, with its glorious future destiny, to those with their internationalist views who do not believe that any protection should be accorded any place on the face of the earth.

So, Mr. President, I have my reasons for my attitude aside from the great reason of policy and the constitutional question involved. Call them selfish and provincial, if you will; I do not care a "rap." I have only a little time more when I will go back to the soil of the State of California; and that State I will not intrust to gentlemen whose views are such that they will, if those views are carried into effect, injure or impede it, not wittingly but because their philosophy is a different one from that which is essential to that State's sustenance and that State's progress. So, Mr. President, say what you will about the selfish aspect of this sort of attitude, I take it in good part and I grant you that it is deserved.

I know, too, Mr. President, that today it is a terrible thing for a man to love his home, to love his city, to love his State, to love his country. It is a frightful thing today, the sin of patriotism in this land, and there are societies throughout this country now that believe that none of us should ever dare teach our children and our grandchildren to love their country, and who preach we should set some fine example and leave ourselves naked and defenseless to all the world. But, sir, I am too old to change my views in that respect, and so I am speaking not alone as a United States Senator, as I have spoken for the larger part of what I have said today, but I speak today as a Californian, and I am not ashamed to speak in behalf of the State I represent in part and which during the long, long years has been so very good and so very kind and so very loyal to me. So much for that.

Now, Mr. President, what are the views of the Secretary of State who unquestionably is going to administer this bill? We have listened to him as he sat over there again and again and again, always berating any protection, any tariff, any measure that even squinted at a tariff. We know that to be so; no man can deny it; no man can gainsay it. He is opposed to all tariff rates.

What of the Secretary of Agriculture? We can read his mind in reading what he writes. He writes magnificently. I love to read him; I adore the devoutness with which he impresses everything he writes, and I get from the charm of that which he writes a real thrill. Read him and no man need doubt what his views are—nebulous, perhaps, and now and then in the circumambient atmosphere escaping us as he flits by, but, nevertheless, he is always readable, always interesting, and he always arouses our respect and our regard. But he reminds me sometimes, as I read his views, and as I try to understand them, of the topical song which we hear and have heard so much of late—

He floats through the air with the greatest of ease,  
This daring young man on the flying trapeze.

[Laughter.]

He mentally goes through such peculiar and rapid gyrations that I cannot follow him at times, I grant that; but he is doing a great work, a monumental work, and he is entitled, I think—even though I indulge in some playfulness here—to the respect of every one of us upon this floor.



My objection to him is solely that his philosophy in relation to the protective tariff and in relation to various industries is a philosophy to which I cannot subscribe, and which, if put in operation by virtue of trade agreements, would spell ruin for a large part of our people.

I can recall once long, long ago when I was endeavoring to try a law suit, certain doctors talked of an exploratory incision into the human body. I was young and inexperienced, and there was not anything in those days of which I had a thorough understanding, of course—I have not now a very thorough understanding of many things; but when the doctors talked of an "exploratory incision" into the human body, it shocked me dreadfully; and I never could quite get over the idea that there should be such an "exploratory incision." In this instance, may I say to my friend the Senator from West Virginia [Mr. HATFIELD], the "exploratory incision" was wholly ineffectual, for the patient died; but the "exploratory incision" into the human body is quite beyond me; and I never was able to understand it.

Mr. HATFIELD. Mr. President, may I say to the Senator that such incisions are made for the purpose of peeking in.

Mr. JOHNSON. "Peeking in"; that is an "exploratory incision." I am glad to have the information.

But, Mr. President, there have come to us the new doctrine and economy of "inefficient industries." I am not quite able to comprehend exactly how far this new doctrine goes.

It does not mean much, says our friend, the Secretary of Agriculture. I do not want to misquote him—and if I do, I trust some Senator will correct me at once—but he says there are only 5,000,000 people in this country who are gainfully employed in "inefficient industries", and that there are 40,000,000 people who are consumers and who will benefit if inefficient industry shall be eliminated, and the 5,000,000 people, presumably—I say that as my conclusion—presumably shall be eliminated too.

There is something in that doctrine which is not appealing to me. There is something in the doctrine of a man who has worked all his life in a certain way and who knows but one thing—there is something in a doctrine that would send him out into the street. That I cannot fathom and I do not like. It is all well enough to say that he is engaged in an inefficient industry; and that if those inefficient industries were all destroyed, then 40,000,000 of our consumers would benefit and the benefit would be very great from the whole national standpoint.

In those inefficient and noncompetitive industries, which are recited in the testimony of Mr. O'Brien before the House committee, I find many things in which I am interested and in which the West is interested—olive oil, cheese, eggs, dates, grapes, olives, peaches, almonds, beans, peas, tomatoes, long-staple cotton, flax, sponges, and the like. I say "straw hats" for the benefit of one of my colleagues of whom I am very fond, but he is absent at the moment, so I shall not dilate upon it.

But these are noncompetitive industries which are described, in conjunction with very many others. They are industries which are inefficient, and I do not know what we are going to do with the theory of inefficient industries unless it is meant that we are going to put them out of business. If we put them out of business, then we are going to bring, it seems to me, more ruin, more depression, more unemployment, even though there may be a little advantage to the consumer in the purchase of these things.

Mr. Tugwell has said that no one industry is entitled to support by a tariff. No industry! He does not qualify his statement in the slightest degree. Mr. Wallace makes perfectly plain that he does not believe in tariffs, and certainly not where the industries are noncompetitive or inefficient.

So we have administering this law such men. Senators of the South, who fought here for the little tariffs in their particular territories, should remember just exactly what their industries are and, if they are inefficient, look out for them in the days to come.

There is another thing in this argument that ought to be and has been called to the attention of this body. I think today it was called to its attention by the Senator from Michigan [Mr. VANDENBERG] concerning wool. Wool is one of the things which, in the language of Mr. Wallace, would probably be given a "pain" by what was being done or might be done to it. But one of our brethren here, the very excellent and very able Senator from Wyoming [Mr. O'MAHONEY], I observe in the press, has made perfectly plain that he has an understanding or an agreement by which wool is not to be affected by any reciprocal trade agreement. The instant we say that wool shall not be affected by a reciprocal-trade agreement and the instant it is said, "I have an understanding or agreement in advance that wool shall not be affected", that instant the bill is condemned, and that instant I have the right to ask, as to 40 things which come from the soil, that you deal in exactly like fashion with me and with the State from which I come in relation to those articles.

What justification is there in advance to relieve wool of the possibility of a reciprocal agreement and to leave hanging over all the rest of us the threat of an agreement that may mean ruin to us in the future? What earthly excuse is there, and what justification for an agreement or understanding, either direct or expressed, implied or otherwise, by which woolmen are to be placated, and others are to be treated in quite a different fashion?

I have an Associated Press dispatch quoting the Senator from Texas [Mr. CONNALLY], who, I hope, will grace this body for many years in the future, in which he speaks of "all farm products", and indicates, although he does not say, that there is an agreement to the effect that they need not fear because they will not be injured by any reciprocal-trade agreement. If that is so, adopt my amendment. If that is so, what reason is there for not saying so in the bill? If wool is to be exempted, if agricultural products are to have a place of precedence under the bill, let us write it into the law, and no man will be mistaken then in the days to come. If it be so that there is any understanding of any character in relation either to wool or to agricultural products, there is no reason on earth why we ought not to say it in this bill and make it plain beyond the peradventure of a doubt.

Mr. President, I am through for the time being. I repeat what I said before. Upon constitutional grounds this power should not be accorded. Upon grounds of public policy it ought not to be granted. It makes no difference who the man is in the White House. That is not the point at all. It is a power that will return to plague us in the days to come. However, we trust the present occupant of the White House, however great may be our regard and affection for him, we ought not at this period in our career surrender the prerogatives which were accorded to us and upon which popular government rests. We must not, as my friend the Senator from Maryland [Mr. TYDINGS] said in 1929, make a little opening in the dam because of the great onrush of power that will be accorded subsequently to future Presidents.

I stand here a Roosevelt man. I do not hesitate to avow it upon this side of the Chamber. I am going to avow it in the fight I intend to carry on, if God permits, in the State of California this year. He does not enter into this discussion at all. I recognize in him what I have recognized in few men. I recognize in him a degree of patriotism and a desire to serve that few men have been given of God to do. Recognizing that, though, recognizing him in the fashion that I do, paying to him the full meed of praise that is his for his work in the last year and a half, paying to him the full meed of praise that he has earned by his undeviating course and his bold and gallant courage, I say I can not and I will not, as a United States Senator, standing here upon my own feet in the body which I love, which I respect, for which I would fight if necessary—I cannot under my oath yield the power that is asked in this bill, and under the providence of God I will yield it to no man in an Executive position.

Mr. LEWIS. Mr. President, if I could concede that there is in the bill proposed a situation such as stated by the able Senator from California [Mr. JOHNSON], I could easily fall



into the fear of consequences as baleful as his exalted oratory has pictured to the Senate. I fear, however, that one of the blunders to which we are liable is the indulgence of that which from our own nature—either born of our prejudice or of our preferences—we incline to adopt because it serves the end to which at the time we are addressing ourselves.

It is asserted by the eminent Senator from California, as was charged by Senators preceding him throughout their discussion, that the measure now before the body carries two elements of invalidity:

First, that it is unconstitutional because it assumes to create a revenue, and this to be given the voice of origin and authority by the sole act of the Executive. It is asserted that this course violates what is assumed to be the spirit of the laws establishing the organization of our Government in that it forsakes and opposes the right of the House of Representatives to originate bills raising revenue.

Second, it is asserted that the measure is unconstitutional upon that other theory advanced by the able Senator from California, and eminent Senators preceding him, as declared in their voluminous addresses, that we are vesting within the President the power to create a solemn treaty between foreign nations and the United States and to execute it in his personal capacity despite the constitutional provision which exacts ratification by this body, known as the "United States Senate." It is urged that the confirmation by the Senate as an essential adjunct preliminary to the approval of the act going into effect before it can take the form of a legal compact of authority called a treaty.

Mr. President, the able Senator from California, and, I may recall, the eminent Senators preceding him, particularly the distinguished Senator from Iowa [Mr. DICKINSON], the Senator from Michigan [Mr. VANDENBERG], the Senator from Delaware [Mr. HASTINGS], and the eminent Senator from Ohio [Mr. FESS] have in separate presentation repeated from time to time the speeches or declarations made by Senators upon this side of the Chamber in some preceding discussion where it is assumed there was an affinity or relation similar to that which now possesses the attention of the Senate; and because of the impressions created at that time, and because of the feeling that there is a parallel, it must be assumed, say they, that what transpired then, and the judgment which followed it, is essentially that which should prevail now. It is the demand for consistency as cried out by Senate orators proclaiming the premises and its conclusion.

For myself, I am not much concerned with the cry. I rather recall, with Emerson, that—

Consistency is the hobgoblin of little minds.

But, Mr. President, these eminent Senators are influenced by what they feel was something past and the line of reasoning there adopted which they feel should obtain here. They are unconscious that they themselves are committing a vice to their own welfare and to their object by hesitating to take the original situation as required by the present hour, rather than that which affected them in a past which may be wholly unrelated to the day and cause in which we now serve.

Mr. President, the great statesman of Britain, William E. Gladstone, had occasion to confront a situation very similar to this. He refers to the debates that have transpired in the British Parliament. He is writing an article in the Nineteenth Century. Says Mr. Gladstone:

In very many cases, where we have reached certain results by our own inquiries, the process and the evidence have been forgotten, and are no longer present to the mind at times when we are called upon to act; they are laid aside as no longer necessary; we are satisfied with the knowledge that we acquired at a former time. We now hold to the conclusion, not remembering accurately its warrant, but remembering only that we once decided that it had a warrant. In its essence this is acting upon authority. From this sort of action upon authority I believe no man of active life, however tenacious be his memory, can escape; and no man who is content to act on this kind of authority is entitled to object in principle to acting on other kinds. \* \* \* We are bound to act on the best presumption, whether that presumption happens to rest on something done by others or on something we have done ourselves.

Most appropriate is the suggestion, sir, from this eminent, distinguished, philosophic, and statesmanlike legislation.

Mr. President, at the very outset we wish to inquire, Is there foundation of premises in what our honorable friends contend is the basis for their opposing conclusion?

Let it be recalled that the principal contest here is combating the privilege granted by the bill to the President of the United States to conclude, in behalf of the United States of America, a mere compact and an agreement, as the representative of the United States of America, with any foreign country respecting the condition and quantity of charge that may be made the basis of exchange of trade, that which is the basis of a mere exchange of commerce between our Nation of America and any foreign nation of the world.

Since that is the premise, let us pause to ask ourselves, Where does that violate the Constitution, as is contended?

The Constitution provides that where revenue is to be raised, this is to be had through measures originating in the House of Representatives as the representative of the people who are taxed; but where the object, sir, is not primarily the raising of revenue, the position taken by the honorable Senators who contend that there is violation of the Constitution does not apply, because the object of the action is not the raising of revenue, nor for the purpose of raising revenue. It is for the purpose of creating an exchange of barter in the commerce between nations—the privilege of the Chief Executive—the President—to enter upon, negotiate, and conclude as provided in the second division of the Constitution.

Eminent Senators who have made the contention of unconstitutionality here forget that the Supreme Court of the United States has removed them from any uncertainty of mind as to the exact limitation and definition of power. I ask attention to the reasoning of the Supreme Court of the United States in United States against Norton in 91 United States Reports. I read, sir, rather the quick condensation of the ruling, that I may not take too much time in these mere expressions of legal opinion. The Court says, on page 569:

The Constitution of the United States article I, section 7, provides that "all bills for raising revenue shall originate in the House of Representatives."

The construction of this limitation is practically well settled by the uniform action of Congress. According to that construction, it "has been confined to bills to levy taxes in the strict sense of the words and has not been understood to extend to bills for other purposes which incidentally create revenue."

Story, on the Constitution, making his observations as well as this, the Supreme Court of the United States, gives us amply, sir, the reasoning on which this measure in its distinction rests.

The Supreme Court of the United States later had occasion to refer to this former opinion; and in a case supporting the lower court that went up from the city of Washington, the Supreme Court of the United States in One Hundred and Sixty-seventh United States Reports, the case being known as "Bank against Nebecker", has occasion to say:

While the primary object of all taxation is the raising of revenue for the support of the Government, and all bills for that general purpose are "bills for raising revenue" in the sense of the Constitution and, therefore, must originate in the House of Representatives, it does not necessarily follow that every bill for some other legitimate and well-defined general purpose becomes a revenue bill, in the same sense, because, as an incident to the main object, it may contain a provision for the payment of certain dues, license fees, or special taxes.

Upon this theory, sir, the circuit court of appeals, in Thirteenth Blatchford, 207, calls attention to the specific action of our Government, and holds that a provision in an act of Congress increasing the rate of postage from 1 cent to 2 cents is not unconstitutional because it grew out of an amendment offered in the United States Senate; and following that, sir, we have the opinion of the Attorney General of the United States, in Nineteenth Opinions of the Attorney General, 520, saying:

From the foundation of the Government to the present day, the Constitution has been interpreted to mean that the power vested in the President to make treaties, with the concurrence of two-thirds of the Senate, does not exclude the right of Congress



to vest in the Postmaster General power to conclude conventions with foreign governments for the cheaper, safer, and more convenient carriage of foreign mails. The existence of such a power in Congress may, perhaps, be worked out from the authority given to that body in the seventh clause of section 8, article I, of the Constitution. \* \* \* This has always been construed to mean the power to organize and carry on the Post Office Department.

Mr. President, it is clearly seen, therefore, that there is no bill at this time presented before this body that has for its object the raising of revenue. Therefore, the contentions of able Senators that we are violating the fundamental doctrine of the Constitution in assuming to create taxes by the act of the President has no foundation as a premise, and no justification for the conclusion in any fact that is laid before this body in proposed legislation as ordained in this bill.

It is now further contended, however, that because there is a suggestion attached to the power to be vested which calls by name the compact "treaty", that we are allowing the President of the United States to execute a treaty and absolving him of the responsibility of having that treaty ratified by the Senate and for and by that assumed privilege we are violating the Constitution.

If the facts were as the able Senator from California would assume, and as other Senators preceding him have declared, well we might say that such seems an abrogation and apparently a violation of the Constitution. But what is overlooked is the truth, and what is ignored are the facts.

Mr. President, we ask what we are seeking to do here, and what is it we propose to do? Sir, it is to authorize the President of the United States, as an envoy in behalf of the people of the United States, to enter upon a trade relation between our country and other countries respecting the exchange of commerce. The fulfillment of the very mandate of the Constitution, upon the establishment of foreign commerce.

Mr. President, we have been doing this very thing continuously for 33 years. We have had the power to do it for 55 years. The eminent Senators on the other side of the Chamber have been charging loudly the great violation of the fundamental law were the President of the United States to attempt, or, under this proposed law, should execute a compact of trade in behalf of the people of the United States, authorized by their deputies called the Congress of the United States. It is declared that in such result the President is committing some great violation of the fundamental Constitution. To this I reply as I propound to the Senators on the other side this single query:

"Senators, there has been a law which gave authority to the representatives of your Government who are called 'commercial attaché' to negotiate trade reciprocal agreements. They were sent out by your State Department; lately they have been annexed to the Department of Commerce; and they have executed 75 different arrangements from time to time within the last 11 years of different forms of trade."

I ask of my eminent friends on the other side who have been opposing this measure on the ground that this measure contemplates the negotiation of a treaty which must be ratified by the Senate, where is one single instance of the demand of anyone of you during the time when these treaties were made under President Harding, under President Coolidge, under President Hoover, that they should be ratified by this honorable body? Where is one that was ever brought here for your ratification, when it was a mere trade arrangement made by the representatives of your Government in positions and offices less than the Presidency?

Since you have never exacted it before, and since you do not now point to one you have ever enforced here, what other motive can be charged to you now than that you are looking for something to enable you to cry out to the country that, because the power is sought to be vested in this present President, there is a partisan opportunity which you snatch, where you can cry the charge against your President of the United States that he is a lawless agent on the eve of violating the Constitution, inspired with the spirit of tyranny, and hoping in its devastation the complete destruction,

under the guise of democracy, of the Republic of the United States.

O shameless audacity! unpardonable perfidy! I demand of you to say if this be not your purpose, what purpose have you? If you have never exacted the privilege, which you assume now, under any of the four different Presidents whom you have controlled in your name, where is your authority for demanding now for the first time that it would be a violation of the Constitution for this, your present President, to do by himself that which your four Presidents did by their appointees?

Mr. President, it will not be overlooked that our eminent friends on the opposite side who have been making these contentions seem to maintain a significant silence in the face of the record of my accusation.

Now, Mr. President, I moved to call attention to the fact that merely calling this compact a treaty does not give it any higher place than that which it takes by virtue of its natural relation. The Supreme Court of the United States removed from my honorable friends any doubt upon this question, when that Court, in the case of *Geofroy v. Riggs* (133 U.S. 258), had occasion to discuss the very question, and spoke of the power, and referred to the fact that the treaty is within the right of the President and within the right of the Government, saying:

The treaty power, as expressed in the Constitution, is in terms unlimited, except by those restraints which are found in that instrument against the action of the Government or of its departments, and those arising from the nature of the Government itself and of that of the States. But with these exceptions it is not perceptible that there is any limit to the questions which can be adjusted touching any matter which is properly the subject of negotiation with a foreign country.

Where, my eminent friends, do you get the theory upon which you base these very eloquent speeches, these concomitant phrases of English in consolidated array of impeachments? In all these you denounce your own President before the world as unworthy of trust, and as a tyrant about to usurp the power of Government, and without the authority of law to ride bestride the Constitution to its fall and to the demolition of liberty.

I note here, in the presence of the honorable Senators who cry out execration against the members of the Tariff Commission, that when they find nothing they can lay their hand on particularly to sustain any charge they intimate against the President of the United States violating any law they suddenly seize upon a declaration or expression on the part of a gentleman who is not the appointee of the present administration, but who is Chairman of the Tariff Commission, as voiced by him in his testimony before the Finance Committee, some such expression as that wherein he said that where the President would execute or command some action respecting a tariff schedule and the figure at which it should be adjusted that such would be tantamount to an action of the Commission, because the President is himself the Executive of the theory on which the Commission must act.

Mr. President, what is the grievance? It is that the gentleman has made the remark in some hearing that he would have to yield, or would yield, when it was found that the President of the United States desired to express himself and had concluded himself on a policy to submit to the foreign nation.

I should like to call to the attention of the Senators making the charge of misfeasance and upon such denouncing this particular officer, who was the appointee of their administration, for having uttered an expression which, according to his theory—and, to use the words of the eminent Senator from Delaware—"has destroyed his usefulness", for that he claims that therefore he would yield to the President for that the President would assume to exercise the power, therefore, exercising it, he as a member of the Commission would surrender any contention of his own differing with it.

Sirs, it is this frank avowal that is aspersed as treason to duty and a violation of every morality of public probity. Yes, and you eminent Senators making this accusation seem



as ignorant of the law applying to this phase as you have shown to the constitutional basis upon which you have paraded day by day before the world at large, holding up before the civilized nations of the earth your own President as unworthy of the trust of his own colleagues, and charging him, in the presence of the tyrants of earth, as being on the eve of delivering this Republic to the hands of destruction through anarchy and socialism. All this when not one of you assume the courage to justify such accusation by any act offered or by any proof tendered. Yet, unhesitatingly you would invite the masses of the people, on the streets and at the corners of your own land, to turn on their own Government to rend it to fragments on the ground that their commanding officer, their President of the United States, is upon the eve of firing the land with the burning brand of anarchy, and consuming it with incendiarism of madness, crushing it with and doing it to its death in the process of treachery.

All this based on the assumption that the President adopts the theory of service and degree of concession of the Chairman of the Tariff Commission. What has this gentleman, Mr. O'Brien, said? I am not so much disturbed as to what he has said but I am interested in calling attention to the fact that the Tariff Commission was created by a law defining its duties and powers. This definition went before the Court for test, and in the celebrated case of *Norwegian Nitrogen Products Co. against The United States*, the highest Court, construing the conduct of the Commission, defining the action of that body, said:

It is he [the President], after all, who ascertains. He does not have to rely upon the evidence produced before or the recommendations made by the Commission. There is nothing in the section which prevents him from making such inquiries as he deems proper, or from ignoring everything that is done by the Commission (20 C.C.P.A. 27).

Later that eminent Court, in the case of *Foster against the United States*, said:

• • • It is true, the investigation of the Tariff Commission and its conclusions and report thereon, if any, are not, under this statute, binding upon the President. He may follow them or disregard them.

In *Feltex Corporation (United States impleaded) v. Dutchess Hat Works*, an American manufacturer, and *United States (Feltex Corporation impleaded) v. Dutchess Hat Works*, an American manufacturer (T.D. 46957), the Court of Customs and Patent Appeals, on February 5, 1934, rules that the report of the Tariff Commission in an investigation for the purposes of section 336 of the Tariff Act of 1930 is not binding upon the President as limiting him to the facts therein reported, but that the President has the right to base his proclamation on any facts disclosed in the Tariff Commission's investigation, whether or not specified in its report.

Senators of the opposition, what is it you gentlemen seek? From what source do you seek the law? Upon what basis do you condemn this officer who announced the law as it is given by the highest Court of the land? Yet these eminent Senators, trying to find some reason whereby they may condemn something, which may give the color of condemnation and an adverse judgment against their own country, turn to this particular officer, and would leave the impression that it is shown in the committee proceedings that he would pander to be appointed to office by announcing he was ready to surrender his views at the instance of the President, if the President's views are contrary to those of the Commission and of the constitutional mandates.

Has any one of our eminent opponents cited the law that applies? None—not one. Is it that they did not know it—or is it they did know it and rested silent that disclosure would not defeat scandal? Has anyone referred to the decisions of the highest tribunal? None. Has any of them tested the act by any decisions of the courts of the land? None.

Without making any reflection on these honorable gentlemen, I will say that they can find it easy to say it is unconstitutional. How long has this plea of "unconstitutional" been heard? How often have you taken your resort to hurling this anathema and arousing in the mind of

your own countrymen a want of credit in their own institutions? How long have you continued to invest the great public mind with the feeling that there is nothing secure in the action of the Government, no relief to be hoped, but that they are to be deceived by the enactment of every law? For that they are discouraged by the assertion from the law-makers that their very act is to be declared by the courts as an impeachment of honor and a violation of the Constitution, all to the discredit of the Nation and dishonor of its people.

Now, gentlemen of the opposition, ever croaking "unconstitutional", where have you been able to point to one decision of a court that has held any one act of legislation of this administration invalid? Where has that opinion of yours that all is unconstitutional ever been sustained by any court to which you have ever gone in any part of the land? Where is the opinion from any other court presented by anyone else that has sustained your contention of unconstitutionality?

And, sir, may I ask who are these gentlemen going up and down the country delivering their addresses wherever there is opportunity to exhibit themselves and their vanity, or to expose their conceit and display their pompous impudence, crying out "unconstitutional" concerning every act which goes to cleanse that which has so polluted this Republic, and which is put forth to relieve the people of the burdens put upon them by the authors of the cry "unconstitutional"?

Where has one of these gentlemen—and I allude to eminent gentlemen who are reputed by the papers to come from the House of Representatives—ever presented a cause before a court contending that a law was unconstitutional and have it sustained according to his opinion? Where is any judgment that discloses that any opinion of theirs or view of theirs has ever been accepted by any court of the land? And that other band of squeaking, shrieking "captains" of dismal desolation whom no discriminating public has ever trusted with an honor or honored with a trust, who go up and down the Nation crying "dishonor" on every act of the President and his aids—these sickening every sense of justice—who in truth are they?

Yet, it is such as these who are allowed to go before the country, up and down in the highways and little paths, screaming to the full extent of their screeches of the invalidity of every act that is attempted to be passed in behalf of the people, and crying "unconstitutionality" of every measure which is tendered here for the salvation of the Nation and the restoration of the Republic which by their infamy in public place they brought to revolution and disaster.

There is my eminent friend from Delaware, the distinguished Senator [Mr. HASTINGS] who spent his time in a very elaborate address of several hours from day to day to demonstrate how "unconstitutional" is the pending measure. Yet the only decision presented anywhere, any time, by these opponents to sustain the argument is the one of the Supreme Court of the United States, which held the proceeding they were assailing wholly constitutional—the renowned case of *Field v. Clark* (143 U.S. Repts.) I have never been able to follow the contention of my eminent friend from Delaware; though I listen to him with delight and sometimes with information, as to the position he is assuming as the spokesman of his great party and now if he will but pause in his colloquy with his colleagues while I am speaking, and inspire himself with a little wisdom from this side, issued while I am speaking, he will find it to his present benefit and future welfare. [Laughter.]

The PRESIDING OFFICER. Will the Senator from Delaware give heed to the Senator from Illinois?

Mr. HASTINGS. Mr. President, I give heed all the time to the Senator from Illinois, but I am sorry to admit that I missed what the Senator just said.

Mr. LEWIS. There is no need for the Senator to apologize, but there is need for information on the part of the Senator, and therefore the Senator from Illinois sought to do that which charity would impose upon him to do, to lighten darkness with illumination. [Laughter.]



I said, and I repeat, it has ever been my pleasure to listen to the eminent Senator from Delaware as he has appeared before this body and inveighed against the validity of every act of the present administration. I heard him read the platform of the Democracy of 1932, and he pointed out where the charge was made that under what was known as the law called the "Smoot-Hawley law" large collections have been made from the beneficiaries for campaign purposes. The eminent Senator said he could not but see that the declaration was a falsity. It was written, said he, by those who could not have believed it, and therefore he denounces the charge as a prepared slander.

But the pending bill he denounces as he denounces the Chairman of the Tariff Commission. I regret that the Senator was not here when I called the attention to and read the opinions of the highest court in the exact words that the Chairman of the Commission gave to the committee—the words which the Senator denounces.

Mr. President, I realize that the position of the Senator from Delaware as chairman of the Senate committee for the election of Senators on the Republican side places him in direct opposition to one as chairman of the Democratic Senators which I occupy on behalf of the Democratic side. It is a matter concerning which I feel more or less flattered, and sometimes I have felt like suggesting to him that we both issue some sort of challenge and let the eminent leaders on both sides go to the country and join debate that the country may see the representatives and hear what they say, even including the Senator from Delaware.

I feel that the very exhibition of himself would be a source of considerable refreshment to the public to behold and to hear, because as I have heard the Senator, and as I have listened to him inveigh one way or the other in every form of declaration against everything that the administration has done, and holding it unworthy of any form of praise, and withholding any approval thereof on his part, I cannot but realize that the distinguished Senator has reached the point where he dreams to be saluted by the individuals in his locality, and everyone admiring him, as the Doughty Daredevil of Delaware. [Laughter.]

Mr. HASTINGS. Mr. President—

The PRESIDING OFFICER. Does the Senator from Illinois yield to the Senator from Delaware?

Mr. LEWIS. I yield.

Mr. HASTINGS. I have been waiting for about 5 minutes until the Senator could finish his sentence so I might not interrupt him, but I should like to say here and now that I am not willing to go out in a contest before the people with the Senator from Illinois to compare our looks, because I realize that the Senator from Illinois will entirely beat me on that score. But if it comes to the discussion of some question I shall then be glad to meet him any time, anywhere.

Mr. LEWIS. I will say to the Senator from Delaware that he does not need fear the comparison even of looks, because the community will behold by appearance how much smoother a man he is than is the Senator from Illinois. [Laughter.]

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

Mr. LEWIS. I yield.

Mr. HASTINGS. I do not know whether the Senator has reference to the fact that I shave every day and he does not.

Mr. LEWIS. Mr. President, I have long since known that the eminent Senator had weapons of a rather smooth and cutting character dealing with all things, and if he finds them agreeable to apply to himself, that is a matter of his choice, yet I trust he does not cut farther from his face than his neck, because there might be serious consequences to follow in that it might cause a great loss to this body. [Laughter.]

Mr. President, I desire to move toward the conclusion. Where is the eminent Senator from Iowa [Mr. DICKINSON]? If he can be found, I should like to have his attention for a moment. I recall the speeches of these eminent Senators, and particularly I refer to the Senator from Iowa [Mr. DICKINSON], the Senator from Delaware [Mr. HASTINGS], to whom I have paid my tribute.

Mr. HASTINGS. Mr. President, will the Senator from Illinois yield for the purpose of permitting me to suggest the absence of a quorum and asking for the call of the roll in order that I might get the Senator from Iowa into the Senate Chamber?

Mr. LEWIS. Mr. President, I would not ask that the whole of the Senate be called together in order that we bring about the presence of the Senator from Iowa, whose presence I intimated I desired. While I should be glad to have him present in the Chamber, let it be understood that I am content with the company I have—and its flattering audience.

Mr. HASTINGS. Will the Senator excuse me long enough so that I may step out and summon the Senator from Iowa?

Mr. LEWIS. I should regret to lose the presence of the able Senator from Delaware, as I always delight in his presence, and I trust there may be a mutual contribution to both of us in being present while either is speaking.

I seek the Senator from Iowa, Mr. President, because I now behold his challenging colleague the Senator from Michigan, who has delivered very eminent addresses upon the subject in which this law and its proposed purposes are held by him in fulminating declaration as unconstitutional, and wholly invalid. Says the eminent Senator from Michigan [Mr. VANDENBERG] that if it is wholly useless, therefore it is unnecessary. It does nothing, he claims, except to frighten the public from all private business.

That if, on the other hand, it is useful, it is useful only (as I gather) to the destruction of the enterprises of which the eminent Senator from Michigan speaks. I am fascinated by the Senator from Michigan; I am interested in his splendid addresses. I was particularly intrigued by the excess of zeal that he discloses, on the indignation he suffers in the prospect of having something done that would interfere with the tariff privileges that are vested by the present act called "Smoot-Hawley law."

I particularly recall that the Senator from Michigan has from time to time in his very able addresses seen the prospects either of beet sugar being lessened in its value drawn from political favor or of possibility of automobiles no longer racing up Heaven's sun-lit path to the garage of the angels marked "Made in Detroit". He shudders in fear of some calamity arising from our enforcing the reform tariff laws. And finally I can see his tremor at prospective dangers to the great lumber interests of Michigan, which for generations have enjoyed monopolies but now may not be longer indulged in their rapacities upon the builders of homes needed to shelter the unhoused of America.

No one admires the distinguished Senator from Michigan more than I, and I salute him in the presence of his people. I address him as the master mentor of Michigan. In his arguments and in his debates I tender him as one who would not be exceeded in virtue or talent by anyone who could be sent here as a successor, as none have measured to him who have preceded him in his honorable place.

Mr. President, I am compelled to note that there is an engaging rivalry in this projected list of Presidential preferentials. There is the silver-crested corsair, the Senator from Iowa [Mr. DICKINSON], the eminent Senator from Delaware [Mr. HASTINGS], to whose capacious qualifications I have just alluded, the masterful abilities disclosed in the Senator from Michigan [Mr. VANDENBERG]. This much I am pleased to say, that if the time shall come when that party called Republican shall adopt some cleansing to give respectability to its past record, which only of late has so debased the Republic that its captains apologize each time they rise to speak of their party or its record—I say if it shall come to pass that there shall be an opportunity to present someone as its Presidential offering—as some lamb to slaughter as penance to inglorious sinfulness, the Chamber would delight to say there could be no finer trinity from which one could rewardingly be selected than from this guardsmen three—DICKINSON, of Iowa, HASTINGS, of Delaware, VANDENBERG, of Michigan! Gentlemen, take your choice! [Laughter.]

But I am moved, sir, to some serious consideration, and this is, Why denounce this measure in the terms you have and send out to your country the charge you are making



from your very high place before the whole world, that the President of the United States is upon the eve of violating the Constitution of your country in every act that he assumes, and that now he is on the verge of not only violating the law but presenting himself before the countries of the world to negotiate some theory of authority in which this honorable body, the Senate, indicts him as a criminal under the Constitution and unworthy of the trust of his colleagues of administration?

What manner of statesmen are you, Senators, in an hour like this, when every country in the world is on the eve of breaking up in chaos and many flaming in the fires of revolution, that you are willing to incite your own people to turn against your own President and hold him before the world as one on the eve of setting his country into conflagration consuming it in the fires of anarchy, the destruction of communism, and the desolation of universal demolition.

You demonstrate, honorable Senators, how you are encouraging your disorderly to enter upon lawlessness, as you deprive your countrymen of confidence of its people or in themselves. Where do you think this summons to dismay and desolation will lead. Are you compensated for the flames you are blowing up in the thought of some partisan object being won for you and new office procured? Does this compensate you for picturing your President of America before the earth as one you are not willing to trust to negotiate a matter of trade agreements, where you have trusted 57 men of lesser stamp, named by you as commerce advisers, to the very same purpose, the very same object, and the very defined duty which has been written in this bill? What is it you dream upon as reparation for destroying the trust of your countrymen in their Nation and slaying the rising faith of the oppressed, as you bury the hope of your Government in the grave of despair and death?

I summon you again to answer, When have you ever exacted any one of these trade arrangements you made to be brought to this body for confirmation by the Senate? Where is one now, will you rise and call by name, that you have endorsed in the form of a treaty when it has engaged itself in all the solemn obligations with the greatest countries of the earth involving this, your land under the obligation of executing a contract?

It must be evident to all to what an extreme extent you find it agreeable to go to place your country in such a light that you might for a while excite the fears of your own people that they might return in compensation for those fears a contribution to the ballot box to elect someone to office from whom you have aspiration to benefit.

Senators, much time has been taken in the debate. I ask, What policy is there suggested in behalf of the President of the United States which is new? Where is there anything to speak of as revolutionary in the undertaking? The hour moves fast. The lands all around are seeking the most expeditious method of obtaining some relief from their condition. In February 1934 Italy adopted a system of parliamentary control by naming a committee known as "the grand council", for the purpose of negotiating tariff arrangements between Italy and this our land by commissioners.

At the same time, I invite your attention that France, on February 27, proceeded to announce the adoption of a system so that the tariff should now be changed from being consummated by a vote into a system of what they called their "new climax", to be submitted by a committee, and that committee have performed the duty under the arrangement, tendering them as an adoption on the part of the Government.

I call to your attention a statement with reference to the last debate in the Chamber of Deputies:

After an all-night session, during which the clocks were stopped at midnight, the budget was finally adopted on February 28. On the same day the Chamber, by a vote of 430 to 157, passed a bill granting the Government power to change the existing tariffs by decree. This measure was passed in the senate by a show of hands.

Senators, are you merely asking your Government to do that which other governments have permitted to be done?

Mr. McCARRAN. Mr. President—

The PRESIDING OFFICER. Does the Senator from Illinois yield to the Senator from Nevada?

Mr. McCARRAN. At the appropriate point will the Senator yield for an inquiry which appertains to the very matter the Senator is now discussing, and I propound it for the purpose of developing the thought he is trying to develop and not to embarrass the Senator in any way?

Mr. LEWIS. I assure the able Senator that he will not embarrass me, but I am anxious for the Senator to realize that we are proceeding under limitation of debate. If the Senator will propound an inquiry, I shall be glad to respond to it at once.

Mr. McCARRAN. Would the Senator, for the purpose of emphasizing the thought he is trying to expound, kindly distinguish between the governments, the tripartite government we have with its constitutional limitations as to powers, and the form of government of those to which he has referred as delegating certain powers to certain organizations?

Mr. LEWIS. Mr. President, I regret the Senator was not here earlier. He would have had that discussion brought to his attention. I called attention that under our law, as decided by the Supreme Court of the United States, an act which did not have the raising of revenue as its principal object is not within the meaning of the clause of the Constitution. Secondly, I called attention to a decision of the Supreme Court of the United States that an arrangement between the President that looks for a mere exchange of compacts is not a treaty within the meaning of the treaty law.

Therefore, since the Highest Court of our land has so defined it, I answer the able Senator by saying the governments to which I have alluded are much more liberal than the Government wherein we rest, for there the right of their tariff system is based on parliamentary privilege and not in pursuance of the Constitution. France does not occupy that attitude, but the will is directed by the people. It is the will of their people that orders the change.

I instance each, as detail reply. As to the Government of Italy, the Government of Italy had no constitutional basis such as ours. Hers is a military arrangement; but the only theory with her was the vote that will come directly from her elections. From her elections came some force which I do not approve in all respects, but which, nevertheless, is followed by the delivered decree to deal with us directly through a commission.

I say to my able friend: If one branch of the measure before us were for raising revenue, it would have to originate in the House of Representatives. If the other were for the making of a treaty, it would have to be ratified by this body. But where one is not for raising revenue, but for the mere exchange of goods upon an incidental basis, from which there may spring some form of expense that is not specifically a bill for raising revenue, it is not within the meaning of the Constitution, as I pointed out in the declaration of the Supreme Court of the United States.

Second, where it is an arrangement planted on the power of the Government to make a compact, a contract in the form of exchange of commodities, that is not a treaty. It does not pass between government and government. It is a mere passage between the instrumentalities of government of this commerce, as provided in the Constitution of the United States, with the privilege of the President of the United States.

That is my reply to my very able friend from Nevada.

I now come to England, and I call attention to what has lately transpired.

Mr. McCARRAN. Mr. President, before the Senator goes further, I am very glad to have the views of the learned Senator from Illinois; and I regret to know that in making his observations he seems to have forgotten the limitations of the organic law.

Mr. LEWIS. Of course, on those questions there will necessarily be dispute between eminent Senators such as occupy this body, because that turns, on the one hand, upon the construction of whether one thing or another is within the



organic law, and, upon the other, what is the meaning of the organic law according to the viewpoint of each of the Senators from his studies of the past or as he views the matters in the present.

I return, sir. I now bring to your attention what occurred in March 1924. I call to your attention, sir, the so-called "protective tariff" which has lately been adopted in England.

On May 29, 1933, there arose what was known as the "agricultural marketing bill." The Labor Party began to contest the measure, and, therefore, I wish to bring to your attention the observation of Sir Stafford Cripps. When it was provided that a commission should be designated to arrange these interchanges of tariffs and interchanges of trade, said the representative of the labor forces, Sir Stafford Cripps:

This is an excellent precedent, which will be followed widely in the future and seems to us in every way to be desired. We shall be delighted when, on future occasions (as ministers) we have to draw the attention of honorable Members opposite to the excellency of the precedent.

On July 5, 1933, sir, the order was first made, known as the "Import Duties Act", which authorized the commissioners to negotiate, in behalf of the council of England, directly with whoever might be commissioned from other countries, the full understanding and compact for the exchange of trade.

Mr. President, why shall we hesitate to avail ourselves of the advantages tendered by these governments, and adopt this system which could facilitate the purpose, instead of dragging it through long periods of debate such as we have seen before, thus destroying the very object of our undertaking?

Senators have said that these undertakings are invalid because, they claim, we are dealing hastily, merely because we contend an emergency justifies it and stand on the emergency as justification.

I wish to allude now to an observation of the Senator from Idaho [Mr. BORAH].

The Senator from Idaho announced in bold, enthusiastic eloquence the other day to what great depths of deprivation we were driving the Constitution, what elements of danger we were inviting now by assuming to do that which was not within the Constitution but sustained by us under the cry of an emergency.

There sits the distinguished and industrious Senator from Wisconsin [Mr. LA FOLLETTE]. Here sits to my left the distinguished Senator from Colorado [Mr. COSTIGAN]. Has it been forgotten that when the La Follette-Costigan bill was before this body under the Hoover administration looking to some relief to be voted directly by the Treasury in behalf of the masses of misery and the misery of the masses, the honorable Senator from Idaho [Mr. BORAH] rose to support the right of taking this money out of the Treasury on the ground of the emergency?

And when the Senator from Ohio [Mr. FESS] contested with his honorable friend on the ground that the bill was invalid and unconstitutional, that it was in violation of the very principles of our Government, the distinguished Senator from Idaho turned upon the eminent Senator from Ohio, and, in flaming spontaneity, referred to the institutions of the country and the obstructions opposing the relief of the necessities of the poor. Then the Senator, contemplating the flag, said it was "but a dirty rag that contaminated the air against which it waved if it stood in the way of these reliefs." How, now, is it suddenly unconstitutional, when the relief is tendered from us on this side of the Chamber—to execute which the Senator rose to such high apostrophe, as he pinned it upon the flag of his country; and bade it rest upon the wavings and glorifications of the flag of the Union.

Mr. President, I desire to conclude these observations by saying that since the Supreme Court of the United States, both in the case from Minnesota and in the case from New York, lately held these extreme measures enforced upon us by necessity to be constitutional, I now ask you, Senators, and I ask you upon the honor of the souls within you, this question:

You have denounced these measures here and there as invalid. You have called them unconstitutional. You have time and time again warned your land that the Supreme Court would declare them unconstitutional. You struck every hope from the bosom of men; you smote every confidence from the prayers of a mother; you smothered every desire and dream of a future from all American mankind, as they looked forward to some relief. At what time since then has one of you had the courage of the manhood that is within you, to tell the country you were mistaken in the charge you made; that the courts have declared these very laws which you prophesied would be held invalid, to be wholly valid, completely constitutional, and that the courts are enforcing them by the provisions of the Constitution of the United States?

Not one of you has done so. You are willing to mislead the land. You either knew the laws were valid when you charged them with being invalid or you did not. And now that you find you were mistaken, was there not honor or statesmanship in you sufficient again to revive some confidence in the hearts of your countrymen and again to invite them to vest confidence in the courts of which heretofore you have boasted your very great worship? Now, when the hour is with you when you could have invited your countrymen to observe how the courts have sustained the contentions of the President of the United States or the administration, silence is all that comes from you—the exhibition of want of honor on the one hand or deliberate cowardice on the other. Gentlemen, you may take your choice. Senators, it is a deplorable situation, but it is one you must confront as the result of the history of your own action and the effect you have inflicted upon the Republic.

Mr. President, in presenting these legal attitudes and legal positions as I have proceeded to do, it was with no purpose of occupying the time of the Senate in a mere deliberative discussion of the legalistic phases of the subject. I wish to quote, sir, from the Supreme Court of the United States, where, in 285 U.S. 262, the Court says:

This Court has the power to prevent an experiment. We may strike down the statute which embodies it on the ground that in our opinion the measure is arbitrary, capricious, or unreasonable. We have power to do this, because the due-process clause has been held by the Court applicable to matters of substantive laws as well as to matters of procedure. But in the exercise of this high power, we must be ever on our guard, lest we erect our prejudices into legal principles. If we would guide by the light of reason, we must let our minds be bold.

Mr. President, I have concluded the precedents of the law. I have a conclusion which I dare impress upon my honorable opponents.

At a time like this, when your countrymen are crying to you for rescue, when your Nation is beseeching from you support of its institutions; when patriotism demands that you present your country as worthy of the world, is there nothing in you that will obey some instinct of the true American? Is there nothing in all the administration of this Government that you can praise? Is there no measure to which you can give your approval? Is there no action of President or Congress you can endorse? Is there not one kind word to be said in behalf of the man at the White House who, bearing burdens the like of which we cannot describe by words, carries on, that he may keep faith with his countrymen and be true to his Nation?

Can you not before the world give one small testimonial in behalf of your own America?

If you cannot do that from a political conviction, if you still adhere to the enjoyment of criticism because of opportunity to condemn where you may profit, then I summon you to the solemn proclamation of the master director of governmental justice, when, concluding his great oration, St. Paul proclaims, as the Spirit of Heaven now appeals to you—as your debt to men and duty to nation—

Finally, brethren, whatsoever things are true, whatsoever are honest, whatsoever things are just, whatsoever things are pure, whatsoever things are lovely, whatsoever things are of good report; if there be any virtue, and if there be any praise, think on these things—

I demand as your duty to God and country.



ELIZABETH BOLGER

The PRESIDING OFFICER (Mr. DUFFY in the chair) laid before the Senate the amendments of the House of Representatives to the bill (S. 785) for the relief of Elizabeth Bolger, which were, on page 1, line 4, to strike out "\$1,000" and insert "\$700"; and on page 1, line 8, after "New York" 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. COPELAND. I move that the Senate concur in the amendments of the House.

The motion was agreed to.

R. S. HOWARD CO., INC.

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 2002) for the relief of R. S. Howard Co., Inc., which was to strike out all after the enacting clause and insert:

That jurisdiction is hereby conferred upon the Court of Claims to hear and adjudicate, without regard to existing statutes of limitations, the claim of R. S. Howard Co., for just compensation, arising out of the service upon said company of United States Navy Commandeer Order No. N-3255, dated June 18, 1918, with the same right as in other cases to either party to apply to the Supreme Court of the United States for writ of certiorari to review any judgment that may be rendered.

Mr. COPELAND. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

I. T. McREE

The PRESIDING OFFICER laid before the Senate the amendment of the House of Representatives to the bill (S. 2342) for the relief of I. T. McRee, which was, on page 1, line 6, to strike out "\$2,500" and insert "\$2,000."

Mr. McKELLAR. I move that the Senate concur in the amendment of the House.

The motion was agreed to.

#### EXECUTIVE ORDER REVOKING IN PART SECTION 4 OF EXECUTIVE ORDER NO. 6166

The PRESIDING OFFICER laid before the Senate a message from the President of the United States, which was read, and, with the accompanying paper, ordered to lie on the table, as follows:

#### To the Congress:

Pursuant to the provisions of section 16 of the act of March 3, 1933 (ch. 212, 47 Stat. 1489, 1517), as amended by title III of the act of March 20, 1933 (ch. 3, 48 Stat. 8, 16), I am transmitting herewith an Executive order revoking section 4 of Executive Order No. 6166 of June 10, 1933, insofar as and to the extent that it is applicable to the disbursing functions under the jurisdiction of the War Department, the Navy Department (including the Marine Corps), and the Panama Canal, except those pertaining to departmental salaries and expenses in the District of Columbia.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, May 29, 1934.

#### BANK INDEMNITY BONDS

Mr. NEELY. Mr. President, I ask unanimous consent to have printed in the RECORD a statement of facts regarding Senate bill 2915, requiring national banks to obtain indemnity bonds from State-qualified bonding companies.

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

#### FACTS IN CONNECTION WITH NEELY BILL, S. 2915

A very large number of banks in this country carry the insurance referred to in the above bill in companies chartered or licensed to do business in the States in which such banks are respectively located. Some banks, however, carry such insurance in London Lloyds, an organization composed of groups of underwriters operating from London, England.

The laws of the several States and regulations of the Treasury Department make certain requirements as a condition to be licensed to do business. Briefly these requirements are:

1. A minimum capital and surplus must be subscribed and paid in.
2. Such capital and surplus must be in cash or in specified classes of securities.
3. Adequate reserves must be carried for losses, unearned premiums, and other special purposes.
4. Each company, as a condition to doing business in a State or with the Government, must be licensed or admitted to do business.
5. Many States, as a condition to the issuance of a license, require a substantial deposit consisting of securities or the giving of qualifying bonds in large penalties, or both.
6. Some States require that an admitted company must reinsure only in other admitted companies.
7. Admitted companies must appoint attorneys upon whom process may be served.
8. Annual statements must be made as the law requires and must be filed with the insurance department for audit.
9. Each licensed company is subject to visitation and examination, at its own expense, by the insurance department of the State where organized and of each State in which licensed.
10. An admitted company must appoint agents, who are required to be licensed, and in many of the States a company cannot execute a policy unless executed through a resident licensed agent, who shall receive full commissions.
11. Each company must pay, in accordance with the laws of each State where it does business, taxes on premiums, taxes on capital assets, franchise taxes, State and municipal license fees and taxes, agents' fees, and all other forms of taxes.
12. Each company of a State doing business in another State must comply with the reciprocal laws thereof.
13. According to the laws of a number of the States and the regulations of the United States Treasury Department, a licensed or admitted company may not expose itself on any single risk in excess of 10 percent of its capital and surplus.
14. In several States a licensed company must file its rates with the insurance department for approval, and then the rates must be justified before the insurance department by experience, and cannot be increased without its approval.
15. No licensed company shall discriminate as to rate against any insured in the same class.

The situation as to Lloyds is as follows:

1. London Lloyds does not have any capital or surplus.
2. London Lloyds, not being admitted in any State except Illinois, in which it is said to have deposited \$250,000 for the protection of policyholders in Illinois, is not subject to any of the laws and regulations which apply to licensed companies as above set forth.
3. London Lloyds does not, except possibly in Illinois, pay any taxes which admitted companies are required to pay.
4. The 3-percent stamp tax which is imposed by the revenue law of 1924 applies only to alien companies and associations which do not issue their policies through a licensed agent or officer resident in any State or district of the United States in which it is authorized to do business. Therefore if Lloyds issues a policy covering a risk in Illinois the 3-percent stamp tax is not required to be paid. If Lloyds signs in Illinois a bond or policy covering a risk in any other State, the 3-percent stamp tax is not required to be paid.

Thirty-seven companies out of 48 companies doing a surety business or a surety and casualty business combined have more than \$300,000,000 invested in Government, State, and municipal bonds and in bonds of industrial corporations of the United States.

Thirty-five of these companies had in their employ on December 31, 1933, 29,292 employees and paid in salaries during the year 1933, \$48,307,831.

Forty-one of these companies paid during 1933 in taxes and license fees to the United States and the various States and subdivisions thereof \$9,285,101.

According to the New York insurance report, stock companies doing in New York a surety business or a surety and casualty business combined had on deposit in the banks throughout the United States on December 31, 1932, about \$50,000,000. In addition, the officers, employees, and agents of surety companies carry deposits in banks.

The purpose of the bill is not to exclude any insurer from any of the States but to force every insurer which writes a policy covering a risk in a State, to be licensed in such State and to be subject to all of the laws that are applicable to admitted insurers.

The Neely bill has been endorsed by the executive committee of the National Convention of Insurance Commissioners of the United States.

Canada, in 1932, passed an act entitled "An act respecting Canadian and British insurance companies." Under this act, Lloyds is required to be licensed and to comply with the very comprehensive requirements of the act before it can issue policies in Canada.

#### AMENDMENTS TO THE AGRICULTURAL ADJUSTMENT ACT—ADDRESS BY SENATOR BYRD

Mr. MCGILL. Mr. President, on last Monday, May 28, 1934, the junior Senator from Virginia [Mr. Byrd] delivered a very illuminating and informative address over the National Broadcasting Co. network on the proposed amend-



ments to the Agricultural Adjustment Act. I ask unanimous consent to have the address printed in the RECORD.

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

I am a Democrat who has supported with my vote in the United States Senate most of the recommendations of the administration. I was one of 27 Senators who supported President Roosevelt in his greatest legislative crisis when the Congress overrode his veto and largely increased the appropriations. He has no admirer who rejoices more at his deserved popularity and the inspired leadership he has furnished to the American people during the dark days of the economic depression.

I say this because I want those who hear me tonight to know that what I say in opposition to certain policies is spoken as a friend, and because of my conviction that such policies are inconsistent with the ideals of the Democratic Party, contrary to the Democratic platform, and will sooner or later, if continued, consolidate so many different elements of opposition as to menace, if not destroy, the broad program of economic recovery sponsored by the President.

Tonight I speak in opposition to amendments to the Agricultural Adjustment Act which, if adopted, will make the Secretary of Agriculture the supreme dictator over every producer of agricultural commodities and those who handle such products.

I like and admire Secretary Wallace. I have been impressed with the frankness with which he has stated his position on the problems confronting the farmers, but such powers as he now requests should never be conferred upon a bureau official in a democratic country. A farmer myself, I have supported the Secretary in every reasonable recommendation he has made to Congress.

It is the principle of the continuing extension of regulatory powers over every business activity to which I desire to register my protest. The platform adopted by the Democratic Party assured the American people that unnecessary and unwise regulatory laws would be repealed and our Government restored to the people with the least possible interference with our private affairs consistent with orderly government. By this I do not mean that evils that have heretofore existed should not be eradicated; but the average American should be permitted to conduct his legitimate business operations without the fear of criminal prosecution by his Government, or harsh and threatening treatment from autocratic bureau heads.

In the face of this assurance in the Democratic platform we see today a bureaucracy being rapidly built up here at Washington to control the daily activities of our people such as no one has before even remotely suggested or anticipated. Step by step the bureau chiefs are establishing new power to regiment the American people in all their daily activities.

As a people we are temperamentally opposed to such dictation, and every such effort in the past has failed. Are we likely to succeed when our Government attempts to tell all who are engaged in business operations what they shall do or shall not do, even down to the most minute details? Essentially, the regulatory provisions affecting the daily lives of our people are not only absurd but impossible to accomplish. The detailed activities of a country as vast as ours cannot be administered from Washington. Such efforts impose great costs upon the people, for it means an army of bureaucrats, most of whom are without practical experience.

I voted for the Agricultural Adjustment Act in its original form. I did so because of my belief that an orderly reduction in the production of certain crops in this country is wise and that such reduction should be brought about in a systematic way and compensation provided for those farmers who agree to reduce their crops. With respect to the agricultural commodities known as "basic commodities", this plan is now in operation by voluntary agreements, and the farmers are being compensated with the processing taxes for leaving their land out of cultivation.

The spokesmen for the administration call the new amendments merely "clarifying" and contend that they already have the power they now request. The simple answer to this is, why ask for additional legislation if the power already exists? The plain truth is that the proposed amendments confer vast additional power on the Secretary of Agriculture. The only thing clarifying in the proposed legislation is to make the Secretary the czar of agriculture and the farmers of America will have little more liberty than the peasants in Soviet Russia.

Without going into details which may be tiresome, it is sufficient to say that one of the proposed amendments to the Agricultural Adjustment Act will give to the Secretary of Agriculture the arbitrary power to control every farmer who obtains a benefit payment for a reduction in a specific crop as to what such farmer can plant and produce on his entire farm, even down to chickens and turkeys. At present the Secretary only has the power to say what shall be produced on the land that he leases and removes from cultivation. This present power he should have, but merely because a farmer receives perhaps \$50 or \$100 or less for removing from cultivation certain land planted to one of the basic agricultural commodities, the Secretary should not have the authority to take control of his entire farm.

But section 3 invades even more offensively the liberties of the farmers, because this section establishes a licensing system for food producers, distributors, and handlers, and denies the right of shipment in interstate commerce, if the Secretary declines to license. Under this broad provision licenses can be required, first, of the producer or farmer and then of every handler of that particular product down to the corner grocer who finally sells to the

ultimate consumer. The licenses are issued upon such terms and conditions as the Secretary of Agriculture may deem necessary to effectuate the declared policy of this act and the restoration of normal economic conditions in the marketing and/or financing of such commodities or products, and this broad language gives him supreme authority.

Remember the existing law largely limits the authority of the Secretary to the basic commodities, and any licensing power now given specifically provides that such licenses shall be subject to such terms and conditions not in conflict with existing acts of Congress or regulations pursuant thereto, as may be necessary to eliminate unfair practices, etc. In other words, the proposed legislation omits the safeguard now existing that licenses shall be issued subject to such terms and conditions not in conflict with existing law and regulations. The new legislation specifically gives the Secretary the right to license a producer who processes or distributes his own product. Processing may mean preparing a product for the market. Therefore, a farmer who packs and ships in interstate commerce a bushel of potatoes or a basket of strawberries would be subject to being required to apply to Washington to obtain a license, if the Secretary of Agriculture so commanded.

This new legislation provides for a quota system or production so that the Secretary can establish quota restrictions upon the recommendation of two-thirds of the producers of a given commodity. A new provision is then inserted giving the Secretary the right to have access to all books and records and papers under the control of the licensee, notwithstanding the protection that the fourth amendment of the Constitution gives to all such papers and private records. Another new section provides that the district courts of the United States are vested with the power in injunction to restrain any person from handling any agricultural commodity without a license when such handling has been prohibited by the Secretary of Agriculture.

It would be possible for the Secretary of Agriculture even without the recommendation of two-thirds of the growers to establish shipping quotas, directing to what markets and to what extent certain products can be shipped, as well as to give to distributors a definite quota as to the quantity of each commodity such distributor can sell. The Secretary also, in my judgment, can under these amendments fix the price for agricultural products.

When it comes to the penalties for violations of the act, the courts are set aside and the Secretary takes the place of both court and jury. If a license is issued in accordance with law, namely, to carry out the policies of the act and to bring about normal economic conditions of marketing, etc. (and this gives the greatest possible latitude to the Secretary and makes him virtually the sole judge), then his decision is not reviewable by the courts and he has the power to fine those who ship without a license the sum of \$1,000 a day, or, in his mercy, a lesser amount, and the penalty shall be payable to the Treasury of the United States and recoverable in a civil suit brought in the name of the United States.

Theoretically, only Congress has the power to tax, but under this proposed legislation the Secretary is given the right to prescribe operating funds for any of his activities and to police the farmers and to require any licensee to pay any such amount in such manner and to such person as the Secretary may direct. Failure to pay what the Secretary decides is necessary will be ground for revocation of the license, which means that the person holding such license cannot thereafter ship in interstate commerce. This arbitrary tax is in addition to other appropriations and processing taxes provided in the original Agricultural Adjustment Act, and contains no safeguard whatsoever as to the use for which the money is to be expended, or the number of agents to be employed or the salaries to be paid. The Secretary could hire as large a staff of policemen, inspectors, auditors, and clerks, as he desired, and impose this cost upon those who obtain the licenses, which will fall upon the farmer.

Never in the history of America has such an authorization of power covering so many people been requested by a departmental head. Even in the N.R.A. committees and others had a voice before General Johnson acted.

Mr. Wallace says he will not exercise all the power requested, but my experience has been that sooner or later, whenever the authority is vested in a bureau of the Government, this power is exercised. If he does not intend to use this additional power, he should not ask Congress to grant it to him. Congress should only grant power on the assumption that it will be used to the fullest extent. Even if it is not technically used, distributors of food could be forced to do things of which they do not approve or desire by the threat of the use of this autocratic power.

While I am in the Senate of the United States I shall never vote to confiscate the property of worthy citizens of this country without due process of law, and adequate compensation, at the whim and fancy of some bureau chief by giving him the power to deny shipment of commodities in interstate commerce.

We are suffering today as much from underconsumption and loss of our world markets as overproduction. We need more purchasing power at home and a greater outlet to foreign markets. Harsh and unreasonable restrictions arbitrarily imposed will mean disaster to millions of farmers in this country, and those farmers must then seek other means of employment in the face of the millions we have already unemployed in industry.

As Congress adjourns, the defeat of these amendments to the Agricultural Adjustment Act is imperative, so that the people will realize that the constant extension of regulatory powers over business and agriculture has been halted. People would at once get relief from a sense of oppression and feel that they could



breathe again as free men and women. The wisest thing for Congress to do is to adjourn and give the people of America an opportunity to digest the laws that have been enacted and let nature take its course. Prosperity will never return by the waiving of magic wands or by legislative panaceas, but only by the industry and the ability of the people themselves.

Under the reign of the Czars of Russia no person could build an addition to his house, even in a remote part of the empire, without first obtaining permission from some underling in St. Petersburg. Is America coming to this? Woodrow Wilson once remarked that "The history of liberty is a history of the limitation of governmental power, not the increase of it. When we resist, therefore, the concentration of power, we are resisting the processes of death, because concentration of power is what always precedes the destruction of human liberties."

I am one who still believes in the greatest individual freedom of the citizen in his business as in his personal affairs. Under the stress of economic depression or during times of war the Government may be compelled to temporarily take extraordinary steps which restrict the liberties we naturally possess. But the operation and direction of business by the Government destroys the fiber and initiative of the people, and is a danger we should zealously guard against. We do not want a Hitler of American agriculture, even though we have confidence in the present Secretary of Agriculture. Nor do we want an army of governmental parasites traveling around the country at public expense to tell the 40,000,000 farmers of America what to do each day. For myself I believe the Democratic Party has always been and should continue to be a guardian and champion of the individual rights and personal freedom bequeathed to us as a sacred heritage by those great Americans who fought and died that we may enjoy the blessing of a free democracy in this land. When the Democratic Party ceases to be an instrument to defend these principles and in fact actively espouses contrary policies of government, then it fails of its purpose and will not command the confidence and support of the people.

#### EXECUTIVE SESSION

Mr. ROBINSON of Arkansas. I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

#### EXECUTIVE MESSAGES REFERRED

The PRESIDING OFFICER (Mr. DUFFY in the chair) laid before the Senate messages from the President of the United States, submitting sundry nominations, which were referred to the appropriate committees.

(For nominations this day received, see the end of Senate proceedings.)

#### EXECUTIVE REPORTS OF A COMMITTEE

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

The PRESIDING OFFICER. The reports will be placed on the calendar.

If there be no further reports of committees, the calendar is in order.

#### POSTMASTERS

The legislative clerk proceeded to read sundry nominations of postmasters.

Mr. McKELLAR. I ask unanimous consent that the nominations of postmasters be confirmed en bloc.

The PRESIDING OFFICER. Without objection, the nominations are confirmed en bloc.

#### OCIE C. HAWKINS

Mr. McKELLAR. Mr. President, on May 24 the nomination of Ocie C. Hawkins to be postmaster at Stanton, Tenn., was confirmed. I desire at this time to enter a motion to reconsider the vote whereby the nomination was confirmed.

The PRESIDING OFFICER. The motion will be entered.

Mr. McKELLAR. I now move that the President be requested to return to the Senate the notice of the confirmation of the nomination of Ocie C. Hawkins.

The PRESIDING OFFICER. The question is on the motion of the Senator from Tennessee.

The motion was agreed to.

#### RECESS

Mr. ROBINSON of Arkansas. I move that the Senate take a recess until 11 o'clock tomorrow morning.

The motion was agreed to; and (at 5 o'clock and 26 minutes p.m.) the Senate took a recess until tomorrow, Thursday, May 31, 1934, at 11 o'clock a.m.

#### NOMINATIONS

*Executive nominations received by the Senate May 30 (legislative day of May 28), 1934*

#### CHIEF JUSTICE OF THE SUPREME COURT, TERRITORY OF HAWAII

James L. Coke, of Hawaii, to be chief justice of the Supreme Court, Territory of Hawaii, to succeed Antonio M. Perry, term expired.

#### ASSOCIATE JUSTICE OF THE SUPREME COURT, TERRITORY OF HAWAII

James J. Banks, of Hawaii, to be an associate justice of the Supreme Court, Territory of Hawaii. (A reappointment, his term having expired.)

#### CIRCUIT JUDGES, TERRITORY OF HAWAII

Harold E. Stafford, of Hawaii, to be circuit judge, first circuit, Territory of Hawaii, to succeed Charles S. Davis, term expired.

James Wesley Thompson, of Hawaii, to be circuit judge, third circuit, Territory of Hawaii. (A reappointment, his term having expired.)

Delbert E. Metzger, of Hawaii, to be circuit judge, fourth circuit, Territory of Hawaii, to succeed Homer L. Ross, term expired.

Miss Carrick H. Buck, of Hawaii, to be circuit judge, fifth circuit, Territory of Hawaii, to succeed William C. Achi, Jr., term expired.

#### UNITED STATES DISTRICT JUDGE, DISTRICT OF HAWAII

Seba C. Huber, of Hawaii, to be United States district judge, district of Hawaii, to succeed William B. Lymer, term expired.

#### UNITED STATES MARSHAL, DISTRICT OF HAWAII

Otto F. Heine, of Hawaii, to be United States marshal, district of Hawaii, to succeed Oscar Pinhanui Cox, term expired.

#### COLLECTOR OF INTERNAL REVENUE

Thomas C. Kasper, of Aberdeen, S.Dak., to be collector of internal revenue for the district of South Dakota, in place of Leslie Jensen.

#### SUPERVISING INSPECTORS, BUREAU OF NAVIGATION AND STEAM-BOAT INSPECTION

Alvin A. Morrison, of Ohio, to be supervising inspector, Bureau of Navigation and Steamboat Inspection.

Edward Maurer, of Kentucky, to be supervising inspector, Bureau of Navigation and Steamboat Inspection.

#### PROMOTIONS IN THE REGULAR ARMY

##### TO BE COLONEL

Lt. Col. Frederick Frasier Black, Infantry, from May 26, 1934.

##### TO BE LIEUTENANT COLONEL

Maj. Delos Carleton Emmons, Air Corps, from May 26, 1934.

##### TO BE MAJOR

Capt. Ittai Albert Luke, Ordnance Department, from May 26, 1934.

##### TO BE CAPTAINS

First Lt. Elmer Karl Pettibone, Quartermaster Corps, from May 26, 1934.

First Lt. Thomas Hugh Young, Infantry, from May 27, 1934.

##### TO BE FIRST LIEUTENANTS

Second Lt. Thayer Stevens Olds, Air Corps, from May 26, 1934.

Second Lt. Samuel Leslie Myers, Cavalry, from May 27, 1934.

#### PROMOTIONS IN THE NAVY

The following-named midshipmen to be ensigns in the Navy, revocable for 2 years, from the 31st day of May 1934:

|                     |                   |
|---------------------|-------------------|
| Earl W. Logsdon     | Joe M. Alexander  |
| Ernest L. E. Ritson | James D. Babb     |
| Colin J. Mackenzie  | William I. Martin |
| George B. Nicol     | Herman J. Kossler |



William T. Kinsella  
Clyde G. Caldwell  
William T. Dutton  
Samuel R. Brown, Jr.  
Albert Raborn  
Lawrence H. Birthisel, Jr.  
Robert W. Leeman  
Robert A. Chandler  
Wendell H. Froling  
Heliodore A. Marcoux  
George F. Davis  
Wilbur H. Cheney, Jr.  
Robert F. Sellars  
George E. Artz  
Hugh Q. Murray  
James H. Ashley, Jr.  
Charles H. Becker  
Malcolm M. Champlin  
James E. Owers  
Nancy C. Corbin  
Joseph S. Lewis  
Leslie K. Taylor  
William W. Stark, Jr.  
George A. Hill, Jr.  
James E. Johnson  
Eugene W. Davis  
Stuart Stephens  
Allen W. Moore  
Robert E. Bourke  
Carl W. Schoenweiss  
John H. Parker  
George D. Hoffman  
William A. Dean, Jr.  
Charles D. Lewis  
Frederick A. Gunn  
Edward J. Mulquin  
Thomas W. South, 2d  
Donald E. Pugh  
Gordon A. Griffin  
Robert C. Bengston  
Mark A. Grant  
Malcolm C. Reeves  
Craig R. Garth  
James C. Bentley  
Harold E. Cole  
William N. Deragon  
Carlyle Ingram

Thomas R. Hine  
Raymond Payne  
Richard S. Klunk  
Clarence T. Doss, Jr.  
Clayton S. Clark  
Robert B. Crowell  
Frank G. Marshall, Jr.  
Willie M. Dickey  
Frank C. Bolles, Jr.  
Fletcher L. Sheffield, Jr.  
George H. Wigfall  
Harold W. Campbell, Jr.  
Francis E. Fleck, Jr.  
John W. Geist  
Richard S. Stuart  
William A. Stevenson  
Edwin K. Jones  
Charles M. Bertholf  
Claude F. Bailey  
Gorman C. Merrick  
Herbert F. Carroll, Jr.  
Joseph W. Stivers  
John C. Martin  
Douglas L. L. Cordiner  
Alan L. Ingling  
George F. Stanish  
Lester J. Stone  
Isaiah M. Hampton  
Albert P. Coffin  
Archibald Stone, Jr.  
Charles C. Coley  
Robert M. Milner  
Gordon P. Chung-Hoon  
Charles R. Ware  
James E. Vose, Jr.  
Russell B. Allen  
Edward H. Worthington  
Charles B. Farwell  
Dewey G. Johnston  
Denis H. Biwerse  
Hobart Key, Jr.  
Sidney D. B. Merrill  
Robert M. Lee  
Charles E. Thurston, Jr.  
John L. Foster  
Ward J. Peterson  
Thomas H. DuBois

## MARINE CORPS

The following-named midshipmen to be second lieutenants in the Marine Corps, revocable for 2 years, from the 31st day of May 1934:

Victor H. Krulak  
Arthur J. J. Hagel  
John E. Weber

Floyd B. Parks  
Lehman H. Kleppinger

## CONFIRMATIONS

*Executive nominations confirmed by the Senate May 30 (legislative day of May 28), 1934*

## POSTMASTERS

## ALABAMA

Craig Smith Robbins, Selma.

## ALASKA

Emil O. Bergman, Fort Yukon.

## CALIFORNIA

Carl W. Brenner, Buena Park.  
Frances L. Williams, Fall Brook.  
Percy H. Millberry, Lakeport.  
Phillip J. Dougherty, Monterey.  
Harold B. Lull, South Gate.  
Charles E. Conner, Torrance.  
Roy Bucknell, Upper Lake.

## INDIANA

Grover C. Rainbolt, Corydon.  
Oscar J. Sauerman, Crown Point.

William W. McCleary, Elberfeld.  
Henry M. Mayer, Evansville.  
William L. Eastin, Ewing.  
Chester Wagoner, Flora.  
Joseph E. Mellon, Hobart.  
Walter E. Wehmeyer, Kendallville.  
Edwin W. Hanley, Michigan City.  
William S. Darneal, New Albany.  
Gordon B. Olvey, Noblesville.  
William N. Burns, Otterbein.  
Charles O. Hall, Sullivan.  
Henry Backes, Washington.  
Bessie D. Perkins, Whiteland.  
Oscar M. Shively, Yorktown.

## MASSACHUSETTS

John E. Mansfield, Bedford.  
William F. Leonard, Nantasket Beach.  
James B. Logan, North Wilbraham.  
Harvey E. Lenon, Swansea.  
Benjamin R. Gifford, Woods Hole.

## MISSOURI

Lelia F. Hughes, Adrian.  
Owen W. Anglum, Ash Grove.  
Richard W. Marsden, De Soto.  
Anvil A. Lewis, Eminence.  
William H. Titus, Excelsior Springs.  
Robert R. Kier, Grant City.  
Fred E. Ream, Green Ridge.  
Harrison S. Welch, Higbee.  
Fred J. Yeomans, Hopkins.  
Eugene J. Echterling, Parnell.  
Ernest C. Buehler, South St. Joseph.  
John H. Dickbrader, Washington.

## NEW JERSEY

Leslie B. Vail, Hamburg.  
Augustus J. Hans, Netcong.  
Edward J. Lennon, Stone Harbor.  
Clarence Smith, Woodstown.

## WISCONSIN

Theodore E. Wozniak, Athens.  
Alex G. Mohr, Cambria.  
Marie Gunn Dunham, Cumberland.  
Harry R. Olson, Grantsburg.  
May K. Powers, Lake Geneva.  
Martin J. Bachhuber, Mayville.  
Gaylord T. Thompson, Mercer.  
Emil L. Silverness, Mondovi.  
Axl L. Olson, Mountain.  
Albert T. Ziemann, Randolph.  
Adelbert O. Randall, Rosendale.  
John P. Stier, Sussex.  
Alfred H. Hadler, Thiensville.  
Elmer A. Peterson, Walworth.  
John T. O'Sullivan, Washburn.  
Winfield J. Kyes, White Lake.

## HOUSE OF REPRESENTATIVES

WEDNESDAY, MAY 30, 1934

The House met at 11 o'clock a.m.

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

Almighty God, we pause in Thy presence with grateful testimony for Thy loving providence, which is a river of blessing flowing from under Thy throne. We beseech Thee to let this stream of cleansing purify, enlighten, and idealize our national life. Do Thou appeal to that instinct of recovery, to that temper of hope which Thou hast established in every human breast. This day of memory, blessed Lord, may it be one of consecration to the United States of the Republic. Draw every section of our land toward a more complete knowledge of righteousness, fraternity, and brotherhood. Graciously be with our President and with every citizen of every station. Blessed Lord, may our insti-